

# High Court Rules and Orders In M.P.

MADHYA PRADESH

India

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## Rule HIGH-COURT-RULES-AND-ORDERS-IN-M-P of 1973

- Published on 30 May 1973
- Commenced on 30 May 1973
- [This is the version of this document from 30 May 1973.]
- [Note: The original publication document is not available and this content could not be verified.]

High Court Rules and Orders In M.P. Section One

## Chapter I

## Jurisdiction of A Single Judge and of Benches of The Court

### 1.

The following matters shall ordinarily be heard and disposed of by a Judge sitting alone :-(a)An appeal from an appellate decree of a District Court.(b)[ A first or second appeal from an [appealable] [Inserted by Notification No. 5-1 -9-3-37, Part II, dated 27-6-1978.] order under the Code of Civil Procedure [x x x] [Omitted by Notification No. 5-1 -9-3-37, Part II, dated 27-6-1978.].(c)[ An appeal under Section 173 of the Motor Vehicles Act, 1988 (and any appeal under Section 110-D of Motor Vehicles Act, 1939), for compensation, the value of which does not exceed Rs. 5,00,000/-.[[Substituted by Notification No. 24, dated 19-4-2005 (w.e.f. 2-5- 2005).Prior to substitution they reads as under:](c) An appeal under Section 110-D of the Motor Vehicles Act, 1939,forcompensation, the value of [x x x] which does not exceed Rs. 1,00,000.Explanation.-The value of a cross- objection filed in any such appeal shall not be included in the value of the appeal. However, if the value of the cross-objection exceeds [Rs. 1,00,000], the appeal as well as the cross-objection shall both be heard by Division Bench.(d)An appeal of a civil nature under any Act of the Central or State Legislature or first appeals under the Code of Civil Procedure, the value of [x x x] which does not exceed the sum.ot Rs. 1,00,000 and any application or reference made under such Acts, if such appeals, applications or reference made under such Acts, if such appeals, applications or reference is not otherwise expressly provided for.Explanation. - The value of a cross-objection filed in any such appeal shall not be included in the value of the appeal.However if the value of the cross-objection exceeds Rs. 1,00,000 the appeal as well as the cross-objection shall both be heard by Division Bench.']]Explanation. - The value of a cross-objection filed in any such appeal shall not be included in the value of the appeal. However, if the value of the cross-objection exceeds Rs. 5,00,000/- the appeal as well as the

cross-objection shall both be heard by Division Bench.(d)An appeal of a Civil nature under any Central or State Act or a first appeal under the Code of Civil Procedure, the value of which does not exceed Rs. 3,00,000/- and any application or reference made under such Acts, if such appeal, application or reference is not otherwise expressly provided for.Explanation. - The value of a cross-objection filed in any such appeal shall not be included in the value of the appeal. However, if the value of the cross-objection exceeds Rs. 3,00,000/- the appeal as well as cross-objection shall both be heard by Division Bench.](e)an appeal from an order under the Guardian and Wards Act, appointing or declaring a person not be the guardian of the person of the minor and an appeal from an order under the Guardian and Wards Act appointing or declaring a person to be guardian of the property, or of the person and property of a minor.(f)An appeal relating to costs only.(g)An application under Section 22 or 23 of Code of Civil Procedure for an order determining in which or several Courts having jurisdiction a suit shall be heard, and an application for an order for transfer of a case from one subordinate Court to another.(h)An application under Order I, Rule 8,10 or 11 read with Section 107 of the Code of Civil Procedure.(i)An application for an order under Order XXII, Order XXXII, Order XXXIX, Order XL, or Order XLI, Rule 5,6 or 10 of the Code of Civil Procedure :Provided that such an application made under Order XLI, Rule 5 (2) in respect of proceedings before a Full Bench or Division Bench shall lie to such Bench and not to a Judge sitting alone.(j)An application under Order XLIV, Rule 1 of the Code of Civil Procedure for permission to appeal in forma pauperis in a case in which the appeal would be within the jurisdiction of a Judge sitting alone.(k)An application under Order XLV of the Code of Civil Procedure other than application for a certificate under Order XLV, Rule 2 in a case disposed of by a Division Bench.(l)[ An application for revision under the Code of Civil Procedure or under any Central or State Act [other than a revision under Section 19 of the Madhya Pradesh Madhyastham Adhikaran Adhiniyam, 1983.] [Endt. No. 10192/1121-8/34-F. No. 1, dated 30-11-1965 of Jabalpur Registry](II)[\* \* \*] [Omitted by Notification No. 14/M4-I/38, dated 13-6-1986.](m)any other application which is made in any matter within the jurisdiction of a Judge sitting alone and which is not otherwise expressly provided for.(n)A reference under Order XLVI of the Code of Civil Procedure,(o)A suit coming before the Court in the exercise of its extraordinary original civil jurisdiction.(p)A proceeding of a civil nature under an Act of the Central or Provincial Legislature, coming before the Court in the exercise of its original jurisdiction e.g. under the Indian Trust Act, Indian Companies Act, the Indian Divorce Act, the Indian Succession Act or the Guardians and Wards Act.(q)An appeal, petition or reference under the Code of Criminal Procedure, other than,-(i)an appeal or reference in a case in which a sentence of death or imprisonment for life has been passed;(ii)an application for bail in a case in which sentence of imprisonment for life has been passed; provided that ordinarily no bail in such a case shall be granted without notice to the State;(iii)an application for leave filed under sub-section (3) of Section 378 of the Code in respect of offences punishable with sentence of death or imprisonment for life;(iv)[ an appeal by the Provincial Government under Section 378 of the Code of Criminal Procedure from an order of acquittal in respect of offences punishable with sentence of death or imprisonment for life and triable by Court of Sessions;] [Substituted by Notification No. 9, dated 4-3-1980.][(iv-a) A revision filed by a private party under Section 397 of the Code of Criminal Procedure or suo motu revision entertained under Section 401 of the Code of Criminal Procedure against acquittal in respect of offences punishable with sentence of death or imprisonment for life and triable by Court of Sessions;] [Inserted by Notification No. 13-1-14-1-38, dated 26-3-1985.](v)a proceeding in which notice has been issued to

an accused who has been sentenced to imprisonment for a term of five years or more, to show cause why the sentence should not be enhanced;(vi)a proceeding in which notice is issued to a convicted person requiring him to show cause why his conviction should not be altered to one of an offence punishable only with that or imprisonment for life;(vii)an appeal under Section 377, Cr PC, 1973 against an accused who has been sentenced to undergo imprisonment for a period of five years or more;(viii)appeals from conviction of offences against the State (Chapter VI of the Indian Penal Code), punishable with imprisonment for life.(r)A proceeding coming before the Court in the exercise of its ordinary or extraordinary original criminal jurisdiction.(s)[ All petitions under Articles 226 and 227 of the Constitution of India except:- [Inserted by Notification No. 17, dated 21-2-1994.](i)Petitions filed by way of Public Interest Litigation,(ii)Petitions questioning vires of any statute or any order or rule or regulation made under any statute,(iii)Tax references under statutes which require such references to be heard by Division Bench and applications for references in such cases.](iv)[ A petition for a writ in the nature of Habeas Corpus.] [Inserted by Notification No. 17-A (w.e.f. 1-3-1995).](v)[ Petitions challenging the orders passed by the Central Administrative Tribunal or State Administrative Tribunal.] [Inserted by Notification No. 23, dated 12-12-1997 (w.e.f. 1-1-1998).]

## 2.

The following matters shall be placed before and heard and decided by a Bench of three Judges,-(a)reference for confirmation of decrees not made by District Judge under the Indian Divorce Act;(b)reference under Sections 57 and 60 of the Indian Stamp Act.

## 3.

In cases not provided for by Order XLVII, Rule 5 of the Code of Civil Procedure, an application for a review of a decree or order shall be heard,-(a)if the decree or order, review of which is applied for, is passed by a Judge alone, by a Bench of two Judges;(b)if the said decree or order was passed by a Bench of two or more Judges, by a Bench consisting of as many Judges as the Bench, of whose decree or order review is applied for.

## 4.

Save as provided by law or by these rules or by special orders of the Chief Justice, all matters shall be heard and disposed of by a Bench of two Judges.

## 5.

Except in a matter which is required by virtue of any law to be heard by a Bench of two or more Judges, a Judge sitting alone whilst acting in the long vacation as a Vacation Judge, may exercise the original and appellate jurisdiction vested in the Court,-(a)in any criminal proceeding other than one mentioned in (p) of Rule 1;(b)in any matter which he considers urgent.

**6.**

Appeals under clause 10 of the Letters Patent shall be heard by a Bench consisting of two Judges other than the Judge from whose judgement the appeal is preferred.

**7.**

A Full Bench shall ordinarily be constituted of three Judges but may be constituted of more than three Judges in pursuance of an order in writing by the Chief Justice.

**8.**

The Chief Justice shall nominate the Judge constituting a Full Bench.

**9.**

(1)A Judge sitting alone may refer any proceeding pending before him to the Chief Justice with a recommendation that it be placed before a Bench of two Judges when it involves a question of law of difficulty or importance.(2)A Judge sitting alone shall refer any proceeding other than an original proceeding including a suit pending before him to the Chief Justice with a recommendation that it be placed before a Bench of two Judges,-(a)when it involves a substantial question of law as to the interpretation of the Government of India Act or of any order in Council made thereunder or the Constitution or of any order of the President made thereunder.(b)if he considers that the decision in the proceeding involves reconsideration of a decision of a Judge sitting alone in the Central Provinces Law Reports, the Nagpur Law Reports or the Indian Law Reports, Nagpur Series.(3)In proceeding of the nature referred to in sub-rule (1) of this rule the referring Judge may refer a stated question or questions or may ask that the proceedings be heard and decided by the Bench to which it is referred. If he refers a stated question or questions he shall dispose of the proceedings in accordance with the decision of the Bench on the question or questions referred to it.(4)In cases of the nature referred to in clause (a) of sub-rule (2) of this rule; the proceeding shall be heard and decided by the Bench to which it is referred.(5)In proceedings of the nature referred to in clause (b) of sub-rule (2) of this rule the referring Judge shall refer a stated question or questions and shall dispose of the proceedings in accordance with the decision of the Bench on the question or questions referred to it.

**10.**

If a Judge sitting alone considers that the decision of the proceedings pending before him involves reconsideration of a decision of two or more judges [x x x] [Omitted by Notification 5-1-9-3-37, dated 27-6-1978.] he may refer it to the Chief Justice with a recommendation that it be placed before a Full Bench for a decision on a stated question or questions. The referring Judge shall dispose of the proceedings in accordance with the decision of the Bench on the question or questions referred to it.

## **11.**

When in any appeal or civil matter heard by a Bench of two Judges, the Judges composing the Bench differ on a point of law and state the point on which they differ the proceedings shall be placed before the Chief Justice for the purpose of nominating one or more of the other Judges to deal with the matter.

## **12.**

If a Bench of two Judges considers that the decision of the proceedings pending before them involves reconsideration of a decision of two or more judges [x x x] [Omitted by Notification No. 5-1-9-3-37, dated 27-6-1978.] they may refer the matters to the Chief Justice with a recommendation that it be placed before a Full Bench. The referring Judges may refer a stated question or questions or may ask that the proceeding be heard and decided by the Bench in which it is referred. If the referring Judges refer a stated question or questions they shall dispose of the proceeding in accordance with the decision of the Full Bench on the question or questions referred on it.[Chapter IA [Inserted by Notification No. 45-I-9-3-37, dated 12-5-1976.] Part I

### **1. Definitions. - In these rules, unless the context otherwise requires :-**

(i)"Registrar" means the Registrar of the High Court and includes the Additional Registrar, the Deputy Registrar or any other officer with respect on such functions and duties of the Registrar as may have been assigned to the Additional Registrar, the Deputy Registrar, or such officer by the Chief Justice; and(ii)in the absence of the Registrar the Additional Registrar, the Deputy Registrar or any other officer authorised to act on his behalf.

### **2. Add the words "Additional Registrar or" before the words "Deputy Registrar" wherever they occur in the High Court Rules.]**

## **Chapter II**

### **Powers of [Additional Registrar] [Substituted by Notification No. 1452-1-9-3-37, dated 23-1-1976.] and Deputy Registrar**

#### **1. The following duties and powers in relation to civil and criminal proceedings are, in addition to powers conferred upon him by other rules delegated to the [Additional Registrar] :-**

(i)To dispose of all matters relating to the service of notices or other processes, and to pass orders dispensing with notice under Order XIV(3) of the Code of Civil Procedure.(ii)[ to (iv) Omitted] [Omitted by Notification No. 23, dated 12-12-1997 (w.e.f. 1-1-1998).](v)To hear and dispose of applications under Order XXII, Rules 2, 3, 4 and 10, Code of Civil Procedure and to amend the

record, if necessary, except in cases under appeal to His Majesty in Council.(va)To admit an appeal under Section 417 (3) of the Code of Criminal Procedure and to order issue of notices to the State and the respondents.(vi)To hear and dispose of applications for the correction of memoranda of appeals or applications for revision as regards the description of parties as majors or minors.(vii)To hear and dispose of applications 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 His Majesty in Council, and to amend the record accordingly. To direct from time to time the deposit of funds for the conduct of the proceedings on behalf of a minor respondent of whom guardian ad litem has been appointed where it appears that the guardian is not in possession of any or sufficient funds for the conduct of the proceedings on behalf of the respondents. The order shall direct that the guardian do, as and when directed, file in the Court an account of the moneys so received by him.(viii)To hear and dispose of applications for the withdrawal of an appeal or for a consent decree or order.(ix)To suspend proceedings in all cases in which a certificate of a Debt Conciliation Board has been filed and where it is not contended that the certificate does not operate as a stay.(x)To stay proceedings in all cases in which a notice of the admission of an application made under Section 6 (1) of the Central Provinces and Berar Relief of Indebtedness Act, 1939 (XIV of 1939), is received and where no question as to the nature of the action is raised so as to exclude it from stay.(xi)To order the issue of notices on application for substitution of names in appeal to His Majesty in Council.(xii)To decide the question of necessity for transmitting and printing any accounts specifically applied for by the parties of an appeal to His Majesty in Council.(xiii)To call for a further deposit under Order XLV, Rule 10, Code of Civil Procedure, when the deposit already made by the appellant in an appeal to His Majesty in Council is not sufficient to defray the cost of preparing the record.(xiv)To order payment of the interest accruing on Government Promissory Notes deposited under Order XLV, Rule 7, Code of Civil Procedure, and to order the refund of any unexpected balance under Order XLV, Rule 12, *ibid.*(xv)To direct in what newspapers the publication referred to in Order XLV, Rule 9-A, Code of Civil Procedure shall be made.(xvi)To require any memorandum of appeal, petition, application or other document presented to the Court or to the [Additional Registrar] [Substituted by Notification No. 1452-1-9-3-37, dated 23-1-1976.] to be amended in accordance with the procedure or practice of the Court.(xvii)To require any person or party to file an affidavit with respect to any application or matter in respect of which [Additional Registrar] [Substituted by Notification No. 1452-1-9-3-37, dated 23-1-1976.] has power to exercise any discretion or to make any order.(xviii)To stop at his discretion the issue of papers to any person who has failed to pay the fee or charges due on these papers.(xix)To call for records from subordinate Courts for records and documents.(xx)To dispose of requisitions by subordinate Courts for records and documents.(xxi)To dispose of applications for copies of pending records or parts thereof.(xxii)To pass an order under Order XLI, Rule 22 (3), Code of Civil Procedure, for the service of a copy of a cross-objection on the party who may be affected by it.

**2. The [Additional Registrar] [Substituted by Notification No. 1452-1-9-3-37, dated 23-1-1976.] may refer any of the matters mentioned in Rule 1 to the Court for orders.**

**3. Nothing in Rule 1 shall be deemed to authorise the [Additional Registrar] [Substituted by Notification No. 1452-1-9-3-37, dated 23-1-1976.] to make an order of dismissal of a proceeding for default or for any other reason, or to determine a disputed question of representation under Order XXIS, Rule 5, Code of Civil Procedure, or to pass final orders on a contested application for the appointment and removal of a next friend or guardian ad litem, or to pass final orders on an application for the withdrawal of an appeal when there is a contest as to the order of costs, or when any party in the proceeding is a minor or is adjudged of unsound mind or has been found by reason of unsoundness of mind or mental infirmity to be incapable of protecting his interest when suing or being sued.**

**4. In the absence of the [Additional Registrar] [Substituted by Notification No. 1452-1 -9-3-37, dated 23-1-1976.], or whenever the Chief Justice so directs, the powers and duties in clauses (i) to (x) and (xvi) of Rule 1 shall be exercised and performed by a Judge or Judges and the powers and the duties under clauses (xi) and (xv) and (xvii) to (xxii) or Rule 1 by the [Additional Registrar or] [Inserted by Notification No. 1452-1-9-3-37, dated 23-1-1976.] Deputy Registrar.**

**5. The [Additional Registrar] [Substituted by Notification No. 1452-1-9-3-37, dated 23-1-1976.] may with the permission of the Chief Justice delegate his functions under clauses (xvii) to (xxii) of Rule 1 to the Deputy Registrar.**

**6. (i) The [Additional Registrar] [Substituted by Notification No. 1452-1-9-3-37, dated 23-1-1976.] is the officer appointed as Taxing Officer under Section 5 of the Court-Fees Act, 1870 for the main seat of High Court at Jabalpur.**

**(ii)[ The Additional Registrar and in their absence the Deputy Registrars of the Benches at Indore and Gwalior are the officers appointed as Taxing Officers under Section 5 of the Court-Fees Act, 1870 for the Benches at Indore and Gwalior respectively.] [Substituted by Notification No. 1452-1-9-3-37, dated 23-1-1976.]**

**7. When any officer of the Court whose duty is to see that any document filed in this Court bears the requisite court-fee considers that such a document is sufficiently stamped, he shall record his opinion with reasons therefor. This report shall be shown to the advocate representing in the High Court the party concerned who will note thereon whether he accepts or disputes the**

**accuracy thereof. If he raises a dispute, the matter shall be placed before the Taxing Officer, notice of the date being given to the counsel concerned.**

**8. Whenever any officer of the Court finds that a document which ought to bear a stamp under the Court-Fees Act has through mistake or inadvertence been received in a lower Court without being properly stamped he shall record his opinion with reasons therefor. His report shall be submitted to the [Additional Registrar] [Substituted by Notification No. 1452-1-9-3-37, dated 23-1-1976.] who may direct that it be shown to the advocate representing in the High Court the party who presented the document and may hear the advocate on the point. If the [Additional Registrar] [Substituted by Notification No. 1452-1-9-3-37, dated 23-1-1976.] considers that the opinion recorded is correct he shall cause the case to be laid before the appropriate Bench for decision of the question of deficiency in the court-fee paid in the lower Court.**

**9. (a) Whenever the court-fees payable on any document in respect of which the question of limitation arises are found deficient, the Taxing Officer will pass an order either certifying that in his opinion the understamping is or is not bona fide or stating that he is not in a position to decide the point. If the deficient fees are paid before the limitation expires, the document will be treated as properly stamped. If the deficient fees are not paid before limitation expires, the case will be placed before the Court. The hearing will not be less than 20 days after the date of the Taxing Officer's order. If in that time the party filing the document or his counsel filed an application Under Section 149 of the Code of Civil Procedure to the Court on a court-fee stamps of Rs. 2/-, the Court will, in cases when the Taxing Officer certifies the understamping to be bona fide, normally extend the time.**

(b) Whenever a case is put to the Court in accordance with the above, a statement in the following form shall be endorsed on the order-sheet over [the Additional Registrar or] [Inserted by Notification No. 1452-1-9-3-37, dated 23-1-1976.] the Deputy Registrar's signature. (1) Court-fees paid Rs..... (2) Court-fees payable Rs..... (3) Difference Rs..... (4) Time expired..... (5) The Taxing Officer..... (i) certifies the deficiency as bona fide..... (ii) certifies the deficiency as not bona fide..... (iii) was not able to grant a certificate..... (6) Application under Section 149, Code of Civil Procedure, filed within days from Taxing Officer's certificate...



**10. The [Additional Registrar] [Substituted by Notification No. 1452-1-9-3-37, dated 23-1-1976.] or Deputy Registrar may permit clerical errors in any memorandum of appeal or memorandum of objections under Order XLI, Rule 22 or 26, Code of Civil Procedure or in any petition or affidavit produced in any civil proceeding in the Court to be corrected. Such correction shall be made in the case of affidavits by the declarant and in other cases by the person producing the document or his advocate.**

**11. Every correction in any memorandum of appeal, memorandum of objections, petition or affidavit shall be initialled by the party making the correction and by a Judge, the [Additional Registrar] [Substituted by Notification No. 1452-1-9-3-37, dated 23-1-1976.] or Deputy Registrar. In the case of an affidavit such authentication shall be made by the initials of the officer administering the oath or receiving the solemn affirmation.**

[12. All matters in civil and criminal cases pertaining to default of process fee, paper book costs, furnishing of address in respect of service of notice, non-compliance of Additional Registrar's orders in respect of office matters under Rule 20, Chapter IV, default of identical copies, default of security amount, service of notice, default of publication charges and non-compliance of the Court's orders and default of appearance of accused persons who are on bail be dealt with by the Registrar, Additional Registrar or the Deputy Registrar, as the case may be, provided that every such case in which the Registrar, Additional Registrar or the Deputy Registrar, as the case may be, is of the opinion that the default should not be condoned shall be placed for orders before the appropriate Bench.] [Inserted by Notification No. 5-1-9-3-37, dated 27-6-1978.]

## **Chapter III**

### **Affidavits**

[1. The [Additional Registrar or] [Substituted by Notification No. 39-1-22-18-27, dated 5-2-1972.] Deputy Registrar, a notary public appointed under persons mentioned in Section 539 of the Code of Criminal Procedure and Section 139 of the Code of Civil Procedure are persons empowered to administer the oath or receive the solemn affirmation in the case of affidavits to be used in this Court and the Supreme Court.]

#### **2.**

(1)Every affidavit shall be headed "In the High Court of Judicature at Jabalpur".(2)If there be a cause in Court, the affidavit in support of, or in opposition to, an application representing it must also be entitled in the cause.(3)If there be no cause in Court, the affidavit shall be entitled 'In the matter of the petition of '.

**3. Every affidavit shall be drawn up in the first person and divided into paragraphs, numbered, consecutively, and each paragraph, as nearly as may be shall be confined to a distinct portion of the subject.**

**4.**

(1) Except in interlocutory proceedings affidavits shall strictly be confined to such facts as the declarant is able of his own knowledge to prove. (2) In an interlocutory proceeding, when the particular fact is not within the declarant's own knowledge, but is stated from information obtained from others, the declarant must use the expression "I am informed" or its equivalent and, if such be the case "and verify believe it to be true" or its equivalent, and must state the name and address of, and sufficiently describe for the purposes of identification, the person or persons from whom he received such information. (3) When the application or the opposition thereto rests on facts disclosed in documents or copies of documents produced from any Court of Justice or other source, the declarant shall state what is the source from which they were produced, and his information and belief as to the truth of the facts disclosed in such documents. (4) Documents, other than those on the record of the case referred to in the affidavit shall, as far as possible, be annexed to it.

**5. Unless it be otherwise provided, an affidavit may be made by any person having cognizance of the facts deposed to. Two or more persons may join in any affidavit, each shall depose separately to those facts which are within his knowledge, and such facts shall be stated in separate paragraphs and it must appear which fact each is deposing to.**

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

**7. Every affidavit should clearly express how much is a statement of the declarant's knowledge and how much is a statement made on his information or belief and must also state the sources or grounds of the information or belief with sufficient particularity.**

Note. - In case of affidavits under Order XXXII, Rule 4 (3), Code of Civil Procedure, the officer before whom such affidavits are sworn, should see that the words "and that he (she) is a fit person to be so appointed are always inserted in the affidavit by the declarant. The affidavit should also state, - (i) that the declarant has consulted the person proposed as guardian for the suit and that the latter consents to act; (ii) whether the minor has an appointed guardian or declared guardian, and if so, who that person is; (iii) if not, who the natural guardian is, and in the absence of a natural guardian who actually has the custody of the minor. (iv) where any person other than one of the above is proposed as guardian for the suit, the reasons for not proposing the person omitted.

**8. All corrections in the affidavit shall be legibly initialled and dated by the declarant.**

**9.**

(1) Subject to the exception set out in sub-rule (2) below the charge of administering the oath to the deponent or receiving the solemn affirmation should be one rupee for each affidavit and this charge shall be paid by means of a court-fee stamp affixed to the affidavit. (2) No charge shall be made in respect of affidavits made by public officers in virtue of their office.

**10. If the declarant is not personally known to the officer administering the oath or receiving the solemn affirmation, he shall be identified by some person whom that officer does know and otherwise by at least two respectable witnesses which person or witnesses shall sign the endorsement prescribed by Rule 14 below.**

**11. Where the declarant is a pardanashin woman, she shall be identified by a person to whom she is known and before whom she is accustomed to appear unveiled and such person shall sign the endorsement prescribed by Rule 14 below.**

**12.**

(1) The officer shall, before administering the oath or receiving the solemn affirmation ask the declarant if he has read the affidavit and understands the contents thereof, and if the latter states that he has not read it, or appears not fully to understand the contents thereof, or appears to be blind, illiterate or ignorant of the language in which it is written, the officer administering the oath shall read and explain in his presence, the affidavit to the declarant in language which both the declarant and the officer administering the oath understand. (2) When an affidavit has been read, translated or explained as herein provided, the officer administering the oath or receiving the solemn affirmation shall certify in writing at the foot of the affidavit that it has been so read, translated or explained in his presence and that the declarant appeared to understand the same at the time of making the affidavit and made his signature or finger-impression in the presence of the officer.

**13. The Court or a Judge may order to be struck out from any affidavit any matter which is scandalous or irrelevant and may order the costs of any application to strike out such matter, if granted, to be included in the costs payable by the offending party.**

**14. The officer administering the oath or receiving the solemn affirmation shall make the following endorsement on every affidavit made before him and shall date, sign and seal the same :-**

"Sworn before me on the..... day of.....20.....by.....son of who is personally known to me (or) who has been identified by. whose signature is/signatures are thereto appended.SignatureDesignation"SealA rubber stamp may be used for the form of this endorsement. In addition the particulars required by Rule 12 (2) shall, where necessary, be added in manuscript and dated, signed and sealed by the officer administering the oath.

**15. In administering oaths or receiving affirmations the following form should be used.**

OathI swear that this my declaration is true, that it conceals nothing, and that no part of it is false.  
So help me God.AffirmationI solemnly declare that this my declaration is true, that it conceals nothing, and that no part of it is false.

## **Chapter IV**

### **Court Hours and Presentation of Appeals and Applications**

**1.**

-Court Hours

**1. The Court will be open daily, except on authorised holidays, for the transaction of judicial business, between the hours of 10.30 a.m. and 4.30 p.m. The Judges will ordinarily sit in Court between the hours of 10.30 a.m. and [4.30] [Substituted by Notification No. 16, dated 1-2-1994.] p.m. with a recess between 1.30 and [2.00] [Substituted by Notification No. 16, dated 1-2-1994.] p.m. [x x] [Omitted by Notification No. 16, dated 1-2-1994.]**

**2.**

-Presentation of Appeals and Applications

**2. Applications to the High Court shall, save where it is provided to the contrary in these rules, be by a petition,-**

(i)written in the English language;(ii)neatly typed on thick paper of foolscap size with a margin of two inches, only one side of the paper being used;(iii)signed and dated by the petitioner or by Iris

counsel, or if the petitioner is illiterate bearing the petitioner's thumb mark attested by the signature of one literate person;(iv)signed by the typist who shall state the capacity in which he types it;(v)presented in the office of the [Additional Registrar] [Substituted by Notification No. 1452-1-9-3-37, dated 23-1-1976.] by the petitioner, his recognised agent or his counsel in person.

**3. Every petition shall be headed "In the High Court of Judicature at Jabalpur". If it relates to a cause, appeal or other proceeding already before the Court, the class and number of such cause, appeal or proceeding shall be set out immediately below the title; otherwise the class of proceeding to which the petition belongs shall be indicated.**

Note. - The classification of proceedings in the High Court is as follows :-(i)First Appeals, (ii) Second appeals, (iii) Miscellaneous Appeals, (iv) Civil revisions, (v) Miscellaneous Civil Cases, (vi) Criminal Appeals, (vii) Criminal Revisions, (viii) References in cases involving capital punishments, and (ix) Miscellaneous criminal cases. First and Second appeals refer to appeals from original and appellate decree respectively, all appeals from orders including those under Section 47, Code of Civil Procedure, whether original or appellate, being classified as miscellaneous. Civil revisions refer to revisions of a lower Court's decree or order under Section 115 of the Code of Civil Procedure, Section 25 of the Provincial Small Cause Courts Act or Section 75 of the Provincial Insolvency Act.

**4.**

(1)The provisions of Rules 2 and 3 shall apply, as far as may be to every memorandum of appeal, memorandum of objection under Order XL1, Rules 22 and 25 and every petition for revision. Every memorandum of appeal, memorandum of objection and petition for revision shall state :-(i)The provision or provisions of law under which it is made immediately below the cause title;(ii)The name, description and place of residence, specifying whether such place or residence is a registered address within the meaning of Order VII, Rule 19 and Order VIII, Rule 11 of the Code of Civil Procedure of each appellant, respondent, or petitioner, as the case may be;(iii)The name description and place of residence, specifying whether such place of residence is a registered address within the meaning of Order VII, Rule 19 and Order VIII, Rule 11 of the Code of Civil Procedure, of each person whom it is proposed to make a respondent or opposite party in the case of memorandum of appeal and petition for revision and of the appellant or appellants in the case of a memorandum of objection;(iv)The name of the Court and judge by whom the decree or order objected to was passed; and if the decree or order was passed in appeal the names of the original Court and of the Judge presiding over it;(v)The date or dates of the decrees or orders of the lower Courts;(vi)A brief statement of the facts of the case (in petitions for review or revision);(vii)The grounds of appeal or objection;(viii)The relief sought; and(ix)The value of claim in the appeal, objection, review or revision.(2)Every such memorandum and petition for revision shall be accompanied by a certified copy of the decree appealed from or sought to be revised and of the judgement or order on which the decree is founded.[x x x] [Omitted by Notification No. 5-1 -9-3-37, dated 27-6-1978.](3)[ Every memorandum of appeal or objection and every application shall be accompanied by as may typed copies thereof as there-may be parties to be served, together with :-(i)two extra copies in a Division

Bench case (to be supplied at once); and(ii)one extra copy in every other case :Provided that it shall not be necessary to supply copies for service on the parties until the Court has ordered notice to issue.(4)If the requisite copies are not supplied within such time or within such further time as may, for sufficient cause shown, be allowed by the Registrar, the memorandum or application shall be listed for rejection before the Court.(5)[Ordinarily] [Inserted by Notification 21 (w.e.f. 1-11-1995).] No order granting stay or any other relief shall be made unless the Memorandum of appeal or petition for Revision has been admitted for final hearing.(6)No order shall be issued from the Court on such memorandum or application until the required copies have been supplied.(7)The copies shall be fairly and legibly typewritten or photocopies or lithographed or printed with quarter margin on one side of durable paper.][5.[(1)] [Substituted by Notification No. 13-1-14-1/38, dated 26-3-1985.] Every petition of appeal under Section 382 of the Code of Criminal Procedure and every petition asking for the exercise of the High Court's powers under Section 397 or 401 of the same Code shall state the details of any sentence imposed and the enactment under which any conviction is held in the proceeding in connection with which the petition is made.(2)[ Every such petition of appeal [or petition for revision] [Inserted by No. 21 (w.e.f. 1-11-1995).] or application for grant of bail or any urgent relief pending appeal or revision, or affidavit in Court shall be accompanied by as many typed copies or legible photocopies thereof as there be parties to be served, together with : (i)three extra copies in a Division Bench case or in an application for bail or stay proceedings in a case pending before a Court of Sessions; or(ii)two extra copies in every other case.(3)No Criminal [Appeal or] [Inserted by Section No. 23, dated 12-12- 1997 (w.e.f. 1-1-1998).] Revision Petition or application for grant of bail or any other urgent relief shall be entertained unless a copy thereof alongwith the copy of judgement or order appealed against or sought to be revised or copy of the order refusing bail passed by the Sessions Judge has been given to the Office of the Advocate General and the fact of such copy having been given is endorsed on such petition or application.(4)[Ordinarily] [Inserted by Arndt. Notification No. 22, dated 5-4-1997.] no order granting bail or any urgent relief shall be made on an application unless the appeal or revision, as the case may be, has been admitted for final hearing.(5)No order shall be issued from the Court on a petition of appeal or application until the required number of such copies has been supplied.[Such copies shall be certified to be correct by the party supplying them or his Advocate](6)Nothing contained in sub-rule (2) and (3), shall apply in case of petition or revision sent on behalf of an accused prisoner who is confined in jail.]

**6. A petition for the exercise of the power conferred by Section 115 of the Code of Civil Procedure shall set out clearly how and in what manner the subordinate Court has exercised a jurisdiction not vested in it by law or has failed to exercise a jurisdiction so vested, or the particular illegality or irregularity complained of as the case may be.**

**7. A petition for the exercise of the power conferred by Section 25 of the Provincial Small Cause Courts Act, 1887, shall specify in what particular the decree or order of the Court is not according to law.**

**8. Separate petitions shall be made in regard to distinct subject-matters.**

**9. A petition shall not contain more than one prayer or one series of alternate prayers of the same kind.**

**10. An application for leave to appeal under clause 10 of the Letters Patent against an appellate judgement of a single Judge of the High Court shall be made in writing or orally to the Judge deciding the appeal immediately after the judgement is delivered. No other application for such leave to appeal shall be entertained.**

**11. Petitions for revision made to this Court for which no specific statutory limitation exists will be treated as prima facie made without such diligence as ought ordinarily to be shown to entitle the petitioner to relief in revision if the period from the date of the order of which revision is sought to the date on which the petition is filed in Court excluding the time properly spent in obtaining any copy required to be submitted with the petition is more than 90 days.**

**12. All petitions made to this Court for restoration to file of Civil Revision dismissed for default by this Court will be treated as prima facie made without such diligence as ought ordinarily to be shown to entitle the petitioner to the relief, if the period from the date of the order of which revision is sought to the date on which the petition is made excluding the time properly spent in obtaining any copy required to be submitted with the petition, is more than 30 days.**

**13.**

(1) In computing the period of limitation for an appeal under clause 10 of the Letters Patent, the time taken for obtaining leave to appeal where such leave is necessary, shall be excluded. (2) A memorandum of appeal under clause 10 of the Letters Patent need not be accompanied by a copy of the decree, order or judgement appealed from. (3) [The Memo of Appeal under clause 10 of the Letters Patent shall be accompanied by one certified copy along with two uncertified copies or two photocopies of the judgement, order or decree appealed from.] [Inserted by Notification No. 23, dated 12-12-1997 (w.e.f. 1-1-1998).] [14. [x x x] [Omitted by Notification No. 7520-1-10-151, dated Jabalpur the 1-9-1965.]

**15. No petition for revision of an original order of a Magistrate shall be entertained unless it is accompanied by a copy of the order of the [x x x] [Omitted by Notification 23, dated 12-12- 1997 (w.e.f. 1-1-1998).] or Session Judge concerned refusing to refer the case to the High Court.**

**16.**

(1)The following petitions shall be accompanied by an affidavit made by the petitioner or his counsel,-(i)for review made upon the ground of the discovery of new and important evidence;(ii)for stay of execution;(iii)for vacating an order staying execution;(iv)for security under Order XLI, Rules 6 and 10 of the Code of Civil Procedure;(v)for re-admission or restoration of an appeal or application dismissed for default of appearance or for non-payment of process fee or paper-book costs.(vi)for action for contempt of Court;(vii)containing a complaint against a legal practitioner under the Legal Practitioners Act (XVIII of 1879) or the Bar Councils Act (XXXVIII of 1926);(viii)for substitution of parties;(ix)for the appointment or discharge of guardians ad litem or next friends;(x)for amendment of a memorandum of appeal or application for review or revision on a minor party attaining a majority;(xi)for amendment of memorandum of appeal consequent on the death of a party including a party whose heirs are already on record;(xii)for transfer of any civil criminal case.(xiii)for action under Section 87 of the Code of Criminal Procedure.(2)Nothing in sub-rule (1) of this rule shall be deemed to limit the right of any Judge to call for an affidavit in any other matter in respect of which he has power to exercise any discretion or make any order.

**17. The affidavit accompanying a petition for review made upon the ground of the discovery of new and important matter of evidence, within the meaning of Order XLVII, Rule 1 of the Code of Civil Procedure shall state in clear terms what such new and important matter of evidence is, the effect or purport thereof and that the same, after the exercise of due diligence, was not within the knowledge of the petitioner, 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 petition.**

**18. The affidavit accompanying a petition for stay of execution under Order XLI, Rule 5 of the Code of Civil Procedure shall state the facts upon which the petition is based, the date of the decree or order, the stay of the execution of which is desired, particulars of the suit or proceeding in which such decree is made or order is passed, the date of the order, if any, for execution of 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.**



**19. The affidavit accompanying a petition for the re-admission or restoration of an appeal or application dismissed for default of appearance or for non-payment of process-fees or paper-books costs shall state the circumstances under which such default was made, and whether or not the party whose appeal or application was dismissed had, previous to such dismissal, engaged an advocate to conduct the appeal or application.**

**20. If a petition or memorandum of appeal is not in proper form or is not accompanied by the necessary documents and the petitioner or applicant fails to amend it or rectify the omission within the time fixed by the [Additional Registrar] [Substituted by Notification No. 1452-1-9-3-37, dated 23-1-1976.] or Deputy Registrar, it shall be laid as soon as possible before a Bench for orders.**

**21. In the matter of any pending case no interlocutory application, written statement, affidavit, or list of documents shall be filed unless a copy thereof has been previously served on the counsel of the opposite party who has entered appearance through a counsel. The counsel served with such copy shall acknowledge receipt of the copy by endorsement on the original written statement, affidavit or list of documents. When the counsel of the opposite party refuses to accept the copy or is not available or such party is not represented, the fact shall be endorsed by the applicant on the application or document presented :**

Provided that where the counsel for the opposite party refuses to accept the copy, the may record his reasons for refusal on the original application or document. Note. - When the Court orders the filing of an affidavit, a copy of the affidavit so filed, shall be served on the counsel of the opposite party a week (or such time as Court may fix) before the date of hearing.

## **Chapter V**

### **Procedure After Presentation**

**1. Memorandum of appeal, memoranda of objection under Order XLI, Rules 22 and 26, Code of Civil Procedure and petitions shall be presented to [Additional Registrar] [Substituted by Notification No. 1452-1-9-3-38, dated 23-1 -1976.]'s reader who shall immediately fix a date not more than a week ahead in civil cases and not more than five days ahead in criminal cases. On that date the party filing the memorandum or petition, or his counsel should**

**attend in office to ascertain the progress of the matter. The reader shall in the interval examine the memorandum or petition with a view to seeing whether it is in order, properly stamped and within time and submit the result in the prescribed form to the [Additional Registrar.] [Substituted by Notification No. 1452-1-9-3-37, dated 23-1-1976.]**

**2.**

(1)All such memoranda and petitions shall after presentation in the proper form and bearing the proper court-fee stamps be registered in the Register of Petitions.(2)Every interlocutory application or petition besides bearing the annual serial number against which it is registered in the Register of Petitions, shall also bear a serial number in the chronological order of its presentation in the suit or proceedings. This number shall be entered in red-ink at the head of the application or petition as follows; the first interlocutory application or petition in the particular case or proceeding will be endorsed "Interlocutory Application (or petition) No. 1" the second "Interlocutory Application (or petition) No. 2" and so on. Every such application or petition shall be put up with a separate continuation order-sheet commencing with the rubber-stamp provided for the purpose, the serial number pertaining to the case appearing above the stamp.[3. All appeals and revision petitions and references under Taxation statutes if found in order shall be placed before the appropriate Bench for admission or motion hearing. Intimation of the date shall, as far as practicable, be given to the counsel for the appellant/applicant if available at the seat at the High Court.] [Substituted by Notification No. 17, dated 21-2-1994.]

**4. [x x x] [Omitted by Notification No. 17, dated 21-2-1994.].**

**5. Appeals from or petitions for revision of interlocutory order of the subordinate Courts, petition or application accompanied by petition for urgent disposal, petition for the grant of bail, petition for the transfer of criminal cases from one subordinate Court to another and application in cases pending before the High Court will be placed before the motion Bench without records in the first instance and a short date may therefore be given in such cases. [x x x] [Omitted by Notification No. 23, dated 12-12-1997 (w.e.f. 1-1-1998).]**

**6. If a party desires any particular petition or application to be disposed of expeditiously, he should present a separate stamped petition in that behalf and the urgent petition or application will thereupon be placed by the [Additional Registrar] [Substituted by Notification No. 1452-1-9-3-37, dated 23-1-1976.] before the Court as early as possible.**

**7. Petitions for stay of execution unless accompanied by a petition for urgent disposal under Rule 6 above will be put up with the case on the date fixed for the motion hearing of the case. If a petition for stay of execution is accompanied by a petition for urgent disposal, the record of the lower Court will be sent for immediately and the case placed before the appropriate motion Bench within three days of the presentation of the petition, and the Bench may, whether the record has or has not been received, pass orders on the petition for stay of execution, and also may admit the appeal or application for revision for hearing parties. Provided that petitions for stay of execution filed in appeals under Section 47, Civil Procedure Code, which are to be heard by a Division Bench shall be placed before a single Bench which shall dispose of the petitions for stay of execution only.**

[8. (1) All petitions for grant of bail, if in order, should be placed before the appropriate Bench, as far as practicable, within three days.] [Substituted by Notification No. 17, dated 21-2-1994.](2)[ The bail application shall be accompanied with three spare copies. In case the Court admits the bail application, copies of the application shall be sent to Advocate General, District Magistrate and the Sessions Judge concerned.] [Inserted by Notification No. 14/1-14-1/38, dated 13-6-1986.](3)[ [Re-numbered by Notification No. 14/1-14-1/38, dated 13-6-1986.] If the Judge orders that the record of the lower Court be sent for the requisition and the envelope in which it is despatched should be marked "Immediate" in red ink. The record with the case concerned should be placed before the appropriate Bench immediately on receipt.(4)[ [Re-numbered by Notification No. 14/1-14-1/38, dated 13-6-1986.] Notwithstanding anything contained in sub-rule (1) above, no petition for the grant of bail, pending appeal or leave to appeal to the Supreme Court shall be entertained unless it contains an averment that a similar petition relating to the same subject-matter has or has not been made to the Supreme Court and if made, with what result.(5)[ [Re-numbered by Notification No. 14/1-14-1/38, dated 13-6-1986.] No petition for the grant of bail, other than those referred to in sub-rule (3) above, shall be entertained, unless it contains an averment that a similar petition relating to the same subject-matter has or has not been made to the High Court and/or Court of Session, and if made, with what result. A copy of order of the Court of Session, if any, shall be filed with the bail application.

## **9.**

(1) Petitions for transfer of criminal cases from one subordinate Court to another in the same revenue district or from one revenue district to another should be similarly dealt with. If the Judge order the records of the lower Court be requisitioned or an explanation from the Magistrate be called for the requisition or endorsement and the envelope in which it is despatched should be marked "Immediate" in red-ink. The record or explanation with the case concerned should be placed before the appropriate Bench immediately after receipt.(2) When in such cases notice is to issue to the Crown only, the hearing should be fixed not latter than fortnight ahead and where notices are to issue to the Crown as well as to the opposite party, the hearing should not be more than four weeks

ahead. The words "Immediate-notice of transfer of criminal case" should be entered in red-ink at the top of the notices.

## **10.**

(1)After a date for motion hearing a has been fixed, the [Additional Registrar] [Substituted by Notification No. 1452-1-9-3-37, dated 23-1-1976.] shall, in the case of petition or application to be heard with records immediately, send for the records from the lower Court.(2)When the records of proceedings pending in the lower Court are sent for, they should be retained in the High Court only as long as is absolutely necessary and may be returned to the subordinate Court and called back as convenience permits.

**11. [The references for confirmation of death sentences and] [Inserted by Notification No. 13-1-14-1/38.] appeals against a sentence of death are to have preference over all other cases. They should therefore be posted for hearing as soon as they are ready. The preparation of paper books in such cases should be expedited throughout.**

**12. Motion hearings will ordinarily be taken by the Benches in open Court. The Chief Justice may, however, by order and subject to such conditions, as he may impose, permit the motion hearing of classes of cases specified in that order to be taken in Chambers.**

**13. Appeals and applications fixed for motion hearing shall be distributed by the [ Additional Registrar] [Substituted by Notification No. 1452-1-9-3-37, dated 23-1-1976.] to the appropriate motion Bench two days before the due date. The distribution lists shall be initialled by the [ Additional Registrar] [Substituted by Notification No. 1452-1-9-3-37, dated 23-1-1976.] and no change in them shall be made without his authorisation and initials. Cases in which the same counsel appeals shall, as far as possible, be placed together in the list. A copy of the list shall be supplied to the Judge's reader and the Bar Association.**

## **Chapter VI**

### **Processes and Process-Fees**

**1. Whenever notice is ordered to be issued to any party at the expense of any other party, the latter shall pay the necessary process-fees within the time stated in the order, or if no such time stated, within 20 days and shall, at the same time supply as many copies of memorandum of appeal, memorandum of projection or petition and any affidavit filed in support of them [and in case of second appeal the substantial question or questions of law on which the same is admitted] [Inserted by Notification No. 7, dated 22-8-1979.] as there are persons to be served :**

[Provided that the time requisite for obtaining a certified copy of the order-sheet containing the substantial question or questions of law on which a second appeal is admitted, will be further available for supplying copies thereof along with process-fees :] [Inserted by Notification No. 7, dated 22-8-1979.][Provided further that in all civil matters notices to the Public Officers and corporations shall be sent in the prescribed forms by registered post acknowledgement due.] [Inserted by Notification No. 23, dated 12-12-1997 (w.e.f. 1-1-1998).]

**2. If the process-fees are not paid by the due date or if the necessary documents are not filed, the case shall be forwarded forthwith by the Assistant Superintendent concerned direct to the [Additional Registrar] [Substituted by Notification No. 1452-1-9-3-37, dated 23-1-1976.] who may, in his discretion either require a written stamped application for the extension of time to be made, or grant further time for depositing the process-fees or filing the documents without requiring the making of a written application or may direct that the proceedings be placed forthwith before the appropriate Bench for orders. All order dealing with the service of notices shall be recorded in the order-sheet.**

**3.**

(1)Process-fees must be paid in court-fee stamps and not in cash. The stamps must be affixed to a memorandum to be written on a sheet of paper. The memorandum shall state the number and class of the proceeding the value of the claim in appeal, the value of the claim in suit, the value of the court-fee stamps attached, details of the processes to be issued, and particulars and full address of the parties on whom the notices are to be served. If the address so given is registered address within the meaning of Order VII, Rule 19 and Order VIII, Rule 11 of the Code of Civil Procedure, the letters "R.A." shall be placed before the address.(2)If the memorandum be an application for issue of a process, it must, in addition to the requisite stamp for the process-fee, bear such stamp as are necessary for its own validity.(3)If a party presents in duplicate a memorandum for the issue of a process and desires that the receiving official should acknowledge it, the latter shall sign and date the duplicate copy by way of acknowledgement of the original and return it to the party presenting

it.

**4. The memorandum referred to in Rule 3 may be filed in the office within the period allowed or may be sent by registered post, addressed to the Superintendent, Judicial Branch, in time to reach the Court within the period allowed.**

**5. The [Additional Registrar] [Substituted by Notification No. 1452-1 -9-3-37, dated 23-1 -1976.], having regard to the state of the file, shall fix the period to be entered in notices to respondents at the earliest possible date of hearing. If for any special reason, an appellant wishes any appeal to be heard at an earlier period than would ordinarily be the case, he may, in the case of first appeals and appeals under Clause 10 of the Letters Patent, apply by a properly stamped application to the [Additional Registrar] [Substituted by Notification No. 1452-1-9-3-37, dated 23-1-1976.] and in other cases to the Judge, who presides at the preliminary hearing for a special order to that effect.**

**6. The fees exhibited in the following table shall be charged for serving**

and executing the several processes against which they are severally ranged :-(i)In every case in which personal or substituted service of a summons or notice is required in respect of each person,-

- |     |  |   |
|-----|--|---|
| (a) | in appeals and revision not exceeding Rs. 10,000 in value. | [Rs. 10.00] [Substituted by Notification No. 23, dated 12-12-1997 (w.e.f. 1-1-1998).] |
| (b) | in appeals and revisions exceeding Rs. 10,000 in value.    | [Rs. 15.00] [Substituted by Notification No. 23, dated 12-12-1997 (w.e.f. 1-1-1998).] |

Note. - When 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.... [Rs. 5.00] [Substituted by Notification No. 23, dated 12-12-1997 (w.e.f. 1-1-1998).](ii)The process-fee in applications for probate and letters of administration and applications for revocation of probate and letters of administration shall be according to the value of the property in dispute, and as per scale laid down in clause (i) (a) and (b) above.(iii)Process-fee in cases not otherwise provided for shall be as in clause (i) (a) and the Note thereunder.(iv)[ In cases where processes have to be transmitted by registered post acknowledgement due, the actual sum payable for such transmission through registered post shall be paid in the form of envelope containing postal stamps of the requisite value.] [Inserted by Notification No. 17, dated 1-3-1994.](v)[ the provisions of Order V of the Code of Civil Procedure, 1908 shall apply to service in all proceedings in this Court.] [Inserted by Notification No. 23, dated 12-12-1997 (w.e.f. 1-1-1998).]

**7. Notwithstanding Rule 3 (foregoing) no fee shall be charged for serving,-**

(a)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 for 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 a summons, notice or order affixed in a Court-house or in the office of a Collector.

**8. If the undermentioned criminal cases are set down for hearing both parties, notices of the date of hearing shall invariably issue to the Advocate-General through the Legal Remembrancer, Madhya Pradesh-**

(a)Appeals by accused persons against decisions of Sessions Judges in which counsel appears for the appellant;(b)Petitions by private persons for revision of judgements or orders of Sessions Judge in which the application is either filed by counsel or in which counsel enters an appearance for the applicant before the petition is admitted for hearing parties;(c)Proceedings regarding the transfer of case;(d)Appeals in murder cases;(e)In all cases of enhancement of sentence when the Court considers that there is prima facie case for alteration of the sentence.

**9. In all criminal cases in which a charge involving the capital sentence is involved in one way or another and the capital sentence is not imposed, a notice shall issue to the Advocate-General with a view to affording an opportunity to the Crown for considering whether an appeal against acquittal or an application for enhancement of sentence should be filed. Cases in which such notice has been given shall not be posted for disposal until after the expiry of two weeks from the date of issue of such notice. If the Government gives, in such a case, notice of an appeal against an order of acquittal or of an application for enhancement of sentence within the said period of two weeks, the appeal originally filed by the accused and the appeal or application filed by the Government shall be posted for disposal together.**

## **Chapter VII**

### **Roster, Cause-List and Miscellaneous Instructions**

**1. The Judges shall sit singly or in Benches of two or more Judges and dispose of civil or criminal work in accordance with a roster approved by the Chief Justice. The roster shall be prepared by the [Additional Registrar]**

**[Substituted by Notification No. 1452-1-9-3-37, dated 23-1-1976.] in accordance with instructions given by the Chief Justice, and shall be submitted to the Chief Justice on the 20th of each month. On approval a copy of the roster shall be supplied to all Judges and to the Bar Association.**

**2.**

(1)At the conclusion of a motion hearing the Court Reader shall send the cases to the [Additional Registrar's] [Substituted by Notification No. 1452-1-9-3-37, dated 23-1-1976.] Reader. Provided that in cases where the Court has ordered stay of execution or granted an order for bail, the Court Reader shall immediately after the hearing in which such order is passed and before sending the case to the [Additional Registrar's] [Substituted by Notification No. 1452-1-9-3-37, dated 23-1-1976.] Reader, prepare a copy of the order granting the stay execution or bail or submit it to the Superintendent.(2)The [Additional Registrar's] [Substituted by Notification No. 1452-1-9-3-37, dated 23-1-1976.] Reader on receipt of a case shall note the result in the Register of Petitions and shall then send it to the Cause List Bench where the result shall be noted in the Cause Book of Petitions and if the case is admitted for hearing parties also in the Bench Cause Book. The Cause List Clerk shall then send the case to the Pending Branch for further action. On return to the Cause List Branch it shall be included in the appropriate monthly list when it is certified as ripe for hearing.

**3. A copy of an order granting stay of execution or bail shall be issued to the subordinate Courts over the signature of the [Additional Registrar] [Substituted by Notification No. 1452-1-9-3-37, dated 23-1-1976.] and the envelope in which it is contained shall be marked "Immediate-Order for Bail or Immediate Order of stay of Execution," as the case may be, in red-ink.**

**4. Separate registers shall be maintained of civil cases to be heard by Division and Single Benches in such manner as to show when the cases are complete in every respect and are ripe for hearing. From these registers cases shall ordinarily be taken up according to the order of institution for incorporation in monthly lists of cases to be heard by Division and Single Benches. Copies of these lists shall be sent to the Bar Association and shall also be posted on the Court notice-board; [not latter than one week before the end of the preceding month] [Substituted by Notification No. 18, dated 5-3-1994 (w.e.f. 1-6-1994).]. When in any month it is found that the current list is becoming exhausted, a supplementary list for the month may be issued by the [Additional Registrar] [Substituted by Notification No. 1452-1-9-3-37, dated 23-1-1976.], Except in very exceptional circumstances a supplementary list should not be issued after the 25th of the month:**



[5. From the monthly list, weekly list shall be prepared and sent to the Bar Association, Advocate General's office and published in the Court Notice Board on the last working day of the preceding week. When weekly cause list is prepared, there shall be no separate daily cause list.] [Substituted by Notification No. 18, dated 5-3-1994 (w.e.f. 1-6-1994).][At the end of every sitting day, intimation should be sent to the Bar Association and Advocate General's Office about the numbers of the cases in the weekly list which have been heard during the day.] [Inserted by Notification No. 19, dated 9-5-1994 (w.e.f. 1-6-1994).][6. Daily list of Motion Hearing cases shall be prepared and sent to the Bar Association and Advocate General's office as early as possible on the preceding day, however, the list for Monday shall be so sent by the noon of the preceding Saturday if it is a working day or by the evening of the last working day if the Saturday is a holiday. Cases shall be allotted by the Additional Registrar (J) to the various Benches in accordance with the instructions of the Chief Justice.] [Substituted by Notification No. 18, dated 5-3-1994 (w.e.f. 1-6-1994).][7. Separate registers shall similarly be maintained of Criminal Cases to be heard by the Division and Single Benches, Criminal Appeals, Criminal Revisions and petitions under Section 482, Cr PC, shall be taken from these registers according to the orders of institution for incorporation in the weekly list of cases likely to be ready for hearing in that particular week. There shall be daily list of bail applications for final hearing. Copies of the list shall be sent to the Bar Association and Advocate General's office and affixed at the Court's notice board on the last working day in the cases of weekly list and in the previous evening in the case of daily list.] [Substituted by Notification No. 18, dated 5-3-1994 (w.e.f. 1-6-1994).]

## 8.

(1) Cases shall be set down in the monthly and fortnightly lists in the order of the date of admission, provided that postponed cases which under any rule are to be given preference, remanded cases and cases marked "early" by a Judge or Judges shall be given precedence in that order. Subject to the provisions of sub-rule (2) below, any cases included in a weekly or daily list but not reached at the close of the week or the day shall ordinarily be placed at the following week's or the day's list. A case which has been fixed by special order for hearing on a particular day before a particular Judge or Judges shall, however, take priority over all cases other than part-heard cases which shall be placed at the top of the list for the day. Cases shall be heard in the order given in the daily list unless otherwise directed by the Court. (2) Ordinarily part-heard cases shall be proceeded with on the following day or days till they are concluded. (3) [Cases in which any party is represented by a single counsel not practising in Jabalpur or in case of Benches at Indore and Gwalior, in those towns, shall be taken up on Thursday. In case the cases are not completed, they shall be taken up on Friday. Counsel not stationed at Jabalpur, Indore or Gwalior respectively and appearing in any case in any of those Benches shall be assisted by local counsel stationed at the respective places.] [Substituted by Notification No. 18, dated 5-3-1994 (w.e.f. 1-6-1994).]

**9. A case may be taken off monthly cause-list or may be removed to a lower or higher position on such cause list by the [Additional Registrar] [Substituted by Notification No. 1452-1-9-3-37, dated 23-1-1976.] on a written request signed by all parties who have entered an appearance or by their**

**counsel. Such a request need not bear court-fee stamp.**

**10. A case may be taken off the weekly cause list or may be removed to a lower or higher position in such list under the order of the [Additional Registrar] [Substituted by Notification No. 1452-1-9-3-37, dated 23-1-1976.] made on a written request signed by all parties who have entered an appearance or by their counsel and presented not later than the Friday by the week preceding that to which the cause-list relate. Such a request need not bear a court-fee stamp.**

**11. A case may be removed to a lower position in the daily cause list under the order of the [Additional Registrar] [Substituted by Notification No. 1452-1-9-3-37, dated 23-1-1976.] made on a written request signed by all parties who have entered an appearance or by their counsel and by the counsel appearing in the case next below such case. Such an order shall be made only in cases where the [Additional Registrar] [Substituted by Notification No. 1452-1-9-3-37, dated 23-1-1976.] is satisfied that the making of such an order is desirable for the convenience of all concerned. Such an order shall not be made after 5 p.m. on the day preceding that to which the cause-list relates and shall be immediately certified to the Judge or Judges concerned.**

**12. A case may be postponed by the [Additional Registrar] [Substituted by Notification No. 1452-1-9-3-37, dated 23-1-1976.],-**

(a)if two days before the date of hearing, the record has not been received or the case is otherwise incomplete;(b)if before the day of hearing, the death of a party is announced and an adjournment is thereby necessitated;(c)if the lower Court have not complied with a precept or process;(d)if the advocate engaged is a Member of the Legislative Assembly and if atleast two days before the date of hearing such advocate gives notice that he has been engaged for the purpose of arguing the appeal, that his client is not in a position to engage another advocate and that on the date of hearing he will be unable to appear by reason of being engaged in the Legislative Assembly, or in some Committee established by the Legislative Assembly.

**13. Except as provided by Rules 9-12 no adjournment in any cause list shall be made; provided that an adjustment of the daily cause list may be made under the orders of the appropriate Bench in respect of cases in which an application under Rule 11 has not been made.**

**14. Parties and their advocates or agents are required to attend the Court on the day or days for which their cases are set down, and on subsequent days until their cases are disposed of or are postponed. Intimation of case having been brought on the monthly and weekly list shall be given by post to such parties as are not represented by counsel.**

**14A. [x x x] [Omitted by Notification No. 4-1-9-3-37, dated 27-6-1978.]**

**15. The third Friday in every month shall be reserved in all Courts for Full Bench and such special work as the Chief Justice may direct.**

## **Chapter VIII**

### **Paper-Books**

#### **Part I – Preparation of Paper-Books In Civil Cases**

**1. In every case in which a civil appeal or an application for revision or review on the civil side has been admitted for hearing both parties, the Registrar shall, on receipt of the records from the lower Court and of the prescribed cost, if any due from the parties, cause a paper-book to be prepared in accordance with the rules below :**

Provided that no paper-book shall be prepared in the matters to be ordinarily heard and disposed of by a Judge sitting alone [x x x] [Omitted by Notification No. 14/1-14-1/38, dated 13-6-1986.] unless otherwise directed by the Court: Provided further that in a miscellaneous case not provided for in these rule, it shall not be necessary to prepare a paper-book, but the Registrar may, if he thinks fit, direct the preparation of a paper-book and also what papers it shall contain and may pass orders as to the number of copies to be prepared, the person or persons by whom the costs are to be borne, the papers to be included, and any other incidental matter. The Registrar may, if he thinks fit, direct the preparation of such paper-books at the expenses of Government. In such cases the attention of the Court shall be drawn to this fact at the time of hearing and the Court may pass such orders as it thinks fit as to the apportionment and recovery of such costs.

**2. Excepting where original documents are utilized under these rules the paper-books shall be prepared in type on thin white foolscap paper, only one side of the paper being used. To each paper-book shall be prefixed a table of contents with reference to pages and each paper-book shall be stitched together with a fly leaf in the prescribed form.**

**3. Each typed page of the paper-book shall ordinarily contain about 360 words and every tenth line on each page shall be numbered 10, 20, 30 and so on.**

**4. All documents in vernacular shall be translated by the official translators of the Court before being included in the paper-books.**

**5. The entry of a case in the monthly Cause List shall be sufficient notice to all concerned that the paper-book is ready and copies may be obtained from the office.**

**6.**

(1)At the end of each book shall be noted details of the costs incurred in the preparation of the paper-book by the parties separately and such amounts shall, subject to the following provisions, be included in the costs of the case unless the Court directs otherwise :-(i)In the case of charges incurred under Rule 8 or the proviso to Rule 26 only such amount shall be included as would have been chargeable at the rate prescribed in Rule 7.(ii)The cost of one extra copy for each respondent or non-applicant calculated at the rate prescribed under Rule 7 (iv) shall, if actually supplied under Rule 13, be included.(iii)Any costs incurred under Rule 10 shall be included if the Court allows the admission of the documents.(2)Any surplus remaining after deducting the costs actually incurred from the amount deposited by each party with the cashier of the Court shall be refunded upon a written request (unstamped) to the party in the proceedings by whom the deposit was made or to the counsel appointed to get in this behalf. When the deposit was made by a counsel it shall be accompanied by a power of attorney or shall contain a declaration that the counsel has already filed a power of attorney in the case authorising him to receive the sum.

**7. The costs shall be calculated at the following rates :-**

(i)Translation from Hindi or Marathi into English for every 40 words of the English translation or part thereof.....[Rs. 5.00] [Substituted by Notification No. 23, dated 12-12-1997 (w.e.f. 1-1-1998).](ii)Translation from any other language into English, for every 30 words of the English translation or part thereof.....[Rs. 5.00] [Substituted by Notification No. 23, dated 12-12-1997 (w.e.f. 1-1-1998).](iii)Preparation of necessary number of copies for the use of the Court and two more copies for counsel on either side, for every 180 English words or part thereof.....[Rs. 5.00] [Substituted by Notification No. 23, dated 12-12-1997 (w.e.f. 1-1-1998).](iv)Preparation of additional copies of the paper-book per page per copy.....[Rs. 2.00] [Substituted by Notification No. 23, dated 12-12-1997 (w.e.f. 1-1-1998).][For typing vernacular documents] [Inserted by Notification No. 11198, dated 29-9-1959.],-(i)[Rs. 5.00] [Substituted by Notification No. 23, dated 12-12-1997 (w.e.f. 1-1-1998).] for every 150 vernacular words or part thereof.(ii)[Rs. 2.00] [Substituted by Notification No. 23, dated 12-12-1997 (w.e.f. 1-1-1998).] for vernacular page typed per copy of the additional copies of the Paper-book.Four figures shall be treated as the equivalent of

one word.

**8. No paper in the record of a case which ought to have been but was not included in the list of documents specified by any party under Rules 11 (vi), 28 (v), 29 (iii) and 31 (iii) or in respect of which costs have not been paid under any rule shall be referred to at the hearing of the case without the special leave of the Court and unless both the Court and the opposite party have been previously supplied with copies and if necessary, translation thereof prepared in office at the cost of the party concerned. But this rule shall not preclude the Court from referring to any paper, if it considers to do so for the ends of justice.**

The charges for preparing the copies and translations under this rule shall be twice those prescribe in Rule 7. Every endeavour will be made to supply such copies and translations before the date of hearing but parties will have not claim to an adjournment merely because the copies and translations are not supplied in time unless it can be shown that the failure to specify the documents for inclusion in the paper-book was justified or that the copies and translations were not prepared in time owing to negligence over which the party has no control.

**9. No order shall be passed exempting any party from the operation of the whole or any part of these rules, and no special order shall be made as to any matter with which these rules are concerned except upon application duly stamped with a court-fee of [Rs. 10.00] [Substituted by Notification No. 23, dated 12-12-1997 (w.e.f. 1-1-1998).] setting forth sufficient grounds.**

An application for enlargement of time for the doing of any act required to be done under these rules shall ordinarily be made before the expiry of prescribed time :Provided that if it is deemed necessary an order may be passed directing that an affidavit be filed in support of the application for extension of time.

**10. If any party desires to refer at hearing to any document not admitted in evidence in the lower Court or desires the admission of fresh documentary evidence in this Court, such documentary evidence shall be specified by such party and included in the list of documents filed by the party, and copies and if necessary translation shall be prepared at the cost of the parties and kept with, but shall not be included in the paper-book of the case.**

## **11. Appeals from original decrees. - In appeals from original decrees paper-book shall ordinarily consist of the following papers, viz.,-**

(i)the pleadings (plaint and written statements);(ii)the oral statements;(iii)the issues;(iv)the evidence of witnesses, whether taken in Court or on commission;(v)[ maps and plans, if any;] [Inserted by Notification No. 5-1 -9-3-37, dated 27-6-1978.](vi)[ [Re-numbered by Notification No. 5-1 -9-3-37, dated 27-6-1978.] the judgement and decree;(vii)[ [Re-numbered by Notification No. 5-1 -9-3-37, dated 27-6-1978.] such interlocutory applications and the orders thereon and such documents admitted in evidence as may be specified by either party in response to the notice issued to him in this behalf; and(viii)[ [Re-numbered by Notification No. 5-1 -9-3-37, dated 27-6-1978.] the memorandum of appeal:Provided that it shall ordinarily be unnecessary to include schedules, [x x x] [Omitted by Notification No. 5-1 -9-3-37, dated 27-6-1978.] statements and similar papers unless they are material for an understanding of a case :Provided further that the Registrar shall be competent either on application made or of his own motion, after hearing the parties to exclude from the paper-book all documents or portions of documents that are not relevant to the subject-matter of the appeal and generally to reduce the bulk of the record.

### **11A.**

(1)In the first appeals in which the prayer is,-(a)to grant instalments or to set aside or modify instalments granted or to modify the time granted to satisfy a decree, or(b)to alter interest allowed, or(c)to extend time to satisfy a mortgage decree or to set aside a decree following refusal to grant time, or(d)to extend time to pay the price in pre-emption cases or to challenge an order allowing time for payment, or(e)to alter the relief granted from sale to foreclosure or from foreclosure to sale in mortgage cases,the paper-book shall ordinarily consist of the following papers only ,-(i)the pleadings (petition and written reply);(ii)the oral statements;(iii)the judgement and decree or order;(iv)such portions of oral or documentary evidence as may be specified by either party in response to the notice issued to him in this behalf; and(v)the memorandum of appeal.(2)In appeals to set aside or vary a decree based on an award under Section 39 of the Arbitration Act (X of 1940), in addition to the papers mentioned in sub-rule (1) above a copy of arbitration agreement and award shall also be included.(3)In first appeals arising out of proceedings after the preliminary decree in suits for accounts or partition, the paper-books shall ordinarily consist of the following papers only,-(i)the judgement and preliminary decree [including maps and plans.] [Inserted by Notification No. 5-1-9-3-37, dated 27-6-1978.](ii)the final decree,(iii)(a)such portions of orders by the Court, and(b)such portions of oral and documentary evidence as may be specified by either party in response to the notice issued to him in this behalf.

### **11B. [x x x] [Omitted by Notification No. 7, dated 22-8-1979.]**

**12. The paper-book shall be arranged in two parts. Part II containing the exhibits and documents and Part I all the other papers. Part I shall be arranged strictly in chronological order while Part II shall follow the order of the exhibit mark. Additional evidence admitted by a lower Court after remand**

**of the case by this Court shall however, not be incorporated in the main paper-book, but shall be arranged in chronological order in a separate paper-book :**

Provided that in first appeals of the value of Rs. 20,000 (Rs. 10,000 if the plaint was filed before 26th January, 1950) and upwards the arrangement of paper-book shall be as prescribed by the rules of Supreme Court from time to time. Note. - The proviso will not apply to case in which the paper-books have been already prepared before the date on which the said proviso comes into force.

**13. Three copies shall ordinarily be prepared in appeals which are to be heard by a single Judge and four copies in appeals which are to be heard by a Division Bench. One copy in the former and two copies in the latter will be retained for the use of the Court and the other two copies given to the counsel on either side. If, however, an application is made in this behalf to the [Additional Registrar or] [Inserted by Notification No. 45-I-9-3-37, dated 12-5-1976.] Deputy Registrar, before the commencement of the preparation of the paper-book, additional copies not exceeding three may be prepared alongwith the Court copies and given to the parties on payment calculated under Rule 7 (iv). Extra copies applied for after the commencement of the preparation of the paper-book may be refused, and if supplied shall be charged for at 1-½ times the rate prescribed under Rule 7 (iii). Extra copies applied for after inclusion of the case in the weekly list will be refused. Office will endeavour to complete extra copies so charged for under Rule 7 (iii) before the hearing, but no party shall have any right to an adjournment merely because such copies are not ready.**

**14. As soon as an order has been passed admitting the case for hearing both parties and the records have been received from the Courts, the [Additional Registrar or] [Inserted by Notification No. 45-I-9-3-37, dated 12-5-1976.] the Deputy Registrar shall cause notice to be given to the parties requiring them to prepare and deliver by certain specified dates separate lists in the following form of the papers mentioned in Rule 11 (vi) above which they desire to be included in the paper-book :-**

Description of papers with date, distinguishing mark or number of page.	Whether the whole or a portion is to be included (if portion, specify it)	Page of paper-book (to be filled in by the office)
1	2	3

If the appellant does not desire to include any such papers in the paper-book, he shall file a blank list by the specified date referred to above.

**15. If portion only of a document is to be included in the paper-book, it is incumbent on the party to specify that portion clearly and beyond risk of doubt, if this is not done estimates will be prepared excluding the whole document and reference to be allowed at the hearing.**

**16. The date given for the appellant shall be at least three weeks earlier than that given for the respondents.**

**17. Every respondent may insert the appellant's list and at his own expense obtain a copy of the whole or any portion thereof.**

**18. Respondents having a common interest in the appeal may deliver a combined list and those having separate interest may deliver separate lists.**

**19. When a memorandum of objections have been filed by a respondent under Order XLI, Rule 22 of the Code of Civil Procedure, the appellant may file an additional list of papers which he desires to be included in the paper-book.**

**20. The filing of lists of document should be a considered act and revision of these lists will be normally allowed only in exceptional cases and for good cause shown. It will be allowed more freely on an agreed application of all parties duly stamped under Rule 9. In judging whether revision be allowed, reasonable diligence in filing the revised list will be considered. Normally, reasonable diligence would require the applications to be filled within a fortnight of service of estimates :**

Provided that when order allowing an application for revision of list is passed, the applicant shall pay into the office Rs. 10 in court-fee labels, as fee for the preparation of the revised estimates within the time fixed, if any, or within 7 days of the date of the order, failing which the preparation of paper-books shall be proceeded with as if there was no such application.

**21. If an application is allowed to revise his list the respondent may file an additional list of papers to be included in the paper-book.**



**22. Oil receipt of the appellants and the respondent's lists, the [Additional Registrar or] [Inserted by Notification No. 45-I-9-3-37, dated 12-5-1976.] Deputy Registrar shall, as soon as practicable, make and deliver to the parties separate rough estimate of the costs of preparing their portions of the paper-book.**

**23. The parties shall deposit the amounts as demanded in cash with the cashier of the Court within six weeks of the delivery of the rough estimates referred to in Rule 22.**

**23A. In cases falling under proviso to Rule 1 when the Court orders a party to pay paper-book costs, the Estimator shall issue a notice to the party concerned to pay costs, within two weeks of the receipt of the notice. In default of payment the [Additional Registrar or] [Inserted by Notification No. 45-I-9-3-37, dated 12-5-1976.] Deputy Registrar shall issue a certificate of non-satisfaction to the District Judge having jurisdiction over the place where the party concerned ordinarily resides or carries on business. The District Judge shall recover the costs, together with the costs of the notice, as in the case of a decree and remit the amount to the Registry at the expense of the party concerned.**

**24. If it subsequently appears that the amount so deposited by either party is insufficient, the [Additional Registrar or] [Inserted by Notification No. 45-I-9-3-37, dated 12-5-1976.] Deputy Registrar shall estimate the additional amount required and give notice thereof to the party/concerned who shall thereupon deposit the amount within three weeks of service of the notice.**

**24A. If on completion of the paper-book it is found that the deposit is insufficient the balance shall be recoverable from the party concerned. The case shall be placed before the Court and it may pass such orders for recovery of costs as it thinks fit.**

**25. If the appellant fails to deliver his list or blank list under Rule 14 or to make the deposits required under these rules, the [Additional Registrar or] [Inserted by Notification No. 45-I-9-3-37, dated 12-5-1976.] Deputy Registrar shall cause the case to be laid before the Court for orders under Order XLI, Rule 15-A, First Schedule, Code of Civil Procedure.**

**26. If the respondent does not enter an appearance or fails to deliver his list or to make the deposits required by the foregoing rules, the paper-book shall be prepared in accordance with the appellants' lists :**

Provided that a respondent may subsequently be permitted by the Registrar to get the papers and documents required by him translated and included in the paper-book, if he makes an application for this purpose at any time before the case is placed on the monthly list. The charges for preparing the copies and translations under this proviso shall be one and half times, those prescribed in Rule 7.

**27. First appeals from orders. - The rule for the preparation of paper-books in appeals from original decrees shall apply mutatis mutandis, to the preparation of paper-books in first appeals from orders passed by subordinate Courts (including orders under Section 47 of the Code of Civil Procedure) with the modification that "two weeks" shall be substituted for "three weeks" in Rule 24. "In these appeals a paper-book shall ordinarily consist only of the papers mentioned in Rule 11-A."**

**28. Appeals from appellate decrees. - [In appeals from appellate decrees (to be heard by a single Judge) preparation of Paper-Book is dispensed with unless specially ordered by the Court. When so ordered by the Court the Paper-Book in appeals from appellate decrees shall consist of the following papers viz.,-] [Substituted vide M.P. Rajpatra Part IV (Ga). dated 20-10-1976.]**

(a)(1) the plaint;(2)the pleadings [with maps and plans, if any] [Inserted by Notification No. 5-1 -9-3-37, dated 27-6-1978.];(3)the judgements and decrees [with maps and plans, if any,] [Inserted by Notification No. 5-1 -9-3-37, dated 27-6-1978.] of both the lower Courts;(4)any judgement or orders of remand passed in the case either by the lower appellate Court or by the High Court;(5)the memorandum of appeal,(b)It shall also contain any portion of the record of any evidence oral or documentary, that may be specified by either party, provided that the counsel or the party filing the list certifies in writing that such evidence or documents shall be referred to at the hearing of the appeal:Provisions contained in Rules 14, 15, 16 and 17 will not apply so far as preparation of Paper-Books in Second Appeals is concerned.

**29. Second appeals from orders. - [(a) In Second appeals from orders (including orders under Section 47 of the Code of Civil Procedure remand order under Order XLI, Rule 23 of the same Code) the preparation of Paper-Books in such appeals (to be heard by a Single Bench) is dispensed with unless specially ordered by the Court the Paper-Book in such cases shall consist of,-] [Substituted vide M.P. Rajpatra Part IV (Ga), dated**

## **22-10-1976.]**

(i)the order or orders, judgement or judgements of the subordinate Courts;(ii)the memorandum of appeal of the High Court;(iii)all papers or documents in the vernacular to which reference will be made at the hearing; and(iv)[ maps and plans, if any.] [Inserted by Notification No. 5-1-9-3-37, dated 27-6-1978.](b)Papers and documents other than those referred to in sub-rule (a) may be referred to at the hearing without inclusion in the paper-book. If however, such documents are included in the paper-book, at the request of parties, the costs thereof will not, in the absence of order of the Court to the contrary, be treated as costs in the case.(c)One or two copies of the paper-book shall ordinarily be prepared according as the case is heard by a single or Division Bench. These copies will be for the use of the Court:-(d)[ (i) For the first copy of the paper-book, the original papers and certified copies filed by the appellant shall be used if clean and clearly legible. If the copy of the judgement or order be in vernacular it shall be translated into English and typed at the expense of the appellant. If it be in manuscript or not legible it shall be typed free of cost. [Substituted by Notification No. 16, dated 1-2-1994.](ii)If more than one copy is necessary for the use of the Court the paper shall be typed in office at the expense of the appellant.](e)Appellant must file lists of documents which he desires to be included under Rule 29 (a)(iii) and 29 (b) in the form prescribed in Rule 14 above within two weeks of the order admitting the case for hearing both parties, or when that order was passed without records within two weeks of the receipt of the records in this Court. The respondent must similarly file his list within two weeks of service of notice of admission on him. Parties who do not desire the inclusion of documents under Rule 29 (a)(iii) and 29 (b) need not file blank lists under this rule within the prescribed time. The paper-book shall forthwith be prepared containing the papers enumerated in Rule 29 (a)(i) and (ii).(f)The provisions of Rules 22 to 24 shall apply mutatis mutandis to the preparation of paper-books under this rule with the modification that two weeks shall be substituted for six weeks and three weeks in Rules 23 and 24 respectively.(g)If the parties fail to make the deposit within the prescribed time the paper-book shall forthwith be prepared and the document, in respect of which costs have not been paid shall not be included.

### **30. In appeals under Letters Patent the paper-book shall ordinarily consist of,-**

(i)a copy of the paper-book which was before the Judge from whose judgement the appeal is preferred;(ii)a copy of the judgement appealed from; and(iii)the memorandum of appeal.It shall be prepared in duplicate or triplicate, as may be necessary, at the expense of the appellant.

### **31. Application for revision. - (a) In applications for revision the paper-book shall ordinarily consist of,-**

(i)the application;(ii)the judgement or order of the Court of first instance and of the lower appellate Court, if any, to which the application relates, and;(iii)All papers or documents in the vernacular to which reference will be made at the hearing.(b)it shall be prepared in the same way as the paper-books in second appeals from order and the rules for preparation of the paper-books in

second appeals from orders shall apply mutatis mutandis to the preparation of paper-books under this rule.

**32. Application for review of judgement. - In application for review of judgement the paper-book shall ordinarily consist of,-**

(i)the application;(ii)any affidavit filed with the application;(iii)any affidavit filed in reply; and(iv)the judgement and the decree or order to which the application relates.It shall be prepared in the same way as the paper-book in second appeals from orders.

**33. When these rules direct or allow any act to be done by or any notice to be given to a party to the case, such act may be done by or such notice may be given to counsel appointed to act by that party.**

**34. The Registrar may enlarge the time prescribed by these rules for doing any act. The [Additional Registrar] [Inserted by Notification No. 45-I-9-3-37. dated 12-5-1976.] may also exempt any party from the operation of any of the above rules or may make such special order as he deems fit as to the preparation of paper-book in a particular case.**

**35. When a case is referred by a single Judge to a Division Bench or Full Bench, or by a Division Bench to a Full Bench the Registrar may give order as to the preparation of such extra paper-book as he deems necessary. The costs of such extra paper-book will not be recovered from the parties.**

**36. Notwithstanding anything contained in these rules, the Chief Justice may by a general or special order dispense with translation of documents in any case or classes of cases that may be pending in the High Court.**

The Hon'ble Chief Justice is pleased to order that translation of documents in Hindi which are required to be included in paper-books shall be dispensed with except in the following :-(1)Appeals of the value of over Rs. 10,000/- arising out of suits instituted before 26-1-1950.(2)Appeals of the value of over Rs. 20,000/- arising out of rights instituted on or after 26-1-1950.(3)Death reference of cases.This order shall come into force at once and shall apply to pending cases. (Order dated 10th July, 1959).

## **Part II – Preparation of Paper-Books in Criminal Cases**

**1. When proceeding are submitted to the High Court under Section 374 of the Code of Criminal Procedure, the Registrar shall cause the record to be examined and if it is in order, he shall fix a date for hearing the reference and at once cause a paper-book to be prepared.**

**2. The paper-book shall ordinarily consist of,-**

(i)a typed transcript of a Sessions Court's record all documents and statements in vernacular being translated into English; and(ii)a typed copy of the memorandum of appeal, if any translated into English if in vernacular.

**3. Four copies of the paper-book shall be prepared on white foolscap paper, only one side of the paper being used. Each paper-book shall be stitched together with a fly-leaf in the prescribed form with a table of contents with reference to the pages of the paper-book. Every tenth line of each page shall be numbered 10, 20, 30 and so on.**

**4. As soon as the paper-book is ready, one copy shall be sent to the Advocate-General, one copy to the prisoner's counsel and the remaining copies shall be retained for the use of the Court.**

**5. Paper-books shall be prepared in all criminal appeals and criminal cases admitted for hearing by a Division Bench. They shall be prepared and distributed in the manner prescribed in Rules 3 and 4 above and shall ordinarily consist of,-**

(i)the memorandum of appeal or references, [x x x] [Omitted by Notification No. 5-1 -9-3-37, dated 27-6-1978.](ii)[ statements of all the eye-witnesses, medical or other expert witness, the first information report, maps and plans, the injury and post-mortem reports, Chemical Examiner and Serologist's reports, or the report of any other expert] [Substituted by Notification No. 5-1 -9-3-37, dated 27-6-1978.], and(iii)the judgement or order of the Sessions Court in appeal or revision, if any;[Provided that any other document and/or statement may also be included in the Paper-Book, if so ordered by the Court:Provided further that Hon'ble the Chief Justice in his discretion, may in any such case or class of cases either dispense with the preparation of Paper-Book or may order that skeleton Paper-Books be prepared containing only such documents as he may order :Provided further that in any case where there are more than one accused who are represented by separate counsel, on an application being made to the Court before commencement of preparation of the Paper-Books such number of additional Paper-Books for them may be prepared as may be directed by the Court.] [Substituted by Notification No. 5-1 -9-3-37, dated 27-6-1978.]

**6. In criminal appeals admitted for hearing by a single Judge a typed paper-book will not ordinarily be required but all documents, and statements, if in vernacular, shall be translated into English and the translation placed immediately after the originals in the record of the case. The Judge may, however, direct at the preliminary hearing of the appeal, the preparation of typed copy of any portion of a complete typed paper-book as in Rule 5.**

**7. Cases are usually taken up by the High Court in revision in the following ways,-**

(i) upon a report by a District Magistrate or a Sessions Judge under Section 438 of the Code of Criminal Procedure; (ii) upon petition received from a prisoner in Jail; and (iii) upon a petition presented in Court.

**8. The paper-book in revision cases shall ordinarily consist of,-**

(i) the report of the District Magistrate or the Sessions Judge under Section 438 of the Code of Criminal Procedure or the petition praying for revision, translated into English if in vernacular. (ii) copies of the judgements or final order passed in the case by all the Courts below, if any. Only one copy of the paper-book shall be prepared and the original documents and certified copies in the record shall be utilised if they are clean and clearly legible. On receipt of the trial Court's record the first information report and the statement and confessions of the accused shall be translated if in vernacular and the translations placed immediately after the originals in the record of the case. It shall not be necessary to translate the other vernacular documents or to prepare a typed copy of any portion of the record unless specially ordered by the Judge at the preliminary hearing or subsequently.

**9. (a) Where the Court orders the preparation of a paper-book in a criminal case at the cost of party, the [Additional Registrar or] [Inserted by Notification No. 45-I-9-3-37, dated 12-5-1976.] Deputy Registrar shall fix the time within which the party or his counsel shall deposit money or do any act for implementing the order of Court and the charges shall be calculated at the rates prescribed for civil case.**

(b) Notwithstanding anything in sub-rule (a) above, no costs shall be required to be deposited by a prisoner or person who is under restraint in pursuance of the orders of any Court.

**9A. In all criminal appeals filed under Section 417 (3) of the Code of Criminal Procedure the Paper-Books shall be prepared at the cost of the appellants and all rules for the preparation of the Paper-Books shall apply mutatis**

**mutandis.**

**10. Notwithstanding anything contained in these rules the Chief Justice may by a general or special order dispense with the translation of documents in any case or classes of cases that may be pending in the High Court.**

## **Chapter IX**

### **Judgement and Decree**

**1. Every judgement delivered and every order passed by the Court shall be recorded.**

**2. When a type script of a judgement or order has been prepared and is ready for signature, the judgement or order will be laid on the table of the Court Reader and will be available for inspection by parties and counsel appearing in the case. The judgement will be signed at the close of the sitting of the Court on the day following that on which the judgement or order is placed on the Reader's table. At any time before signature a party to the case or his counsel may appear and ask for the correction of clerical mistakes and omissions. Unless a party or counsel request to the contrary a judgement or order shall be pronounced by announcement of the result without reading the full judgement or order. The judgement or order shall bear the date of the day of signature.**

[2A. (i) If a Judge sitting singly has heard a case at a Bench (Gwalior or Indore) but when his judgement/order is ready and he is not sitting there; he can deliver his judgement/order at the place where he is sitting and the judgement/order shall be then transmitted to the Bench where the case was heard.(ii)likewise, where two or more Judges have heard a case at a Bench but neither of them or any of them is not sitting at that Bench when their judgement/order is ready, it may be delivered at the place where they or any of them is sitting and then the judgement/order shall be transmitted to the Bench where the case was heard.(iii)In every case falling under (i) or (ii) above a copy of type script of the judgement/order shall be transmitted in advance to the Bench where the case was heard, along with an intimation of the date on which and the place at which the judgement/order would be delivered. Such intimation shall be served on the counsel representing the party and where any such party is not so represented, by registered post to the party himself.(iv)The above rules will apply mutatis mutandis when a case is heard at the main seat of the High Court.]

**3. The Court Reader shall exhibit outside the Court Room a list of judgements or orders pending on his table under Rule 2 and will renew the list daily.**

**4. He shall also notify daily on the board in the tabular form given below the result of civil and criminal cases, decided by the Hon'ble Judges.**

Table showing cases decided On....by the Single Bench presided over by the Hon'ble Mr. Justice/Division Bench consisting of the Hon'ble Mr. Justice and the Hon'ble Mr. Justice....

No. and class of the case	Name of Parties	District from which case arose	Result in brief	Remarks
1	2	3	4	5

In criminal appeals and revisions the main section will be mentioned in the remarks column.

**5. When an order of remand or reference is made the record shall be at once forwarded to the Court which has to obey the order.**

**6. Decrees shall be drawn up in English. The Decree shall be prepared by the Court Reader and submitted to the [Additional or] [Inserted by Notification No. 45-I-9-3-37, dated 12-5-1976.] Deputy Registrar within seven days of the delivery of judgement or order on which it is founded. The [Additional or] [Inserted by Notification No. 45-I-9-3-37, dated 12-5-1976.] Deputy Registrar shall after making such correction as he deems necessary exhibit a notice on the notice board that the decree has been drawn up and that any party to the decree or his advocate may within three days peruse the decree and sign it for file with the [Additional or] [Inserted by Notification No. 45-I-9-3-37, dated 12-5-1976.] Deputy Registrar a written objection (which need not bear a court-fee stamp) that the decree is not in accordance with the judgement or order upon which it is founded. The [Additional Registrar or] [Inserted by Notification No. 45-I-9-3-37, dated 12-5-1976.] Deputy Registrar may, on perusal of such statement, hear the party or his advocate and may correct the decree or over-rule the objection or may refer the matter to the Court for orders.**



**7. The [Additional Registrar or] [Inserted by Notification No. 45-I-9-3-37, dated 12-5-1976.] Deputy Registrar shall causes the court-seal to be affixed to all decrees and shall sign them, dating them with the date of pronouncement of judgement.**

**8. Under no circumstances shall any decree or order passed or made by a Judge or Judges be altered, varied or parted from in any particular in the office, except under any order in writing of the Judge or Judges who passed or made such decree or order, or except under an order made on appeal from such decree or order, or except under an order made upon an application authorised to be made under an order drawn up under rule.**

**9. Where any judgement or order of any Judge or Judges of the Court contains any recommendation for the alteration of the procedure in this Court or recommends to or suggests for the consideration of Government any alteration in law or in rules having the force of law, such judgement shall immediately after delivery be submitted to the Chief Justice.**

**9A. Copies of all decrees or final orders passed in pauper suits or appeals shall be transmitted without delay to the Collector of the District in which the Court passing the original decree is situated, to enable him to recover court-fee or to apply for orders for payment of court-fee.**

**10.**

(1)Spare copies of judgements or order shall prepared in accordance with the statement below :-

Class of cases	Number of spare copies
All civil appeals and revisions	3
Criminal appeals in Session cases in which death sentence hasbeen confirmed	5
Criminal appeals in other Sessions cases	4
Criminal revisions from the decision of, or reference by,Sessions or Additional Sessions Judge	4
Criminal appeals and revision from decisions of Magistratesand reference by District Magistrate.	2
Miscellaneous Petitions.	4

(2)One spare copy will be supplied to High Court, Bar Association and the other copies to the lower Courts. In unsuccessful appeals from a sentence of death one copy of the appellate judgement, will

be supplied to Government along with the record. One of the copies meant for the lower Court will, in the first instance, be sent for the perusal of the Editor, Indian Laws Reports, Nagpur series who will return it to office within three days, and similarly one copy in all criminal cases will be sent for the perusal of the Advocate-General who will return it as early as possible.(3)In the case of Miscellaneous Petitions under Article 226 of the Constitution of India, spare copies will be supplied one each to the High Court, Bar Association, Editor Indian Law Reports, Nagpur series, Secretary to Government, Madhya Pradesh, Law Department, the Advocate-General, Madhya Pradesh and the Deputy Commissioner or other officer concerned.]Copies shall be supplied to the Government of India as follows :-(i)Two copies to the Secretary to the Government of India, Ministry of Home Affairs, under intimation to the Secretary to Government, Madhya Pradesh, Law Department.(ii)Omitted.(4)(a)A copy of each judgement or order on service matters shall be supplied to the Secretary, Public Service Commission, Madhya Pradesh.(b)One copy shall be supplied to the Officer on Special Deputy, Parliament Secretariat, Parliament House, in matters pertaining to the provision of the Constitution of India or laws made thereunder.(c)One copy shall be supplied to the Secretary, Election Commission, India in matters relating to elections and election petitions.

**11. When a junior counsel appears with a senior counsel in order to indicate who actually argued the case, the name of the counsel who argued the case shall be mentioned first in the decree, e.g., if A is senior and B is junior and A argues the case the decree would read, "for appellant A and B" but when B has argued the case it shall read "For appellants/applicant B, with him A" Court Readers shall follow a similar procedure in making entries in the order-sheet.**

**12. The provisions of Section 2 (15) and Article 45 of Schedule 1 of the Indian Stamp Act, require a final decree in a petition suit to be written on a non-judicial stamp. Any such decree passed in this Court shall be so dealt with.**

## **Chapter X**

### **Copies**

**1. The copying section in the High Court is organised on the same lines as the copying section in the lower Court. The procedure laid down in Chapter 24 of the Rules and Orders (Civil) for the guidance of subordinate Civil Courts will with necessary modifications, be followed in dealing with applications for copies in the High Court. The registers and accounts of the copying section shall be maintained in accordance with the rules in Part III of Chapter 24 of the Rules and Orders (Civil) as far as may be with the**

**modification that "Cashier" shall be substituted for "Nazir", "Assistant Superintendent" for "Clerk of Court" and "Deputy Registrar" for "Head of the Office" :**

[Provided that no copy of the office notings or the reports not forming part of the judicial order-sheets made by the Registry office in the judicial record shall be given.] [Inserted by Notification No. 13-1-14-1/38, dated 26-3-1985.] Attention is particularly invited to Rules 517 to 523, extracts from which are reproduced below :- Extracts From Rules 517-523 of The Rules and orders (CIVIL) Referred In Rule 1

**517. Application for copies may be presented in person or by an agent or a pleader or sent by post to the Head-copyist of the office at the place where the record from which the copies applied for are to be made will eventually be deposited for safe custody. ....**

Note. 1 - Copies of any number of documents on the same record may be applied for on one application. Note 2. - At headquarters station applications shall be received and copies delivered daily upto 2 and 4 p.m. respectively... Enquiries shall, however, be attended to through the usual office hours.....

**518. Under Article 1 (a) Schedule II, Court-Fees Act, 1870 (VII of 1870) as amended, an application for a copy of judgement, decree or order a Civil Court or of any document on record in a Civil Court requires court-fee stamps of ten Naya Paise. If an application be sent by post without such stamp, the head copyist shall cause a stamp to be affixed and cancelled and debit the cost to the applicants, accounts.**

**519.**

(1) Every application shall be accompanied by an advance sufficient to cover the estimated cost of the copy applied for and the cost of the court-fee stamps, if any, required under Articles 6, 7 and 9, Schedule 1 of the Court-Fees Act, 1870 as amended, and also, where the copy applied for requires a nonjudicial stamp under the Stamp Act, 1899 by the requisite non-judicial stamp. If a copy of a map is to be prepared on tracing cloth the application shall also be accompanied by the tracing cloth. In the case of an application sent by post, the advance shall be remitted by money order. Note. - Applications received by post without the requisite non-judicial stamp or the tracing cloth should be registered in the register of application for copies, but in such cases copying may be considered to have been stopped for want of funds so far as it concerns the copies of those particular documents, and the applicant should be asked to supply the requisite stamp or the tracing cloth. (2) If a party requires delivery of a copy more expeditiously than would in the normal course of business occur, he may in addition to the application for copies, presented in the manner prescribed in Rule 1, file a

separate application stamped under Article 1 (b), Schedule II, Court-Fees Act, 1870 (VII of 1870) praying for early delivery of the copies and stating the grounds on which such prayer is made. If such an application is received by post without requisite stamps, the head copyist shall cause the deficient stamps to be affixed and cancelled and debit the cost to the applicant's account. But if the account does not permit the deficiency of stamps to be made good in this manner, the application shall stand rejected. The application for early delivery will be immediately forwarded to the officer-in-charge of the copying section who shall deal with it forthwith and may, after taking into consideration the facts alleged in the application for early delivery and the state of business in the copying section allow the application and return it to the head copyist. The charge for copies, in respect of which an application has been allowed will be double the ordinary rate and the advance deposited with the application for copies should be worked out at double the ordinary rate. If the application is rejected the copies will be prepared in the ordinary way, the usual copying fee being charged and the excess will be refundable. If the application for early delivery is granted the copies applied for will be prepared as expeditiously as possible getting preference over ordinary applications for copies, and ordinarily should be made ready for delivery not later than two days after the order for early delivery is passed. The words "express delivery," shall be noted in red-ink at the top of the first page of the copies and in the remarks column of the Register of Application. Unless expressly ordered the extra costs for obtaining such an express copy shall not be taken into account in taxing the costs of any proceedings. (3) An application received by post before the arrival of the connected advance shall not be registered or acted upon until receipt of the advance. Should an advance be received before the connected application, the money shall forthwith be sent by the head-copyist to the Nazir. If no application is received within thirty days, the head-copyist shall demand return of money and proceed under Rule 540.

## **520. Every application for a copy shall state,-**

(a) whether the copy is to be sent by post or whether the applicant or his agent, or a legal practitioner will take delivery in person; and (b) the applicant's full postal address. Copying shall not be refused for failure to keep this rule, but the consequence of the failure will rest solely on the applicant.

**521. On each application the head-copyist or the officer-in-charge shall endorse the date of its receipt and shall initial the endorsement. If the applicant is presented in person, the head-copyist shall immediately give a receipt in the prescribed form [No. 11-(a)-135] for the advance received with the application.**

**522. The fee for preparing copies shall be forty paise for every 240 words or fraction thereof, whether in English or in any Indian language. Copies acquired by officers of the Central or Provincial Government or by officers of the Government of Burma for Government purposes shall be made on plain paper, free of cost, provided that copies of any part of the record of a case to which the Secretary of State for India in Council is a party, when required by**

**a Government office or pleader for purposes connected with the conduct of the case, shall be supplied on payment of the requisite fee. The fee is received by the head-copyist in cash and is utilised for purchasing court-fee stamps. Court-fee stamps of a value equal to the copying fee for the sheet are attached to every sheet of a copy.**

## **523.**

(1)Copies of documents such as stamps, registers and statement may have to be prepared on paper other than the ordinary copy sheets. The head-copyist shall take such advance as he considers necessary for the preparation of the copies, but the Clerk of Court or the officer-in-charge shall decide how much is to be charged after examining the completed copy. The head copyist shall affix court-fee stamps to the copies so prepared; the value of the stamps being equal to the amount of the copying fees as decided."(2)[(a)] [Re-numbered by Notification No. 46-1-22-28-31, dated 5-8-1976.] A copy of judgement or order marked "AFR" (Approved for reporting) by any Judge or Judges of this Court applied for by an approved law reporter for purposes of reporting will be supplied at a fee of rupee one for each judgement.(b)[ A copy of the judgement or order, though not marked "AFR" (Approved for reporting), applied by a Law Reporter, approved for reporting short notes, either weekly or fortnightly for purposes of reporting short notes, will also be supplied at a fee of Re. 1/- for each judgement or order. [Inserted by Notification No. 46-1-22-28-31, dated 5-8-1976.](c)The Chief Justice may approve one or more Law Reporters on such terms and conditions as may be deemed fit, for purposes of reporting weekly or fortnightly short notes keeping in view the feasibility of issuing necessary copies in time at the concessional rate.](3)Applications for the grant of copies free of costs of judgements or order/orders of the Court in criminal cases will be decided by the Judge or Judges concerned under the provisions of Section 548 of the Code of Criminal Procedure.[1A. Rates for "No Delay Service" by Photostat Machine shall be those for Express Delivery of certified copies of records as laid down in Chapter X, Part I of the High Court Rules.] [Substituted vide M.P. Rajpatra, Part4(Ga), dated 18-12-1981.][2. Applications for copies of records of various subordinate courts pending in appeal or revision in the High Court may be made in the High Court and copies shall be issued after following the prescribed procedure.] [Inserted by Notification No. 18, dated 5-3-1994 (w.e.f. 1-6-1994).][3. An application for copy of an order containing direction to supply copy thereof on the date of order itself shall, for all purposes, be treated as an application for early delivery.] [Inserted by Notification No. 23, dated 12-12-1997 (w.e.f. 1-1-1998).]

## **Chapter XI**

### **Inspection of Records**

**1. Subject to the rules hereinafter contained an advocate enrolled in the Roll of Advocates of this Court may inspect the records of this Court and any party to a case or his recognised agent may inspect the records of that case, whether pending or disposed of, and need not for this purpose present an**

**application or memorandum. Any other person desiring to inspect the record of a case whether pending or decided maybe permitted to do so on his presenting a memorandum showing the nature of the interest for the protection of which inspection is sought.**

**2. The inspection of records may be made by order of the Superintendent (Judicial Branch) in the Inspection Room, during office hours and under the supervision of the Inspection Clerk.**

**3. A Book called the Inspection Book shall be kept by the Inspection Clerk in the Form No. 11-(a)-131. Every person seeking inspection shall, prior to taking inspection, enter the necessary particulars therein.**

**4. The use of the pen and ink during inspection is strictly prohibited. Pencil and paper may be used, but no marks shall be made on any record or paper inspected. Any person infringing this rule may be deprived by order of the Court his right of inspection for such period as it may direct.**

**5. Except as provided in Rule 9, an inspection fee of [Rs. 10.00] [Substituted by Notification No. 23, dated 12-12-1997 (w.e.f. 1-1-1998).] an hour or fraction of an hour shall be charged for every record inspected. The record of a suit includes any execution proceedings or proceedings therein, particulars of which are entered in the appropriate column of the Inspection Book simultaneously with those of the suit but it does not include the original record of any appellate proceeding against out of suit or out of any proceeding therein.**

**6. Books and registers kept under the orders of the High Court are open to inspection by public. The procedure to be followed for such inspection shall be similar to that in Rules 2,3 and 4 above, so far as it can be made applicable, except that it shall not be necessary to state particulars showing the title to inspect.**

**7. The fee for inspecting books and registers shall be [Rs. 10.00] [Substituted by Notification No. 23, dated 12-12-1997 (w.e.f. 1-1-1998).] an hour or fraction of an hour occupied in the inspection irrespective of the nature or number of the books or registers inspected. The person seeking inspection must prior to making inspection make the necessary entries in the inspection Book.**

**8. Inspection fees shall be levied by means of court-fee stamps. The Inspection Clerk is forbidden to receive money. The Inspection Clerk shall affix the stamps in the column provided for it in the Inspection Book and cancel them in the manner required by Section 30 of the Court-Fees Act, 1870. The Superintendent shall see that the stamps are duly affixed and cancelled. These fees shall be prepaid and will in no case be refunded.**

**9. No inspection fee shall be charged for the inspection of records, books and registers by Government Law Officers or other persons duly authorised in this behalf for Government purposes or by an official of the Court of Wards for the purposes of that Court, for the inspection of the record of a case under the Indian Bar Councils Act pending either before the Tribunal of the Bar Council or the High Court when the inspection is made by a member of the Bar Council of this Court, or for inspection of a record, by anyone when the inspection is made at the request of the Court, or for the inspection of the record of a pending case by a party thereto or his recognised agent or counsel empowered to act on his behalf or for the inspection of a record in which the judgement has been marked "Approved for reporting" when the inspection is made by the agents of a Law Reporting Agency approved by the Chief Justice, or for the inspection of the record in any case disposed of by the Court when the inspection is made by the agents of newspapers approved by the Chief Justice, or for the inspection of the records in the matter of any bank in liquidation by an officer appointed by the Reserve Bank of India.**

**10. It shall be the duty of the Inspecting Clerk to see that no alterations are made in or papers abstracted from a record, and that it is returned in its original condition when the inspection is over. He shall permit none but the applicant himself to inspect the record or to take notice or extracts. The inspection must be completed and the record returned within the office hours of the day on which the record was taken out for examination.**

**11. If the applicant fails to make inspection, within one week from the date, on which inspection was ordered, the order shall lapse and no further inspection shall be allowed without a fresh application.**

**12. When the record of a criminal case is given for inspection to a Legal Practitioner or party, the Police case-diary and the translation thereof should invariably removed from the file. Parties and counsel shall not be allowed to have access to these documents.**

**13. Each disposal of record will remain open for inspection free of charge by the party or counsel for 6 days after the date of delivery of the judgement or order in that case.**

## **Chapter XII**

### **Deposit and Withdrawal of Money**

**1. The Cashier is the official appointed to receive all payments or deposits made in the High Court unless such payment or deposit is by any order of the Registrar required to be made to any other official. All other officials of the Court are, except with the specific permission of the [Additional] [Inserted by Notification No. 45-I-9-3-37, dated 12-5-1976.] Registrar forbidden to receive money.**

**2. Persons desiring to deposit fees or security in connection with appeals to the Privy Council or to the Federal Court shall present a memorandum to the [Additional Registrar or] [Inserted by Notification No. 45-I-9-3-37, dated 12-5-1976.] Deputy Registrar (Judicial) giving particulars of the sum to be deposited, the purpose of deposit and the case in connection with which the deposit is made. The [Additional Registrar or] [Inserted by Notification No, 45-I-9-3-37, dated 12-5-1976.] Deputy Registrar (Judicial) shall where the deposit is proper, endorse on the memorandum an order to the Cashier directing him to receive the amount and return the memorandum to the depositor. The later will take memorandum and the deposit to the cashier.**

**3. Paper-books costs may be deposited by a party or his agent or by his counsel or that counsel's recognised Clerk and by no other. The depositor shall present to the estimator a memorandum giving particulars of the sum to be deposited, the date by which deposit is due and particulars of the case in connection with which the deposit is made. The Estimator shall endorse on the memorandum whether the amount is in time and whether the deposit tendered is the full amount required, and shall return the memorandum to the**



**depositor. The depositor shall thereupon take the memorandum to the Assistant Superintendent who shall verify the Estimator's report and direct the Cashier to receive the amount of deposit. The Cashier shall receive deposits daily upto 3.30 p.m.**

**4. Part payment of paper-book costs will not be accepted. If therefore, the Estimator's endorsement certifies that the sum to be deposited is not the full amount required, the Cashier shall decline to accept it and shall endorse the fact on the memorandum and return it to the depositor.**

**5. If the date of tender is beyond the time allowed, the Cashier shall accept the money subject to any orders of the Court on the matter shall make the necessary entries in his Register and endorse the fact of deposit on the memorandum.**

**6. If the amount tendered is the full amount and is within time the Cashier shall accept it, make the necessary entries in his register and endorse the fact of deposit on the memorandum.**

**7. When the deposit has been accepted the Cashier shall forward the memorandum to the Estimator who shall file the memorandum in the record of the case and in cases falling under Rule 5, take the steps necessary to obtain the requisite orders.**

**8. The Cashier is instructed to give a receipt from the receipt book in Form XXII-61 for all sums of the money paid to him. Members of the public depositing money should see that a proper receipt is obtained.**

**9. A person desiring the refund of an unexpended balance of paper-book shall present a written memorandum giving particulars of the deposit and the balance to be withdrawn to the Assistant Superintendent paper-book Branch. The latter shall be obtain the report of the Cashier whether the amount is in deposit and whether the applicant is entitled to refund. If the applicant is not personally known to the Assistant Superintendent he shall be identified by two respectable persons known to the Superintendent. The Assistant Superintendent shall after verifying the report of the Cashier, endorse on the memorandum his certificate that the refund is proper and that the applicant is either personally known to him or is identified by two responsible persons,**

**whose name shall be stated in the endorsement, who are personally known to him and shall obtain the orders of the [Additional Registrar or] [Inserted by Notification No. 45-I-9-3-37, dated 12-5-1976.] Deputy Registrar for the refund of the amount. On receipt of the [Additional Registrar or] [Inserted by Notification No. 45-I-9-3-37, dated 12-5-1976.] Deputy Registrar's order the memorandum will be presented to the Cashier who will prepare the necessary vouchers in Form 11(a)-137, make the refund and endorse on the memorandum the fact of refund. If the amount to be refunded has lapsed to Government, the Cashier shall prepare a refund application in the prescribed form and deliver it to the applicant for presentation at the Treasury, the prior sanction of the Accountant General being obtained in all cases where the amount of the lapsed deposit exceeds Rs. 5/-. The memorandum will then be returned to the Assistant Superintendent and will be filed with the record of the case.**

**10. No refund of a deposit made by or on behalf of a party will be made to advocate unless it is accompanied by a power of attorney empowering the advocate to withdraw the deposit or by a declaration to the effect that the advocate is empowered to receive the deposit on behalf of his client by virtue of the power filed by him in the case.**

**11. A person desiring the withdrawal of a sum deposited in connection with a Privy Council case may do so by a properly stamped application addressed to the Court.**

## **Chapter XIII**

### **Destruction of Records**

The following rules in this chapter for the destruction of records in the High Court of Judicature at Nagpur have been made under Section 3 (2)(a) of the Destruction of Records Act, 1917 (V of 1917), by the High Court of judicature at Nagpur in supersession of all the previous rules on subject and have been approved by the Provincial Government.

**1. Each record shall be divided into two files, which shall be called File A and File B.**

**2. Each paper, as it is filed, shall be entered in the index which is put with record of every case on its institution and shall be marked with the letter A or B for the purpose of indicating whether it belongs to File A or B.**

I. Civil Records

**3. File a shall consist of the following papers :-**

(a)in original suits or papers other than those which are included in the D file of subordinate Civil Court;(b)in all other civil proceedings the following :-(1)Index.(2)Memorandum of appeal.(3)Petition for the exercise of the Court's power of revision.(4)Reference under Rule 1, Order XLVI, Civil Procedure Code, or other law.(5)Notice, with report of service in ex parte cases.(6)Memorandum of objection under Rule 22 or 26 of Order XLI of the Code of Civil Procedure.(7)Security bond for costs filed by an appellant.(8)Petition for substitution, addition or striking out of name of parties or for substitution of names of legal representatives of a deceased party to the proceeding including petition for appointment of a next friend or guardian.(9)Affidavits except affidavits presented with petitions.(10)Depositions of parties or witness taken in this Court by the lower Court on remand.(11)Commissions' proceedings held thereunder and reports and examination of commissions.(12)Documents admitted in evidence in the Court.(13)Orders impounding a document.(14)Order imposing a fine on a witness.(15)Application to refer to arbitration, references to arbitration,the award or other final return of the arbitrators with proceedings, depositions and documents submitted therewith the Court's order thereon.(16)Petitions and instruments of withdrawal, compromise or confessions of judgements.(17)Order-sheets including interlocutory orders.(18)The Court's judgement or final orders.(19)The decree and all documents relating to the preparation or amendments thereof.(20)Copy of the lower Court's judgement.(21)Intimation from a Debt Conciliation Board regarding the decision of proceedings pending before it.(22)Power of attorney or memorandum of appearance.(23)Petition for the re-admission of any civil proceeding dismissed for default or for the rehearing of any civil proceeding decreed ex parte with any affidavit or other document filed therewith.(24)Petition for review of judgement with any affidavit or other document filed therewith.(25)Petition for amendment of decree with any affidavit of document filed therewith.(26)judgement or final order on petition referred to in 23 to 25 (inclusive).(27)Reference under Section 113, and Rule 1 of Order XLVI, First Schedule to the Code of Civil Procedure, 1908, or other law, with the final order.(28)Petition for leave to His Majesty in Council.(29)Certificate of fitness of case for appeal to His Majesty in Council.(30)Record of enquiry as to value of subject-matter of the suit or appeal and the Court's order granting certificate to appeal to His Majesty in Council.(31)judgement of His Majesty in Council.(32)Note-sheets relating to the preparation and printing of the Supreme Court appeal record.(33)Certified copy of order granting special leave to appeal to the Supreme Court.(34)Certified copy of judgement and order of the Supreme Court.(35)Two copies of the printed record (Paper-books).(36)Certified copy of stay order of the Supreme Court.(37)Lists A and B of the Record.(38)Memoranda to counsel issuing Lists A and B.(39)Objections by parties to Lists A and B.(40)Lists of documents showing arrangement of documents in Part II.(41)Correspondence with the Registrar of Supreme Court.(42)Certificate

regarding security deposit by the appellant.(43)Certified copy of order of the Supreme Court giving directions regarding preparation of printed records, etc.(44)Office copy of List B.

**4. File B in all civil proceedings shall consist of all papers not indicated above as belonging to File A, provided that the Court may direct that any paper or class of papers which would otherwise belong to File B shall be placed in File A.**

Note. - The following papers are indicated for facility of reference as belonging to File B :- (1)Certificate for Legal Practitioner's fee.(2)Copy of lower Court's decree.(3)Proceeding calling for the record of directing the issue of a notice.(4)Notices.(5)Lower Court's proceeding forwarding the record or notice served on respondent.(6)Petition for postponement of execution or of sale, or for the issue of an injunction.(7)Proceeding directing the issue of a notice to show cause.(8)Notice to show cause, with the report of service.(9)Respondent's application for security for costs being taken from the appellant.(10)Petition for adjournment.(11)Petition for records or account-books to be sent for.(12)Petition for return of documents.(13)Application for copies.(14)Other applications which have been disallowed.(15)Papers relating to preparation of estimates together with the lists of documents to be included in the Paper-book and payment purchase.(16)Translations of vernacular papers.(17)Paper-books.(18)Applications for preparing lists A and B, estimate of costs and depositing security.(19)Application for extension of time of condoning delay in depositing the security and printing costs and filing objections to Lists A and B.(20)Notices to the respondents of admission of appeal and to the parties regarding despatch of printed records to the Supreme Court.(21)Bills prepared for the office work and the Printer's bills.(22)Applications and affidavits for expediting the preparation of the printed record.(23)Correspondence with the press.(24)Lists of mistakes and defects detected in the printed paper-book.(25)Postal acknowledgements etc.(26)Correspondence with the solicitors.(27)Applications for copies of printed Paper-books.(28)Transcript of record prepared for the press.(29)Proofs-first and final.(30)Surplus copies of the printed records (Paper-books).

**5. Papers in File A, with the exception of following papers which shall be retained permanently, shall be retained for twelve years from the date of judgement and shall then be destroyed :-**

(1)Index.(2)Judgments and final orders of this Court and of His majesty in Council with compromise, if any, on which the decree is based.(3)Decrees.(4)Petitions for withdrawing a case.(5)[Note-sheets relating to the preparation and printing of the Supreme Court Appeal Record.] [Inserted by No. 18, dated 2-6-1953.](6)Certified copy of order granting special leave to appeal to the Supreme Court.(7)Certified copy of judgement and order of the Supreme Court.(8)Two copies of the printed record (paper-books), of the surplus copies of the printed paper-book referred to in item 30 of Rule 4, shall be undertaken one year after receipt of the judgement and order of the Supreme Court without any reference to litigants or Advocates concerned, provided however, that where such litigants apply to the Registrar through their Advocates for the return of such copies, they may be returned to such Advocates, provided that the application for return is made at least one calendar

month before expiry of the aforesaid period. No notice to take back such copies will be issued from the High Court.(9)Any other documents ordered by the Court to be retained permanentlyNote. - When a grant of probate or letters of administration with a copy of the will annexed has been made, the original will shall forthwith be forwarded to the District Registrar as required by rule of the Rules published in the Registration Department Notifications Nos. 1925-A and 1925-B, dated the 4th December, 1919, and Judicial Department Notifications Nos. 78/202-A-V and 79 of 202-B-V, dated the 4th March, 1920.

**6. Papers in File B in cases not appealed to His Majesty in Council shall be retained for one year and then destroyed. In cases appealed to His Majesty in Council they shall be retained until the final orders on the appeal are communicated to the Court and shall then be destroyed.**

Destruction of the surplus copies of the printed paper-book referred to in item 30 of Rule 4, shall be undertaken one year after the receipt of the judgement and order of the Supreme Court without any reference to litigants apply to the Registrar through their Advocates for the return of such copies, they may be returned to such Advocate, provided that the application for return is made at least one calendar month before expiry of the aforesaid period. No notice to take back such copies will be issued from the High Court.

**7.**

(1)Documents which are produced in this Court, but are not admitted in evidence shall be returned by the Court to party or pleader producing them immediately after rejection. If any of them unavoidably remain in Court, they should be placed in a closed cover labelled "Documents filed by....to be returned" before the record is sent for deposit in the Record Room. The cover should be kept with File B and destroyed with file if the contents are not taken back previously.(2)Documents which are admitted in evidence shall be returned by the Court,-(i)where the case is one in which an appeal to His Majesty in Council is not allowed, when the case has been disposed of; and(ii)where the case is one in which an appeal to His Majesty in Council is allowed, when the time prescribed for such appeal has elapsed and no appeal has been preferred, or, if such appeal has been preferred, when the appeal has been disposed of.A document may, however, be returned before the expiration of the time prescribed for an appeal to His Majesty in Council or before the disposal of such appeal if the person applying for the same delivers a certified copy to be substituted for the original and undertaken to produce the original if required to do so. But no document shall be returned which is ordered to be impounded or has, by force of the decree, become wholly void or useless, or which is required by law to be preserved.(3)A general notice will be pasted in a conspicuous part of the Court house that documents filed in appeal or other proceeding should be withdrawn as soon as the decree or order made therein has become final and that if they are left with the Court they will be kept at the risk of the owners and destroyed after 12 years from the date of judgement if not admitted.II. Criminal Records

**8. File A in Criminal Appeals, References and Revisions shall consist of the following papers :-**

(1)Index.(2)The memorandum of appeal or petition for revision or reference with a translation into English if the memorandum or petition is in the vernacular.(3)Depositions of parties or witnesses taken in this Court or by the lower Court on remand.(4)Order-sheet.(5)judgement or order of the High Court.(6)Warrant.(7)Power of attorney and memorandum of appearance.

**9. File B shall consist of all papers in the record not indicated above as belonging to file A, provided that the Court may direct that any paper or class of papers, which would otherwise belong to File B, be placed in File A.**

**10. The periods for which file A of the records of Criminal Appeal and Revisions shall be preserved shall be as follows :-**

(i)Criminal appeals in non-bailable cases except summarily dismissed 14 years from the date of final order.(ii)Criminal appeals in non-bailable cases which have been summarily dismissed and criminal appeals in bailable case....6 years from the date of final order.(iii)Criminal revision 6 years from the date of final order.(iv)Miscellaneous criminal cases.....6years from the date of final order:Provided that no records shall be destroyed until one year has elapsed after the expiry of the longest sentence imposed on any accused still living.

**11. Papers in File B shall be retained for one year from the date of judgement and shall then be destroyed unless the Court otherwise directs.**

General Rules

**12. The destruction of all records and papers shall be by burning in the presence of the Record Keeper under the supervision of the [Additional Registrar or] [Inserted by Notification 45-1-9-3-37, dated 12-5-1976.] Deputy Registrar [or by shredding or by such other mode as the Registrar may deem proper] [Inserted by Notification No. 20 (w.e.f. 1-5-1995).].**

**13. The Record Keeper shall when putting papers aside for destruction, mutilate all court-fee stamps attached to them in such manner that it shall be impossible to use them again.**

**14. No records shall be destroyed without the previous sanction of the Registrar, and the fact of the destruction of any record shall be noted in the "Register of Records Destroyed" maintained by the Record Keeper of the**

**Court.**

**15. Elimination of B files of records shall be done month by month by examining the records of the their thirteenth month back. As far as possible similar monthly examination of the A file should be made, work on these being brought up to date by the end of vacation.**

## **Chapter XIV**

### **The Preservation and Destruction of Registers**

**1. A Register of Registers deposited in the Record Room will be kept in Form No. 79 on Schedule II.**

**2. The Register shall consist of two parts, viz.:-**

(1)List of Register to be preserved permanently.(2)List of Register to be eliminated after the expiry of prescribed period.

**3. Part II shall be divided into sections as follows :-**

Section A-Registers to be preserved for 35 years.Section B-Registers to be preserved for 14 years.Section C-Registers to be preserved for 12 years.Section D-Registers to be preserved for 6 years.Section E-Registers to be preserved for 3 years.Section F-Registers to be preserved for 1 years.

**4. Part I and each section of Part II shall be divided into divisions, a separate division being opened for each different kind of register. A separate series of numbers shall be given to the registers entered in each division. Care should be taken to ensure that the space allotted to each division is such that the page belonging to each division will be completely filed in approximately the same length of time.**

**5. Part I and Part II shall be separately paged throughout and a table of content shall be made at the beginning of the part showing which pages are allotted to each section and to each kind of register.**

**6. On receipt in the Record Room a register will at once be entered, in the appropriate division of Part I or Part II as the case may be.**

## **Part I – List of Registers to be preserved permanently**

- 1. Register of Suits.**
- 2. Register of First Appeals.**
- 3. Register of Second Appeals.**
- 4. Register of Miscellaneous Appeals.**
- 5. Register of Letters Patent Appeals.**
- 6. Register of Civil Revisions.**
- 7. Register of Miscellaneous Civil Cases.**
- 8. Register of Criminal Appeals.**
- 9. Register of Criminal Revisions.**
- 10. Register of Sentences of death, submitted for confirmation.**
- 11. Register of Records desh'oyed.**
- 12. Register of Recognised clerks of Advocates.**
- 13. Office Order Book.**

## **Part II – List of Registers to be eliminated after the expiry of a prescribed period**

Description of RegistersSection A (35 Years)

- 1. Register of Civil Court Deposit Receipts.**
- 2. Register of Repayment of Civil Court Deposits.**

Section B (14 Years)



**1. Cashier's (General Cash Account).**

Section C (12 Years)

**1. Book of Deposit Repayment Vouchers.**

**2. Correspondence Registers.**

**3. Cashier's Account Book.**

**4. Register of Elimination of Records.**

Section D (6 Years)

**1. Head Copyist's Register of Application for copies.**

**2. Head Copyist's Detailed Account Book.**

**3. Head Copyist's Account Book.**

**4. Head Copyist's Duplicate Receipt Book.**

**5. Challan-Book of money sent into the Treasury.**

**6. Remittance List.**

**7. Register of monthly Business Statements.**

**8. Register of Miscellaneous criminal cases.**

**9. Register of Records received from the Lower Courts.**

**10. Register of Records despatched.**

**11. (Cashier's) Book of receipt for money.**

**12. Register of progress of cases in the pending and paper-book Branches (Civil).**

**13. Head Copyist's Pass-Book A and B.**

**14. Head Copyist's List of unexpected advance.**

**15. Estimator's Register of Estimates prepared.**

Section E (3 Years)

**1. Register of Inspection of Records.**

**2. Copying Branch Register of daily disposals.**

**3. Book of Requisition for Records (Civil and Criminal).**

**4. Register of work done daily in the copying section.**

**5. Book of intimation to Lower Court of admission of appeal.**

**6. Book of acknowledgement of Records returned.**

**7. Register of applications received by post.**

**8. Register of process issued.**

**9. Register of progress of cases in the pending and paper-book Branches (Criminal).**

**10. Consolidated Register of Bills of Costs for paper-books.**

**11. Register of records deposited in Record-Room.**

Section F (1 Year)

**1. Attendance Roll.**

**2. Disposal Ledgers.**

**3. Register showing work done daily by the Privy Council Clerk.**

- 4. Register showing work done daily by each sectioner in the Privy Councilar Copying Sections.**
- 5. Cause Book of Petitions.**
- 6. Register of receipts and issues of Forms.**
- 7. Register of work done daily in the Copying Section.**
- 8. Register showing preparation of Records of cases for transmission to His Majesty in Council.**
- 9. Register of distribution of work in the Translation Section.**
- 10. Register of work done by Translators.**
- 11. Register of work done by Notice Clerk.**
- 12. Register of work done by Estimators.**
- 13. Register of daily out-turn of typist in the Paper-Book Branch.**
- 14. Consolidated Register of work done daily by each Translator.**

Note. - Any other registers and papers of ephemeral nature for the preservation of which no specific period has been prescribed shall be destroyed at the end of one year.

## **Chapter XV**

### **Rules Relating to Appeals to The Supreme Court**

[Notification No. Q/Sc/II-12-8-59, dated 5th November, 1977.] [Published in the M.P. Rajpatra, Part IV (Ga), dated 3-3-1978.] - In exercise of the powers conferred by Article 225 of the Constitution of India read with clause 27 of the Letters Patent and all other powers hereto enabling, this High Court has made the following rules to regulate the procedure for the admission of appeals to the Supreme Court of India, and for the preparation and transmission of records of such appeals, in supersession of all previous rules on the subject.

- 1. (a) These rules may be cited as "Rules relating to Appeals to the Supreme Court of India."**

(b) They shall come into force on the date of their publication in the "Madhya Pradesh Rajpatra".

**2. In these rules, unless the context otherwise requires,-**

(i) "Supreme Court Rules" means the Supreme Court Rules, for the time being in force. (ii) "Supreme Court" means the Supreme Court of India. (iii) "The Court" means the High Court of Madhya Pradesh. (A) Civil Appeals on certificate by the High Court

**3. (i) Whoever desires to obtain a certificate for appeals to the Supreme Court shall apply petition to the Court for such certificate. Such petition shall comply with the provisions of Rules 2 and 3 of Chapter 4 of the Rules of the High Court.**

(ii) A petition for leave to appeal to the Supreme Court shall be registered as "Miscellaneous Civil Case." (iii) A petition for such certificate shall be heard by the Bench, from whose judgement, decree or order, it is intended to prefer the appeal to the Supreme Court: Provided, however, that if a Judge or Judges, constituting such Bench be not immediately available, then such petition shall be heard by a Bench to be constituted by the Chief Justice, which shall ordinarily be a Division Bench. (iv) Notwithstanding anything contained in sub-rule (i) a party desiring to appeal to the Supreme Court may apply orally for such a certificate immediately after the pronouncement of the judgement by the Court and the Court may after hearing the parties or their counsel grant or refuse the same to the party on such oral application or direct the party to file a petition as required by sub-rule (i) : Provided, however, that if an oral application for certificate for leave to appeal under sub-rule (iv) is made and rejected, no written petition under sub-rule (i) shall lie.

**4. If the Court grants Rule upon the petition, the Registrar shall issue a notice in Form No. 1, of Schedule A appended to these rules on payment of prescribed fee calling upon the opposite party to show cause, within a period of time after the service of notice to be prescribed by the Registrar, why the certificate as prayed for should not be granted.**

**5. Upon the Court making the Rule absolute a certificate shall be issued in Form No. II or No. III of Schedule A appended to these rules as the case may be.**

**6. In view of Rule 5 of Order XLVII of the Supreme Court Rules, 1966 no application for consolidation of appeals will be entertained by this Court.**

**7. An application for amendment of the record of the appeal by adding or substituting parties will not be entertained by this Court after the date of the order granting the certificate. The parties desiring such amendment shall be required to move the Supreme Court in that behalf.**

**8. When a party has been represented at hearing of the appeal by an Advocate, unless the Vakalatnama of such Advocate has been cancelled with the sanction of the Court, or the Court otherwise directs such Advocate shall accept service of the Notice in the following cases, and the service of Notice in such cases on the Advocate shall be deemed sufficient notice :-**

(a) Notice of Rule issued under Rule 4 of the rules; (b) Notice of lodgement of petition of appeal under Rule 9; (c) Notice for inspecting the record and filing the list of documents under Rule 11; (d) Notice for making deposit for the costs of transmission of the original record, or the preparation of transcript of the record in English and of its transmission or for the preparation and transmission of the printed or cyclostyled transcript of the record.

**9. On receipt from the Supreme Court of the copy of the petition of appeal the Registrar shall:-**

(i) Cause notice of the lodgement of the petition of appeal to be served on the respondent personally or in the manner provided under Rule 8 above in Form No. IV of Schedule A to these rules; (ii) Unless otherwise ordered by the Supreme Court transmit or cause to be transmitted to that Court at the expense of the appellant the original record of the case, including the record of the Courts below; and (iii) As soon as notice as aforesaid is served, send a certificate to the Supreme Court as to the date or dates on which the said notice was served on the respondent or respondents in Form No. Y of Schedule A appended to these rules.

**10. (i) Where proceedings from which the appeal arises were had in Courts below in English, the Registrar shall, as soon as a copy of the petition of appeal is received from the Supreme Court call upon the appellant (vide Form No. VI, Schedule A) to deposit in this Court the necessary amount to cover the costs of transmission of the original record of the case including the record of Courts below to the Supreme Court. Upon the appellant's depositing the amount, if record of the Court below is in the High Court the Registrar shall forward to the Supreme Court the same alongwith the record of the case in those Courts direct to the Supreme Court below is not in the High Court the Registrar shall direct the Courts below to transmit the records of the case in those Courts direct to the Supreme Court under intimation to this Court. The Registrar shall also forward to the Supreme Court the record**

**of the case so far as it pertains to the appeals in the High Court.**

(ii)The balance of the deposit after meeting the costs of the transmission of the record, shall be refunded to the appellant.(iii)Any default on the part of the appellant to deposit the amount to cover the costs of the transmission of the record as above shall be reported to the Supreme Court for orders.

**11. (i) Where the proceedings from which the appeal arises were had in Courts below in language other than English, the Registrar shall, as soon as a copy of the petition of appeal is received from the Supreme Court, secure the record and proceedings of the case from the Court below, if the same are not already in the High Court, and, as soon as the same received in the High Court, shall issue notices to the parties calling upon them to inspect the record and proceedings of the case if they so desire.**

(ii)The notice to the appellant under sub-rule (i) above shall also call upon the appellant to file, within four weeks of the service upon him of the said notice, a list of documents which he proposes to include in the paper-book, after serving a copy thereof on each of the respondents. The appellant shall produce an acknowledgement in writing from each of the respondents that a copy of the list has been served on him.(iii)The notice to the respondent under sub-rule (i) above shall also intimate to him the fact that a notice has already been issued to the appellant for filing the list of documents, and requiring him (the respondent) to file within three weeks from the service of a copy of the list on him by the appellant, a list of such additional documents as he desires to be included in the paper-book.(iv)Any default by the appellant to file the list as required and within the time prescribed shall be reported to the Supreme Court for orders.(v)Notice to the appellant and the respondent under this rule shall respectively be in Form Nos. VII and VIII of Schedule A appended to these rules.

**12. After the expiry of the time fixed for the filing of the list of additional documents by the respondent, the Registrar shall fix a day for the settlement of the list (heretoinafter referred to as the Index) of documents to be included in the transcript of the record of the appeal. In settling the index, the Registrar as well as the parties concerned shall endeavour to exclude from the record all documents that are not relevant to the subject-matter of the appeal and generally to reduce the bulk of the record as far as practicable.**

**13. Where the respondent objects to the inclusion of a document on the ground that it is not necessary or is irrelevant and the appellant nevertheless insists upon its inclusion, the transcript of the record as finally prepared shall, with a view to subsequent adjustment of costs of or incidental to the**

printing of the said document, indicate in the index of the paper-book or otherwise the fact that the respondent has objected the inclusion of the document and that it has been included at the instance of the appellant.

14. Where the appellant objects to the inclusion of a document on the ground that it is not necessary or is irrelevant and the respondent nevertheless insists upon its inclusion, the Registrar, if he is of the opinion that the document is not relevant may direct that the said document be included separately at the expense of the respondent and require the respondent to deposit within such time as he may prescribe the necessary charges therefor. If the amount so deposited is found insufficient the Registrar may call upon (vide Form VI, Schedule A), the respondent to deposit additional amount or amounts within such further time as he may deem necessary. The question of costs thereof will be dealt with by the Supreme Court at the time of the determination of appeal.

15. As soon as the index of the record is settled the Registrar shall cause an estimate of the costs of the preparation of the transcript of the record (and of printing or cyclostyling the record where it is required to be printed or cyclostyled) to be prepared and served on the appellant and shall require him (vide Form VI, Schedule A) to deposit within thirty days of such service the said amount, such costs shall include the costs of translation also. The appellant may deposit the said amount in lump-sum or in such instalments as the Registrar may prescribe.

16. If at any time during the preparation of the transcript of the record (or of printing or cyclostyling the record. Where it is required to be printed or cyclostyled) the amount deposited is found insufficient the Registrar shall call upon the appellant (vide Form No. VI, Schedule A) to deposit such further sum as may be necessary within such further time as may be deemed fit, but not exceeding 28 days in the aggregate.

17. Where appellant fails to make the required deposit, the preparation of the transcript of the record (and the printing of the transcript of the record, where the same is required to be printed or cyclostyled) shall be suspended and the Registrar shall not proceed therewith without an order in this behalf of this Court; the Court may give such accommodation in the matter of time

**for making the deposit as it deems proper and if the appellant continues the default inspite of the order of this Court, the Registrar shall obtain an order from the Court for reporting the default to the Supreme Court and report accordingly.**

**18. (i) The Registrar shall, within six months from the date of the service on the respondents of the notice of the petition of appeal, transmit to the Supreme Court in triplicate a transcript in English of the record proper of the appeal to be laid before the Supreme Court, one copy of which shall be duly' authenticated by appending certificate to the same under the seal of this Court and his signature. If for any reason the same cannot be transmitted within the period of six months mentioned above, the Registrar shall report the facts to the Supreme Court and obtain necessary extension of time for transmitting the same.**

(ii)The Registrar shall forward a certificate showing the amount of expenses, incurred by the parties concerned, for the preparation and transmission of the record.

**19. The Registrar shall give notice to the parties of the certification and transmission of the printed or cyclostyled record when it is required to be printed or cyclostyled in Form No. IX of Schedule A of these rules/and thereafter send a certificate to the Supreme Court as to the date or dates on which the notice has been served on the parties in Form No. X of Schedule A of these rules.**

**20. (i) Unless the Supreme Court so directs the record shall not be printed or cyclostyled in this Court.**

(ii)Where the Supreme Court directs that the record be printed or cyclostyled in this Court the same shall be printed or cyclostyled in accordance with the rules contained in the First Schedule of the Supreme Court Rules.(iii)Where the appeal paper-book is not likely to consist of more than 200 pages, the Registrar may, instead of having the record printed, have it cyclostyled.(iv)Where the record is printed or cyclostyled in this Court the provisions contained in Rules Nos. 8 to 19 above (both inclusive) shall apply mutatis mutadis to the printing and cyclostyling of the record.(v)Unless otherwise directed by the Supreme Court, at least 30 copies of the record shall be prepared for the use of the Supreme Court.(iv)Unless a party informs its requirements before the printing or cyclostyling is undertaken, each party shall be entitled to three copies of the record for its use.



**21. (i) For preparing the transcript of record (and for printing and cyclostyling the record, where it is required to be printed and cyclostyled) fees shall be charged on following rates :-**

- |  |  |
|--|--|
| An estimating fee of Rs. 16 in court-fee labels shall be paid by                                 |  |
| (a) the appellant along with the list of documents filed under Rule 11 (ii).                     |  |
| (b) Translating Hindi, Urdu or Marathi portions of record.                                       | Re. 1 for every 100 words or part thereof.                       |
| (c) Examining Hindi, Urdu or Marathi portions of record already translated.                      | 50 paise for every 100 words or part thereof.                    |
| (d) Translation of portions of record in other languages.  | Rs. 1.50 paise for every 100 words or part thereof.              |
| (e) Examining portion of record in other languages already translated.                           | 75 paise for every 100 words or part thereof.                    |
| (f) Copying of documents for preparation of the transcript of the record.                        | 25 paise for every 100 words or part thereof, (for four copies). |
| (g) Comparing copies of documents for the preparation of transcript of the record.               | 5 paise for every 100 words or part thereof.                     |
| (h) Writing Head-Notes to documents in the transcript of the record.                             | 10 paise for each head note.                                     |
| (i) Preparation of Index.  | 10 paise per item.   |
| (j) Examination of proofs where the record is required to be printed or cyclostyled.             | 50 paise for every printed or cyclostyled page.                  |
| (k) Certifying of transcript of the record or of printed or cyclostyled record by the Registrar. | Re. 1 for every 10 pages or part thereof.                        |
| (l) Printing charges.  | Actual cost not exceeding Rs. 7 per page.                        |
| (m) cyclostyling charges.  | Rs. 2 per page or part thereof.                                  |

**22. Nothing in these rules requiring any notice to be served on or given to an opposite party or respondent shall be deemed to require any notice to be served on or given to the legal representative of any deceased opposite party or deceased respondent in a case, where such opposite party or respondent did not appear either at the hearing in the Court whose decree is complained of or at any proceedings subsequent to the decree of that Court:**

Provided that notices under sub-rule (2) of Rule 3 and under Rule 8 shall be given by affixing the same in some conspicuous place in the Court house of the Judge of the District in which the suit was originally brought, and by publication in such newspapers as the Court may direct. (B) Civil Appeals by Special Leave to Supreme Court

**23. The provisions of Rules 6 to 21 (both inclusive) shall apply mutatis mutandis to Civil Appeal by Special Leave to the Supreme Court.**

(C) Criminal Appeals on the Certificate of the High Court

**24. (i) Whosoever desires to appeal to the Supreme Court of India shall apply by petition to the Court for a certificate granting leave to appeal to the Supreme Court. The petition praying for a certificate for leave to appeal to the Supreme Court shall comply with the provisions of Rules 2 and 3 of Chapter 4 of the Rules of the High Court.**

(ii) A petition for leave to appeal to the Supreme Court shall be registered as "Miscellaneous Criminal Case." (iii) This petition for a certificate shall be heard by the Bench from whose judgement or order, it is intended to prefer an appeal to the Supreme Court: Provided, however, that if a Judge or Judges constituting such a Bench be not immediately available, then such petition shall be heard by a Bench to be constituted by the Chief Justice, which shall ordinarily be a Division Bench. (iv) Notwithstanding anything contained in sub-rule (i) a party desiring to appeal to the Supreme Court of India may apply orally for such certificate immediately after the pronouncement of the judgement by the Court and the Court may after hearing the parties or their counsel grant or refuse the same to the party on such oral application or direct the party to file a petition as required by sub-rule (i) : Provided, however, that if any oral application for leave to appeal under sub-rule (iv) is made and rejected, no written petition under sub-rule (i) shall lie.

**25. If the Court grants Rule upon petition, the Registrar shall issue a notice in Form No. 1 of Schedule A appended to these rules to the District Magistrate concerned and the Advocate General through the Law Secretary, Madhya Pradesh, if the petition is by the accused person and to the accused person or persons if the petition is by the State to show cause, within a period of time after the service of the notice to be prescribed by Registrar, why the certificate prayed for should not be granted.**

**26. Upon the Court making the Rule absolute a certificate shall\*be issued in Form No. II of Schedule A appended to these rules.**

**27. Except as otherwise ordered by the Supreme Court, the preparation of the transcript of the record (and of the printed or cyclostyled record, where the same is required to be printed or cyclostyled) and the transmission thereof shall be at the expense of the appellant. In appeals involving sentence of death and in other cases in which the Supreme Court thinks fit so to direct the record shall be printed at the expense of the State.**

**28. Two copies of the High Court paper-book if available for despatch to the Supreme Court shall be treated as the transcript of the record. In that event only such of the additional documents as the parties choose to include for the hearing of the appeal in the Supreme Court shall be typed in duplicate and transmitted to the Supreme Court alongwith the High Court paper-book, one copy of which shall be duly authenticated.**

**29. For the purposes of the transcript of the record such of the documents in vernacular as have already been translated for the purposes of the High Court appeal and which are included in the High Court Appeal Paper-Book need not be translated again.**

**30. Where the appellant fails to take necessary steps to have the transcript of the record prepared and transmitted to the Supreme Court with due diligence the Registrar shall report the default to the Registrar of the Supreme Court for orders.**

**31. In the event of the Supreme Court directing this Court to print or cyclostyle the record under the supervision of the Registrar of this Court, the Registrar of the Court shall despatch to the Registrar of the Supreme Court, unless otherwise directed by the Supreme Court, not less than 15 copies where the appeal raises a question as to the interpretation of the Constitution and not less than 10 copies in other cases.**

**32. (i) In all cases involving a sentence of death, the printed or the cyclostyled record shall be made ready and despatched to the Supreme Court within a period of 60 days after the receipt of the intimation from the Registrar of the Supreme Court of the filing of the petition of appeal or of order granting Special Leave to Appeal.**

(ii) In cases where such record cannot be despatched within 60 days as stated in sub-rule (i), the Registrar shall explain the circumstances under which it cannot be so despatched and obtain extension, of time from the Supreme Court.

**33. Except as otherwise provided in Rules 23 to 31 above (both inclusive) the provisions of Rules 6 to 21 shall apply mutatis mutandis to criminal appeals on certificate issued by the High Court.**

(D) Criminal Appeal by Special Leave of the Supreme Court

**34. On application by the petition intending to apply for special leave of the Supreme Court in criminal proceedings and appeals, a certified copy of the judgement or order sought to be appealed from shall be supplied to him free of cost**

**35. On receipt of the order granting special leave to appeal to the Supreme Court, the Registrar shall require the office to take necessary steps to have the record of the case transmitted to the Supreme Court in accordance with the directions contained in the order granting special leave.**

**36. Except as otherwise provided in Rules 33 and 34 above the provisions of Rules 23 to 32 above (both inclusive) shall apply mutatis mutandis to criminal appeal by special leave of the Supreme Court.**

(E)Miscellaneous

**37. The forms given in Schedule A appended to these rules shall be used for the respective purposes with such additions, deletions and modifications as may be required in each individual case.**

**38. In these rules all references to the Registrar of this Court shall be deemed to include reference to the Additional registrar and the Deputy Registrar.**

## **A**

Form No. I Notice to show cause why a Certificate of Appeal to the Supreme Court should not be granted. In the High Court of Madhya Pradesh, Jabalpur, Bench Indore/Gwalior. Miscellaneous Civil Case No of 197. (In First/Second/Letters Patent/Appeals/Revision/Miscellaneous Petition No.....of 197.....Petitioner(Original)VersusOpposite Party(Original)ToTake Notice that has applied to this Court for a certificate :- (i) that the case involves a substantial question of law of general importance, and (ii) that in the opinion of this Court the said question needs to be decided by the Supreme Court. The.....day of.....197.....is fixed for you to show cause why the Court should not grant the certificate asked for. Given under my hand and the seal of the Court, this day of 197.....(Seal)Deputy RegistrarForm No. II (Certificate of fitness for Appeal to the Supreme Court) In the High Court of Madhya Pradesh, Jabalpur, Bench Indore/Gwalior. Miscellaneous Civil/Criminal Case No of 197 for leave to appeal to the Supreme Court of India against the judgement and Decree/Order, dated the of this High Court..... in..... No.....Petitioner(Original)Versus.....Opposite Party(Original)Upon reading the petition of the petitioner above named presented on the day of 197 praying for leave to appeal to the Supreme Court against the judgement and Decree/Order, dated the.....day of.....of 197 of this Court in the said Appeal No of 197.....And Upon hearing

Shri.....Advocate for the petitioner and Shri.....Advocate for Opposite Party, there being no appearance for the Opposite Party No served. This Court Doth Certify under Article 132 (1) of the Constitution of India that this case involves a substantial question of law as to the interpretation of the Constitution. And this Court further directs that the costs of this Miscellaneous application shall be the cost in the appeal to the Supreme Court. Witness.....Chief Justice of the High Court of Madhya Pradesh. This day..... of..... 197.....(Seal) Judge Judge A Deputy Registrar This day..... Received the above certificate on behalf of the applicant. Advocate for the Applicant. Form No. III (Certificate of fitness for Appeal to the Supreme Court) In the High Court of Madhya Pradesh, Jabalpur, Bench Indore/Gwalior. Miscellaneous Civil Case No..... of 197..... for leave to Appeal to the Supreme Court of India against the judgement and Decree/Order, dated the..... of this High Court in..... No..... Petitioner (Original) Versus Opposite Party (Original) Upon reading the petition of the petitioner above named presented on the day of of 197 praying for leave to appeal to the Supreme Court against the judgement and Decree/Order dated the day of..... of 197..... of this Court in the said Appeal No of 197..... And Upon Hearing Shri Advocate for the petitioner and Shri Advocate for the Opposite Party, there being no appearance for the Opposite Party No though served. This Court Doth Certify under Article 133 (1)(a) and (b) of the Constitution of India that (1) this case involves a substantial question of law of general importance, and (2) in the opinion of this Court, the said question needs to be decided by the Supreme Court. And this Court further directs that the costs of this Miscellaneous application shall be the cost in the appeal to the Supreme Court. Witness Chief Justice of the High Court of Madhya Pradesh. This day..... of..... 197.....(Seal) Judge Judge Deputy registrar. This day..... Received the above certificate on behalf on the applicant. Advocate for the Applicant. Form No. III-A (Certificate of fitness for Appeal to the Supreme Court) In the High Court of Madhya Pradesh, Jabalpur, Bench Indore/Gwalior Miscellaneous Criminal Case No of 197 for leave to appeal to the Supreme Court of India, against the judgement and Decree/Order dated the of this High Court in No..... Petitioner (Original) Versus..... Opposite Party (Original) Upon reading the petition of the petitioner above named presented on the day of..... 197..... praying for leave to appeal to the Supreme Court against the judgement and Decree/Order dated the..... day of..... of 197 of this Court in the said Appeal No of 197..... And Upon Hearing Shri..... Advocate for the petitioner and Shri..... Advocate for the Opposite Party, there being no appearance for the Opposite Party No..... though served. This Court Doth Certify Under Article 134(1)(c) of the Constitution of India that this case is a fit one for Appeal to the Supreme Court of India. Given under our hands and the seal of the Court. This day..... of..... 197.....(Seal) Judge Judge Deputy registrar. This day..... Received the above certificate on behalf of the applicant. Advocate for the Applicant. Form No. IV (Notice of the order granting Special Leave and/the Lodgement of the Petition of Appeal) In the High Court of Madhya Pradesh, Jabalpur, Bench Indore/ Gwalior. Supreme Court Civil/Criminal Appeal No of 197 (From the judgement and Decree/Order of this High Court, dated..... in..... of..... 197.....)..... Petitioner (Original) Versus..... Opposite Party (Original) To Take Notice That Special Leave to Appeal has been granted to the applicant above-named by the Supreme Court and/the applicant has lodged the petition of appeal in the Registry of the Supreme Court/and that as required by Rule 6 of Order XV of the Supreme Court Rules, 1966 the appellant has deposited with the Registrar of the Supreme Court, the requisite

security for the costs of the respondent. Take Further Notice that if you desire to contest the appeal you may within Thirty days of the receipt of this Notice enter appearance before the Supreme Court, New Delhi, either in person or by an Advocate on record of that Court duly appointed by you in that behalf and take such part in the proceedings as you may advise. Take Further Notice Also That in default of your appearance within the time prescribed the appeal will be proceeded with and determined in your absence and no further notice in relation thereto shall be given to you. Dated this the day of 197.....(Seal) Deputy Registrar Form No. V [Certificate regarding service of Notice on the respondent(s) under Rule 11/15, Order XV, XVI, XXI of the Supreme Court Rules, 1966.] In the High Court of Madhya Pradesh, Jabalpur, Bench Indore/Gwalior. Supreme Court Civil/Criminal Appeal No.....of 197.....(From the judgement and Decree/Order of this High Court, dated in of 197.....).....Petitioner(s) Versus.....Respondent(s) I Do Hereby Certify That the notice under Rule 11/15, Order XV/XVI/XXI of Supreme Court Rules, 1966, the above case under appeal to the Supreme Court of India, has been served on. Dated this the day of 197.....(Seal) Deputy Registrar Form No. VI (Notice to appellant for depositing the costs of the preparation, transmission, etc. of the transcript of the record). In the High Court of Madhya Pradesh, Jabalpur, Bench Indore/Gwalior. Supreme Court Civil/Criminal Appeal No.....of 197.....(From the judgement and Decree/Order of this High Court, dated.....in of 197.....) Appellant Versus Respondent To Take Notice That you are required to make a/an additional deposit of Rs within eight/thirty days from the service hereof on you to meet the costs of the transmission/the preparation of the English Transcript of the original/record/paper of the case in question/and the printing/cyclostyling/ and the transmission thereof to the Supreme Court. Take Further Notice That if you fail to make the said additional deposit within the time mentioned above the default will be reported to the Supreme Court. Dated this the.....day of..... 197.....(Seal) Deputy Registrar Form No. VII (Notice to the Appellant for inspection of the Record and for filing the list of documents to be included in the Transcript of the Record) In the High Court of Madhya Pradesh, Jabalpur, Bench Indore/Gwalior. Supreme Court Civil/Criminal Appeal No of 197.....(From the judgement and Decree/Order of this High Court, dated.....in of 197.....) Appellant. Versus Respondent To Notice Is Hereby given to you, that the Record and proceedings of the case from which the said Supreme Court Appeal arises are available in this Court and that you may take inspection of the same, if you so desire. Take Further Notice That you are required to file within four weeks from the date of receipt of this notice a list of documents which you desire to include in the appeal paper-book after serving on each of the Respondents a copy of the said list, and also produce an acknowledgement from each of the Respondents that a copy of the said list has been served on him. Take Further Notice Also That you are required to take all necessary steps with due diligence to arrange to transmit in triplicate with all convenient despatch a Transcript in English of the Record proper of the case/the printed/cyclostyled record of the case so far as is material to the questions in dispute in the said appeal for being placed before the Supreme Court for the hearing of the said appeal. Dated this the..... day of..... 197..... Deputy Registrar (Seal) Counsel for Appellant Counsel for Respondent. Form No. VIII (Notice to the respondent for inspection of Record, and for filing the list of additional documents to be included in the Transcript of the Record) In the High Court of Madhya Pradesh, Jabalpur, Bench Indore/Gwalior. Supreme Court Civil/Criminal Appeal No of 197.....(From the judgement and Decree/Order of this High Court, dated.....in.....of.....197.....) Appellant Versus Respondent To Notice is hereby given to

you that the Record and Proceedings of the case from which the said Supreme Court Appeal arises are available in this Court and that you may take inspection of the same, if you so desire. Take Further Notice That you are required, upon the Appellant's serving on you a copy of the list of documents which the Appellant intends to include in the paper-book, to file within three weeks of the service on you of the said list by the Appellant a list of such additional documents as you consider necessary for the determination of the appeal. Take Further Notice Also That you are required to take all necessary steps with due diligence, so far as you may be concerned, in the matter of arranging to transmit in triplicate with all convenient despatch a transcript in English, of the Record proper of the case/the printed/cyclostyled record of the case so far as material to the questions in dispute in the said appeal for being placed before the Supreme Court for the hearing of the said appeal. Date this the.....day of.....197.....Deputy Registrar.(Seal)Counsel for Appellant.Counsel for Respondent. Form No. IX(Notice of the certification and transmission of the Printed or Cyclostyled record). In the High Court of Madhya Pradesh, Jabalpur, Bench Indore/Gwalior. Supreme Court Civil/Criminal Appeal No of 197.....(From the judgement and Decree/Order of this High Court, dated.....in.....of.....197.....).....Appellant(Original)Versus.....Respondent(Original) Notice that/the printed/cyclostyled record of the above mentioned appeal has been authenticated and transmitted to the Supreme Court on the.....Take Notice Also that you are required to take necessary steps in the prosecution of the appeal in accordance with the provisions of Supreme Court Rules, 1966. Dated this the.....day of.....197.....(Seal)Deputy Registrar. Form No. X(Certificate of the Registrar under Rules 11/15, Order XV/XX of the Supreme Court Rules, 1966). In the High Court of Madhya Pradesh, Jabalpur, Bench Indore/Gwalior. Supreme Court Civil/Criminal Appeal No.....of 197.....(From the judgement and Decree/Order of this High Court, dated.....in.....of.....197.....).....AppellantVersus.....Respondent(s) I Do Hereby Certify that the notice regarding the authentication and the despatch of the printed/cyclostyled record in the above case to the Supreme Court have been duly served on the Appellant and the Respondents as follows :-Dated this the.....day of.....197.....(Seal)Deputy Registrar Form No. XI Notice of Show Cause In the High Court of Madhya Pradesh, Jabalpur, Bench Indore/Gwalior. Miscellaneous Criminal Case No.....of.....197.....In Criminal Appeal/Revision No.....of 197.....Petitioner(Original)Versus.....Opposite Party(Original) To, Take Notice that on the.....day of.....197.....the Petitioner above-named has presented a petition (a copy of which is enclosed herewith) to this Honourable Court for leave to appeal to the Supreme Court from the Judgement/Order of this Court passed in the above matter on the day of 197 praying for leave to appeal to the Supreme Court and that you are hereby required within days after service of this notice upon you to show cause, if any, why certificate should not be granted as prayed for in the said petition. Dated this the.....day of.....197.....(Seal)Deputy Registrar Section Two

## Chapter I

### Rules Under Section 34(1) of The Advocates Act, 1961

[Notification No. 1546-II-I-5-57 Ch. 18, dated 28th February, 1967, published in M.P. Rajpatra, Part 4 (Ga), dated 23rd August, 1968, p. 691.]

**1. In these rules unless there is anything repugnant to the subject or context the word "advocate" shall include a partnership or a firm of advocates.**

**2. Save as otherwise provided for in any law for the time being in force no advocate shall be entitled to appear, plead or act for any person in any Court in any proceeding unless the advocate files an appointment in writing signed by such persons or his recognized agent or by some other person duly authorised by or under a power of attorney to make such appointment and signed by the advocate in token of its acceptance or the advocate filed a memorandum of appearance in the form prescribed by the High Court :**

Provided that where an advocate has already filed an appointment in any proceeding, it shall be sufficient for another advocate, who is engaged to appear in the proceedings merely for the purposes of pleading, to file a memorandum of appearance or to declare before the Court that he appears on instructions from the advocate who has already filed his appointment in the proceedings :Provided further that nothing herein contained shall apply to an advocate who has been requested by the Court to assist the Court amicus curie in any case or a proceeding or who has been appointed at the expense of State to defend an accused person in criminal proceeding.Explanation. - A separate appointment or a memorandum of appearance shall be filed in each of the several connected proceedings, notwithstanding that the same advocate is retained for the party in all the connected proceeding.

**3. An advocate who is not on the roll of advocates of the Bar Council of the State in which the Court is situated, shall not appear, act or plead in such Court, unless he files an appointment alongwith an advocate who is on the roll of such State Bar Council and who is ordinarily practising in such Court.**

**4. In cases in which a party is represented by more than one advocate, it shall be necessary for all of them to file a joint appointment or for each of them to file separate one.**

**5. The acceptance of the appointment on behalf of a firm or partnership of advocates shall be indicated by a partner affixing his own signature as a partner on behalf of the firm or partnership of advocate.**

**6. An advocate at the time of acceptance of his appointment shall also endorse on it his address which address shall be regarded as one for service within the meaning of Rule 5 of Order III of the Code of Civil Procedure, 1908 :**



Provided that where more than one advocate accepts the appointment, it shall be sufficient for one of them to endorse his address, which address shall be regarded as one for service within the meaning of Rule 5 of Order III of the Civil Procedure Code.

**7. Where an advocate appointed by a party in any of the proceedings is prevented by reasonable cause from appearing and conducting the proceedings at any hearing, he may instruct another advocate to appear for him at that hearing.**

**8.**

(1) In civil cases, the appointment of an advocate, unless otherwise limited, shall be deemed to be in force to the extent provided in that behalf by Rule 4 of Order III of the Code of Civil Procedure, 1908. (2) In civil cases, the appointment of an advocate, unless otherwise limited, shall be deemed to be in force until determined with the leave of the Court in writing signed by the party or the advocate, as the case may be, and filed in Court or until the party or the advocate dies or until all proceedings in the case are ended so far as regards the party. (3) For the purposes of sub-rule (2), a case shall be deemed to mean every kind of enquiry, trial or proceeding before a Criminal Court whether instituted on a police report or otherwise than on a police report, and further, - (i) an application for bail or reduction, enhancement or cancellation of bail in the case; (ii) an application for transfer of the case from one Court to another; (iii) an application for stay of the case pending disposal of a civil proceeding in respect of the same transaction out of which the case arise; (iv) an application for suspension, postponement or stay of the execution of the order or sentence passed in the case; (v) an application for the return, restoration or restitution of the property as per the order of disposal or property passed in the case; (vi) an application for leave to appeal against an order of acquittal in the case; (vii) any appeal or application for revision against any order or sentence passed in the case; (viii) a reference arising out of the case; (ix) an application for review of an order or sentence passed in the case or in an appeal, reference or revision arising out of the case; (X) an application for making concurrent sentences awarded in the case or in an appeal, reference revision or review arising out of the case; (xi) an application relating to or incidental to or arising in or out of any appeal, reference, revision or review arising in or out of the case (including an application for leave to appeal to the Supreme Court); (xii) any application or act for obtaining copies of documents or for the return of articles or documents produced or filed in the case or in any of the proceedings mentioned hereinbefore; (xiii) any application or act for obtaining the withdrawal or the refund or payment of or out of the moneys paid or deposited in the Court in connection with the case or any of the proceedings mentioned hereinbefore (including moneys paid or deposited for covering the costs of the preparation and the printing of the Transcript Record of Appeal to the Supreme Court); (xiv) any application for the refund of or out of the moneys paid or recovered as fine or for the return, restitution or restoration of the property forfeited or confiscated in the case or in any appeal, reference, revision or review arising out of the case as per final orders passed in that behalf; (xv) any application for expunging remarks or observations on the record of or made in the judgement in the case or any appeal, reference, revision or review arising out of the case; and (xvi) any application or proceeding for sanctioning prosecution under Chapter XXXV of the [Code of Criminal Procedure,

1898] [See now the Code of Criminal Procedure, 1973 (2 of 1974).], or any appeal or revision arising from and out of any order passed in such an application or proceeding; shall be deemed to be proceedings in the case : Provided that where the venue of the case or the proceedings is shifted from one Court (subordinate or otherwise) to another, the advocate filing the appointment referred to in sub-rules (1) and (2) above in the former Court shall not be bound to appear, act or plead in the later Court unless he files or he has already file a memorandum signed by him in the later Court that he has instructions from his client to appear, act and plead in that Court.

## 9.

(1) Except when specially authorised by the Court or by consent of the party, an advocate, who has advised in connection with the institution of a suit, appeal or other proceeding or has drawn up pleadings in connection with such matter, or has during the progress of any suit, appeal or other proceeding appeared, acted or pleaded for a party, shall not, unless he first gives the party whom he has advised or for whom he has drawn up pleadings, appeared, acted or pleaded, an opportunity of engaging his services, appear or act or plead in such suit, appeal or other proceeding or in an appeal or application for revision arising therefrom or in any matter connected therewith for any person whose interest is in any manner in conflict with that of such party : Provided that the consent of the party may be presumed if he engages another advocate to appear, act or plead for him in such suit, appeal or other proceeding without offering an engagement to the advocate whose services were originally engaged by him or on his behalf. (2) Where it appears on the face of the record that the appearance of an advocate in any proceeding for any party is prejudicial to the interest of the other party on account of the reasons mentioned in sub-rule (1) above, the Court refuse to permit the appearance to be filled or cancel such appearance if it has already been filed, after giving the said advocate an opportunity of being heard. (3) An advocate who discloses to any party information confided to him in his capacity as an advocate by another party without the latter's consent shall not be protected merely by reason of his being permitted to appear, act or plead for the said party.

## **10. (a) The appointment of a firm or partnership of advocates may be accepted by any partner on behalf of the firm.**

(b) No such firm or partnership shall be entitled to appear, act or plead in any Court unless all the partners thereof are entitled to appear, act or plead in such Court. (c) The name of the firm or partnership may contain the names of the persons who were or are members of the partnership but of no other. (d) The words "and company" shall not be affixed to the name of any such partnership or firm. (e) The names of all the members of the firm shall be recorded with the Registrar of the High Court and/or the District Judge, as the case may be, and the State Bar Council, and the names of all the partners shall also be set out in all professional communication issued by the partners or the firm. (f) The firm of advocates shall notify to the Registrar of the High Court/or the District Judge, as the case may be, and the State Bar Council, any change in the composition of the firm or the fact of its dissolution as soon as may be from the date on which such change occurs or its dissolution takes place. (g) Every partner of the firm of advocates shall be bound to disclose the names of all the partners of the firm whenever called upon to do so by the Registrar of the High Court, the District Judge, the State Bar Council, any Court or any party for or against whom the firm or any partner

thereof has filed the appointment or memorandum of appearance.(h)In every case where a partner of a firm of advocates signs any document or writing on behalf of the firm he shall do so in the name of the partnership and shall authenticate the same by affixing his own signatures as partner.(i)Neither the firm of advocates nor any partner thereof shall advise a party or appear, act or plead on behalf of a party in any matter or proceeding where the opposite party is represented by any other partner of the firm or by the firm itself.

**11. No advocate shall be permitted to file an appointment or memorandum of appearance in any proceeding in which another advocate is already on record for the same party save with the consent of the former advocate on record or the leave of the Court, unless the former advocate has ceased to practise or has by reason of infirmity of mind or body or otherwise become unable to continue to act.**

**12. An advocate may correct any clerical error in any proceedings with the previous permission of the Registrar or any officer of the Court specially empowered in this behalf by the Court obtained on a memorandum stating the correction desired.**

**13. No advocate who has been disbarred or suspended or whose name has been struck off the roll of advocates shall be permitted to act, as a recognised agent of any party within the meaning of Order III of the Code of Civil Procedure, 1908.**

**14. No advocate who has been found guilty of contempt of Court shall be permitted to appear, act, or plead in any Court unless he has purged himself of contempt.**

**15. Advocates appearing before the Court shall wear the following dress :-**

(1)Advocates other than lady advocates :-(a)Black buttoned up coat (Chapkan, achakan or Sherwani), Barrister's gown and bands, or(b)Black open colour coat, white shirt, white collar, stiff or soft, with Barrister's gown and bands.(2)Lady advocates :-Regional dress of subdued colour or colours with Barrister's gown and bands.[Rules framed by the High Court of Madhya Pradesh under Section 16 (2) of the Advocates Act, 1961] [Published in M.P. Rajpatra, Part 4(Ga), dated 24-6-1994 at pp. 111-118.]Whereas Section 16 (2) of the Advocates Act vests the High Court with powers to designate Advocate as Senior Advocate, the High Court in exercise of the powers conferred by Section 34 (1) of the Advocates Act, framed the following rules, namely

:-No.....Dated the.....

- 1. The High Court may designate an Advocate as Senior Advocate, if in its opinion, by virtue of his ability, standing at the Bar or Special Knowledge or experience in law, the said Advocate is deserving of such distinction.**
- 2. Such designation as Senior Advocate shall be made either on consideration of an application from the Advocate concerned or suo motu. In the latter case, the consent of the Advocate concerned shall be obtained before such designation.**
- 3. (i) An Advocate shall be considered for being designated as Senior Advocate only if he has completed forty five years of age and has actually practised as Advocate for not less than twenty years.**

(ii) The application by an Advocate to designate him as Senior Advocate shall contain the following particulars :-

- 1. Name.**
- 2. Qualification.**
- 3. Date of birth.**
- 4. Permanent Address.**
- 5. Address to which communications are to be sent.**
- 6. Date of enrolment as Advocate and where enrolled.**
- 7. Number in the roll of Advocates maintained by the State Bar Council and the date on which enrolled.**
- 8. Are you a member of any Association of lawyers ? If so give details.**
- 9. Number of year's practice (or judicial service) & in which Court?**
- 10. Have you specialised in any field of law? If so, give details.**

- 11. Have you been a chamber junior to any lawyers? If so, furnish names of such lawyers and the period.**
- 12. Is any junior lawyer attached to your chamber? If so, furnish names of such lawyers and the period held as such.**
- 13. Are you an assessee under the Income Tax Act in respect of your professional income? If so, give details of income assessed for the last three years.**
- 14. Are you in the Panel, or do you hold any office under the State or Central Government?**
- 15. Reference to any important matter in which you have appeared.**
- 16. Have you made any publication in any Journal? If so, give details.**
- 17. Have you attended or participated in any seminar/conference relating to law?**
- 18. Are you connected with any faculty of law?**
- 19. Was any application for designation as Senior Advocate been made in the past of the High Court of Madhya Pradesh or any other Court before? If so, with what result?**
- 20. Are you ordinarily practising within the jurisdiction of the High Court of Madhya Pradesh.**
- 21. Other information/particulars, if any, including legal aid work.**

(iii) If the proposal for designation of an Advocate as Senior Advocate is made 'suo motu' by the High Court, the particulars mentioned in sub-rule (2) above shall, as far as possible be obtained by the Registry.

**4. The proposal for designation, either on application by the Advocate concerned or 'suo motu' by the High Court shall be considered and decided at a meeting of Full Court.**

- 5. An application once rejected shall not be renewed for another two years.**
- 6. The designation of an Advocate as Senior Advocate shall be liable to be cancelled, after due notice, in the event of it being found that he has violated any or all of the provisions of the Rules prescribed by the Bar Council of India under sub- section (3) of Section 16 of the Advocates Act, 1961.**
- 7. On designation of an Advocate as a Senior Advocate or on cancellation of such designation, the Registrar shall notify the fact to the Registrar, Supreme Court, the Bar Council of Madhya Pradesh, the Bar Council of India as also to all the District and Sessions Judges subordinate to the High Court.**
- 8. A record of all such decisions shall be maintained in the office of the High Court.**

## **Chapter IA**

### **Rules Under Section 45-G, Banking Companies Act, 1949**

(Act No. X of 1949)High Court of Judicature at NagpurNo. 8674, Nagpur, the 26th November, 1952.  
- In exercise of the powers conferred by sub-section (2) of Section 45-B and Section 45-G of the Banking Companies Act, 1949 (Act X of 1949), as amended by Act XX of 1950, and all other powers hereunto enabling, the High Court hereby makes the following rules :-

**1. Short title, commencement and application. - These rules shall be called the Banking Companies Rules, Nagpur, 1952 and shall come into force from 1st January, 1953, and shall apply to all proceedings under the Banking Companies Act.**

**2. Definitions. - To these rules, unless, the context or subject-matter otherwise requires :-**

(a)"Act" means the Banking Companies Act, 1949 (Act X of 1949), as amended by Act XX of 1950, or as may be amended from time to time.(b)"Banking Company" means a company to which the provisions of the Act apply.

**3. Title to proceedings, advertisements, etc. - The following shall be used as the entitling (or heading) in every petition or notice of application, advertisement, proclamation, notice, or other matter to which these rules apply.**

(a)In proceedings in Court "In the High Court of Judicature at Nagpur". "In the matter of the Banking Companies Act, 1949, and Bank Limited." (b)In advertisements, proclamations, notice and other proceedings not before the Court. "In the matter of Banking Companies Act, 1949, and of Bank Limited."

**4. Application of Indian Company Rules. - Save as is expressly provided in these rules, the rules framed under the Indian Companies Act, 1913 shall apply to proceedings under Act, and all forms prescribed under the Indian Companies Act, where appropriate shall mutatis mutandis apply to proceedings under the Act.**

**5. Application of the Code of Civil Procedure. - The provisions of the Code of Civil Procedure, in so far as they are not inconsistent with these rules or with the Act, shall apply to all proceedings under the Act.**

**6. (a) Mode of proceedings. - An application under any of the sections of Part III or III-A of the Act shall be made by petition which shall be signed and verified in the same manner as a plaint. The petition shall be supported by an affidavit, and shall be presented to the Judge taking company winding up matters or to such other Judge as the Chief Justice may direct: The Judge shall hear the said application and pass such orders and give such directions as he deems proper, including directions for notice of the petition being given to such person or persons as may seem to him likely to be effected by the proceedings.**

(b)Jurisdiction. - Such petitions shall be heard and disposed of by a Judge sitting alone.

**7. Notice. - (a) In addition to the advertisement and notice provided for in the rules framed by this Court under the Indian Companies Act, 1913, notice of application for winding up a Banking Company, made by persons other than the Reserve Bank shall be served on the Reserve Bank.**

The notice shall also state that in default of an application from the Reserve Bank asking to be appointed the official liquidator, the Court may, if necessary proceed to appoint an official liquidator other than the Reserve Bank. (b) All notices directed to be given to any party or to the Reserve Bank shall be accompanied by a copy of the petition and affidavit, and shall be sent by registered post with acknowledgement due.

**8. Transfer of proceedings. -** Where an order has been made for the winding up of a Banking Company, the Judge shall have power to order the transfer to him of any action, cause or matter pending in any other Court subordinate to the High Court brought or continued by or against the company. Any proceeding by or against the company pending in the High Court shall be dealt with by the Judge dealing with the proceedings for the winding up of the company. Proceedings so transferred or pending in the High Court shall be dealt with in the same manner as claims and questions under Section 45-B of the Act.

**9. Proof of claims. -** Notwithstanding anything to the contrary contained in the Indian Company Rules, every depositor whose name appears as a depositor in the books of the company shall be admitted as a creditor for the amount so appearing in the books of the company without proof, unless the official liquidator has reason for doubting any particular entry in which case he may call upon the depositor so admitted without proof of claim. The official liquidator shall notify every depositor so admitted without proof of the amount for which he has been admitted as a creditor.

**10. Set off. -** In all claims for the money by or against a Banking Company, the opposite-party shall be entitled to plead by way of set-off or counter-claim any amount which he or it may claim against the claimant.

**11. Court-fees on claims. -** The court-fee payable on claims for money (whether secured or unsecured) on a claim to set-off made against such claims or counter-claims shall be as follows :-

Claims, counter-claims or set-off :-(a)Where the amount does not exceed Rs. 2,500/-.....Rs. 15/- (b)Where the amount exceeds Rs. 2,500/- but does not exceed Rs. 10,000/-.....Rs. 30/- (c)Where the amount exceeds Rs. 10,000/-.....Rs. 50/-.

**12. On every appeal from an order, decree or decision passed under the provisions of Section 46-B of the Act, the court-fee paid shall be as under :-**

(a)Where the amount involved in appeal does not exceed Rs.2,500/- Rs. 30/- (b)Where the amount exceeds Rs. 2,500 but does not exceed Rs. 10,000/-.....Rs. 50/- (c)Where the amount exceeds Rs. 10,000/- Rs. 100/-.



**13.**

(1) Every order in favour of a Banking Company for enforcement of a mortgage, pledge, hypothecation or any other security, shall be executed by the Court, and the Court may direct the security to be sold by a Commissioner without the settlement of a sale proclamation but after advertisement as the Court may direct. (2) Every other order passed in favour of a Banking Company for money may be executed by the Court or transmitted for execution to any other Court in India as the Court may deem fit, provided that the Court shall be at liberty at any stage to withdraw for disposal by itself any proceeding in execution pending in another Court in respect of an order transmitted to such Court for execution.

**14. Appeals. - An appeal under Section 45-B (2) of the Act shall be heard by a Bench of two Judges other than the Judge from whose judgement the appeal is preferred and shall be treated as a first appeal to the High Court.**

**15. Expediting. - All proceedings under Section 45-B of the Act shall be treated as urgent.**

**16. Presentation and hearing of complaints. - (1) Proceedings under Section 40-G of the Act shall commence with complaint presented by the official liquidator to the Judge dealing with winding up proceedings or to such Judge as the Chief Justice may direct. On presentation of the complaint, the Judge may issue summons or a bailable or non-bailable warrant against the accused and shall fix a date for the trial or may dismiss the complaint as he may in his discretion think fit.**

(2) In the case of trial under Section 45-G (1), the procedure provided in the Criminal Procedure Code for the trial of summons cases shall in so far as it is not inconsistent with the provisions of the Act, be applicable. (3) In the case of trial under Section 45-G (3), the procedure provided in the Criminal Procedure Code for the trial of warrant cases shall in so far as it is not inconsistent with the provisions of the Act, be applicable.

**17. Process in criminal cases. - All processes in criminal cases shall issue from the office of the Registrar.**

## **Chapter II**

### **Rules Under Sections 45-N and 45-U, Banking Companies Act, 1949**

(Act X of 1949)No. 3328 Nagpur, the 28th April, 1956. - In exercise of the powers conferred by sub-section (2) of Section 45-N and Section 45-U of the Banking Companies Act, 1949 (Act X of 1949), as amended by Act XX of 1950 and Act LII of 1953 and all other powers hereunto enabling and in supersession of all previous rules on the subject, the High Court hereby makes the following rules.

**1. Short title, commencement and application. - These rules shall be called the Banking Companies Rules, Nagpur, 1952, and shall come into force from 1st January, 1953, and shall apply to all proceedings under the Banking Companies Act.**

**2. Definitions. - In these rules, unless the context or subject-matter otherwise requires :-**

(a)"Act" means the Banking Companies Act, 1949 (X of 1949) as amended by Act XX of 1950 and Act LII of 1953, or as may be amended from time to time;(b)"Banking Company" means a company to which the provisions of the Act apply;(c)"Court" means the High Court of Judicature at Nagpur.

**3. Title to proceedings, advertisements, etc. - The following shall be used as the entitling (or heading)in every petition or notice of application, advertisement, proclamation, notice or other matter to which these rules apply.**

(a)In proceedings in Court-'In the High Court of Judicature at Nagpur'.In the matter of the Banking Companies Act, 1949, and of Bank, Limited.'(b)In advertisement, proclamation, notices and other proceedings not before the Court-'In the matter of Banking Companies Act, 1949, and of Bank, Limited.'

**4. Application of Indian Company Rules. - Save as is expressly provided in these rules, the rules framed under the Indian Companies Act, 1913 shall apply to proceedings under Act, and all forms prescribed under the Indian Companies Act, where appropriate shall mutatis mutandis apply to proceedings under the Act.**

**5. Application of the Code of Civil Procedure. - The provisions of the Code of Civil Procedure, in so far as they are not inconsistent with these rules or with the Act, shall apply to all proceedings under the Act.**

**6. (a) Mode of proceedings. - An application under any of the sections of Part III or III-A of the Act shall be made by petition which shall be signed and verified in the same manner as a plaint. The petition shall be supported by an affidavit, and shall be presented to the Judge taking company winding up matters or to such other Judge as the Chief Justice may direct. The Judge shall hear the said application and pass such orders and give such directions as he deems proper, including directions for notice of the petition being given to such person or persons as may seem to him likely to be effected by the proceedings.**

(b)Jurisdiction. - All applications referred to in sub-rule (a), all matters and proceedings connected with such applications, and all proceeding transferred to the High Court under Section 45-G (3) of the Act shall be heard and disposed of by a Judge sitting alone.

**7. Notice. - (a) In addition to the advertisement and notice provided for in the rules framed by this Court under the Indian Companies Act, 1913, notice of application for winding up a Banking Company, made by persons other than the Reserve Bank shall be served on the Reserve Bank.**

The notice shall also state that in default of an application from the Reserve Bank asking to be appointed the official liquidator, the Court may, if necessary, proceed to appoint an official liquidator other than the Reserve Bank.(b)All notices directed to be given to any party or to the Reserve Bank shall be accompanied by a copy of the petition and affidavit, and shall be sent by registered post with acknowledgement due.

**8. (a) When passing the winding up order, or at any time, thereafter, the Court may direct the publication of an advertisement in such manner as the Court considers necessary calling for information about losses caused to the banking company acts or omissions of any person to the promotion or formation of the banking company or of any director or auditor of the banking company to be sent by post or otherwise to the official liquidator within 14 days or within such time as the Court may fix.**

(b)In preparing his report under Section 45-G (1) of the Act, the official liquidator, shall take into consideration the information, if any, received in answer to an advertisement contemplated in the foregoing rule and all information available from the records of the banking company or from any other source. The report shall clearly state the source of information and the reasons for the conclusion arrived at. The official liquidator shall submit his report to the Court within two months from the date of the winding up order or within 21 days from the last date fixed in the advertisement, if any, for receipt of information, whichever is later.

**9. Proof of claims. - Notwithstanding anything to the contrary contained in the Indian Company Rules, every depositor whose name appears as a depositor in the books of the company shall be admitted as a creditor for the amount so appearing in the books of the company without proof, unless the official liquidator has reason for doubting any particular entry in which case he may call upon the depositor so admitted without proof of claim. The official liquidator shall notify every depositor so admitted without proof of the amount for which he has been admitted as a creditor.**

**10. Settlement of list of debtors. - (a) On receipt of a list of debtors from the official liquidator, the Court shall issue notice to all persons affected giving details of the amount and nature of debt in each case and calling for objections to be filed within 30 days from the date of the receipt of the notice and shall fix a date for the settlement of the list of debtors.**

(b) On the day fixed or on any day to which the matter may be adjourned, the Court shall consider the objections, if any, and settle the list of debtors to the extent possible and fix a date of enquiry into the debt not included in the settled list. (c) All enquiries under the Act shall be by affidavit evidence, unless the Court specifically permits also interrogatories, or orders in any particular case evidence viva voce or by commission.

**11. Set off. - In all claims for the money by or against a Banking Company, the opposite-party shall be entitled to plead by way of set-off or counter-claim any amount which he or it may claim against the claimant.**

**12. Court-fees on claims. - The court-fee payable on claims for money (whether secured or unsecured) on a claim to set-off made against such claims or counter-claims shall be as follows :-**

Claims, counter claims or set-off :- (a) Where the amount does not exceed Rs. 2,500/- Rs. 15/-. (b) Where the amount exceeds Rs. 2,500/- but does not exceed Rs. 10,000/- .....Rs. 30/-. (c) Where the amount exceeds Rs. 10,000/- Rs. 50/-.

**13. On every appeal from an order, decree or decision passed under the provisions of Part III or Part III-A of the Act, the court-fee paid shall be as under:-**

(a) Where the amount exceeds Rs. 5,000/- but does not exceed Rs. 10,000/- .....Rs. 60/-. (b) Where the amount exceeds Rs. 10,000/- Rs. 100/-.

**14. Subject to the provisions of the Act, the Court shall have and exercise the same powers in respect of certificates issued under sub-section (6) of Section 45-D as it has and exercise in respect of decrees passed by it.**

**15. Appeal. - (a) An appeal under Section 45-N (1) of the Act shall be filed within 20 days from the date of the order or decision appealed against, and shall be heard by a Bench of two Judges other than the Judge from whose judgement the appeal is preferred and shall be treated as a first appeal to the High Court.**

(b)An appeal shall lie to this Court, from the judgement or order of one Judge passed in the exercise of original criminal jurisdiction where the Judge who passed the judgement or order, declares at the time of passing judgement or order that the case is a fit one for appeal.(c)An appeal as provided for in sub-rule (b) shall be filed within 15 days from the date of judgement or order appealed against and shall ordinarily be heard by a Bench of two Judges.

**16. Expediting. - All proceedings under the Act shall be treated as urgent.**

**17. Presentation and hearing of complaints. - (1) Proceedings under Section 45-1 of the Act shall commence with a complaint presented by the official liquidator to the Judge dealing with winding up proceedings or to such Judge as the Chief Justice may direct. On presentation of the complaint, the Judge may issue summons or a bailable or non-bailable warrant against the accused and shall fix a date for the trial or may dismiss the complaint as he may in his discretion think fit.**

(2)In the case of trial under Section 45-J (1), the procedure provided in the Criminal Procedure Code for the trial of summons cases shall in so far as it is not inconsistent with the provisions of the Act, be applicable.(3)In the case of trial under Section 45-J (4), the procedure provided in the Criminal Procedure Code for the trial of warrant cases shall in so far as it is not inconsistent with the provisions of the Act, be applicable.(4)Any offence punishable under this Act or under the Indian Companies Act, 1913, with imprisonment for a term which does not exceed two years or with fine which does not exceed one thousand rupees may be tried in a summary way either independently or along with any other offence with which the accused may, under the Code of Criminal Procedure, be charged at the same trial.(5)Offences, cognizance of which is taken for summary trial, shall be tried by the Judge for the time being dealing with winding up proceedings. All other offences shall be tried by a Judge other than the Judge for the time being dealing with winding-up proceedings.

**18. Process in criminal cases. - All processes in criminal cases shall issue from the office of the Registrar.**

**19. Where under this Act or under any other law applicable to banking companies or under the rules, time can be extended for the doing of any act, this Court may extend time either before or after the expiration thereof upon such terms, if any, as the Court thinks fit to impose.**

## **Chapter IIA**

### **Rules Under Section 35-G of The Central Excise and Salt Act, 1944 Amended by section 50 of The Finance (No. 2) Act, 1980.**

[Notification No. 44, Published in M.P. Rajpatra, Part 4(Ga), dated 19-2-1982.]

**1. The rules made by this Court on the 3rd October, 1981 for proceedings under Section 130 of the Customs Act, 1962 as amended by Section 50 of the Finance (No. 2) Act, 1980 shall also be read as rules made to regulate proceedings under Section 35-G of the Central Excise and Salt Act, 1944 as amended by Section 50 of the Finance (No. 2) Act, 1980.**

**2. References in the said rules to Customs Act or to an adjudicating authority and the Collector (Appeals) and references to the rules or officers of the Appellate Tribunal shall be read as references to corresponding provisions, authorities, rules or officers in or in respect of the Central Excise of Salt Act, 1944.**

## **Chapter III**

### **Rules Under Section 21, Chartered Accountants Act, 1949**

(Act No. XXXVIII of 1949)High Court of Judicature At NagpurNo. 7654, Nagpur the 14th October, 1952. - In exercise of the powers conferred by Article 225 of the Constitution of India and Clause 27 of the Letters Patent the High Court of the Judicature at Nagpur has made the following rules to regulate the proceedings under Section 21 of the Chartered Accountants Act, 1949 (Central Act No. XXXVIII of 1949). These rules will come into force from 1st December, 1952 :-Final Rules framed to regulate ProceedingsThe following rules shall regulate the procedure in regard to cases received by the High Court under Section 21 of the Chartered Accountants Act, 1949 :-

**1. All cases received by the High Court under Section 21 of the Chartered Accountants Act, 1949 (hereinafter referred to as the Act) shall be registered as "Miscellaneous Civil Cases (Chartered Accountants)".**

**2. The Council of Institute of Chartered Accountants of India (hereinafter referred to as the Council) shall forward to the High Court a set of material papers relating to the enquiry which will be regarded as the original set. It shall include the following :-**

(a)The finding of the Council;(b)The Report of the Disciplinary Committee;(c)Complaint or information;(d)Written statement in defence;(e)Deposition of witnesses, affidavits, exhibits and other oral and documentary evidence;(f)Notes of the hearing before the Disciplinary Committee;(g)Such other papers as were before the Disciplinary Committee and the Council as the Council may consider relevant or the High Court may require for the disposal of the case.The Council shall also furnish the High Court with five additional identical copies of the papers aforesaid for insertion in the paper-books.

**3. A translation in English of the documents which are not in that language and are included in the material papers, shall be furnished by the Council under its own authority. If the High Court considers that an official translation shall be made in the High Court, the expenditure incurred in that behalf being recovered from the Council.**

**4. The Council shall forward along with the material papers a memorandum containing the full and correct postal addresses of all persons or authorities on whom notices are required to be served under Section 21 (2) of the Act.**

**5. On the case being registered, the Registrar shall fix a date for the hearing of the case and shall cause notice to be served under Section 21 (2) of the Act in the Form prescribed in the Annexure hereto. The date of hearing shall be so fixed that there will be an interval of not less than 15 days between the date of service of notice and the date of hearing.**

**6. The notice shall be sent by registered post, acknowledgement due, at the expense of the Government to all persons to whom notice are required to be sent under the provisions of Section 21 (2) of the Act on the addresses supplied by the Council.**

**7. The case shall be heard by a Bench of not less than two Judges, to be constituted by the Honourable the Chief Justice.**

**8. No advocate shall act for any person in these proceedings, unless he has been appointed for the purpose by such person by a document in writing signed by such person or by his recognised agent or by some other person duly authorised by or under a power-of-attorney to make such appointment.**

**9. In all five copies of paper-books shall be prepared in each case, one of which shall be delivered to the member reported against or his counsel one to each of the advocates representing the Council and the State or Union of India as the case may be, and the remaining two copies shall remain with the record for the use of the Honourable Judges.**

**10. The paper-book shall consist of the papers mentioned in Rule 2, but if the Council fails to submit the required number of copies, they shall be prepared by the registry at the costs of the Council.**

**11. The [Additional Registrar or] [Inserted by Notification.No. 45-I-9-3-37, dated 12-5-1976.] Deputy Registrar shall send certified copies of any order that may be passed by the High Court in the case to the Secretary to the Council and to the Secretary to the Government of India (Ministry of Finance).**

AnnexureForm of NoticeIn the High Court of Judicature at NagpurMiscellaneous Civil Case (Ch. Acc.) No..... of 19.....In the matter of the Chartered Accountants Acts (Central Act XXXVIII of 1949) and in the matter of Members of the Institute of Chartered Accountants of India.The Council of the Institute of Chartered Accountants of India.....Referring Authority.....Respondent.To.....(1).....Member of the Institute, the Respondent (above-named)(2)Secretary to the Council of the Institute of Chartered Accountants of India.(3)Secretary to the Government of India (Ministry of Finance), New Delhi.Whereas the Council of the Institute of Chartered Accountants of India has forwarded in this Court its findings, dated the 19 and the report of the Disciplinary Committee, dated the 19 in the above case.Therefore, take notice that the day of 19 has been fixed for hearing and the case will be laid before the Court on that day or as soon thereafter as may be practicable. If no appearance is made on your behalf either in person or through counsel or some one legally authorised to act for you, it will be heard and decided in your absence.Given under my hand and the seal of the High Court of Judicature of Nagpur, this day of 19.....(Seal)By order of the High CourtAssistant Superintendent.Pending Branch.



## Chapter IV

### Rules For Proceedings Under The Contempt of Courts Act, 1971

(Act No.70 of 1971)[The High Court of Madhya Pradesh (Contempt of Court Proceedings) Rules, 1980] [Substituted vide M.P. Rajpatra, Part IV (Ga), dated 19-3-1982.]In exercise of the powers conferred under Article 225 of the Constitution of India, Section 23 of the Contempt of Courts Act, 1971 and all other enabling powers in that behalf, to regulate the proceedings for contempt of itself or of a Court subordinate to it, the High Court of Madhya Pradesh makes the following rules :-

#### **1. Title. - (1) These rules shall be called "The High Court of Madhya Pradesh (Contempt of Court Proceedings) Rules, 1980".**

(2)They shall come into force on the date of publication in the "Madhya Pradesh Gazette".

#### **2. Definitions. - In these rules unless there is anything repugnant to the subject or context:-**

(a)'Act' means the Contempt of Courts Act, 1971 (Act 70 of 1971);(b)'High Court' means the High Court of Judicature Madhya Pradesh;(c)'Code' means the Code of Criminal Procedure, 1973 (Act 2 of 1974);(d)'Subordinate Court' means any Court subordinate to the High Court of Judicature Madhya Pradesh;(e)'Registrar' means the Registrar of the High Court and shall include Additional Registrars;(f)All other words and expressions used in these rules but not defined therein shall have the meanings respectively assigned to them in the Act.'Civil Contempt' and 'Criminal Contempt' shall have the same meaning as in the definitions in the Contempt of Courts Act, 1971.Cognizances and Procedure

#### **3. Parties of the petition. - [(a) Every petition for initiating proceedings under the Act shall be registered either as Contempt Petition (Criminal) or as Contempt Petition (Civil), Contempt Petition (Criminal) and Contempt petition (Civil) in respect of a Bench of two Judges, shall be heard and decided by appropriate Division Bench and Contempt Petition (Civil) in respect of a Bench presided, over by a Single Judge shall ordinarily be heard and decided by appropriate Single Judge.] [Substituted by Notification 23, dated 12-12-1997 (w.e.f. 1-1-1998).]**

(b)[ Notice of every Contempt Petition (Criminal) shall be issued to the Advocate General.] [Substituted by Notification No. 19, dated 9-5-1994 (w.e.f. 1-6-1994).](c)In a proceeding initiated by petition, the initiator shall be described as petitioner and the cause title shall be as follows :-In Re (name, description etc. of condemner).

**4. Contents of the petition. - (a) Every petition, motion or reference made under Rule 3 shall contain in precise language the statement setting forth the facts constituting the contempt of which the person charged is alleged to be guilty and shall specify the date or dates on which the contempt is alleged to have been committed.**

(b)When the petitioner relies upon any document or documents in his possession he shall file them along with the petition.(c)Every petition for taking action under the Act, shall be supported by an affidavit and shall comply with the provisions of Rules 2 and 3 of Chapter IV of the M.P. High Court Rules when presented in this Court.

**5. (a) Reference under Section 15 (2) of the Act may be made by subordinate Courts either suo motu or on an application received by it.**

(b)Before making a reference the subordinate Court shall hold a preliminary enquiry by issuing a show-cause notice accompanied by copies of relevant documents, if any, to the condemner and after receiving the reply, if any, of the show-cause notice the subordinate Court shall write a concise reasoned order of reference indicating why contempt appears to have been committed.

**6. Every motion made by the Advocate General under sub-section (2) of Section 15 of the Act shall state the allegations of facts made by the motion-maker, and consent of the Advocate General with brief reasons for grant of the consent.**

**7. In case of civil contempt, the Court concerned shall make a reference to the High Court by following as far as possible the same procedure laid down for reference in case of criminal contempt.**

Notices

**8. (a) Every notice issued by the High Court to the condemner shall be accompanied by a copy of motion, petition or reference, as the case may be, together with the copies of affidavits, if any, or other documents forming the basis of the action in Form No. 1 appended to these rules.**

(b)Such notices issued by the High Court shall be signed by the Registrar or the Additional Registrars and shall be sealed with the seal of the High Court.(c)Notice of every proceeding under this Act shall be served personally on the person charged, unless the Court, for reasons to be recorded,directs otherwise. In that case the service may be effected by alternative form of service authorised by the Code of Civil Procedure and the M.P. High Court Rules.

**9. The Court may if satisfied that the person charged is absconding or is likely to abscond or is keeping out or is likely to keep out of way to avoid service of the notice order issue of warrant of his arrest which in the case of criminal contempt, may be in lieu of or in addition to the attachment of his property under sub-sections (3) and (4) of Section 17 of the Act. Such warrants in Form No. 2 appended to these rules may be endorsed in the manner laid down in Section 71 of the Code.**

**10. Whenever the High Court issues a notice, it may dispense with the personal attendance of the person charged with the contempt and permit him to appear through an advocate and in its discretion at any stage of the proceeding direct the personal attendance of such person and if necessary enforce such attendance in the manner hereinabove provided**

**11. (a) When any person charged with contempt appears, or is brought before the High Court and is prepared, while in custody or at any stage of the proceeding, to give bail, such persons shall be released on bail, if a bond for such sum of money as the Court thinks sufficient is executed with or without sureties with condition that the person charged shall attend at the time and place mentioned in the bond and shall continue to so attend until otherwise directed by the Court:**

Provided further that the Court may, if it thinks fit, instead of taking bail from such person release him on his executing a bond without sureties for his attendance as aforesaid, or without executing any such bond. The bond shall be as per Form II appended to these rules.(b)The provisions of Sections 436 to 448 and 450 of the Code shall, so far as may be, apply to all the bonds executed under the rules.Enquiry

**12. (a) Any person charged with contempt, other than a contempt referred to in Section 14, may file an affidavit in support of his defence on the date fixed for his appearance or on such other date as may be fixed by the Court in that behalf.**

(b)If such person pleads guilty to the charge, his plea shall be recorded and the Court may, in its discretion, convict him thereon and commit him to prison under warrant as per Form No. II appended to these rules.(c)If such person refuses to plead or does not plead, or claims to be tried or the Court does not convict him on his plea of guilt, it may determine the matter of the charge either on the affidavits filed or after taking such further evidence as it deems fit.

**13. A paper-book consisting of documents specified in Rules 5 to 7 shall be filed by the petitioner or forwarded by the Court making reference in quadruplicate as the case may be.**

**14. In case where proceedings are initiated by the High Court, suo motu or on the motion of the Advocate-General, the Registry shall prepare the paper-book in quadruplicate.**

**15. The rules contained in M.R High Court Rules pertaining to grant of copies, process fees and translation of documents and such other matters in respect of which, no provision is made in the Rules shall mutatis mutandis apply to the proceedings in the High Court and similarly when proceedings are pending in subordinate Courts, the rules made by the High Court for the conduct of business of such subordinate Courts shall apply to those proceedings.**

**16. The orders passed in the proceedings under the Act shall be carried out, enforced and executed as if they were orders passed by the High Court under the Code.**

**17. The Court may impose such fine as it deems fit in the circumstances of the case. The fine so awarded shall be recovered in the same manner as under the Code.**

**18. Repeal and savings. - On the coming into force of these rules, all existing rules or the like governing any matter dealt with or covered by these rules shall stand repealed :**

Provided that this repeal shall not affect or invalidate anything done, any action or decision taken, any disposal made, any order or proceeding made or issued under the existing rules before the amendment of these rules. Contempt of Courts Case Form No. 1 Notice to Accused In the High Court of Madhya Pradesh, Jabalpur Misc. Criminal/Civil Case No.../19.... To In Re..... (Here mention the name and address of the accused) Whereas information is laid/a petition filed or Reference/motion is made by..... that you (here mention the gist of the accusation made in the information, petition or reference/motion); And whereas a case has been registered against you for action being taken against you under the Contempt of Courts Act, 1971. You are hereby required to appear in person (or by an Advocate duly instructed) on day of ,....19 and show cause why such action as is deemed fit should not be taken against you., Given under my hand and the seal of this Court, this day of.....19..... Seal Registrar\* Strike off if unnecessary. Contempt of Courts Case Form No. 2 Warrant for production of accused In the High Court of Madhya Pradesh Jabaipur Misc.

Criminal/Civil Case No...../19.....In Re.....ToThe  
 Superintendent of Police.....DistrictWhereas the accused aforesaid has failed to appear  
 before this Court to answer a charge of an offence under the Contempt of Courts Act, 1971 or  
 satisfactorily account for his absence on which had been filed for hearing of the case.This is to  
 require you to arrest the accused.....aforesaid and produce him before this Court and  
 return this warrant duly executed on or before the.....day of.....19.....If the accused  
 aforesaid binds himself in a sum of Rs.....to this Court with one surety for a like sum before any  
 Magistrate to appear on the said date of hearing and all future dates to which the case may be  
 posted,with one surety for a like sum before any Magistrate, he may be released.(The portion  
 relating to bail shall be struck out if the Court has ordered a non-bailable warrant).Herein fail  
 not.Given under my hand and the seal of this Court this.....day of.....  
 19.....SealRegistrarContempt of Courts ActForm No. 3Warrant of commitment to prisonIn the  
 High Court of Madhya Pradesh, JabalpurMisc. Criminal/Civil Case No.../19.....In  
 Re.....ToThe Superintendent of Jail.....Whereas on the.....day  
 of.....19.....(Name of prisoner in full) accused in the above case was convicted by this Court of an  
 offence under the Contempt of Courts Act, 1971 and adjudged by the Court guilty of wilful contempt  
 of this Court/the Court of.....and was sentenced to suffer imprisonment for the period /and to pay a  
 fine of (State of punishment fully and distinctly).This is to authorise and require you the  
 Superintendent to receive the said (prisoner's name) into your custody in the said jail together with  
 the warrant and then carry the aforesaid sentence into execution according to law.Given under my  
 hand and the seal of the Court this.....day of 19.....SealRegistrar

## Chapter V

### Rules Under Section 99-F The Code of Criminal Procedure, 1898

(Act No. V of 1898)

- 1. Every application to the High Court under Section 99-F of the Code of Criminal Procedure, 1898, to set aside an order of forfeiture under Section 9-A of the Code, shall be made by presentation of petition which shall be signed by the applicant and verified at the foot by the affidavit of the applicant.**
- 2. The petition shall be written in the English language on foolscap paper or other paper similar to it in size and quality, book-size, and divided into paragraphs numbered consecutively. Dates and sums occurring in the petition shall be expressed in figures.**

- 3. The petition shall be headed "In the High Court of Judicature at Nagpur" and shall be instituted. In the matter of the (name or description) books, documents or newspapers' as the case may be.**
  - 4. The petition shall state what the interest of the applicant is in the property in respect of which the order of forfeiture has been made and all documents or copies thereof in proof of such interest together with a copy of the notice of forfeiture under Section 99-A of the Code of Criminal Procedure, 1898, shall be annexed as exhibits to the petition.**
  - 5. The petition shall state the ground or grounds on which it is sought to set aside the order of forfeiture.**
  - 6. The petition with exhibits annexed thereto together with a copy of such petition and exhibits shall be presented to the [Additional Registrar or] [Inserted by Notification No. 45-I-9-3-37, dated 12-5-1976.] Deputy Registrar. The [Additional Registrar or] [Inserted by Notification No. 45-1-9-3-37, dated 12-5-1976.] Deputy Registrar shall cause a translation into English of any documents not in English to be made by an official translator at the cost of the petitioner and thereupon shall place the petition with exhibits and translations, if any attached before the Chief Justice who will constitute a special Bench and appoint a day for the hearing and determination of the application.**
  - 7. Notice in writing of the day appointed for the hearing and determination of the application shall be given by the Registrar to the Secretary to the Government of Central Provinces and Berar in the General Administration Department, and the copy of the petition and exhibits with translation, if any, in the last preceding rule mentioned, shall accompany such notice.**
- Paper-book containing the petition and all exhibits annexed thereto with translations shall, in the manner prescribed by rule for the preparation of paper-book in First Appeal, be prepared under the order of the Registrar. Such paper-books shall be completed at least one week before the date fixed for the hearing and determination of application.
- 8. The Registrar shall direct the number of paper-books to be prepared.**

**9. The table of fees now in force in this Court shall be applicable to applications under Section 99-B of the Code of Criminal Procedure and proceedings thereon and the costs payable in respect of such applications and proceedings shall be taxed when so directed on such scale.**

**10. The provisions of the Code of Civil Procedure, and the rules and forms of this Court relating to execution of decrees and order, shall be applicable to the execution of orders passed by the High Court on application made under Section 99-B of the Code of Criminal Procedure, 1898.**

## **Chapter VA**

### **Rules for Proceedings Under Section 130 of The Customs Act, 1962**

Notification No. 11, dated 31st December 1981, Published in M.P. Rajpatra, Part (Ga), dated 19-2-1982, p. 23. - In exercise of the powers conferred by Article 225 of the Constitution of India and clause 27 of the Letters Patent and all other enabling provisions the High Court of Judicature at Jabalpur has made the following rules to regulate its proceedings under Section 130 of the Customs Act, 1962 as amended by Section 50 of the Finance (No. 2) Act, 1980 (No. 44 of 1980). These rules will come into force with immediate effect. The following rules shall regulate the procedure in regard to references and applications to the High Court under Section 130 of the Customs Act:-

**1. On receipt of a reference from the Appellate Tribunal under Section 130 (1) of the Act, stating a case for the opinion of the High Court it shall be registered as a Miscellaneous Civil Case.**

**2. The Registrar of the Appellate Tribunal shall together with the reference submit the following documents :-**

(a) A copy of order of the Collector of Customs as an adjudicating authority; (b) A copy of order passed by the Collector (Appeals) under Section 128 of the Customs Act, 1962 as amended by Section 50 (1) of the Finance (No. 2) Act, 1980; (c) A copy of order passed by the Board or the Appellate Collector of Customs under Section 128 as it stood immediately before the appointed day; and (d) A copy of order passed by the Board or the Collector of Customs, either before or after the appointed day, under Section 130 as it stood immediately before that day. He shall also submit four true and identical copies of the reference and its enclosures for being incorporated in the paper-books.

**3. The Registrar shall admit the reference, and shall cause notices to be served on the parties intimating the date of hearing of the case.**

**4. An application under Section 130 (3) of the Customs Act, 1962 as amended by Section 5 of the Finance (No. 2) Act, 1980 shall comply with the provisions of Rules 2 and 3 of Chapter IV of the Rules of the High Court and shall be registered as Misc. Civil Case. It shall be accompanied by two copies (one of which shall be certified copy) of the following documents :-**

(a)A copy of order of the Collector of Customs as an adjudicating authority;(b)A copy of order passed by the Collector (Appeals) under Section 128 of the Customs Act, 1962 as amended by Section 50 (1) of the Finance (No. 2) Act, 1980;(c)A copy of order passed by the Board or the Appellate Collector of Customs under Section 128, as it stood immediately before the appointed day;(d)A copy of order passed by the Board or Collector of Customs, either before or after the appointed day, under Section 130 as it stood immediately before that day;(e)The order of the Appellate Tribunal refusing to refer the case together with the application by the Collector of Customs or the other party; and(f)Any other paper or document which the applicant considers necessary for the disposal of the application.

**5. Such application shall set out in concise form the material facts, giving rise to the alleged question or questions of law that are required to be stated by the Appellate Tribunal.**

**6. A certificate from the Appellate Tribunal to the effect that the applicant has not withdrawn his application for reference under Section 130 (3) of the Act, before the Tribunal, shall be produced at or before the hearing unless the Court otherwise directs.**

**7. The applicant shall within three weeks of the date of admission of the application, file four additional true and identical copies of the application and the documents mentioned in above Rule 4, for the preparation of the paper-book for the Judges and the parties, unless the Court otherwise directs.**

**8. Service of notice contemplated in the rules shall be deemed sufficient if made on counsel for the parties.**



**9. In a reference under Section 130 (1) of the Act and to applications under Section 130 (3) of the Act, the Collector of Customs shall be shown as the applicant' or the 'opposite party' as the case may be.**

**10. The Court hearing application and reference under Section 130 of the Act shall be a Division Bench of two Judges, unless the Chief Justice orders that any such application or reference shall be heard by larger Bench.**

**11. After the judgement or the final order is passed, two copies of the judgement or order shall be sent to the Registrar of the Appellate Tribunal, and one to the Collector of Customs at Bombay.**

**12. If the Court orders the preparation of the paper-book in office the provisions of the rules in Chapter VII of the High Court Rules regarding preparation of paper-books in civil case shall apply mutatis mutandis to these cases.**

**13. In the rules, the expression "the Act" means the Customs Act, 1962 as amended from time to time.**

## **Chapter VI**

### **Rules Under The Indian Divorce Act, 1869**

(Act IV of 1869)

#### **Part I – Rules made under Section 17-A**

**1. These rules may be called the Indian Divorce (Domiciled Parties) Intervention Proceedings Rules, 1928.**

**2. In these rules, unless there is anything repugnant in the subject or context :-**

'Act' means the Indian Divorce Act (IV of 1869). 'Officer' means an officer appointed under Section 17-A of the Act to exercise the like right of showing cause that a decree for the dissolution of marriage should not be made absolute or should not be confirmed, as the case may be, as is exercisable in England by the King's Proctor; 'Pleader' means any person entitled to appear and plead for another in Court, and includes an advocate, a vakil, and an attorney of a High Court; and 'Proceeding' means a suit or proceeding under the Act.

**3. (i) If any person during the progress of a proceeding or before the decree nisi is made absolute gives information to the officer on any matter material to the due decision of the case, the officer may take such steps as he considers necessary or expedient.**

(ii) If, in consequence of any such information or otherwise the officer suspects that any parties to the petition are or have been in collusion for the purpose of obtaining decree contrary to the justice of the case he may after obtaining the leave of the Court, intervene and produce evidence to prove the alleged collusion.

**4. (i) When the officer desires to show cause against making absolute a decree nisi, he shall enter an appearance in the proceeding in which such decree nisi, has been pronounced and shall, within a time to be fixed by the Court, file his plea setting forth the grounds upon which he desires to show cause as aforesaid and a certified copy of this plea shall be served upon the petitioner or person in whose favour such decree has been pronounced or his pleader. On entering an appearance the officer shall be made a party to the proceeding and shall be entitled to appear in person or by pleader.**

(ii) Where such plea alleges the petitioner's adultery with any named person, a certified copy of the plea shall be served upon each such person omitting such part thereof as contains an allegation in which the person to be served is not named. (iii) All subsequent pleading and proceeding in respect of such plea shall be filed and carried on in the same manner in respect of an original petition under the Act, except as hereinafter provided. (iv) If the charges contained in the plea of the officer are not denied or if no answer to the plea of the officer is filed within the time allowed or if an answer is filed and withdrawn or not proceeded with, the officer may apply forthwith for recession of the decree nisi and dismissal of the petition.

**5. Where the officer intervenes and shows-cause against a decree nisi in any proceedings for divorce, the Court may make such order as to the payment by other parties to the proceeding of the costs incurred by him in so doing or as to the payment by him of any costs incurred by any of the said parties by reason of his so doing, as may seem just.**

(Government of India, Home Department, Notification No. F-928-27-1 Judicial, dated the 28th July, 1928 may be referred). Note. - The Legal Remembrancer, Central Provinces and Berar is the officer appointed under Section 17-A to exercise, within the jurisdiction of the High Court of Judicature at Nagpur, the like right of showing cause why a decree for dissolution of marriage should not be made absolute or should not be confirmed, as the case may be, as is exercisable in England by the King's Proctor. (Government of India, Home Department, Notification No. F-928-27-1 Judicial, dated the 28th July, 1928 as amended by Notification No. F-34-36-Judicial,

dated 31st March, 1936 may be referred).

## **Part II – Rules under Section 62**

**1. All petitions under Section 10, 18, 27, 32 or 34 and all applications under Section 23 of the Indian Divorce Act (IV of 1869), hereinafter called 'the Act' shall be accompanied by a certified copy of the certificate of marriage if no such a certificate is available to the petitioner or applicant and if no such certificate is available by an affidavit setting forth that such certificate is not available. All such petitions or applications shall also be accompanied by the registered address of the applicant or petitioner under Order VII, Rule 19, Civil Procedure Code.**

**2. (a) The body of such petition or application shall, in addition to any particulars required by law to be included, contain the particulars stated below,-**

(i)whether the petitioner or applicant professes the Christian religion;(ii)the place and date of the marriage and the name, status and domicile of the wife before the marriage;(iii)the status of the husband and his domicile at the time of the marriage and at the time when the petition is presented, and his occupation and the places of residence of the parties at the time of the institution of the suit.(iv)the principal permanent addresses where parties have cohabited including the address where they last resided together in India;(v)whether there is living issue of the marriage, and if so the names and dates of birth or ages of such issues;(vi)whether there have been in the Divorce Division of the High Court of Justice in England or in the Court of Sessions in Scotland, or in any Court in India if so, what previous proceedings with reference to the marriage by or on behalf of either of the parties to the marriage and the result of such proceedings;(vii)the matrimonial offences charged set out in separate paragraphs, with times and places of their alleged commission;(viii)the claim for damages, if any;(ix)the grounds on which the petitioner claims that the District Court, in which the petition is presented, has jurisdiction to determine the petition,and, if the petition is one presented by a husband for dissolution of marriage and the alleged adulterer is not made a co-respondent, the grounds on which the petitioner seeks to be excused from making such adulterer a co-respondent;(b)The petition shall conclude with a prayer setting out particulars of the relief claimed including the amount of any claim for damages and any order for the custody of children which is sought, and shall be signed by the petitioner :Provided that where the petitioner is by reason of absence or for other good cause, unable to sign the petition, it may be signed by any person duly authorised by him or her to sign the name or to sue on his or her behalf.

**3. The statement contained in every petition shall be verified by the Code of Civil Procedure for the verification of complaints.**

**4. Where, in an answer to a petition for dissolution of marriage presented by a husband, the wife alleges the adultery of the husband with a named person a certified copy of the pleading shall, unless the Court for good cause shown otherwise directs, be served upon the person with whom adultery is alleged to have been committed, accompanied by a notice that such person is entitled, within the time therein specified, to apply for leave to intervene in the cause.**

**5. Every petition or notice required to be served under the Act or under these rules shall be served either within or without British India in the manner prescribed for the service of summons in the Code of Civil Procedure, provided that service shall, as far as possible, be made by delivery of the petition or notice to the person to be served.**

**6. A respondent, co-respondent, or woman to whom leave to intervene has been given under Rule 4 may file in Court an answer to the petition.**

**7. (i) Any answer which contains matter other than a simple denial of the facts stated in the petition shall be verified in respect of such matter by the respondent, co-respondent or intervener, as the case may be, in the manner required by these rules for the verification of petitions, and when the respondent is husband or wife of the petitioner, the answer shall contain a declaration that there is not any collusion or connivance between the parties.**

(ii) Where the answer of a husband alleges adultery and prays relief a certified copy thereof shall be served upon the alleged adulterer. When in such case no relief is claimed, the alleged adulterer shall not be made a co-respondent but a certified copy of the answer shall be served upon him together with a notice as under Rule 4 that he is entitled within the time therein specified to apply for leave to intervene in the suit, and upon such application he may be allowed to intervene, subject to such direction as shall then be given by the Court.

**8. The provisions of Order VIII, Rules 11-13 shall supply to respondents, co-respondents and interveners as though they were opposite parties in a proceeding.**

**9. (i) If it appears to the Court that proceedings for the dissolution of the marriage has been instituted in England or Scotland before the date on which the petition was filed in India, the Court shall either dismiss the petition or stay further proceedings thereon until the proceedings in England or**

**Scotland, have terminated or until the Court shall otherwise direct.**

(ii) If it appears that such proceedings were instituted after the filing of the petition in India, the Court may proceed, subject to the provision of the Act, with the trial of the suit.

**10. Every judgement granting a decree for dissolution of marriage, nullity of marriage, or judicial separation shall record clear findings as to the facts which give the Court jurisdiction to pass the decree, and the Court for this purpose should take care to see that sufficient and proper evidence is adduced in the course of the proceedings to enable it to record such findings.**

**11. When the District Judge makes a decree for dissolution of marriage or of nullity of marriage, a copy thereof shall, if the respondent, corespondent or intervener has filed a registered address, be served within a month from the date of decree at such address in the manner prescribed and the parties shall be informed by notice at their registered address that the case for confirmation of the decree will come on in the High Court on the first Friday which is a working day after the completion of six clear months from the date of the decree and that no further notice of the date of hearing in the High Court will be given. The period of six months shall not include the day on which the decree was made. The parties shall at the same time be warned that a re-marriage before six months from the date on which decree is made absolute by the High Court is prohibited by Section 57 of the Act and that such re-marriage is liable under Section 19 to be declared a nullity.**

**12. The District Judge shall then submit the proceedings to the High Court for orders under Section 17 or 20, as the case may be.**

**13. Cases for confirmation of a decree received from a District Judge under Sections 17 and 20 of the Act shall not be heard by the High Court till after the expiry of six months from the pronouncing of such decree.**

**14. Cases for confirmation of a decree received from District Judge under Sections 17 and 20 of the Indian Divorce Act shall be put to the Court on the First Friday which is working day after the completion of six clear months from the date of the decree of the District Judge and the Court may either deal with the matter forthwith or adjourn the matter.**

**15. Any person applying under the last paragraph of Section 17 of the , Act to the High Court to remove the suit from the Court of a District Judge may file an application for the purpose supported by an affidavit setting forth the grounds on which the applicant relies. A certified copy of the application and affidavit shall be served on all parties to the suit who may, within a time to be fixed by the High Court, file affidavits in reply and the High Court shall then make such further orders in the matters as it deems fit.**

**16. Any person other than the officer appointed under Section 17-A of the Act wishing to show cause against making absolute a decree nisi made under Section 16 of the Act shall enter an appearance in the suit in which such decree nisi has been pronounced and at the same time file affidavits setting forth the facts upon which he relies.**

**17. Certified copies of such affidavits shall be served upon the party in whose favour the decree nisi has been made at his registered address or upon his advocate authorised to receive service.**

**18. The party in the suit in whose favour the decree nisi has been pronounced may, within a time to be fixed by the Court, file affidavits in answer, and the person showing cause against the decree nisi being made absolute may, within a further time to be so fixed, file affidavits in reply.**

**19. A decree nisi made under Section 16 shall not be made absolute till after the expiration of six clear months from the date of the decree fized. The period of six months shall not include the day on which the decree was made.**

## **Chapter VII**

### **Rules Relating To Election Petitions**

[Notification No. 1317-1-14-2-26 Jabalpur, the 21-2- 1967] [Published in the M.P. Gazette Extraordinary, dated 22-2-1967 at page 727.]. - In exercise of the powers cornered by Article 225 of the Constitution and all other powers hereunto enabling and in modification of earlier orders issued by the Chief Justice under Section 51 of the States Re-Organisation Act, 1956, the High Court of Madhya Pradesh has made the following rules relating to election petitions presented under the Representation of the People Act, 1951.

**1. (a) These rules may be cited as the Rules relating to Election Petitions.**

(b) They shall come into force from the date of their publication in the Madhya Pradesh Rajpatra.

**2. Every election petition shall be,-**

(a) typewritten or printed fairly and legibly on white foolscap size paper of reasonable quality, one side of the paper only being used, leaving a quarter margin on the left and at least ½ inches open space on the top and bottom of each sheet; (b) written in the English language, numbering separately the paragraphs thereof; (c) couched in proper language, and in conformity with Sections 81, 82 and 83 of the Representation of the People Act, 1951.

**3. The registered address required to be filed under Rules 19 and 20 of Order VII and Rule 11 of Order VII of the Civil Procedure Code shall contain the following particulars,-**

(i) the name of the street, lane or municipal ward and the number of the house, if any; (ii) the name of the town or village; (iii) the post office; and (iv) the tehsil and the district.

**4. Every election petition shall contain sufficient and clear particulars to show that it has been filed within the period of limitation prescribed by Section 81 of the Representation of the People Act, 1951.**

**5. Every election petition shall be accompanied by a receipt signed by the Cashier of the Court that an amount of Rs. 2000/- has been deposited as security for the costs of the petition in accordance with the rules of the High Court.**

**6.**

(1) Every election petition complete in all respects, shall be presented during the Court hours to [Additional Registrar or] [Inserted by Notification No. 45-I-9-3-37, dated 12-5-1976.] Deputy Registrar Judicial, at Jabalpur. (2) The name of the person presenting an election petition, with a description of the capacity in which he is presenting it, the date and hour of presentation and any other particulars considered necessary shall be endorsed in the margin of first page of the petition by the [Additional Registrar or] [Inserted by Notification No. 45-I-9-3-37, dated 12-5-1976.] Deputy Registrar under his own signature. (3) The [Additional Registrar or] [Inserted by Notification No. 45-I-9-3-37, dated 12-5-1976.] Deputy Registrar shall have the petition examined in order to find out that all the requirements of the Representation of the People Act, 1951, and these rules have been complied with. (4) The [Additional Registrar or] [Inserted by Notification No. 45-I-9-3-37, dated 12-5-1976.] Deputy Registrar shall affix his full signature to every page of the petition and the affidavit accompanying it. (5) The [Additional Registrar or] [Inserted by Notification No. 45-I-9-3-37,

dated 12-5-1976.] Deputy Registrar, after examining the petition, shall record his opinion on the opening order-sheet in the following form :-"Presented on.....by.....properly drawn up, apparently within time and properly stamped."

**7. As soon as may be after an election petition is presented and scrutinized as above, the [Additional Registrar or] [Inserted by Notification No. 45-I-9-3-37, dated 12-5-1976.] Deputy Registrar shall place the same before the Chief Justice for orders under sub-section (2) of Section 80-A of the Representation of the People Act, 1951.**

**8. Every election petition shall be registered as "election petition" and given a separate serial number of the year and shall be entered with complete details in a separate register maintained for the purpose.**

**9. The rules of the High Court shall apply, in so far as they are not inconsistent with the Representation of the People Act, 1951 or the rules, if any, made thereunder or the Civil Procedure Code or these rules, in respect of all matters including processes and process fees issuance of orders, copies and copying fees, deposit and withdrawal of money, forms, affidavits, etc.**

[10. The rules relating to arrangement, preparation, preservation and destruction of records of Class-I, as contained in Chapter XIV, XV and XVI of the M.P. Civil Court Rules, 1961, shall apply to Election Petitions in so far as they not inconsistent with the Representation of the People Act, 1951 or the Rules/Orders made thereunder.] [Inserted by Notification No. 23, dated 12-12-1997 (w.e.f. 1-1-1998).]

## **Chapter VIII**

### **Rules Under Section 64 of The Estate Duty Act, 1953**

[Act No. XXXIV of 1953]Notification No. 13503 published in M.P. Rajpatra Part IV (Ga) at page 17 on 13-1-1961. - In exercise of the powers conferred by Article 225 of the Constitution of India read with clause 27 of the Letters Patent and all other powers enabling and in supersession of the Estate Duty Rules, 1956 made by the High Court of Judicature at Nagpur, the High Court of Madhya Pradesh has made the following rules to regulate its proceedings under Section 64 of the Estate Duty Act, 1953 (Act No. XXXIV of 1953), as amended by Section 21 of the Estate Duty (Amendment) Act, 1958, (Act No. XXXIII of 1958).



**1. The rules made by this Court on 26th May, 1954 for proceedings under Section 66 of the Indian Income-tax Act, 1922, shall also be read as rules made under Section 64 of the Estate duty Act, 1953.**

**2. References in the said rules to the Income-tax Act or to assessing and appellate authorities and references to the rules of officers of the Income-Tax Tribunal shall be read as references to corresponding provisions, authorities, rules or officers in or in respect of the Estate Duty Act.**

## **Chapter VIIIA**

### **Rules Under Section 82-B of The Gold (Control) Act, 1968 Amended By Section 50 of The Finance (No. 2), 1980**

[Notification No. 12, dated 31st December, 1981, published in M.P. Rajpatra, Part 4 (Ga), dated 19-2-1982, p. 24.]

**1. The rules made by this Court on the 3rd October, 1981 for proceedings under Section 130 of the Customs Act, 1962 as amended by Section 50 of the Finance (No. 2) Act, 1980 shall also be read as rules made to regulate proceedings under Section 81-B of the Gold (Control) Act, 1968 as amended by Section 50 of the Finance (No. 2) Act, 1980.**

**2. References in the said rules to Customs Act or to an adjudicating authority and the Collector (Appeals) and reference to the rules or offices of the Appellate Tribunal shall be read as references to corresponding provisions, authorities, rules or officers in or in respect of the Gold (Control) Act, 1968.**

## **Chapter IX**

### **Rules under Section 50 (I) (Except Clauses (A) & (I) of The Guardians and Wards Act, 1890**

(Act No. VIII of 1890)Madhya Pradesh Guardians And Wards Rules, 1963Notification No. 2280-III-I-12-36-F No. 8-3, dated 6-3-1963, published in M.P. Gazette, Part 4 (Ga), dated 22-3-1963 at page 347. - In exercise of the powers conferred by sub-section (1) except clauses (a) and (i) of Section 50 of the Guardians and Wards Act (No. VIII of 1890), and in supersession of all existing rules on the subject, the High Court of Madhya Pradesh has made these rules.

- 1. In these rules, "the Act" means the Guardians and Wards Act, 1890.**
- 2. An application for the appointment or declaration of a guardian of the person of the minor, or of his property, or of both as required by Section 10 of the Act, shall be in Form A prescribed with such variations as the circumstances of each case may require.**
- 3. Where the father of a minor is living, and is not proposed as guardian, the application shall state any facts relied on as showing that he is unfit to act as guardian of the minor or that he consents to the application.**
- 4. Notice of the application as required by Section 11 of the Act shall be in Form B prescribed (11-190) and shall be issued and served in the manner prescribed for summons to a defendant.**
- 5. When a guardian is appointed or declared under the Act, he shall be furnished with a certificate of guardianship in Form C prescribed (11-285) and his attention should be drawn to the provisions of Sections 26, 27, 28, 29, 32, 33, 35, 36, 39, 44 and 45 of the Act, which contains the following instructions and information :-**

(a) That he shall not remove the ward from the limits of the Court's jurisdiction (Section 26 of the Act). (b) That he should take due care of the properties entrusted to him in the manner stated in Section 27. (c) That he is not authorized to make transfers or do any of the acts mentioned in Sections 28 and 29 without the permission of the Court. (d) That in the case of a guardian, other than the Collector, his powers are liable to be restricted or extended by order of the Court (Section 32). (e) That he can, in the case of necessity, submit any question relating to the management of the property of his ward for the opinion or advice of the Court (Section 33). (f) That in cases mentioned in Sections 35 and 36, the remedies provided therein are available against him. (g) That for reasons stated in Section 39, he is liable to be removed from his office. (h) That for reasons given in Sections 44 and 45, he is liable to the penalties stated therein. (i) That he is in general bound by the provisions of the Act, the rules framed or to be framed thereunder and the order of the Court passed under the Act. His attention shall also be drawn to any special restrictions on the powers as guardian which may be imposed by the Court at the time of issuing the certificate. Note. - No ministerial officer employed in the Judicial Department shall be appointed or declared as such officer to be guardian of the person or the property of a minor nor shall any such official be appointed or declared as aforesaid in his private capacity, unless he has been appointed by will or other instrument or is by reason of relationship to the minor or other special circumstances unconnected with his official position suited to act as guardian.

**6. Every guardian appointed or declared by the Court, except when he is the Collector of the district, shall ordinarily be required to give a bond, with or without a surety or sureties, as the Court may think fit to direct, for a sum not less than the total estimated value of the movable property and three years' profits of the whole estate. Such bonds shall be Form D prescribed, with such variations as the circumstances of each case may require.**

**7. At the time of appointing or declaring a guardian, the Court shall pass orders as to the allowances, if any, to be granted to, and the security to be required from, such guardian.**

**8. The statement showing the property of a ward, as required by clause (b) of Section 34 of the Act shall be in Form E prescribed.**

**9. (i) Applications with respect to the guardianship of the person or property of a minor and applications under Section 31 of the Act for sanction for the sale of the property of a minor, and proceedings taken in connection with the accounts of each year shall be entered in the register of miscellaneous judicial cases.**

(ii) For statistical purposes an application for an order of guardianship shall be treated as "disposed of" as soon as a guardian has been appointed and has furnished the requisite security or the application has been rejected or dismissed, as the case may be. (iii) An application under Section 31 shall be treated as "disposed of" as soon as the permission for sale etc. has been given or refused. (iv) Proceedings in connection with annual accounts shall be treated as "disposed of" as soon as the Court after an examination of the accounts by itself or by an officer appointed for the purpose has satisfied itself of the correctness thereof or proceedings taken in consequence of such examination have terminated.

**10. In ordinary cases, a fly-sheet, and in large cases, a book, in Form F prescribed (11-162) shall be maintained for each estate and all miscellaneous judicial cases in connection with the estate from the appointment of the first guardian till the ward concerned attains majority shall be shown in it.**

**11. A register of estates of wards in Form G prescribed (11-23) shall also be maintained. As soon as an estate has passed out of the hands of the Court a line in red ink shall be drawn across the entry. When on account of a register having been completely filled another register has to be opened, all pending entries in the old register shall be copied in the new register. The**

**register shall be preserved for 25 years from the date of the last entry therein.**

**12. In the case of estates of which the annual income is not over Rs. 500 accounts need not ordinarily be submitted by the guardian, but the Court may at any time call upon the guardian to submit such accounts as it thinks necessary. In other cases the Court shall direct the guardian, except when he is the Collector of the district, to submit an account of the income and expenditure of the ward's estate once a year. Account of agricultural estates should be submitted within three months after the close of the agricultural year of the revenue district in which the estate lies, and accounts of trading, money-lending and other estates by the 1st January.**

**13. Before disposing of an application made by a guardian for any of the purposes referred to in Sections 28 and 29 of the Act the Court shall ordinarily cause due notice of such application to be given to such persons, whether relatives of the ward or otherwise connected with him, as may be held by the Court to be affected by such application.**

**14. The ward, if a male, shall in the absence of sufficient reason to the contrary, be produced on each occasion when the accounts are submitted, and if the submission of annual accounts has been dispensed with, whenever the Court directs. The Court shall, as far as possible, examine his physical, intellectual and moral condition, and ask him whether he has any remarks to make regarding the management of his estate and his own treatment and comfort.**

**15. All statements and accounts produced by the guardian shall be kept with the files of the case concerned and shall be open to inspection, with the permission of the Court by persons legitimately interested in the same. No fees shall be charged for this inspection.**

**16. When a guardian has been appointed by the Court, he shall be required, except in the case of estates of which the income is not over Rs. 500, to open an account, in his own name, on behalf of the ward at a bank or with a firm to be approved by the Court. Any surplus moneys which may remain over after the current expenses of the estate and the ward's maintenance and education have been paid shall be invested by the guardian in Government Promissory Notes or other securities approved by the Court.**

**17. In cases in which the ward's estate is under the management of Government, District Judge, Collector, or other Government officer, surplus moneys may be invested in Government Promissory Notes which should be deposited in the treasury for safe custody. The income of the estate, required for current expenditure in connection with the management of the estate and the maintenance and education of the ward, shall be deposited in the treasury.**

Note. - The deposit money in a private bank in the name of the District Judge or other Government officer as guardian of a ward's estate, is prohibited.

**18. (i) In cases in which the District Judge thinks that a complete audit of the account of any of the estates in his charge is necessary he may entertain special clerks or a local auditor. The clerks or auditor shall be paid from the estate concerned; each estate being required to contribute in proportion to its gross income. Where there is an official receiver and he is not the guardian he may be appointed to audit accounts, and in the case of big landed estates he may be asked to go to the spot and check the account by personal inquiry. The remuneration of the official receiver will be fixed by the State Government on a reference made to it direct by the District Judge as soon as he has disposed of the receiver's report. Such detailed audit should not ordinarily be necessary where the annual income is not over Rs. 5,000, and in such cases it will ordinarily be sufficient for the Court to make a rough estimate of income and expenditure and to limit its supervision to enforcing the deposit of the annual surplus by the guardian. If necessary, the Court may, where funds of an estate permit, appoint some local pleader to check accounts and report and in case of large estates, a commission may be issued to an executive officer or pleader to make local enquiries and report. Too detailed accounts from the guardian shall not be exacted.**

(ii) The Court shall certify that it has scrutinized the accounts or has had them audited, as the case may be, and shall record such remarks as may be necessary thereon. The Court shall thereafter, when duly satisfied with the accounts, countersign the same.

**19. Without prejudice and in addition to foregoing rules, an application of a foreigner to be appointed guardian of the person of an Indian child with leave to remove the child out of India to his own country for the purpose of adopting it in accordance with the law of his country, should not be**

entertained directly by the Court. Such application should be sponsored by a Social or Child Welfare Agency recognized or licensed by the Government of the country, in which the foreigner is resident. The application should be accompanied by home study report of the foreigner by such agency containing information to show whether he is fit and suitable person and has the capacity to parent a child coming from a different racial and cultural milieu. The sponsoring foreign agency must also certify that the foreigner seeking to adopt a child is permitted to do so according to the law of his country. In case the foreigner is not in a position to come to India, the application must be further accompanied by a power of attorney in favour of an officer of the Social or Child Welfare Agency in India which is to process the application.

20. Such an application should be processed in the Court only by a Social or Child Welfare Agency licensed or recognised by the Government of India or the Government of the State in which it is operating. Such agency shall annex a child study report giving all relevant information in regard to the child to assist the Court in coming to a decision whether it will be for welfare of the child to be given in adoption to the foreigner wishing to adopt it.

21. Except where the child is an orphan, destitute or abandoned child whose biological parents are not known, in all other cases the agency processing such an application should take from the biological parents a document of surrender duly signed by the biological parents and attested by at least two respectable persons. The biological parents should not have surrendered the child before its birth or within a period of three months from the date of birth.

22. No notice under Section 11 of the Act shall be issued to the biological parents of the child, so that they shall not have any opportunity of knowing who are the adoptive parents taking the child in adoption. Such notice shall not also be published in a newspaper. Notice under Section 11 *ibid* shall however be given to Indian Council of Child Welfare or Indian Council for Social Welfare or any of its branches for scrutiny of the application and making its representation to the Court.

**23. The proceedings on such application should be held by the Court in camera and as soon as an order is made, the entire proceedings, including the papers and documents should be sealed. The entire procedure should be completed by the Court expeditiously and as far as possible within a period of two months from the date of filing such application.**

**24. It is desirable that the child given in inter-country adoption should be below the age of 3 years on the date of application. In case of any child above the age of 3 years, the wishes of the child should be ascertained by the Court.**

**25. The order on such application should include a condition that the foreigner, whose application is allowed, shall submit to the Court as also to the Social or Child Welfare Agency processing his application, progress reports of the child along with a recent photograph quarterly during the first two years and half yearly for the next three years.**

**26. The order appointing a foreigner as guardian shall also carry, attached to it, a photograph of the child duly counter-signed by an officer of the Court.**

**27. Copy of the order shall be sent by the Court to the "Ministry of Social Welfare, Government of India as also to the Ministry of Social Welfare of the Government of the State in which it is situate".**

Form 'A'

IN THE COURT OF..... COURT FEES.....

In the matter of the guardianship of....., son of..... Caste..... resident of..... minor.....

(a)	(b)	(c)	(d)
The name, sex, religion, date of birth and ordinary residence of the minor.	Where the minor is a female, whether she is married, and if so, the name, and age of her husband.	The nature, situation and approximate value of the property, if any, of the minor (For details see schedule on reverse)	The name and residence of the person having the custody or possession of the person or property of the minor.
(e)	(f)	(g)	(h)
What near relation the minor has,	Whether a guardian of the person or property, or both, of the minor has been appointed	Whether an application has at any time been made to the Court or to any other Court	Whether the application is for the appointment or

and where they reside	by any person entitled or claiming to be entitled by the law to which the minor is subject to make such an appointment.	with respect to the guardianship of the person or property, or both, of the minor, and, if so, when, to what Court and with what result.	declaration of a guardian of the person or the minor or of his property or both.
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(i)	(j)	(k)	(l)
Where the application is to appoint a guardian, the qualification of the proposed guardian.	Where the application is to declare a person to be a guardian the grounds on which the person claims	The causes which have led to the making of the application.	Such other particulars, if any, as may be prescribed or as the nature of the application renders it necessary to state.

Signature of petitioner or of a person duly authorised by him in this behalf

The above particulars are true to the knowledge of the person making them, except as to matter stated on information and belief, and as to those matters he believes them to be true.

I, the guardian proposed in the above application, do hereby declare that I am willing to act as such.

.....  
Signature of the person verifying.

Attested by (1).....  
(2).....

.....  
Signature of the proposed guardian.

## to Form A

Detail of property belonging to ward	Value	Name of persons in present possession of the property mentioned in column (1)
(1)	(2)	(3)
(1).....		(1).....
(2).....		(2).....
(3).....		(3).....
etc.		etc.

Verified and signed by me. Signature of applicant. Form 'B' Notice under Section 11 of Act VIII of 1890 Civil Suit No..... of..... 19..... In the Court of the..... At..... In the matter of application of caste inhabitant of..... Tahsil..... District..... for the (1)..... of a guardian to the (2) of son of..... caste..... a minor aged..... years inhabitant



of Tahsil Distract To (3).....The petitioner above named having applied to be (4) the guardian of the (2) of the aforesaid minor, the day of ....19...., has been fixed for the hearing of the application and notice is hereby given that if you desire/anybody desires to oppose that application of the petitioner aforesaid you/he should enter appearance in this Court in person or by a duly authorised pleader of the Court, duly instructed, and able to answer all material questions relating to the application, or he shall be accompanied by some person able to answer all such questions, and you are/he is hereby required to take notice that in default of your/his appearance on the day mentioned above the application will be heard and determined in your/his absence. Given under my hand and the seal of the Court this day of 19....(Seal)Judge.(1)Appointment or declaration as the case may be.(2)State whether to the person or the property of the minor, or to both.(3)Name of person, father's name and place of residence in case of notice under clause (a) of Section 11 "the public" in the case of general notice under clause (b).(4)Appointed or declared. Form 'C' Order of appointment under Section 7, Guardians and Wards Act, 1890 In the Court of the.....Judge.....At.....Miscellaneous Judicial Case No.....of 19....Whereas this Court has, under the provisions of Section 7 of Act No. VIII of 1890, been pleaded to appoint/declare you to be guardian of the property/person/person and property of during the period of his minority, to wait, till the day of the month of 19....., subject to the provisions contained in the Act and particularly those provisions contained in Sections 32, 39 and 40 of the Act aforesaid; you are hereby authorised to take charge of the property of the minor in trust, to collect, and pay all just debts, claims and liabilities due to or by the estate of minor, to institute or defend suits connected with that estate and generally to do and perform all acts which may be necessary for the due discharge of the trust vested in you, provided always, that you shall not mortgage, or charge, or transfer by sale, gift, exchange or otherwise, any part of the immovable property of your ward, or lease any part of that property for a term exceeding five years, or for any term exceeding more than one year beyond the date on which your ward will cease to be minor, without the express sanction of this Court previously obtained; and that you will keep regular accounts of your receipts and disbursements, with all vouchers and other documents necessary to establish their corrections. Given under my hand and the seal of the Court, this day of 19.....(Seal)Judge. Form 'D' Form of bond under Section 34 of Act VIII of 1890 Know all men by these presents that I (a).....(b).....of.....of.....am held and firmly bound to (c).....the District Judge or his assigns, in the sum of Rs..... to be paid to the said (d).....or to his successors in this office, and we (e).....son of of and (f).....son of .....of are jointly and severally held and firmly bound to the said (g).....or his assigns in the sum of Rs.....to be paid to the said (h).....or his assigns or to his successors in office of their assigns, for the payment of which said sum of Rs.....to be faithfully and truly made, I the above bounden (i).....bind myself and heirs, executors, administrators and representatives, and for the payment of the said, sum of Rs.....We the above bounden (j).....and (k).....bind ourselves, and each of us jointly and severally, and one and each of our heirs, executors and administrators, and representatives firmly by these presents signed by ourselves and sealed with our respective seals this.....day of 19.....Whereas by an order of the Court of the District Judge of.....made on the.....day of.....under Section 7 of the Guardians and Wards Act (VIII of 1890) the above named (1).....has, subject to his entering into a bond in Rs.....with (2).....sureties in the same sum (or sum of Rs.....as the case may be) been appointed guardian of the property, movable and immovable (3).....minor, son of and, whereas the said (4).....has agreed to enter into the above written bond and the said (5).....and (6).....have agreed to enter into the

above written bond as sureties for the said (7).....;Now the condition of the above written bond is such that if the said (8).....do and shall justify and truly account whenever called upon to do so, for what he may receive in respect of the property of the said (9).....and do and shall carefully observe, perform and keep all orders and directions of the said Court of the District Judge of.....touching or concerning the estate and effects of the said minor and his property and touching and concerning all such moneys and estate as he the said (10).....shall receive as such guardian as aforesaid and in all things conduct himself properly, then the above written bond or obligation shall be void and of no effect, otherwise the same shall remain in full force and virtue. Signature and sealed by the above Named.....(Seal)(11).....(Seal) in the presence of.....(Seal)

- |  |                                     |
|--|-------------------------------------|
| (a) Name of guardian                   | (1) Name of guardian                |
| (b) Son or daughter as the case may be | (2) Number of sureties              |
| (c) Name of District Judge             | (3) Here state name of minor        |
| (d) Name of District Judge             | (4) Name of guardian.               |
| (e) and (f) Name of sureties           | (5) and (6) Names of sureties       |
| (g) Name of District Judge             | (7) Name of guardian                |
| (h) Name of District Judge             | (8) Name of guardian                |
| (i) Name of guardian                   | (9) Name of minor                   |
| (j) and (k) Name of sureties.          | (10) Name of guardian               |
|  | (11) Name of guardian and sureties. |

Form 'E' (1) Statement under Section 34 (6) showing particulars in regard to.....immovable and movable property belonging to minor, taken over by.....appointed as guardian under order of the Court dated.....19...

Immovable  
property

Sl. No.	Land building Particulars or vacant site (a)	How occupied (b)	Approximate value (c)	Profit or rent realisable	Period for which realisable
(1)	(2)	(3)	(4)	(5)	(6)
(7)					

Movable property

Household goods or other property	Particulars	Remarks
Supposed value (c)	Jewels, gold and silver	Value cash In whose custody or with whom deposited
(8)	(9)	(10) (11) (12) (13)

(a) Details should be given on the tenure on which land is held. The size of buildings and the materials of which they are built should be given. (b) Here state whether cultivated through servants or relatives or let on rent or cultivated by tenants. If occupied by tenants the nature of the tenancy should be stated. In case of buildings state whether occupied by minor or family or let on rent or hire, etc. (c) This will assist the Court in determining the amount of security to be taken from the

guardian. Form 'E' (2) District.... Statement showing particulars of the debts due to, or by the estate of..... minor, for whose property and person..... has been appointed or declared guardian by order of the Court, dated..... 19....

Debts due to the estate of the minor

Name parentage and residence of debtor	Amount of debt original by advance	Date of original advance
(1)	(2)	(3)

Date by which wholly repayable	Amount of interest or profit realisable	Date on which realisable	Date by which limitation expires	Proof in support of debt
(4)	(5)	(6)	(7)	(8)

Debts due by the estate of the minor

Name etc. of creditor	Amount received originally	Date of incurring of this debt	Interest of profit payable
(9)	(10)	(11)	(12)

Date when interest or profits payable	Date fixed for repayment of the debt	Security given for debt
(13)	(14)	(15)

(a) Whether registered or unregistered bond or deed or book account etc. Form 'F' Particulars of Ward and of Guardian appointed under the Guardians and Wards Act and minutes of subsequent proceedings Ward Name..... Father's name..... Caste..... Residence..... of birth..... Guardian

No. and year of case	Name, father's name and caste	Residence	Date of appointment	Amount of security furnished	Date fixed for submission of accounts
(1)	(2)	(3)	(4)	(5)	(6)

Subsequent Proceedings

No. and year of case	Date of commencement	Abstract of proceedings	Date of final order
(1)	(2)	(3)	(4)

Form 'G' Register of Estates of Wards under the District Judge

No. of ward	Name of guardian	Name of brief description of estate with value	Date on which the estate came under the control of the District	Date on which the estate passed out of the hands of the	Remarks
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				Judge	District Judge	
(1)	(2)	(3)	(4)	(5)	(6)	(7)

Rules under sub-section (1)(a) and (i) of Section 50 Notification No. 2709-III-1-12-36-F. No. 8-5-19 March, 1963, published in M.P. Gazette, dated 3-5-1963, p. 1231. - Rules under sub-section (1) (a) and (i) of Section 50 of the Guardians and Wards Act (No. VIII of 1890) and in supersession of all existing rules on the subject the High Court of Madhya Pradesh has, with the previous approval of the State Government, made these rules.

**1. With the annual statements of civil business for the previous year which are required to be submitted by the 15th February each year the District Judges shall submit to the High Court a report of the working of the Guardians and Wards Act, 1890, specially on the management of ward's estates.**

**2. When it appears to the Court at the time of passing an order of appointment or declaration of a guardian, or at the annual inspection of the ward or otherwise, that orders are required as to the education of the ward, the Court shall pass such orders as appear to suit the case, regard being had to the present position and future prospects of the ward's family and to the intellectual capabilities of the ward himself.**

## Chapter X

### Rules under Sections 14 and 21 of The Hindu Marriage Act, 1955

[Act No. XXV of 1955] High Court of Madhya Pradesh, Jabalpur In exercise of the powers conferred by Sections 14 and 21 of the Hindu Marriage Act, 1955 (Act XXV of 1955), the High Court is pleased to make the following rules to regulate proceedings under the said Act.

**1. Every petition under the Hindu Marriage Act (Act XXV of 1955) hereafter called the "Act" shall be accompanied by a certified copy of extract from the Hindu Marriage Register maintained under Section 8 of the Act or from the Register of Marriage maintained under any other Act where the marriage has been registered under some other Act and where a certified copy of extract can be granted to the petitioner.**

## **2. Contents of petitions.-Every petition shall state :-**

(1)The name of the Court in which the petition is presented;(2)The name of the parties, their ages, description and places of residence;(3)The place and date of marriage;(4)The principal addresses at which the parties to the marriage reside or last resided together, within the jurisdiction of the Court;(5)Whether there is any living issue of the marriage, and if so, the names and dates of birth or ages of such issues;(6)Whether there have been in any Court in India previous proceedings with reference to the marriage by or on behalf of either of the parties, and if so, the particulars and the results of such proceedings;(7)Details of the facts specified in Section 20 (1) of the Act so far as they are known to the petitioner. In particular the details shall include :-(a)If the petition is for restitution of conjugal rights, the date when and the circumstances in which the respondent withdrew from the society of the petitioner;(b)If the petition is for judicial separation,-(i)the date and place of the desertion, cruelty, or sexual intercourse which is made the grounds for relief and in case of sexual intercourse, the name and address of the person or persons with whom the respondent had sexual intercourse;(ii)the period of leprosy, venereal disease or unsoundness of mind which is made the ground for relief A'(c)If the petition is for a decree of nullity on the grounds of contravention of clause (i) of Section 3 of the Act, the name and address of the spouse;(d)If the petition is for a decree of nullity on the grounds specified in clause (c) of Section 12 of the Act, the date and particulars of the force or fraud, as the case may be, by which the consent was obtained and the date on which the force ceased to operate or the fraud was discovered;(e)If the petition is for divorce on the ground of -(i)Conversion, unsoundness of mind, leprosy, venereal disease, renunciation of the world or another marriage, the date and place of the act or disease;(ii)Adultery, rape or sodomy, the date and place of the act or acts and the name and address of the person or persons with whom these acts were committed by the respondent;(iii)Presumption of death, the last place of co-habitation of the parties, the circumstances in which the parties ceased to cohabit, the date when and the place where the respondent was last seen or heard of and the steps which have been taken to trace the respondent.(8)The property mentioned in Section 27 of the Act, if any relief is claimed in respect thereof;(9)Relief or reliefs.

## **3. Application for leave under Section 14 of the Act. - Where any party to the marriage desires to present a petition for divorce within [one] [Substituted by Notification No. 2-1-14-1-38, dated 22-1-1977.] year of such marriage, he or she shall apply by an application for leave of the Court :-**

(1)The application shall be accompanied by the petition intended to be filed.(2)The application shall be supported by an affidavit made by the application and shall state the following particulars,-(a)the ground on which the application is made;(b)particulars of the hardships or depravity alleged;(c)whether there has been any previous application for this purpose, if so, its details;(d)whether there are living any children of the marriage, and if so, their names and dates of birth or ages, and where and with whom they are residing;(e)whether any, and if so, what attempts at reconciliation have been made;(f)any other circumstances which may assist the Court to determine the question whether there is reasonable probability of a reconciliation between the parties.(3)Notice of the application along with the copy of the application and of the petition shall be

served on the respondent.(4)When the Courts grants leave, the petition shall be deemed to have been duly filed on the date of the said order.

**4. Application for alimony and maintenance. - Every application for alimony and maintenance shall be supported by an affidavit made by the applicant and shall state the average monthly incomes of the petitioner and the respondent, the source of these incomes, particulars of other movable and immovable property owned by them, the number of dependents on the petitioner and the respondent, and the names and ages of such dependents.**

**5. Notice. - The Court shall issue notice to the respondent and co-respondent, if any. The notice shall be accompanied by a copy of the petition. The notice shall require unless the Court otherwise directs, the respondent or correspondents to file his or her statement in Court within a period specified by the Court along with a copy for the use of the petitioner.**

**6. Service of petition. - Every petition and notice under the Act shall be served on the party affected thereby in the manner provided for service of summons under Order V of the Civil Procedure Code.**

**7. Taxation of costs. - Unless otherwise directed by the Court, the costs of the petition under the Act shall be costs as taxed in a suit.**

**8. Transmission of certified copy of the decree. - The Court shall send a certified copy of every decree of nullity or divorce to the Registrar incharge of the Hindu Marriage Register maintained under the Act or to the officer in charge of the Marriage Register maintained under any other Act containing an entry about the marriage annulled or dissolved by the decree.**

**9. Appeals. - Appeals to the High Court from the decrees and orders of the District Court shall be governed by the rules of the High Court as far as may be applicable.**

## **Chapter XI**

**[Rules for Proceedings under Section 256, Indian Income-Tax Act, 1961] [Substituted by Notification No. 19, dated 9-5-1994 (w.e.f. 1-6-1994).]**

[Act XI of 1922]High Court of Judicature at NagpurNo. 7650, Nagpur, the 14-10-1952. - In exercise of the powers conferred by Article 225 of the Constitution of India and Clause 27 of the letters patent, the High Court of Judicature at Nagpur has. made the following rules to regulate its proceedings under Section [256 of the Indian Income-tax Act, 1961 (43 of 1961)] [Substituted by Notification No. 19, dated 9-5-1994 (w.e.f. 1-6-1994).]. These rules will come into force from 1st December, 1952 :-Final Rules framed to regulate ProceedingsThe following rules shall regulate the procedure in regard to references and applications to the High Court under Section [256] [Substituted by Notification No. 19, dated 9-5-1994 (w.e.f. 1-6-1994).] of the Act:-

**1. Oil receipt of a reference from the Income-tax Appellate Tribunal under Section [256 (1)] [Substituted by Notification No. 19, dated 9-5-1994 (w.e.f. 1-6-1994).] of the Act stating a case for the opinion of the High Court it shall be registered as [an Income-tax reference] [Substituted by Notification No. 19, dated 9-5-1994 (w.e.f. 1-6-1994).].**

**2. The Registrar, Income-tax Appellate Tribunal shall together with the reference, submit the following documents,-**

(i)a copy of the order of the Income-tax officer;(ii)a copy of the order of the Appellate Assistant Commissioner or Commissioner;(iii)a copy of the order of the Income-tax Appellate Tribunal under Section [254] [Substituted by Notification No. 19. dated 9-5-1994 (w.e.f. 1-6-1994).] of the Act; and(iv)documents or copies thereof (with the translation in English where necessary) as have been specified by the parties in the lists submitted to the Tribunal under Rules 35 and 41 of the Appellate Tribunal Rules, 1946.He shall also submit four true and identical copies of the reference and its enclosures for being incorporated in the paper-books.

**3. The Registrar shall admit the reference, and shall cause notices to be served on the parties intimating the date of hearing of the case.**

**4. An application under [Section 256 (27)] [Substituted by Notification No. 19. dated 9-5-1994 (w.e.f. 1-6-1994).] of the Act shall comply with the provisions of Rules 2 and 3 of Chapter IV of the Rules of the High Court and shall be registered as a [Income-tax reference] [Substituted by Notification No. 19. dated 9-5-1994 (w.e.f. 1-6-1994).]. It shall be accompanied by two copies [x x x] [Omitted by Notification No. 19. dated 9-5-1994 (w.e.f. 1-6-1994).] of the following documents,-**

(i)the order of the Income-tax Officer;(ii)the order of the Appellate Assistant Commissioner or Commissioner;(iii)the order of the Appellate Tribunal under [Section 254 (1)] [Substituted by Notification No. 19. dated 9-5-1994 (w.e.f. 1-6-1994).] of the Act;(iv)the order of the Appellate Tribunal refusing to refer the case together with the application under [Section 256 (1)] [Substituted

by Notification No. 19. dated 9-5-1994 (w.e.f. 1-6-1994).] of the Act; and(v)any other paper or document which the applicant considers necessary for the disposal of the application.[One of the copies of the order of the Appellate Tribunal shall be certified copy.] [Inserted by Notification No. 19. dated 9-5-1994 (w.e.f. 1-6-1994).]

**5. Such application shall set out in a concise form the material facts, giving rise to the alleged question or questions of law that are required to be stated by the Appellate Tribunal.**

**6. A certificate from the Income-tax Appellate Tribunal to the effect that , the assessee has not withdrawn his application for reference under [Section 256 (1)] [Substituted by Notification No. 19. dated 9-5-1994 (w.e.f. 1-6-1994).], ibid before the said Tribunal shall be produced at or before the hearing unless the Court otherwise directs.**

**7. The applicant shall within three weeks, of the date of admission of the application file four additional true and identical copies of the application and the document mentioned in Rule 4, for the preparation of the paper-books for the Judges and the parties, unless the Court otherwise directs.**

**8. An application under [Section 256 (3)] [Substituted by Notification No. 19, dated 9-5-1994 (w.e.f. 1-6-1994).] of the Act shall comply with the provisions of Rules 2 and 3 of Chapter 4 of the rules of the High Court, and shall set out in a concise form the facts on which the Appellate Tribunal has rejected the application as time-barred. It shall be accompanied by two copies of the order of the Appellate Tribunal, of which one shall be a certified \* copy and an affidavit by some person acquainted with the facts.**

**9. The applicant shall, within three weeks of the date of admission of the application, file one certified copy and four true and identical copies of the documents which he considers necessary for the disposal of the application in addition to four true and identical copies referred to in rule unless the Court otherwise directs.**

**10. Service of notice contemplated in these rules shall be deemed sufficient, if made on counsel for the party.**



**11. In reference under [Section 256 (1)] [Substituted by Notification No. 19, dated 9-5-1994 (w.e.f. 1-6-1994).] and to applications under [Sections 256 (2) and 256 (3)] [Substituted by Notification No. 19, dated 9-5-1994 (w.e.f. 1-6-1994).] of the Act, the Commissioner of Income tax shall be shown as the "Applicant" or the "Opposite Party" as the case may be.**

**12. The Court hearing applications and/or references under [Section 256] [Substituted by Notification No. 19, dated 9-5-1994 (w.e.f. 1-6-1994).] of the Act shall be a Division Bench of two Judges, unless the Chief Justice order that any such application or reference shall be heard by a larger Bench.**

**13. After the judgement or the final order is passed two copies of the judgement or the order shall be sent to the Registrar, Income-tax Appellate Tribunal, Bombay, and one to the Commissioner of Income-tax, Madhya Pradesh, Bhopal and Nagpur.**

**14. If the Court orders the preparation of a paper-book in office, the provisions of the rules in Chapter VIII of the High Court Rules regarding preparation of paper-books in civil cases shall apply mutatis mutandis to these cases.**

**15. In the rules, the expression "the Act" means the Indian Income-tax Act, [1961 (43 of 1961)] [Substituted by Notification No. 19, dated 9-5-1994 (w.e.f. 1-6-1994).] as amended from time to time.**

## **Chapter XII**

### **Rules Under Section 27 of The Indian Press (Emergency Powers) Act, 1931**

[Act No. XXXII of 1931]The following rules have been framed by the Judicial Commissioner of the Central Provinces in exercise of its powers conferred under Section 27 of the Indian Press (Emergency Powers) Act, 1931 (Act No. XXIII of 1931), continue to be applicable mutatis mutandis to proceedings under that Act in the High Court.

**1. Every application under Section 23 for setting aside an order or deposit of security under sub-section (3) of Section 3, or under sub-section (3) of Section 7, or an order of forfeiture under Section 4, 6, 8, 10 or 19 or sub-section (2) of Section 12 shall be made by the presentation of a petition**

**which shall be signed by the applicant and verified by the affidavit of the applicant.**

**2. The petition shall be written in the English language and shall be divided into paragraphs numbered consecutively. Dates and sums occurring in the petition shall be expressed in figures.**

**3. The petition shall be headed :-**

"In the Court of Judicial Commissioner, Central Provinces", and shall be entitled;"In the matter of the (name if any) printing press, or the (name or description) newspaper, book or document."as the case may be.

**4. The petition shall state the ground or grounds on which it is sought to set aside the order.**

**5. When the petition is for setting aside an order of forfeiture under Section 4, 6, 8,10 or 19, it shall state what the interest of the applicant is in the property in respect of which the order of forfeiture has been made, and all documents or copies thereof in proof of such interest together with a copy of the notice of forfeiture, shall be annexed as exhibits to the petition.**

**6. When the petition is for setting aside an order of deposit of security under sub-section (3) of Section 3, or under sub-section (3) of Section 7 or for setting aside an order of the forfeiture under sub-section (2) of Section 12, a copy of the notice ordering the deposit shall be annexed as exhibit to the petition.**

**7. All vernacular documents annexed as exhibits to the petition and all vernacular documents relied on by applicant and intended to be tendered in evidence shall be translated into English by a translator or translators of the Court.**

**8. The petition with exhibits annexed thereto, together with a copy of such petition and exhibits, shall be presented to the Judicial Commissioner who will constitute a special Bench and appoint a day for the hearing and determination of the application.**

**9. Notice in writing of the day appointed for the hearing and determination of the application shall be given to the Chief Secretary to the Government of the Central Provinces, and copies of the petition and exhibits mentioned in Rule 7 shall accompany such notice.**

**10. The special Bench may award such costs as appear to it reasonable and proper in the circumstances of each case.**

**11. The provisions of the Code of Civil Procedure and the rule and orders of this Court relating to execution of decrees and orders shall be applicable to the execution of orders passed by the Special Bench.**

## **Chapter XIII**

### **Rules Under Section 25, Press (Objectionable Matter) Act, 1951**

[Act LVI of 1951]High Court of Judicature at Nagpur the 11th March, 1963No. 1981. - In exercise of the powers conferred by Section 25 of the Press (Objectionable Matter) Act, 1951 (LVI of 1951), the High Court of Judicature at Nagpur has, in supersession of all previous rules on the subject, made the following rule to regulate proceedings before the High Court under that Act:-

**1. On receipt of a reference from the Sessions Judge under Section 21(2) of the Act, it shall be registered as a Criminal Revision (Press Objectionable Matter).**

**2. The Registrar shall admit the reference, and shall cause notices to be served on the parties intimating the date of the case.**

**3. Every application to the High Court under Section 24 of the Act shall comply with the provisions of Rules 2 and 3, Chapter IV of the Rules of the High Court, and shall be entitled, "In the matter of the (name of printing press) and/or the (name or description) newspaper, book, news-sheet or document , as the case may be, and shall be signed by the applicant/or his counsel or his recognised agent. It shall be verified by an affidavit of the applicant or some other person proved to the satisfaction of Court to be acquainted with the facts of the case.**

**4. The application shall include a concise statement of the facts of the case and the grounds on which the order is sought to be set aside.**

**5. (a) When the application is for setting aside an order of forfeiture under Section 11 or sub-section (2) of Section 6 or sub-section (3) of Section 9 it shall state what interest the applicant has in the property in respect of which the order of forfeiture has been made, and all documents or copies thereof in proof of such interest together with a copy of the order of forfeiture shall be annexed as exhibits to the application.**

**(b) When the application is for setting aside an order under sub-section (2) of Section 12, a copy of the State Government's order shall be annexed as exhibit to the application.**

**6. The application with exhibits annexed thereto, together with three identical copies thereof, shall be presented in the office of the Deputy Registrar by the applicant, his recognised agent or his counsel.**

**7. A memorandum of appeal under Section 25 of the Act shall comply with the provisions of Rule 4 of Chapter IV of the Rules of the High Court as far as applicable, and shall be registered as Criminal Appeal (Press Objectionable Matter) and then shall be presented in the office of the Deputy Registrar by the appellant or his recognised agent or his counsel together with three identical copies of the memorandum of appeal and of the exhibits annexed thereto.**

**8. All applications and appeals shall be laid before the appropriate Bench as early as possible for motion hearing of which notice shall be given to the appellant/applicant or his agent or counsel.**

**9. If an application is admitted, a notice in writing of the day appointed for hearing and determination of the application shall be given to the Chief Secretary to the Government of Madhya Pradesh, and a copy of the application shall accompany such notice.**

**10. If an appeal is admitted, a notice shall issue to the opposite parties and in case of State Government to the District Magistrate.**

**11. (a) All vernacular documents annexed as exhibits to the application or the memorandum of appeal and all vernacular documents relied on by the applicant or appellant and intended to be tendered in evidence shall be translated into English by the official translator of the High Court before being included in the paper-books at the cost of the party relying upon them unless exempted by the Court. Such payment shall be made within such time as may be fixed by the Registrar.**

(b)The attention of the Court shall be invited at the hearing to the costs of the above translations for orders.

**12. The costs of any reference, application or appeal under the Act shall be in the discretion of the Court.**

**13. The Court hearing applications and/or appeals and/or references under the Act shall be a Bench of three Judges unless the Chief Justice orders that any such application, appeal or reference shall be heard by a larger Bench, providing a single Judge may during the vacation issue notice or a rule nisi, as the case may be, in any such appeal or application of an emergent nature but he shall not dispose of these matters finally.**

**14. On the disposal of an application, appeal or reference by the High Court a copy of the order shall, in the case of an application under Section 24 be sent to the Chief Secretary, and in the case of an appeal or reference, to the Sessions Judge against whose order the appeal was preferred to who made the reference.**

**15. No advocate shall act for any person in these proceedings unless he has been appointed for the purpose by such person by a document in writing signed by such person, or by his recognised agent, or by some other person duly authorised by or under a power-of-attorney to make such appointment.**

**16. (a) Paper-books shall be prepared in all references and appeals under the Act, and the provisions of rules in Chapter VIII of the High Court Rules regarding preparation of paper-books in criminal cases, shall apply mutatis mutandis to these cases.**

(b)In the case of an application under Section 24 of the Act, the paper-book shall ordinarily consist of the following papers,-(i)the application.(ii)the order which is sought to be set aside.it shall also

contain any portion of the record or any evidence oral or documentary, that may be specified by either party, provided that the counsel or the party filing the lists, certifies in writing that such evidence or documents shall be referred to at the hearing of the application.

**17. The paper-book shall be prepared in the same way as in appeals from original decrees, except that no notice, as required by the Rule 14 of Chapter VIII of the High Court Rules, will be given to the applicant, who shall file his list within 10 days of the admission of the application, failing which no list will be accepted without the leave of the Registrar.**

**18. In these rules the expression "the Act" means 'the Press (Objectionable Matter) Act, 1951 (LVI of 1951)'.**

**19. These rule shall come into force on 1st April, 1953.**

## **Chapter XIV**

### **Rules Under Section 13 of The Madhya Pradesh Public Security Act, 1959**

Notification No. 3757. - In exercise of the powers conferred by Section 13 of the Madhya Pradesh Public Security Act, 1959 (Act No. XXV of 1959) and all other powers enabling, the High Court of Madhya Pradesh has made the following rules to regulate proceedings before the High Court under this Act. [Please see Madhya Pradesh Rajpatra Part IV (Ga) of 26-4-1953 at page 390.] In these rules the 'Act' means the Madhya Pradesh Public Security Act, 1959 (Act No. XXV of 1959).

**1. (a) Every application to the High Court under Section 12 of the Act shall comply with the provisions of Rules 2 and 3 of Chapter IX of the Rules of the High Court and shall be entitled :-**

"In the matter of the Madhya Pradesh Public Security Act, 1959 and" "In the matter of (name of printing press, newspaper, periodical, book or document as the case may be)." (b) It shall be verified by an affidavit of the applicant or of a person proved to the satisfaction of the Court to be acquainted with the fact of the case. (c) It shall be registered as a miscellaneous civil case :

**2. (a) The application shall contain,-**

(i) a concise statement of the facts of the case; (ii) a statement of the interest of the applicant in the case; (iii) the grounds on which the order of the Government is questioned; and (iv) a precise statement of the relief prayed for. (b) It shall be accompanied by a copy of the impugned order and all documents or authenticated copies of documents necessary to establish the right of the applicant to

seek relief.

**3. (a) All applications shall be laid before the appropriate Bench as early as possible for motion hearing.**

(b) Notice of such hearing shall be given to the applicant or his agent or counsel.

**4. (a) If an application is admitted a notice in writing of the day appointed for hearing of the application shall be sent to the Chief Secretary to the Government of Madhya Pradesh along with a copy of each of the application and affidavit.**

(b) The applicant shall deposit the necessary process-fees within three days of the orders of admission of the application or as the Court may order, along with a copy of the application and affidavit. (c) The applicant shall on the same date file four identical copies of the application and its annexures for purposes of paper-book.

**5. (a) The Court may either before ordering issue of notice to the opposite party or on the application of the opposite party, demand from the applicant security in cash for the costs of the application.**

(b) The general rules of the High Court regarding deposit and withdrawal of money shall apply to the deposit or withdrawal of security ordered under sub-rule (a).

**6. (a) Reply to the notice or rule nisi issued by the Court shall be made at least two days before the date fixed for hearing the application by filing in the Registry a return duly supported by an affidavit sworn by the concerned Secretary of the Department of the Government.**

(b) The return or the affidavit shall contain full particulars of the objectionable matter and the grounds on which it is alleged that it would undermine the security of State or be prejudicial to the maintenance of public order or offend against decency or morality, unless the impugned order itself contains such particulars. (c) Four identical copies of the return, affidavit and other accompanying documents shall be filed along with the return for purposes of paper-book. (d) A copy each of the return and affidavit shall also be served on the other side at least two days before the date fixed for hearing the application.

**7. (a) All applications under the Act shall be heard by a Division Bench.**

(b) A single Judge may, however, during the summer vacation issue notice or rule nisi according as the relief sought is urgent or not, but shall not decide the application finally. (c) A copy of the final

order in each case shall be sent to the Chief Secretary.

**8. No advocate shall act for any person in these proceedings unless he has been duly appointed for the purpose by a document in writing, signed by such person or by his recognised agent, or by some other person duly authorised by or order a power of attorney to make such appointment.**

**9. The paper-book shall ordinarily consist of copies of the following papers,-**

(i)the application;(ii)the order which is sought to be set aside;(iii)the return alongwith accompanying documents; and(iv)such other documents on record as either party may in writing request to be included in the paper-book.

**10. (a) In the absence of any order to the Court to the contrary, documents which are not in English shall be translated into English by the official translator of the High Court before being included in the paper-book.**

(b)The costs of such translation shall be borne in the first instance by the party relying on the documents unless otherwise ordered by the Court.(c)The estimated cost shall be deposited within such time as may be ordered by the Registrar.

**11. (a) The Court may in its discretion order any party to the proceedings to bear any or all the costs of the proceedings including the costs of translation.**

(b)in the absence of any specific order of the Court, costs of translation shall follow the event.

**12. (a) Where at the conclusion of a case there is no order passed by the Court for the refund or disposal of the security already in deposit the party entitled to the refund of the deposit or the party entitled to payment of costs may, by a stamped application apply to the Court for order about refund or payment of or out of the deposit and for the recovery of any unsatisfied portion of the costs ordered by the Court.**

(b)The Court may order the deposit of the whole or any part of the costs in Court before particular date.(c)If the amount is not deposited within the time fixed by the Court, the Court may order the issue of certificate for the recovery of such amount as also the costs of the application for execution.(d)A certificate for execution shall be issued as ordered by the Court under the signature of the [Additional Registrar or] [Inserted by Notification No. 45-I-9-3-37, dated 12-5-1976.] Deputy Registrar and the seal of the Court and shall be executable by the District Judge of the Civil District to whom it is addressed as if it were a decree of a Civil Court received for execution by transfer.



## **Chapter XV**

### **Rules for Proceedings under Section 23, Madhya Pradesh Sales Tax Act, 1947**

(Act No. XXI of 1947) Notification No. 7652, dated 14-10-1952. - In exercise of the powers conferred by Article 225 of the Constitution of India and Clause 27 of the Letters Patent, the High Court of Judicature at Nagpur has made the following rules to regulate its proceedings under Section 23 of the Madhya Pradesh Sales Tax Act, 1947 (Act No. XXI of 1947). These rules will come into force from 1st December, 1952. Final Rules framed to regulate proceedings The following rules shall regulate the procedure in regard to references and application to the High Court under Section 23 of the Act:-

**1. On receipt of a reference from the Tribunal under Section 23 (1) of the Act stating a case for the opinion of the High Court, it shall be registered as a miscellaneous civil case.**

**2. The Tribunal shall together with the reference, submit the following documents,-**

(i) a copy of the order of the Sales Tax Officer, Assistant Sales Tax Officer or Additional Sales Tax Officer, as the case may be; (ii) a copy of the order of the Assistant Commissioner or the Headquarters Assistant Commissioner; (iii) a copy of the order of the Commissioner; and (iv) copies of such records as are necessary for the consideration of the reference. The Tribunal shall also submit four true and identical copies of the reference and its enclosures for being incorporated in the paper-books.

**3. The Registrar shall admit the reference, and shall cause notices to be served on the parties intimating the date of hearing of the case.**

**4. An application under Section 23 (2)(b) of the Act shall comply with the provisions of Rules 2 and 3 of Chapter IV of the Rules of the High Court, and shall be registered as a miscellaneous civil case. It shall be accompanied by two copies (one of which shall be a certified copy) of the following documents,-**

(i) the order of the Sales Tax Officer, Assistant Sales Tax Officer or the Additional Sales Tax Officer, as the case may be; (ii) the order of the Assistant Commissioner or the Headquarters Assistant Commissioner; (iii) the order of the Commissioner; and (iv) the order of the Tribunal refusing to refer the case and any other paper or document which the applicant considers necessary for the disposal of the application.

- 5. Such application shall set out in a concise form, the material facts giving rise to the alleged question or questions of law that are required to be stated by the Tribunal.**
- 6. The applicant shall, within three weeks of the date of the admission of the application, file four additional true and identical copies of the application and the documents mentioned in Rule 4, for the preparation of paper-books for the Judges and the parties, unless the Court otherwise directs.**
- 7. Service of notice contemplated in these rules shall be deemed sufficient, if made on counsel for the party.**
- 8. In reference under Section 23 (1) and applications under Section 23 (2)(b) of the Act, the Commissioner of Sales Tax or the dealer shall alone be shown as the "applicant" or the "opposite party" as the case may be.**
- 9. The Court hearing applications and or references under Section 23 of the Act shall be a Division Bench of two Judges, unless the Chief Justice orders that any application or reference shall be heard by a large Bench,**
- 10. After the judgement or the final order is passed, two copies of the judgement or order shall be sent to the Tribunal, Madhya Pradesh, Nagpur.**
- 11. If the Court orders the preparation of paper-books in office, the provisions of the rules in Chapter VIII of the High Court Rules regarding preparation of paper-books in civil cases shall apply mutatis mutandis to these cases.**
- 12. In the rules, the expression "The Act" means the Madhya Pradesh Sales Tax Act (XXI of 1947) as amended from time to time.**

## **Chapter XVI**

### **Rules under Section 41 of The Special Marriage Act, 1954**

(Act No. XLIII of 1954) Notification No. 8266, dated 11-11-1956. - In exercise of the powers conferred by Section 41 of the Special Marriage Act, 1954 (No. 43 of 1954) and all other powers hereunder to enabling, the High Court of Judicature at Nagpur has made the following rules which are published for general information.

**1. Short title and commencement. - (a) These rules may be called the Special Marriage Rules, 1956.**

(b) They shall come into force from the date of their publication in the Madhya Pradesh Gazette.

**2. Definition. - In these rules unless there is anything repugnant in the subject or context:-**

"Act" means the Special Marriage Act, 1954 (No. XLIII of 1954).

**3. Application of other Act and Rules. - The provisions of the Indian Divorce Act, 1869, as regards forms and procedure, in so far as such forms and procedure may be applicable mutatis mutandis and the rules made thereunder with necessary changes and adaptations and the general rules of Court relating to registration, contents and presentation or filing of plaints and written statements, in so far as they are not inconsistent with the Act or with these rules shall apply to all proceedings under the Act.**

**4. Registration of petition. - All original petitions under Chapter V, VI or VII of the Act shall be registered as suits of Class III in the register of civil suits.**

**5. Contents of petitions. - A petition under Chapter V or Chapter VI of the Act shall, in addition to any particulars required by law, state,-**

(i) the place and date of marriage; (ii) the name, status and domicile of the wife before the marriage; (iii) the status of the husband and his domicile at the time of the marriage and at the time the petition is presented, and his occupation and the place or places of residence of the parties at the time of the institution of the suit; (iv) the principal permanent address where the parties have cohabited including the address where they last resided together; (v) where there is living issue of the marriage, and if so, the names and date of birth or ages of such issues; (vi) whether there have been any, and if so, what previous proceedings with reference to the marriage by or on behalf of either of the parties to the marriage, the place of such proceedings and result of such proceedings; (vii) the grounds on which the petitioner claims that the Court to which the petition is presented has jurisdiction to entertain the petition.

**6. A petition for restitution of conjugal rights shall, in addition to the particulars mentioned in Rule 5, state,-**

(i) the date from which the respondent has withdrawn from the society of the petitioner; (ii) the age of the respondent; (iii) the person or persons with whom the respondent residing at the time of the institution of the suit; (iv) the attempts, if any, made before suit by the petitioner for resumption of

normal relations.

**7. A petition for judicial separation or divorce shall, in addition to the particulars mentioned in Rule 5, state,-**

(i)the specific grounds on which judicial separation or divorce is claimed;(ii)the claim for damages, if any;(iii)the absence of collusion between the petitioner and the other party to the marriage.

**8. A petition for divorce by mutual consent shall, in addition to the particulars mentioned in Rule 5 state,-**

(i)the place or places and period or periods during which the parties have lived together;(ii)the period during which the parties have been living separately;(iii)the reasons for not being able to live together.

**9. A petition for declaration of nullity of a marriage shall, in addition to the particulars mentioned in Rules 5 and 7, as far as applicable, state the facts which make the marriage null and void.**

**10. A petition for the annulment of a marriage shall, in addition to the particulars mentioned in Rules 5 and 7, as far as applicable, state the ground or grounds on which annulment of the marriage is sought.**

**11. Impleading of co-respondent. - A petition for judicial separation or divorce on the grounds of adultery shall implead the alleged adulterer as a co-respondent, unless any of the following reasons is given for , not so impleading,-**

(a)that the respondent is leading the life of a prostitute and that the petitioner knows of no person with whom the adultery has been committed;(b)that the name of the alleged adulterer is unknown to the petitioner, although he has made due efforts to discover it;(c)that the alleged adulterer is dead.

**12. Intervener. - (a) Any person, not already a party to the proceedings may, by an application supported by an affidavit, seek the permission of the Court to intervene and show cause why a decree for divorce, declaration of nullity of marriage or annulment of marriage should not be passed.**

(b)If the Court allows such an application, the intervener shall be made a party to the proceedings and shall, if the intervention is not bona fide, be liable for costs.

**13. Damages. - The Court may award to the petitioner such damages against a co-respondent who has been found guilty of adultery, as the Court deems proper.**

**14. Limitation. - The provisions of Section 5 of the Indian Limitation Act, 1908, shall apply to applications and appeals under the Act.**

## **Chapter XVII**

### **Rules for Regulating Testamentary and Intestate Proceedings**

No. 3961, Nagpur, dated 16-5-1956. - In exercise of the powers conferred by Article 225 of the Constitution of India read with Clause 27 of the Letters Patent, the High Court of Judicature at Nagpur is pleased to make the following rules to regulate proceedings in exercise of the Testamentary and Intestate Jurisdiction. These rules shall come into operation on 1st July, 1956. Rules of Procedure

**1. Citation. - These rules may be cited as 'The Testamentary and Intestate Rules'.**

**2. Definition. - In these rules, unless the context otherwise requires,-**

(i)'the Act' means the Indian Succession Act, 1925, as from time to time amended or modified.(ii)'Registrar' means the Registrar of the High Court, or such officer of such Court as may be authorised by the Chief Justice to perform such duties as are by these rules assigned to the Registrar;(ii)'will' includes a codicil.

**3. Non-contentious business. - Non-contentious business shall include the business of obtaining probate and administration (with or without the will annexed, and whether general, special or limited) where there is no contention as to the right thereto, including the passing of probates and administrations through the Court in contentious cases when the contest is terminated, and all ex parte business to be taken in the Court in matters of testacy and intestacy not being proceedings in any suit and also the business of lodging caveats against the grant of probate of administration. It shall also include the business of obtaining succession certificate and extension of such a certificate.**

**4. Application-How to be written and presented. - An application for probate or letters of administration, or succession certificate shall comply with the provisions of Rules 2 and 3 of Chapter IV of the Rules of the High Court and shall be registered as miscellaneous civil case.**

**5. Application for probate. - Application for probate shall be made with the will annexed. If the will is not in English it shall be translated into English by the official translators of the Court at the cost of the applicant for which he shall make a separate stamped application. The application for probate shall be in Form No. 1 in the Schedule or as near thereto as the circumstances of the case may permit, and shall be accompanied by,-**

(a)an affidavit of one of the attesting witnesses, if procurable (Form No. 2);(b)an affidavit of valuation in the form set forth in Schedule 3 of the Court-Fees Act, 1870, and(c)a Schedule of property of the deceased (Form No. 3).

**6. Application for letters of administration. - Application for letters of administration shall be made in Form No. 4 or as near thereto as the circumstances of the case may permit and shall be accompanied by annexures (b) and (c) mentioned in the last preceding rule.**

**7. Application for letters of administration with the will annexed. - Application for letters of administration with the will annexed shall be made in Form No. 5 or as near thereto as the circumstances of the case may permit.**

It shall set out the names and addresses of the legal representative of the deceased (unless the Court sees fit to dispense with the statement thereof), and shall be accompanied by the annexure referred to in Rule 5.

**8. Application for succession certificate. - Application for succession certificate shall be in Form 6 or as near thereto as the circumstances of the case may permit, and shall be accompanied by a Schedule of the property of the deceased. It shall also be accompanied by a petitioner's undertaking as specified in Form No. 7 or as near thereto as the circumstances of the case will permit.**

**8A. Where an application for a grant of representation such as probate, letters of administration or succession certificate is applied for within six months of the death of the deceased, the executor of the deceased shall**

**annex to. the affidavit of valuation to be filed in Court under Section 191 of the Court-fees Act, 1870, an account of all the property in respect of which estate duty is payable upon the death of the deceased.**

**9. Certificate that no other grant has been made. - Within 14 days of the filing of the application for probate or letters of administration, the Registrar shall certify (if such be the case) no intimation has been received by the Court from any other High Court or District Court of any grant of probate or letters of administration of the property and credits of the deceased having effect throughout the territory of India.**

Such certificate shall be made on the order-sheet, and shall be in the Form No. 8.

**10. Certificate as to court-fee. - No order for the issue of a grant of probate or letters of administration or succession certificate shall be made until after the Registrar has certified either that the court-fee payable on the grant has been paid or that no court-fee is payable. Such certificate shall be made on the order-sheet and shall be in Form No. 9.**

**11. Delay in application. - In any case whether probate or administration or succession certificate is for the first time applied for after the lapse of three years from the death of the deceased, the reason of the delay shall be explained in the petition. Should the explanation be unsatisfactory, the Registrar may require such further proof of the alleged cause of delay as he may deem fit.**

**12. Proof of identity. - The Court may, in cases where it 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.**

**13. Interlineations, alterations etc., in the will should be sworn to by the attesting witness. - When interlineations, alterations, erasures or obliterations appear in the will (unless duly executed as required by the Indian Succession Act or recited in or otherwise identified by the attestation clause), statement shall be made in the affidavit of the attesting witness whether they existed in the will before its execution or not.**

**14. In absence of attesting witness what other evidence must be produced. -** If no affidavit by any of the attesting witnesses is procurable, an affidavit shall be procured (if possible), from some other person (if any), who may have been present at the execution of the will, but if no affidavit of any such person can be obtained, evidence on affidavit must be produced of that fact and of the hand writing of deceased and one attesting witness and also of any circumstances which may raise a presumption in favour of due execution.

**15. Attempted cancellation must be accounted for. -** Any appearance of an attempted cancellation of testamentary writing by burning, tearing, obliteration or otherwise, and every circumstance leading to a presumption of abandonment or revocation of such writing or part thereof, shall be accounted for.

**16. Unsigned or unattested will. -** In cases in which it is not necessary that a will should be signed by the tester or attested by witnesses to constitute a valid testamentary disposition of the testator's property the testator's intention that it should operate as his testamentary disposition must clearly be proved by affidavit.

**17. Renunciation. -** No person who renounces probate of a will or letters of administration of the property of a deceased person in one character shall without a leave of the Court, take out representation to the same deceased in another character.

**18. Application for administration by a creditor. -** In all applications by a creditor for letters of administration, it shall be stated particularly how the debt or debts arose, the amount due on the date of the application, and whether the application has any and what security therefor.

**19. Production of deed paper, etc. referred to in will. -** If 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 a constituent part of the will, such paper, memorandum or other document should be produced with a view to ascertaining whether it is entitled to probate, and where not produced, its non-production must be accounted for.



**20. Persons consenting to an application for letter of administration must do so on affidavit. - Persons desiring to give their consent to an application for a grant of probate or for letters of administration or for succession certificate must do so on affidavit, stating their relationship to the deceased and that they consent to such a grant.**

**21. Citation to rightful parties. - On an application for probate or for letters of administration, unless otherwise ordered by the Judge or Registrar 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.**

**22. Citation on application by creditor. - Where letters of administration are applied for by a creditor, a special citation shall be issued to the widow, if any and the next of kin, provided they shall be resident within the jurisdiction or have any known agent or agents resident within the jurisdiction, and to the Administrator-General of Madhya Pradesh, and a general citation shall be issued to all persons claiming to have any interest in the estate of the deceased.**

**23. Citation. - All citations shall unless otherwise ordered, direct the persons cited to show cause on such day certain as the Court shall direct, and shall be in Form No. 10, and where they cannot be served in the manner provided for service of process, may be served by the insertion as an advertisement in such newspapers as may be directed, of a notice in Form No. 11.**

**24. Proof of publication. - Proof of due publication of a citation by advertisement shall be by affidavit, unless the Court has directed that such citation be published once only in a single newspaper in which case a copy of the issue of the newspaper containing the said advertisement may be filed in lieu of an affidavit.**

**25. Proof of power of attorney. - Unless a power of attorney constituting such attorney or the attorney of an executor absent from the State of Madhya Pradesh can, under Section 85 of the Indian Evidence Act, 1872, be presumed to have been executed and authenticated as in the said section mentioned; the Court may require further proof of its due execution.**

**26. Grant when to have effect in Madhya Pradesh. - All grants of probate or letters of Administration (with or without the will annexed) other than grants under the Administrator-General's Act, shall unless otherwise ordered, be drawn up by the Court to have effect within the Madhya Pradesh.**

**27. Grants when to have effect throughout India. - In all cases in which it is sought to obtain a grant of probate or letters of administration (with or without the will annexed) to have effect throughout the territory of India, or under the Administrator-General's Act to have effect throughout one or more of the other divisions as defined in that Act, such grant must be expressly asked for and it must be shown where the assets are situated.**

**28. Two common sureties to the bond required. - In all cases of letters of administration save and except under Section 241, Indian Succession Act, 1925, unless the deceased is a Hindu, Mohammadan, Buddhist, Sikh or Jain and in cases of succession certificates which in the opinion of the Court fall under sub-sections (3) and (4) of Section 373, two common sureties are required to the administration bond and to the succession certificate bond, and the bond in each case shall, unless otherwise ordered by the Court, be given in double the amount of the property for which the grant is to be made. The bond shall be given to and in the name of the Chief Justice, and shall, be as nearly as possible, in Form No. 12.**

**29. Justifying surety. - When any person takes out letters of administration in default of the appearance of any person, cited, and when any person takes out letters of administration or succession certificates for the use and benefit of a lunatic, or person of unsound mind (unless he be a committee of the estate of such lunatic, appointed by the Court), or for the use and benefit of a minor (unless he be a guardian of the property of such minor appointed by the Court), surety or sureties to the bond must justify for the whole amount of the estate. And when any person entitled to a portion only of the estate takes out letters of administration, or succession certificate the sureties to the bond must justify for the whole estate less the share of petitioner and such shares as shall contest by writing thereto. The Court hearing testamentary matters may, however, in a proper case and for reasons to be recorded in writing, dispense with the jurisdiction of surety.**

**30. When such a bond has been filed the Court shall direct the surety to be tested, either by the Registrar or by the District Judge within whose jurisdiction the immovable property is situate.**

**31. Insurance companies as sureties. - An approved Insurance Company may be accepted in place of two common sureties under Rule 28, and as justifying surety under Rule 29, and in such cases, the bond shall be given only for the amount of the property for which the grant is to be made. The bond given by the company shall be as nearly as possible, in Form No. 13.**

**32. Consequences of neglect to proceed with petition or to furnish security. - If a petitioner for a grant of probate, letters of administration, or succession certificate, for three months from the admission of the petition neglects to proceed with the petition, or for three months of the date of the order for grant neglects to give the required security or otherwise to proceed with the application or to take out the grant, the Registrar shall give notice in writing of his default to the Administrator-General, who may then apply to the Court for an order that the petition be dismissed and that he may be at liberty to apply for a grant of letters of administration.**

If no further steps are taken in the matter, the petition may be posted before the Court for dismissal, and the Court may thereupon make such order as it thinks fit.

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

**34. Amendment of grant extend to India. - A grant under the Indian Succession Act, 1925, limited to the State of Madhya Pradesh, may be amended on the Court's order so as to extend its effect throughout India. The application shall be by affidavit stating where the additional property and credits are suitable, and on payment of the probate duly payable in respect thereof, and in case of grant of letters of administration with or without the will annexed, on the petitioner giving a further bond, the grant may be**

**amended accordingly.**

**35. Application for extension of succession certificate. - The Court may extend a succession certificate to any debt or security not originally specified therein. Application for such extension shall be by a petition with all accompaniments mentioned in Rule 8, stating the particulars of the debt or security and on the payment of duty payable in respect thereof and on the petitioner giving a further bond, if required, the certificate may be extended.**

**36. Inventory and account. - The inventory and account to be furnished by an executor or administrator under Section 317 of the Act shall be in Form Nos. 14 and 15 respectively and shall be verified in the following manner :-**

'I.....the executor (or administrator), named in the above inventory, do hereby declare that the said inventory is in every respect true, perfect and correct to the best of my knowledge, by information received from and believed to be true, 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; or 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 by information received from and believed to be true and that it gives a full, true and perfect account of all the estate and effects of the deceased.....which has or have come into my hands, possession power, control, custody or knowledge and of the disposition of the same.

**37. Probate of will of married woman or letters of administration etc. - In grant of probate of the will of a married woman, of the will of widow made during coverture, or letters of administration with such will annexed, it shall not be necessary to recite, in the grant or in the oath to lead same the separate movable property of the testatrix or the power or authority under which the will has been or purports to have been made. The probates or letter cases shall take the form of ordinary grant of probate or letters of administration with the will annexed without any exception or limitation, and issue to an executor or other person authorised in usual course of representation to take the same.**

**38. In case of doubt or difficulty in any non-contentious matters, the Registrar may obtain the direction of the Court or call upon the petitioner to move the Court for direction, when an application is on file.**

Contentious Business

**39. Caveats. - Any person intending to oppose the issuing of a grant of probate, or letters of administration must, either personally or by his advocate, file a caveat in the office of the [Additional Registrar or] [Inserted by Notification No. 45-I-9-3-37, dated 12-5-1976.] Deputy Registrar in Form No. 16. No caveat shall effect any grant made on the day on which the caveat is filed. Notice of the filing of the caveat shall be given by the Registrar to the petitioner or his advocate (Form No. 17).**

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

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

**42. Consequence of non-compliance. - Where the caveator fails to file any affidavit in support of his caveat in compliance with Rule 40 or in compliance with the notice issued under Rule 41, the caveat may be discharged by an order to be obtained on application to the Court.**

**43. Conversion of application into suit. - Upon the affidavit in support of the caveat being filed (notice whereof shall immediately be given by the caveater to the petitioner), the proceedings shall be numbered at a suit in which the petitioner for probate or letters of administration shall be the plaintiff, and the caveator shall be the defendants, the petition for probate or letters of administration being registered as and deemed a plaint filed against the caveater, 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, according to the provisions of the Code of Civil Procedure, 1908.**

**44. Proof in solemn form. - 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 witnesses 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 cost of the other side, unless the Court shall be of opinion that there was no reasonable ground for opposing the will.**

**45. Trial on preliminary issue. - The Court may, on the application of the petitioner before directing that the proceedings be numbered as a suit direct the trial, of an issue as to the caveator's interest, upon the trial of such issue it appears that the caveator has no interest, the Court shall order the caveat to be discharged, and may order to issue to probate or letters of administration, as the case may be.**

**46. Notice of application to whom to be given. - The Registrar shall give notice of grants of certification for probate or letters of administration to the Chief Revenue Controlling Authority, and the Collector of the district within one week after the admission of the application.**

**47. Disposal of petitions for non-prosecution. - All testamentary petitions in which grants or certificates are not issued, owing to non-prosecution of the petitions for two years after the petitions have been filed, shall be treated as disposed of, and no action shall be taken in such petitions, unless a fresh petition is filed or an order obtained from the Testamentary Judge (in Chambers), giving permission to the petitioner to proceed with the petition already filed.**

**48. Administrator-General's Act. - Nothing in the rules in this chapter shall apply to application or acts to be done by the Administrator-General, in so far as they conflict with the provisions of the Administrator-General's Act**

The ScheduleFormsForm No. 1Petition for Probate of a will(Title)Petition for probate of the will of.....(a) Deceased.....Petitioner States-(1)That the above-named.....(b) died at.....on or about the.....day of.....19.....(2)That the said Deceased at the time of his death left (c) property within the Madhya Pradesh.(3)That the writing, hereto annexed is the last will and Testament of the said.....(4)That the said will was duly executed....(d) on the.....day of 19...(5)That the petitioner is the Executor.....(e) named in.....(f) the said will.(6)The petitioner has truly set forth in Annexure I to his affidavit of valuation filed herewith all the property

and credits which the deceased died possessed of or entitled to at the time of his death which have or are likely to come to his hands, and so far as the petitioner has been able to ascertain, or is aware, there are no property and credits other than what are specified in Annexure I aforesaid.(7)That the petitioner has also truly set forth in Annexure II to his affidavit aforesaid (g) all the items that by law he is allowed to deduct.(8)That the said assets, exclusive of what the deceased may have been possessed of or entitled to as a trustee for another and not beneficially or with power to confer a beneficial interest, and also exclusive of the items mentioned in the said Annexure II, but inclusive of all rents, interests and dividends and increased value since the date of his death are under the value of Rs.....(9)That the said Deceased left him serving the following relatives as his only next of kin according to (h) law :- (i).....(Set out full names and address showing (ii).....relationship of each to the deceased and (iii).....also specifying who are minors).(10)That no (i) application has been made to any District Court or to any other High Court for probate of any will of the said District or for letters of administration with or without the will annexed to his property and credits.(11)That the petitioner hereby undertakes duty to administer the property and credits of the said.....and in any way concerning his will by paying first his debts and then the legacies therein bequeathed so far as the assets will extend and to make a full and true inventory thereof and exhibit the same in this Court within six months from the date of grant of probate to the petitioner, and also to render to this Court a true account of the said property and credits within one year from the said date.The petitioner prays that probate may be granted to him having effect throughout the Madhya Pradesh (j).I.....the petitioner above named to solemnly declare that what is stated in paragraphs is true to my own knowledge and that what is stated in paragraphs is true to information received from and believed to be true.....Petitioner.(a)Insert name in full and profession, if Deceased was a bachelor or spinster that should be stated.(b)Insert name of the Deceased.(c)Or, had a fixed place of abode within.(d)State where.(e)Or, one of the executors.(f)Or, according to the tenor thereof.(g)Full particulars of debts due by the estate including name of creditors, of claim and the dates when they became due must be given in the Schedule.(h)Here state what law.(i)Or, if made, state to what Court, by what person and proceedings has been had. (j) Or, throughout the territory of India.

Form No. 2Affidavit of Attesting Witnesses(Rule 5)(Title)In the Matter of the petition for probate of the last will and Testament of DeceasedAffidavitI.....of.....make oath (or solemnly affirm) and say as follows :- (1)That I knew and was well acquainted with the Deceased above-named.(2)That on the day of I was present together with at.....and we did then and there see the said Deceased set and subscribe his name at foot, of the Testamentary paper in the language and character hereunto annexed and marked with the letter "A" and declare and publish the same as and for his last will and Testament.(3)That thereupon I, the Deponent and the said.....did at the request of the said Deceased and in his presence and in the presence of each other all being present at the same time set and subscribe our respective names and signatures at foot of the said testamentary paper as witnesses thereto.(4)That the name and signature subscribed at foot of the testamentary paper as of the party executing the same is in the paper handwriting of the said Deceased and the name, signature and additions also subscribed and written at foot of the said testamentary paper as of the parties attesting execution of the same are in the proper respective hand writings of the said and of me this Deponent respectively.(5)That at the time of the said Deceased so subscribed his name and signature to the said Wills as aforesaid the said Deceased was of sound and disposing mind, memory and understanding, and to the best of my belief made and published the same of his free will and pleasure.DeclarantSworn before me on

the.....day of.....19.....by.....son of.....who is personally known to me (or) who has been identified by.....whose signature is/signatures are thereto appended.(Seal).....(Signature)(Designation)Form No. 3

## of Property of the Deceased

(Rule 5)(Title)Petition for.....PetitionerAnnexure AValuation of the movable and immovable property

Rs. as. p.

Cash in the house and at the banks, household goods, wearing apparel, books plate, jewels, etc. ....

(State estimated value according to best of executor's or administrator's belief) .....

Property in Government Securities transferable at Public Debt Office. ....

(State description and value at the price of the day; also the interest separately calculating it to the time making the application). ....

Immovable property consisting of :- .....

(State description giving, in the case of houses, the assessed value, if any; and the number of years' assessment, the market value is estimated at, and, in the case of land, the area, the market value and all rents that have accrued).

Lease hold property :- .....

(If the Deceased held any leases for years determinable, state the number of years' purchase, the profit rents estimated to be worth and the value of such, inserting separately arrears due at the date of death and all rents received or due since that date to time of the making the application).

Property in public companies :- .....

(State the particulars and the value calculated at the price of the day; also the interest separately calculating it to the time of, making the application).

Policy of insurance upon life money out on mortgage and other securities, such as bonds, mortgages, bills, notes, and other securities, for money).

(State the amount of the whole, as the interest separately calculating it to the time of making the application).



Book Debts :-	.....
(Other than bad).	
Stock in trade :-	.....
(State the estimated value, if any).	
Other property not comprised under the foregoing heads :-	.....
(State the estimated value, if any).	
Total	-----
Deduct amount shown in Annexure B not subject to duty	
Net Total	-----

PetitionerAnnexure B

**of debts etc.**

	Rs. as. p.
Amount of debts due and owing from the deceased, payable bylaw out of the estate, (a)	.....
Amount of funeral expenses	.....
Amount of mortgage encumbrances	.....
Property held in trust not beneficially	.....
or with general power to convert a beneficial interest	.....
Other property not subject to duty	.....
Total	-----

Petitioner(a)Full particulars of debts with names of creditors and dates of debts must be given. Form No. 4Petition for letters of administration(Rule 6)(Title)Petition for Letters of Administration of the Property and Credits of (a).....Deceased.....Petitioner.States :-(1)That the above named died at on or about the day of 19...(2)That the said Deceased at the time of his death left (b) property within the Madhya Pradesh.(3)That the said Deceased died intestate and that due and diligent search has been made for a will but none has been found.(4)That the said Deceased left him surviving as his only next-of kin (or, the following legal representatives) according to (c) law.(Set out the full names and addresses showing the relationship of each to the Deceased, and specifying who are minors).(5)That the Petitioner (d) of the Deceased claims to be entitled to a share of his estate.(6)That the petitioner has truly set forth in annexure I to this affidavit of valuation filed herewith all the property and credits which the deceased died possessed of or entitled to at the time of his death which have or are likely to come to the petitioner's hands, and, so far as the petitioner has been able to ascertain, or is aware, there is no property and credits other than what are specified in Annexure I aforesaid.(7)That the petitioner has also truly set forth in Annexure II to his affidavit, aforesaid (e) all the items that by law he is allowed to deduct.(8)That the said assets exclusive of what the Deceased may have been possessed of or entitled to as a trustee for another and not beneficially or with power to confer a beneficial interest, and also exclusive of the items mentioned in the said Annexure II, but inclusive of all rents, interest and dividends and increased value since

the date of his death are under the value of Rs....(9)That the (f) application has been made to any District Court or to any High Court for probate of any will of the said Deceased or letters of administration with or without the will annexed to his property and credits.(10)That the petitioner hereby undertakes duly to administer the property and credit of the said Deceased and to make a full and true inventory thereof and exhibit the same, in this Court, within six months from the date of the grant of letters of administration to him and also to render to this Court a true account of the said property and credits within one year from the said date.The petitioner, therefore, prays that letters of administration, may be granted to him having effect throughout the Madhya Pradesh (g),I.....the petitioner above-named, do solemnly declare that what is stated in paragraphs.....is true to my own knowledge and that what is stated in paragraphs.....is true to information received from and believed to be true.....Petitioner.(a)Insert name in full and profession. If Deceased was a bachelor or spinster that should be stated.(b)Or, had a fixed place of abode within.(c)Here state what law.(d)State the relationship to the Deceased.(e)Full particulars of debts due by the estate, including names of creditors, amounts of claims and the dates, when they became due, must be given in the Schedule.(f)Or, if made, state to what Court, by what person and what proceedings have been had.(g)Or, throughout the territory of India.Form No. 5Petition for Letters of Administration with will annexed(Rule 7)(Title)Petition for Letters of Administration with Will annexed of the Property and Credits of

(a).....Deceased.....Petitioner.States :-(1)That the above named.....(b) died at.....on or about the day of.....19....(2)That the said Deceased at the time of his death left (c) property within the Madhya Pradesh.(3)That the writing hereto annexed and marked 'A' is his last Will and Testament.(4)That the said Will was duly executed.....(d) on the.....day of.....19....(5)That by the said Will the Deceased appointed (e) sole Executor thereof, but he has since died, namely on the.....day of.....19.... without proving the said Will, and that the petitioner is the (f)..... of the Deceased.(6)That the petitioner has truly set forth in Annexure I to his affidavit of valuation filed herewith all the property and credits which the Deceased died possessed of or entitled to at the time of his death which have or are likely to come to his hands, so far as the petitioner has been able to ascertain, or is aware, there are no property and credits other than what are specified in Annexure I aforesaid.(7)That the petitioner has also set forth in Annexure II to his affidavit aforesaid (g) all the items that by law he is entitled to deduct.(8)That the said assets, exclusive of what the Deceased may have been possessed of or entitled to as a trustee for another or others and not beneficially or with power to confer a beneficial interest, and also exclusive of all rents, interests and dividends and increased value since the date of the Deceased's death are under the value of Rs.....(9)That the said Deceased left him surviving the following relatives as his only next-of-kin according to (h).....law :-(i).....(Set out names and addresses showing;(ii).....relationship of each to the Deceased; and(iii).....also specifying who are minors).(10)That no (i) application has been made to any District Court or to any other High Court for probate of any Will of the said Deceased or letters of administration with or without the Will annexed to his property and credits.(11)That the petitioner hereby undertakes duly to administer the property and credit of the said and in any way concerning his Will by paying first his debts and then the legacies, therein bequeathed so far as the assets will extend and to make a full and true inventory thereof and exhibit the same in this Court within six months from the date of grant of letters of administration to the petitioner, and also to render to this Court, a true account of the said property and credits within one year from the said date.The petitioner prays that letters of administration

with the said Will annexed may be granted to him as the of the said Deceased having effect throughout the Madhya Pradesh (j).I.....the petitioner above-named do solemnly declare that what is stated in paragraphs is true to my own knowledge, and what is stated in paragraphs is true to information received from and believed to be true.....Petitioner(a)Insert name in full and profession, if Deceased was a bachelor or spinster that should be stated.(b)Insert name of the Deceased.(c)Or, had a fixed place of abode within.(d)State where.(e)Or, no executor, as the case may be.(f)Enter relationship.(g)Full particulars of debts due by the estate including names of creditors, amounts of claims and dates when they became due must be given in the Schedule.(h)Here state what law.(i)Or, state if prior application made.(j)Or, throughout the territory of India.

Form No. 6(Rule 8)Petition for succession certificate in respect of certain sureties/ debts belonging to deceasedIn the High Court of Judicature at Nagpur.Testamentary and Intestate Jurisdiction.....PetitionerStates :-(1)That the above-named [.....] [Insert name of the Deceased.] died at.....on or about the.....day of.....19.....(2)That the said Deceased died intestate and that due and diligent search has been made for a Will but none has been found.ORThe said deceased leaving a Will dated and executed at a copy of which is hereto annexed and marked 'A'.(4)That the said Deceased at the time of his death left him surviving his only next-of-kin according to (a).....law residing at-(5)That the petitioner as.....(b) of the Deceased claims to be entitled to a.....share of the estate.(6)That there is no impediment under Section 370 of the Indian Succession Act, 1925 or under any other provision of this Act or any other enactment to the grant of the certificate or the validity thereof, if it were granted.(7)That the petitioner has truly set forth in Schedule I hereto the securities in respect of which the certificate is applied for. The succession certificate is required for purpose of (c).....The said assets in respect of which the succession certificate is required are under the value of Rs.....(8)That no application has been made to any District Court or Delegate or to any High Court for probate of any Will of the said Deceased or for letters of administration without the Will annexed to his property and credits.(9)That no application for succession certificate in respect of any debt or security belonging to the estate of the Deceased has been (d) made to any District Court or Delegate or to any High Court.The petitioner, therefore, prays that a succession certificate may be granted to the petitioner in respect of debts and securities set forth in Schedule I hereto with power to.....I.....the petitioner above named do solemnly declare that what is stated in paragraphs is true to my knowledge and that what is stated in the remaining paragraphs is true to information received from and believed to be true.....Petitioner(a)State Law.(b)State relationship to the Deceased.(c)Mention the purpose for which the certificate is required.(d)Or if made, state to what Court, by what person and what proceedings have been taken.

Form No. 7(Rule 8)Petition for succession certificate in respect of certain securities belonging[To.....Deceased.] [Insert name in full and profession. If deceased was a bachelor spinster that should be stated.]In the High Court of Judicature at NagpurTestamentary and Intestate Jurisdiction.....PetitionerI.....undertake that I will well and truly administer the securities (or debts) comprised in the succession certificate to be granted to me and that I will render a true account thereof unto the High Court of Judicature at Nagpur within one year from the date of grant to be made to me or within such further time as the Court may from time to time appoint.....PetitionerForm No. 8(Rule 9)Certificate that court fee has been madeI hereby certify that intimation has been received by this Court from any other High Court or any District Court of any grant of probate of any Will or letters of administration of the property and credits of the above-named Deceased having effect throughout the territory of India.

Dated this.....day of....19.....RegistrarForm No. 9(Rule 10)Certificate that court-fee has been paidI hereby certify that the ad valorem fee prescribed by Schedule I clause II of the Court-fees Act, 1870 amounting to Rs..... has been paid.Dated this.....day of.....19.....RegistrarForm No. 10[Rule 23]Citation (Ordinary Form)(Title)CitationWhereas an application (a copy whereof is attached) has been made to this Court by.....of.....for the grant of probate of the Will/letters of administration to the estate/succession certificate in respect of any debt or securities belonging to the estate the Deceased who died at.....on the day of.....19...And whereas the day of 19...has been fixed for hearing the said application This Citation is issued calling upon you, should you claim to have any interest in the estate of said Deceased, to come and see the proceedings before the grant of probate (or letters of administration, or succession certificate).Given under my hand and the seal of the Court this.....day of 19.....Advocate of applicantDeputy RegistrarTo,.....Form No. 11[Rule 23]Citation (By Advertisement)(Title)CitationWhereas application has been made of for the grant of probate of the Will/letters of administration to the estate/succession certificate in respect of any debt or securities belonging to the estate of the deceased who died at on 19.....And whereas the day of.....19...has been fixed for hearing of the said application. This citation is issued calling upon all persons claiming to have any interest to come and see the proceeding if they think fit before the grant of probate (or letter of administration or succession certificate).Given under my hand the seal of the Court this.....day of.....19.....Deputy Registrar.Form No. 12[Rule 28]Bond (Ordinary form)(Title)BondKnow all men by these presents that we, A.B. of C.D. of.....and E.F. of.....are held and firmly bound unto the Hon'ble.....the Chief Justice of the High Court of Judicature at Nagpur, in the sum of Rupees.....of good and lawful money to be paid to the said Hon'ble the Chief Justice of the said High Court for the time being for with payment we do hereby bind ourselves, each of us binds himself for the whole, our and each of our heirs, executors, and administrators, unto the said Hon'ble.....the Chief Justice, his successor in office, or assigns firmly by these presents.Signed and dated the.....day of.....One thousand Nine Hundred and.....The conditions of the above written obligation is such that of the above bounden.....the administrator (s) of the property and creditors of.....Deceased do make or cause to be made a full and true inventory, of all the estate of the said Deceased which has or shall come to the hands, possession, or knowledge of him/them the said Administrator (s) or into the hands of any other person or persons for him/them, and the same so made do exhibit or cause to be exhibited into the High Court, at or before the.....day of.....next ensuing or within such further time as the Court may from time to time appoint.And the same estate, and all other estate of the said Deceased at the time of his/her death, which, at any time after, shall come to the hands or possession of the said Administrator(s) or of any other person or persons for him/them do administer according to law.And further do make, or cause to be made, a true and just account of his/their said administration at or before the.....day of.....One Thousand Nine Hundred and.....or within such further time as the said High Court may from time to time appoint. All the rest and residue of the said estate shall deliver and pay into such person or persons respectively as shall be lawfully entitled in such residue. [And if it shall hereafter appear that any last Will was made by the said Deceased and the executor or executors therein named to exhibit the same into the said High Court, if the said Administrator(s) being thereunto required to render and deliver the said letter of administration to him/them granted (approbation of each Will being first had and made in the said Court) then this

obligation to be void and of no effect, else to remain in full force.]Signed by the said A.B.C.D. and E.F. in the presence of.....Note. - The portion within square brackets to be omitted if the grant is made with a copy of the Will annexed.Form No. 13[Rule 31]Bond (Insurance Co.)(Title)BondKnow all men by these presents that I,.....and we.....Insurance Co. Limited carrying on business in the Madhya Pradesh at through.....(hereinafter called and Company) are held and firmly bound unto the Hon'ble.....the Chief Justice of the High Court of Judicature at NagpuV, in the sum of Rupees.....of good and lawful money to be paid to the said Hon'ble..... the Chief Justice of the said High Court for the time being for which payment I, the said do hereby bind ourselves, for the whole my heirs, executors, and administrators, and we the company for ourselves and our successors do bind and oblige ourselves for the whole unto the said Hon'ble.....the Chief Justice, his successor in office, or assigns firmly by these presents and we the Company do hereby submit ourselves to the jurisdiction of the said High Court. Signed by the said and also sealed with the seal of the said Company and dated the.....day of.....One Thousand Nine Hundred and.....The condition of the above written obligation is such that if the above bounden.....the administrator (s) of the property and creditors of.....Deceased do make a full and true inventor, of all the estate of the said Deceased which has or shall come to the hands, possession of any other person or persons for him/them, and the same so made do exhibit or cause to be exhibited into the High Court, at or before the.....day of.....next ensuing or within such further time as the Court may from time to time appoint.And the same estate, and all other estate of the said Deceased at the time of his/her death, which, at any time after, shall come to the hands or possession of the said Administrator(s) or of any other person or persons for him/them do administer according to law.And further do make, or cause to be made, a true and just account of his/their said administration at or before the.....day of.....One Thousand Nine Hundred and.....or within such further time as the said High Court may from time to time appoint.All the rest and residue of the said estate shall deliver and pay into such person or persons respectively as shall be lawfully entitled in such residue.[And if it shall hereafter appear that any last Will or testament was made by the said Deceased and the executor or executors therein named to exhibit the same into the High Court making request to have if allowed and approved accordingly, if the above bounden being thereunto required, do render and deliver the letters of administration to him/them granted (approbation of such testament being first had and made in the said High Court) then this obligation to be void and of no effect, else to remain in full force.]Signed by the said .....in the presence of.....Signed on behalf of the said Company by.....and in the presence of.....Note. - The portion within square brackets to be omitted if the grant is made with a copy of the Will annexed.Form No. 14[Rule 36]Inventory(Title)Inventory(To be filed within six months from grant of probate or letters of administration)Property in possession of Executor or Administrator

Immovable property		Movable property			
Description	Government revenue payable (if any)	Recorded rental (if any)	Estimated market value	Description	Estimated value
1	2	3	4	5	6
	Rs.	Rs.	Rs.		Rs.

**Credits Debits Property bequeathed by Will of Deceased**

Amount due to estates	From whom due	Nature of Security (in any)	Amount due	To whom due by estate	On what account	Amount or value	To whom bequeathed
7	8	9	10	11	12	13	14
Rs.			Rs.	Rs.		Rs.	Rs.

Note - This inventory must be verified in the form prescribed by Rules 36. Form No. 15 (Rule 36) Account (To be filed within one year from grant of probate or letter of administration)

**Assets**

Property in possession of executor under the Inventory From No.	Income from such property	Credits realised out of those entered in the inventory	Other assets or credits recovered or realised	Total assets which have come into the hand as of executors or administrator up to date of filing the account
1	2	3	4	5

**Application or disposal of assets**

Debts paid out of those entered in the inventory	Legacies paid out of those entered in the inventory	Other payments made so	Total payment
6	7	8	9

Note. - This account must be verified in the form prescribed by Rule 36. Form No. 16 (Rule 39) Caveat (Title) Caveat..... Caveator (Name, address, description and occupation of Caveator). Sir, Let nothing be done in the matter of the estate of the above-named deceased, who filed..... at on or about the..... day of..... 19.... without due notice to the above-named Caveator, Yours faithfully, Dated at..... day of..... 19... Advocate for the Caveator. Form No. 17 (Rule 39) Notice of a Caveat (Title) To Advocate for the petitioner Take notice that on the..... 19.... a caveat was filed in this Court in the above petition by..... Yours faithfully, Registrar Registrar's Office The..... day of..... 19...

## Chapter XVIII

### Rules under Section 77 of The Trade Marks Act, 1940

(Act V of 1940) No. 3711, Nagpur, dated 8-5-1956. - In exercise of the powers conferred by Section 77 of the Trade Marks Act, 1940 (Act V of 1940), and all other powers hereunto enabling, the High Court of Judicature at Nagpur has made the following rules :-

**1. Saving and commencement. - These rules are in addition to and not in derogation of the general rule applicable to petitions, which shall also apply 'mutatis mutandis' to the petition under the Act. They shall come into force from the date of their application in 'Madhya Pradesh Gazette'.**

**2. Definitions. - In these rules :-**

(a)'Act' means the Trade Marks Act, 1940 (V of 1940);(b)'the Registrar' means the Registrar of Trade Marks and includes the Deputy Registrar of Trade Marks or any officer to whom the powers of the Registrar of Trade Marks are delegated under the Act;(c)'the Deputy Registrar (judicial)' includes any Deputy Registrar of the High Court of Judicature at Nagpur.

**3. Title of application. - Applications, affidavits and proceedings under the Act shall be entitled :-**

In the matter of the Trade Marks Act, 1940, and In the matter of (state the particular trade mark in question)

**4. Mode of applications and appeals. - Applications and appeals under the Act shall be made by petition supported by affidavit.**

**5. Jurisdiction. - All matters under the Act shall ordinarily be heard by a Judge, sitting singly.**

**6. Service on Registrar. - Notice of all applications and appeals to the Court, unless rejected summarily shall be served on the Registrar who may appear and be heard and shall appear, if so directed by the Court.**

**7. Stay of pending suits or proceedings. - If any application or appeal is made to the High Court under the Act and any suit or other proceeding concerning the trade mark in question is pending before the High Court or any District Court, the High Court may stay such suit or proceedings, until the disposal of the said application or appeal.**

**8. Reference under Section 72 (b). - (a) Where the Registrar makes a reference to the High Court under Section 72 (b) of the Act, he shall give notice hereof to the parties concerned.**

(b)On receipt of the reference, the Deputy Registrar (Judicial) shall fix a date not less than 6 weeks ahead, for hearing the same and inform the Registrar. The Registrar shall give not less than 7 days'

notice of the date to the parties concerned.

**9. Procedure for withdrawal of application under Section 76 (2). - Where under Section 76 (2) of the Act, an applicant becomes entitled and intends to withdraw his application for registration, he shall give notice of the intention in writing to the Registrar and to the other parties, if any, to the appeal within one month after the permission of the Court to advance additional grounds has been obtained. He shall also give notice to the Deputy Registrar (Judicial) who shall thereupon place the appeal on the list for disposal.**

**10. Order of rectification to be sent to Registrar. - A certified copy of every order, directing the rectification of the register, shall be sent by the Deputy Registrar (Judicial) to the Registrar who shall thereupon rectify register accordingly. The cost of the certified copy shall be borne by the applicant or appellant, as the case may be.**

**11. Registration of cases. - (a) All original petitions and references shall be registered as miscellaneous civil cases and appeals as first appeals or miscellaneous civil appeals.**

(b) In a reference under Section 72 (b) the Registrar shall be shown as the applicant and the person or persons at whose instance the reference is made as the opposite party.

## **Chapter XIX**

**[Rules under Section 27 of The Wealth Tax Act, 1957] [These rules are framed vide Notification No. 10048-1-14-3-63, published in the M.P. Gazette, Part IV, dated 29-11-1963.]**

[Act No. 27 of and under Section 26 of the Gift Tax Act, 1958 (Act No. 18 of 1958).]

**1. The rules made by this Court on 26th May, 1954, for proceedings under Section 66 of the Indian Income Tax Act, 1922 shall also be read as rules made to regulate proceedings under Section 27 of the Wealth Tax Act, 1957 or under Section 26 of the Gift Tax Act, 1958.**

**2. References in the said rules to the Income Tax Act, or to assessing and appellate authorities and reference to the rules or officers of the Income Tax Appellate Tribunals shall be read as references to corresponding provisions,**



**authorities, rules or officers in or in respect of the Wealth Tax Act or the Gift Tax Act.**

## **Chapter XX**

### **Amendments in Civil Procedure Code by M.P. High Court**

Notification. No. 5283-A, published in M.P Rajpatra, dated 16-6-1960, Part 4 (Ga). - In exercise of the powers conferred by Section 122 of the Code of Civil Procedure, 1908 (V of 1908), and in supersession of all previous amendments in the Code which are now in force in any part of Madhya Pradesh, the High Court of Madhya Pradesh, Jabalpur is pleased to make, with the previous approval of the State Government, the following amendments to the rules in the First Schedule to the Code of Civil Procedure :-AmendmentsOrder III(1)Substitute the following for clause (a) of Rule (2) :-"Person holding on behalf of such parties either (i) a general power-of-attorney, or (ii) in the case of proceedings in the High Court of Madhya Pradesh, an advocate of that High Court and in the case of proceedings in any district, any advocate, or a pleader to whom as an and for that district has been issued, holding the requisite special power-of-attorney from parties not resident within the local limits of the jurisdiction of the Court within which limits the appearance, application or act is made or done, authorising them or him to make and do such appearance, applications and acts of behalf of such parties."(2)Rule 5. - Substitute "on a pleader who has been appointed to act for any party" for "on the pleader of any party."Order IV(3)Rule 1. - Substitute the following for sub-rule (1) :-"(1) Every suit shall be instituted for presenting to the Court or such officer as it appoints in this behalf a plaint, together with as many true copies on plain paper as there are defendants for service with the summons upon each defendant, unless the Court, for good cause shown, allows time for filing such copies."(4)Rule 1. - Insert the following as sub-rule (2) re-numbering the existing sub-rule (2) as sub-rule (3) :-"The court-fee chargeable for such service shall be paid in the case of suits when the plaint is filed, and in the case of all other proceedings when the process is applied for."Order V(5)Rule 15. - Substitute "When the defendant is absent or cannot be personally served" for "Where in any suit the defendant cannot be found."(6)Rule 17. - Add at the end of the rule the following proviso :-"Provided that where a special service has been issued and the defendant refuses to sign the acknowledgement it shall not be necessary to affix a copy as directed hereinbefore."(7)Rule 25. - Substitute "may" for "shall".(8)Rule 25-A. - Add the following as Rule 25-A :-"25-A. Service where defendant resides in India but outside Madhya Pradesh. - Where the defendant resides in India but outside the limits of Madhya Pradesh, the Court may, in addition to any other mode of service, send the summons by registered post to the defendant at the place where he is residing or carrying on business. An acknowledgement purporting to be signed by him, or an endorsement by a postal servant that the defendant refused service may be deemed by the Court issuing the summons to be prima facie proof of service."(9)Rule 26. - Insert "In addition to or in substitution for the method permitted by Rule 25" between the words "may" and "be sent".Order VII(10)Rule 9. - Substitute the following for the existing rule :-"9.(1) The plaintiff shall endorse on the plaint or annex thereto a list of the documents (if any) which he has produced along with it.(2)The Chief Ministerial Officer of the Court shall sign such lists and the copies of the plaint presented under Rule 1 of Order IV, if on examination, he finds them to be correct."(11)New Rules 19 to 23. - Add the following as Rules 19 to 23 :-"19. Registered address. - Every plaint or original

petition shall be accompanied by a memorandum giving an address at which service of process may be made on the plaintiff or the petitioner. The address shall be within the local limits of the civil district in which the plaint or original petition is filed, or, if an address within such civil district cannot conveniently be given, within the local limits of the civil district in which the party ordinarily resides. This address shall be called the 'registered address' and it shall hold good throughout interlocutory proceedings and appeals and also for a further period of two years from the date of final decision and for all purposes including those of execution.

**20. Registered address by a party subsequently added as plaintiff or petitioner. - Any party subsequently added as plaintiff or petitioner shall in like manner file a registered address at the time of applying or consenting to be joined as plaintiff or petitioner.**

**21. Consequences of non-filing of registered address. - (1) If the plaintiff or the petitioner fails to file a registered address as required by Rule 19 or 20, he shall be liable, at the discretion of the Court, to have his suit dismissed or his petition rejected.**

An order under this rule may be passed by the Court suo motu or on the application of any party. (2) Where a suit is dismissed or a petition rejected under sub-rule (1) the plaintiff or the petitioner may apply for an order to set the dismissal or the rejection aside and if he files a registered address and satisfies the Court that he was prevented by any sufficient cause from filing the registered address at the proper time, the Court shall set aside the dismissal or the rejection upon such terms as to costs or otherwise as it thinks fit, and shall appoint a day for proceeding with the suit or petition.

**22. Affixing of process and its validity. - Where the plaintiff or the petitioner is not found at his registered address and no agent or adult male member of his family on whom a process can be served is present, a copy of the process shall be affixed to the outer door of the house and such service shall be deemed to be as effectual as if the process had been personally served.**

**23. Change of registered address. - A plaintiff or petitioner who wishes to change his registered address shall file a verified petition and the Court shall direct the amendments of the record accordingly. Notice of such petition shall be given to such other parties to the suit or proceedings as the Court may deem it necessary to inform".**

Order VIII(12) New Rules 11 to 13. - Add the following as Rules 11 to 13 :- "11. Registered address. - Every defendant in a suit or opposite party in any proceedings, shall on the first day of his appearance in Court file a memorandum giving an address for service on him of any subsequent

process. The address shall be within the local limits of the civil district in which the suit or petition is filed or, is an address within the limits of such civil district in which the party ordinarily resides. This address shall be called the 'registered address' and it shall hold good throughout interlocutory proceedings and appeals and also for a further period of two years from the date of final decision and for all purposes including those of execution.

**12. Consequence of non-filing of registered address. - (1) If the defendant or the opposite-party fails to file a registered address as required by Rule 11 he shall be liable, at the discretion of the Court, to have his defence struck out and to be placed in the same position as if he had made no defence.**

An order under this rule may be passed by the Court suo motu or on the application of any party. (2) Where the Court has struck out the defendant under sub-rule (1) and has adjourned the hearing of the suit or the proceeding and where the defendant or the opposite party at or before such hearing, appears and assigns sufficient cause for his failure to file the registered address he may upon such terms as the Court directs as to costs or otherwise be heard in answer to the suit or the proceeding as if the defence had not been struck out. (3) Where the Court has struck out the defence under sub-rule (1) and has consequently passed a decree or order, the defendant or the opposite party, as the case may be, may apply to the Court by which the decree order was passed for an order to set aside the decree or order; and if he files a registered address and satisfies the Court that he was prevented by any sufficient cause from filing the address, the Court shall make an order setting aside the decree or order as against him upon such terms as to costs or otherwise as it thinks fit, and shall appoint a day for proceeding with the suit or proceeding : Provided that where the decree is of such a nature that it cannot be set aside as against such defendant or opposite party only it may be set aside as against all or any of the other defendants or opposite parties.

**13. Rules 20, 22 and 23 of Order VII, shall apply so far as may be to addresses for service filed under Rule 11."**

Order IX(13) Rule 13. - (a) Re-number the existing rule as sub-rule (1). (b) Substitute "there was sufficient cause of his failure to appear" for "he was prevented by any sufficient cause from appearing" occurring in the sub-rule (1) so re-numbered. (c) Add the following as additional proviso and explanation to sub-rule (1) :- "Provided also that no such decree shall be set aside merely on the ground of irregularity in service of summons, if the Court is satisfied that the defendant knew, or but for his wilful conduct would have known of the date of hearing in sufficient time to enable him to appear and answer the plaintiff's claim. Explanation. - Where a summons has been served under "Order V, Rule 15, on an adult male member having an interest adverse to that of the defendant in the subject-matter of the suit, it shall not be deemed to have been duly served within the meaning of this sub-rule." (d) Add the following as sub-rule (2) :- "(2) The provisions of Section 5 of the Indian Limitation Act, 1908, shall apply to applications under sub-rule (1)." Order XIII(14) Rule 7. - Add the following as sub-rule (3) :- "(3) Every document produced in evidence which is not written in the Court language or in English, shall be accompanied by a correct translation into English; and every document which is written in Court language but in a script other than Devanagari shall be

accompanied by a correct transliteration into Devanagari script. If the document is admitted in evidence, the opposite party shall either admit the correctness of the translation or transliteration or submit his own translation or transliteration of the document."(15)Rule 9. - Insert the following as sub-rule (2) re-numbering the existing sub-rule (2) as sub-rule (3) :-"(2) Where the document has been produced by a person who is not a party to suit, the Court may order and at the request of the person applying for the return of the document shall order the party, at whose instance the document was produced to pay the cost of preparing a certifying copy."Order XVI(16)Rule 2. - Add the following as an exception to sub-rule (1) :-"Exception. - When applying for a summons for any of its own officers, Government and State Railway administrations will be exempt from the operation of sub-rule (1)."(17)Rule 3. - Substitute the following for the existing rule :-"3. (1) The sum so paid into Court shall, except in case of a Government servant or State Railway employee, be tendered to the person summoned, at the time of serving the summons if it can be served personally.(2)Where a party other than Government in a suit requests the Court to summon a Government servant or a Railway employee as a witness or to produce official documents, the party shall deposit with the Court a sum, which in the opinion of the Court, will be sufficient to defray the travelling and other allowances of the Government servant or the Railway employee, as the case may be, as for a journey on tour and out of the sum so deposited, the Court shall pay the Government servant or the Railway employee concerned, the amount of travelling and other allowances admissible to him as for a journey on tour."(18)Rule 4. - Insert the following between the words "summoned" and "as appears" in sub-rule (1):-"Or, when such person is a Government servant or a State Railway employee to be paid into Court".Order XVII(19)Rule 2. - Add the following as sub-rule (4) :-"(4) Notwithstanding anything contained in this rule, The Court may order that the production of evidence or the address to the Court may be in any order which it may deem fit."(20)For the existing Rule 5 of Order XVIII substitute the following :-"In cases in which an appeal is allowed, the evidence of each witness shall be taken down in writing, in the language of the Court or, in English, by or in the presence and under the personal direction and superintendence of the Judge not ordinarily in the form of question and answer, but in that of a narrative and, when completed, shall be read over in the presence of the Judge and of the witness, and the Judge shall, if necessary, correct the same and shall sign it."Order XX(21)Rule 11. - Substitute "and after notice to the decree-holder" for "and with the consent of the decree-holder" occurring in sub-rule (2).(22)For the existing Rule "20" of Order XX, substitute the following :-"20. Certified copies of judgement and decree shall be furnished to the parties on application, and at their expense.Applications for copies may be presented in person or by an agent or a pleader or sent by post to the head copyist of the office at the place where the record from which the copies are applied for, will eventually be deposited for safe custody. When copies from a record in the temporary custody of a Court at a station where there is no record-room are required, applications may be presented in person or by an agent or pleader to the senior Judge at that station :Provided that the Judge shall neither comply with applications received by post nor send copies by post."Order XXI(23)Rule 1. - Substitute, -(a)"decree order" for "decree", wherever it occurs in the rule, and the marginal note;(b)"by deposit in, or by postal money-order to", for the word "into" occurring in clause (a) of sub-rule (1);(c)"shall be given by the judgement-debtor to the decree-holder either through Court or direct by registered post", for "shall be given to the decree-holder" occurring sub-rule (2).(24)Rule 11. - Add the following proviso to sub-rule (2) :-"Provided that, when the applicant files with his application a certified copy of the decree the particulars specified in clause (b), (c) and (h) need not be given in the application."(25)Rule 16. -

Insert "or to any Court to which it has been sent for execution" after the words "which passed it." (26) Rule 17. - Substitute "the Court may allow the defect to be remedied then and there, or may fix time within which it should be remedied and, in case the decree-holder fails to remedy the defect within such time, the Court may reject the application", for "the Court may reject within a time to be fixed by it" occurring in sub-rule (1). (27) Rule 18. - Substitute the following for the existing rule :- "18. (1) Where decree-holders apply to a Court for execution of cross decrees in separate suits between the same parties for the payment of two sums of money passed and capable of execution at the same time by such Court, then, -(a) if the two sums are equal, satisfaction shall be entered upon both decrees; (b) if the two sums are unequal, execution may be taken out only by the holder of the decree for the larger sum and for so much only as remains after deducting the smaller sum, and satisfaction for the smaller sum, shall be entered on the decree for the larger sum as well as satisfaction on the decree for the smaller sum : Provided that - (i) each party fills the same character in both suits; (ii) the sums due under the decrees are definite. (2) This rule shall be deemed to apply where either applicant is an assignee of one of decree as well in respect of judgement debts due by the original assignor as in respect of judgement debts due by the assignee himself : Provided that - (i) where the decrees were passed between the same parties each party fills the same character in each suit; (ii) where the decrees were not passed between the same parties the decree-holder in one of the suits is the judgement-debtor in the other suit and fills the same character in both suits; and (iii) the sums due under the decrees are definite. (3) The holder of a decree passed against several persons jointly and severally may treat it as a cross-decree in relation to a decree passed against him singly in favour of one or more such persons." (28) Rule 22. - Add the following proviso to sub-rule (2) :- "Provided that no order of the execution of a decree shall be invalid by reason of the omission to issue a notice under this rule, unless the judgement-debtor has sustained injury by reason of such omission." (29) Rule 24. - Substitute "returned to the Court" for the word "executed" occurring at the end of sub-rule (3). (30) Rule 26. - Substitute "shall, unless good cause to the contrary is shown" for the word "may" occurring in sub-rule (3). (31) Rule 31. - Substitute "three months or such further time as the Court may, in any special case, for good cause shown, direct" the words "six months" wherever they occur in sub-rules (2) and (3). (32) Rule 32. - (a) In sub-rule (3), - (i) Substitute "three months" for "one year". (ii) Insert "and the Court may also, for good cause shown, extend the time for the attachment remaining in force for a period not exceeding one year" after the word "application"; and (b) in sub-rule (4) substitute "three months, or such further time as may have been fixed by the Court under sub-rule (3)" for "one year". (33) Rule 39. - (a) Delete the full stop at the end of sub-rule (1) and add the following :- "and for the cost of conveyance of the judgement-debtor from the place of his arrest to the Court-house." (b) Substitute the following as sub-rules (4) and (5) in place of the corresponding existing sub-rules :- "(4) Such sum (if any) as the Judge thinks sufficient for the subsistence and cost of conveyance of the judgement-debtor for his journey from the Court-house to the civil prison and from the civil prison, on his release, to his usual place or residence together with the first of the payments in advance under sub-rule (3) of such portion of the current month as remains unexpired, shall be paid to the proper officer of the Court before the judgement-debtor is committed to the civil prison and the subsequent payments (if any) shall be paid to the officer in charge of the civil prison. (5) Sums disbursed under this rule by the decree-holder for the subsistence and the costs of the conveyance (if any) of the judgement-debtor shall be deemed to be costs in the suit." (34) Rule 40. - Add the following as sub-rules (6), (7) and (8) :- "(6) When a judgement-debtor is ordered to be detained in the custody of an officer of the Court under sub-rule (2) or the proviso to

sub-rule (3) above, the Court may direct the decree-holder to deposit such amount as having regard to the specified or probable length of detention, will provide, -(a) for the subsistence to the judgement-debtor at the rate to which he is entitled under the scales fixed under Section 57; (b) for the payment to the officer of the Court in whose custody the judgement-debtor is placed of such fees (including lodging charges) in respect thereof as the Court may by order fix : Provided (i) that the subsistence allowance and the fees payable to the officer of the Court shall not be recovered for more than one month at a time; and (ii) that the Court may from time to time require the decree-holder to deposit such further sums as it deems necessary. (7) If a decree-holder fails to deposit any sum as required under sub-rule (6) above, the Court may disallow the application and direct the release of the judgement-debtor. (8) Sums disbursed by the decree-holder under sub-rule (6) shall be deemed to be costs in the suit: Provided that the judgement-debtor shall not be detained in the civil prison or arrested on account of any sum so disbursed." (35) Rule 43. - Substitute the following for the existing Rule 43 :- "43. Attachment of movable property other than agricultural produce in possession of judgement-debtor. - (1) Where the property to be attached is movable property, other than agricultural produce, in the possession of the judgement-debtor, the attachment shall be made by actual seizure, and the attaching officer shall keep the property in his own custody or in the custody of any of his subordinates and shall be responsible for the due custody thereof: Provided that, when the property seized is subject to speedy and natural decay or when the expense of keeping it in custody is likely to exceed its value the attaching officer may sell it at once : and Provided also that when the property attached consists of live-stock, agricultural implements or other articles which cannot be conveniently removed, and the attaching officer does not act under the first proviso to this rule, he may at the instance of the judgement-debtor or of the decree-holder or any person claiming to be interested in such property, leave it in the village or at the place where it has been attached -(a) in the charge of the judgement-debtor, or of the station pound-keeper, if any, or (b) in the charge of the decree-holder, or of the person claiming to be interested in such property or of such respectable person as will undertake to keep such property, on his entering into a bond with one or more sureties in an amount not less than the value of the property, that he will take proper care of such property and produce it when called for. (3) The attaching officer shall make a list of the property attached and shall obtain thereto the acknowledgement of the person in whose custody the property is left, and if possible, of the parties to the suit and of at least one respectable person in attestation of the correctness of the list. If the property attached includes both live stock and other articles, a separate list of the live-stock shall similarly be prepared and attested." (36) New Rule 43-A. - Insert the following, as Rule 43-A :- "43-A. Attachment of live-stock. - (1) When an application is made for the attachment of live-stock the Court may demand, in advance in cash at rates to be fixed half yearly, or oftener, if necessary, by the Courts with the sanction of the District Judge, the amount requisite for the maintenance of the live-stock from the probable time of attachment to the probable time of sale, or may, at its discretion, make successive demands for portions of such period. The rates shall include cost of feeding, tending and conveyance and all other charges requisite for the maintenance and custody of the live-stock. (2) If the live-stock be entrusted to any person other than the judgement-debtor, the amount paid by the decree-holder for the maintenance of the cattle or a part thereof, may, at the discretion of the Court, be paid to the custodian of the live-stock for their maintenance. The produce, such as milk, eggs, etc., if any, may either be sold as promptly as possible for the benefit of the judgement-debtor, or may, at the discretion of the Court, be set off against the cost of maintenance of the live-stock." (37) Rule 53. - Substitute, -(a) "to such other Court and to any

other Court to which the decree has been transferred for execution" for the word "to such other Court" occurring in clause (b) of sub-rule (1) and the sub-rule (4); and (b) the following as sub-clause (ii) of clause (b) of sub-rule (1) in place of the existing sub-clause, - (ii) the holder of the decree sought to be executed or his judgement-debtor with the consent of the said decree-holder expressed in writing or with the permission of the attaching Court applies to the Court receiving such notice to execute the attached decree". (38) Rule 54. - In sub-rule (2), delete the full stop at the end of sub-rule (2) and add the following :- "and also where the property is situate within cantonment limits, in the office of the local Cantonment Board and Military Estates Officer concerned." (39) Rule 54. - Add the following as sub-rule (3) :- "(3) The order shall take effect as against purchasers for value in good faith from the date when a copy of the order is affixed on the property and against all other transferees from the judgement-debtor from the date on which such order is made." (40) Rule 57. - Substitute the following for the existing rule :- "57. Where any property has been attached in execution of a decree and the Court for any reason passes an order dismissing the execution application, the Court shall direct whether the attachment shall continue or cease. If the Court omits to make any such direction, the attachment shall be deemed to have ceased to exist." (41) Rule 58. - Delete the full stop at the end of sub-rule (2) and add the following :- "Or, where the property to be sold is immovable property, the Court may, in its discretion, direct that the sale be held but shall not become absolute until the claim or objection is decided." (42) Rule 65. - Add the following :- "Such officer or person shall be competent to declare the highest bidder as purchaser at the sale provided that where the sale is made in, or within the precincts of the Court-house, no such declaration shall be made without the leave of the Court." (43) Rule 66. - Substitute a comma for the full stop at the end of clause (e) of sub-rule (2), and add the following :- "including the decree-holder's estimate of the approximate market price." (44) Rule 69. - Substitute "thirty days" for "seven days" in sub-rule (2). (45) Rule 75. - Insert "or where it appears to the Court that the crop can be sold to greater advantage in an unripe state" after the words "being stored" occurring in sub-rule (2). (46) Rule 85. - Add the following explanation :- "Explanation. - When an amount is tendered on any day after 1 p.m. but paid into Court on the next working day between 11 a.m. and 1 p.m. the payment shall be deemed to have been made on the day on which the tender is made." (47) Rule 89. - Substitute "any person claiming any interest in the property sold at the time of the sale or at the time of the petition, or acting for, or in the interest of, such person" for "any person, either owning such property or holding an interest therein by virtue of a title acquired before such sale" occurring in sub-rule (1). (48) Rule 9. - Add the following as additional proviso to sub-rule (1). "Provided also that no such application for setting aside the sale shall be entertained upon any ground which could have been, but was not put forward the applicant before the commencement of the sale." (49) Rule 92. - Insert the words "subject to the provisions of Rule 58(2)" after the word "make" occurring in sub-rule (1). (50) Rule 94. - Insert a comma and "the amount of the purchase money" between the words "sold" and "and". (51) Rule 98. - (a) Insert "or on his behalf" after the word "instigation" wherever it occurs. (b) Substitute a comma for the full stop at the end of the rule and add the following :- "and may order the person or persons who it holds responsible for such resistance or obstruction to pay jointly or severally, in addition to costs, reasonable compensation to the decree-holder or the purchaser, as the case may be, for the delay and expense caused to him in obtaining possession. The order made thereon shall have the same force and be subject to the same conditions as to appeal or otherwise as if it were a decree." (52) Rule 99. - Substitute "(other than the persons mentioned in Rule 95 or 98) for "(other than the judgement-debtor)." Order XXV (53) Rule 1. - Insert "or that any

plaintiff is being financed by a person not a party to the suit" at the end of the proviso to Rule 1 (1). (54) New Rule 3. - Add the following as Rule 3 :- "3. Power to implied and demand security from a third person financing litigation. - (1) Where any plaintiff has, for the purpose of being financed in suit, transferred or agreed to transfer any share or interest in the property in suit to a person who is not already a party to the suit, the Court may order such person to be made a plaintiff to the suit if he consents and may either of its own motion or on the application or any defendant order such person, within a time to be fixed by it, to give security for the payment of all costs incurred and likely to be incurred by any defendant. In the event of such security not being furnished within the time fixed, the Court may make an order dismissing the suit so far as his right to, or interest in, the property in suit is concerned or declaring that he shall be debarred from claiming any right to, or interest in the property in suit. (2) If such person declines to be made a plaintiff, the Court may implead him as a defendant and may order him, within a time to be fixed by it, to give security for the payment of all costs incurred and likely to be incurred by any other defendant. In the event of such security not being furnished within the time fixed, the Court may make an order declaring that he shall be debarred from claiming any right to, or interest in the property in suit. (3) Any plaintiff or defendant against whom an order is made under this rule may apply to have it set aside and the provisions of sub-rules (2) and (3) of Rule 3 shall apply mutatis mutandis, to such application." Order XXXII (56) Rule 3. - Substitute the following for the existing rule :- "3. Guardian for the suit to be appointed by Court for minor defendant. - (1) Where the defendant is a minor, the Court, on being satisfied of the fact of his minority, shall appoint a proper person to be guardian for the suit of such minor. (2) A person appointed under sub-rule (1) to be guardian for the suit for a minor shall, unless his appointment is terminated by retirement, removal or death, continue as such throughout all proceedings arising out of the suit including proceedings in any appellate or revisional Court and any proceeding in the execution of a decree." (56) Rule 4. - Substitute the following for the existing rule :- "4. Who may act as next friend or guardian for the suit. - (1) Any person who is of sound mind and has attained majority may act as next friend of a minor or as his guardian for the suit : Provided that the interest of such person is not adverse to that of the minor and that he is not, in the case of a next friend, a defendant, or in the case of a guardian for the suit a plaintiff. (2) Where a minor has a guardian appointed or declared by competent authority, no person other than such guardian shall act as the next friend of the minor or as his guardian for the suit unless the Court considers for reasons to be recorded, that it is for the minor's welfare that another person be permitted to act in either capacity'.

#### 4.

-A. Procedure for appointment of guardian for the suit. - (1) No person except the guardian appointed or declared by competent authority, shall without his consent, be appointed guardian for the suit. (2) An order for the appointment of a guardian for the suit may be obtained upon application in the name and on behalf of the minor or by the plaintiff. (3) Unless the Court is otherwise satisfied of the fact that the proposed guardian has no interest adverse to that of the minor in the matters in controversy in the suit and that he is a fit person to be so appointed, it shall require such application to be supported by an affidavit verifying the fact. (4) No order shall be made on any application for the appointment as guardian for the suit of any person, other than a guardian of the minor appointed or declared by competent authority, except upon notice to the proposed guardian for the



suit and to any guardian of the minor appointed or declared by competent authority, or where there is no such guardian, the person in whose care the minor is, and after hearing any objection that may be urged on a day to be specified in the notice. The Court may, in any case, if it thinks fit, issue notice to the minor also.(5)Where on or before the specified day such proposed guardian fails to appear and express his consent to act as guardian for the suit, or where he is considered unfit or disqualified under sub-rule (3), the Court may in the absence of any other person fit and willing to act, appoint any of its ministerial officers, or a legal practitioner, to be guardian for the suit. If a legal practitioner is appointed guardian for the suit, the Court shall pass an order stating whether he is to conduct the case himself or engage another legal practitioner for the purpose.(6)In any case in which there is a minor defendant, the Court may direct a sufficient sum shall be deposited in Court by the plaintiff from which sum the expenses of the minor defendant in the suit including the expense of a legal practitioner appointed guardian for the suit shall be paid. The costs so incurred by the plaintiff shall be adjusted in accordance with the final order passed in the suit in respect of costs."Order XLI(57)Rule 14. - Add the following as sub-rule (3):-"(3) The Appellate Court may in its discretion dispense with notice to any respondent against whom the suit was heard ex parte."(58)New Rule 15-A. - Insert the following as Rule 15-A :-"15-A. Failure to take necessary steps after admission of an appeal in the High Court. - Where, after admission of an appeal in the High Court, the Rules of the High Court require the appellant to take any steps in the prosecution of appeal before a fixed date, and where, after due service of a notice intimating the steps to the High Court, the Rules of the High Court require the appellant fails to take such steps within the prescribed time, the Court may direct the appeal to be dismissed for want of prosecution or may pass such other order as it thinks fit.(59)Rule 19. - Substitute sub-rule (2), or Rule 15-A, or Rule 17" for "sub-rule (2), or Rule 17".(60)Rule 21. - Re-number the existing rule as sub-rule (1) and add the following as sub-rule (2) :-"(2) The provisions of Section 5 of the Indian Limitation Act, 1908, shall apply to application under sub-rule (1)".(61)Below Rule 27. - After sub-rule (1)(a) insert the following as clause (b) and re-number the existing clause (b) as (c) :-"(b) the party seeking to adduce additional evidence, satisfies the Appellate Court that such evidence, notwithstanding the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree or order under appeal was passed or made; or"Order XLV(62)Rule 3. - Substitute the following for the existing sub-rule (2) :-"(2) Upon receipt of such petition, the Court, after sending for the record, and after fixing a day for hearing the applicant or his pleader and hearing him accordingly if he appears on that day, may dismiss the petition."(b)Add the following as sub-rule (3) :-"(3) Unless the Court dismisses the petition under sub-rule (2), it shall direct notice to be served on the opposite party to show cause why the said certificate should not be granted."(63)New Rule 7-A. - Insert the following as Rule 7- A :-"7-A. No such security as is mentioned in Rule 7(1), clause (a) shall be required from the Union of India, or where the State Government has undertaken the defence of the suit, from any public officer sued in respect of an act alleged to be done by him in his official capacity."Order XLVIII(64)Rule 1 (2). - Substitute the following for the words "The court-fee" occurring in sub-rule (2) :-"Except as provided in Order IV, Rule (2), the court-fee."Appendix E(65)From No. 38. - Insert "for Rs " between "the purchaser" and "at a sale."Appendix HMiscellaneous(66)Form No. 11. - Substitute the following for the existing form :-"No. 11.Notice to minor defendant and guardian[Order XXXII, Rule 4-A (Title)]To,Minor defendant,Legally appointed/Actual guardian,Proposed guardian.Whereas an application has been presented on the part of the plaintiff on behalf of the minor defendant for the appointment of you as

guardian of the Suit of the minor defendant.....([you the said minor] [The portion in brackets should be scored out if notice is to issue to the minor defendant.]) you.....his legally appointed/actual guardian and you.....the proposed guardian for the suit are hereby required to take notice that unless you, the proposed guardian, appear before this Court on or before the day appointed for the hearing of the case and stated in the appended summons, and express your consent to your appointment, or unless an application is made to this Court for the appointment of some other person to act as guardian of the minor for the suit, the Court will proceed to appoint an officer of the Court or a pleader or some other person to act as a guardian to the minor for the purposes of the said suit of which summons in the ordinary form is herewith appended. Given under my hand and the seal of the Court this.....day of.....19.....Judge[Published in M.P. Gazette Part IV (Ga), dated 16-6-1960]Section Three

## Chapter I

### **Rules for Proceedings under Article 226, Constitution of India [x x x] [Omitted by Notification No. 19, dated 9-5-1994 (w.e.f. 1-6-1994).]**

High Court of Judicature at NagpurNagpur the 30th March, 1951Final Rules Framed to Regulate ProceedingsNo. 2059. - In exercise of the powers conferred by Article 225 of the Constitution of India [x x x] [Omitted by Notification No. 19, dated 9-5-1994 (w.e.f. 1-6-1994).] and Clause 27 of the Letters Patent, the High Court of Judicature at Nagpur has made the following rules to regulate its proceedings under Article 226 of the Constitution of India [x x x] [Omitted by Notification No. 19, dated 9-5-1994 (w.e.f. 1-6-1994).].These rules will come into force from 1st May, 1951.

## **Part I – (Habeas Corpus)**

**1. (a) Any person desiring to apply to the High Court [x x x] [Omitted by Notification No. 19, dated 9-5-1994 (w.e.f. 1-6-1994).] for any direction, order or writ in the nature of habeas corpus under Article 226 of the Constitution of India shall file his application in the Registry.**

(b)The application shall be accompanied by an affidavit of the person restrained setting out the nature and the circumstances of the restraint and stating if any previous application had been filed or not on behalf of the person restrained and in case such previous application had been filed, its result:(i)Provided that a person detained in jail may submit his petition through the Superintendent of Jail:(ii)Provided further 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 and such affidavit shall also state the reason why the person restrained is unable to make the affidavit himself :(iii)Provided further that if the applicant is unable to swear an affidavit or to get one sworn owing to the restraint or other reasonable cause, he may submit the application without an affidavit, giving reasons why no affidavit has been filed.(c)When an

application is made by a person other than the detenu or the person restrained, Rule 1 (a) and (b) shall apply mutatis mutandis.(d)[ x x x] [Omitted by Notification No. 19, dated 9-5-1994 (w.e.f. 1-6-1994).](e)In any case in which the High Court orders any person in custody to be brought before it, or before a Court-martial, or before any Commissioner, or to be removed from one custody to another, a warrant shall be prepared and signed by the Deputy Registrar and sealed with the seal of this High Court.(f)The affidavits filed in these proceedings shall be according to the Rules 1 to 15 of Chapter III of the Rules of this High Court.

**2. [x x x] [Omitted by Notification No. 19, dated 9-5-1994 (w.e.f. 1-6-1994).]  
Applications filed under Article 226 of the Constitution of India shall be registered as [writ petitions (Habeas Corpus)] [Substituted by Notification No. 19, dated 9-5-1994 (w.e.f. 1-6-1994).]. [x x x] [Omitted by Notification No. 19, dated 9-5-1994 (w.e.f. 1-6-1994).]**

**3. (a) All applications under Rule 1 shall be heard by the [x x x] [Omitted by Notification No. 19, dated 9-5-1994 (w.e.f. 1-6-1994).] Division Bench:**

Provided that during vacation, while the [x x x] [Omitted by Notification No. 19, dated 9-5-1994 (w.e.f. 1-6-1994).] Division Bench is not sitting, all applications shall be heard by a Single Bench.(b)Such applications shall be laid before the Bench immediately after they are filed in the Registry.

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

**5. If a return is filed in answer to the rule nisi, it shall be accompanied by an affidavit and the officer or person concerned shall file four copies of the return, the affidavit and such other documents as may be produced.**

**6. (a) The High Court may order any fact to be proved by affidavit or by oral evidence of it considers it necessary.**

(b)The High Court may, if necessary, direct a Court of Session or a Magistrate to take evidence as provided in [Section 391] [Substituted by Notification No. 19, dated 9-5-1994 (w.e.f. 1-6-1994).] of the Code of Criminal Procedure

**7. When in any proceedings, the Judges composing the Bench differ and state the point on which they differ, the proceedings shall be placed before the Chief Justice who may nominate one or more of the other Judges to deal with the matter.**

**8. On the return day of such rule or on any day to which the hearing thereof may be adjourned, if no cause is shown or if cause is shown and disallowed the Court shall pass an order that the person or persons improperly detained shall be set at liberty. If the cause is allowed, the rule shall be discharged, and the person or persons detained, if present in Court, shall be delivered to the person entitled to their custody.**

**9. In any case in which the High Court orders a person in custody to be brought before it or before a Court-martial, or before any Commissioner, or to be removed from one custody to another or to be set at liberty a warrant to that effect shall be prepared and signed by the Deputy Registrar and sealed with the seal of the High Court.**

**10. Such warrant shall be forwarded by the Deputy Registrar when the person is under detention in a Jail, to the officer-in-charge of that jail or the public officer or other person holding the person in custody or restraint and a copy of the above warrant shall be sent to the detaining authority simultaneously. In every other case, the warrant shall be served as the High Court may direct.**

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

**12. In all cases mentioned in Rule 2 above, four copies of paper-books shall be prepared free of costs. Out of these, two will be for the use of the Bench and one each for the Advocate General and the applicant.**

**13. The paper-book shall consist of the application for the writ, the affidavit and such other documents as may be filed by the parties to the case or as the High Court may order to be included.**

## Chapter II

### Rules for Proceedings under Article 226, Constitution of India

High Court of Judicature At NagpurNagpur, The 25th September, 1951No. 8224. - In exercise of the powers conferred by Article 225 of the Constitution of India and clause 27 of the Letters Patent, High Court of Judicature at Nagpur has made the following rules to regulate its proceedings under Article 226 of the Constitution of India. These rules will come into force from the 15th day of October, 1951.Rules framed to Regulate Proceedings[Rules relating to application for writs in the nature of mandamus prohibition, quo warranto and certiorari etc. approved by the Honourable Judges on the 7th September, 1951] [Inserted by Notification No. 6462, dated 28-6-1957.].

### Part II – Directions, Orders And Writs Including Writs In The Nature of Mandamus, Prohibition, Certiorari, Quo Warranto. Etc.

Except Habeas Corpus

**1. [(a) A petition for a direction or order, or writ, including writ in the nature of mandamus, prohibition, certiorari, quo warranto, etc. shall be filed in the form prescribed under this rule and shall, as far as possible, conform to the provisions of Order II, Rules 1, 2 and 3 of the Civil Procedure Code and Rules 2 and 3 of Chapter IV of the Rules of the High Court in the matter of affidavits to be filed in support thereof.] [Substituted by Notification 19, dated 9-5-1994 (w.e.f. 1-6-1994).]**

(b)[ The petition shall be accompanied by the order or decision, if any, complained of and an affidavit verifying the facts relied on. The petition shall be presented by the applicant in person or by the duly authorised legal practitioner. The petition along with its Annexures shall be presented in two complete sets in paper book form with page Nos. and Index on the first page.] [Substituted by Notification 19, dated 9-5-1994 (w.e.f. 1 -6-1994).](bb)[ It shall not be necessary to present a separate application to seek interim order or direction if the same is prayed for in the original petition.] [Inserted by Notification 19, dated 9-5-1994 (w.e.f. 1 -6-1994).](c)When a petitioner relies upon a document or documents in his possession or power, he shall file them along with his petition.(d)When he relies on any other documents, which are not in his possession or power as evidence in support of his petition, he shall enter such documents in a list to be added or annexed to the petition.

**2. No advocate shall act for any person in these proceedings, unless he has been appointed for the purpose by such person by a document in writing signed by such person or by his recognised agent or by some other person duly authorised by or under a power-of-attorney to make such appointment.**

**3. Such petitions shall be registered as [writ petitions] [Substituted by Notification No. 19, dated 9-5-1994 (w.e.f. 1-6-1994).] (mandamus, prohibition, certiorari or quo warranto etc.) as the case may be.**

[4. (a) The petition shall lie before the appropriate Bench as early as possible for motion hearing of which notice shall, as far as practicable, be given to the petitioner (s)' counsel, if available at the seat of the High Court.] [Substituted by Notification No. 17, dated 21-2-1994 (w.e.f. 1-3-1994).](b)[ Where the petition is against the State Government or any of its officers and is accompanied by an application for ad interim writ or stay order with a request for hearing it urgently, the petitioner shall supply a copy of the petition together with Annexures and the application for interim relief, in advance to the Advocate General's office and file acknowledgement of the same. The application for interim relief will then be listed before the Court with notice to the Advocate General.] [Inserted by Notification No. 13-1-14-1/38, dated 26-3-1985.]

**5. (a) The Court may either summarily dismiss the petition or order a rule nisi to be issued against the opposite party as it thinks fit. Any rule so granted shall be made returnable on such date as the Court may direct, but it shall not ordinarily make returnable within less than fourteen days after service thereof on the opposite party.**

(b)Where it is brought to the notice of the Court that a petition under Art. 32 of the Constitution is pending before the Supreme Court on the same or similar facts, the Court may adjourn the proceedings pending the decision of the Supreme Court in the matter.(bb)[ On admission of the petition, the Court shall issue rule nisi requiring respondents to show cause, through a return, why the petition should not be allowed informing them that the return shall be submitted within a period of six weeks or such lesser period as the Court may deem fit, from the date of service of the notice.] [Inserted by Notification No. 19, dated 9-5-1994 (w.e.f. 1-6-1994).](c)[ Notices to Public Officers and Corporations shall be sent in the prescribed form by registered post acknowledgement due.] [Inserted by Notification No. 19, dated 9-5-1994 (w.e.f. 1-6-1994).][6. Such petitions shall be heard by appropriate Bench provided that during vacation, they may be heard by Single Bench, unless the presiding judge is of the opinion that the matter is not urgent or is of such importance that it should be heard by a Division Bench.] [Substituted by Notification No. 17, dated 21-2-1994.]

**7. [Where the Court has admitted the petition for final hearing, the petitioner shall deposit the necessary process fee within three days or such further time as the Court may grant, along with duly filled up notice forms and as many copies of the petition together with index and page numbers and as many number of empty file size envelops as there are respondents, for issuance of notice to them.] [Substituted by Notification No. 19, dated 9-5-1994 (w.e.f. 1-6-1994).]**

**8. Copies of the petition [together with annexures] [Substituted by Notification No. 13-1-14-1/38, dated 26-3-1985.] and affidavits shall be served with the notice.**

**9. Notice shall be served on all opposite parties and on such other persons as the Court may direct:**

Provided that at the hearing of any such petition, any person who desires to be heard in opposition to it and appears to the Court to be proper person to be heard, may be heard, notwithstanding that he has not been served with the notice and shall be liable to costs in the discretion of the Court.

**10. If at the hearing of the petition the Court is of opinion that any person who ought to have been served with notice of the petition has not been served the Court may order that notice may also be served on such person and adjourn the hearing upon such terms, if any, as the Court may direct.**

**11. [(a) Answer to the rule nisi showing cause against such petition shall be made by the respondent by filing .in the Registry a return duly supported by an affidavit and Annexures in paper book form with page numbers and index on its first page and serving a copy thereof upon the petitioner or his agent or Advocate at least two days before the date of return of the rule nisi.] [Substituted by Notification No. 19, dated 9-5-1994 (w.e.f. 1-6-1994.)]**

(b)Where the opposite party relies upon a document or documents in his possession or power he shall file them along with his return.(c)Where he relies on any other documents which are not in his possession or power as evidence in support of his return, he shall enter such documents in a list to be added or annexed to the return.

**12. No further return, affidavit or document shall be filed by any party except with the leave of the Court.**

**13. If the Court at any time finds that the facts furnished are insufficient or further and better particulars of any matter should be furnished, the Court may, of its own motion, or on the application of any party, order any party to furnish such facts or particulars supported by an affidavit. If the petitioner or any other party fails to furnish the facts or particulars as ordered the Court may either dismiss the petition or make such order in relation to the case as it thinks fit.**

**14. (a) All questions of fact arising for determination under this part shall be decided ordinarily upon affidavits but the Court may direct that such other evidence be taken as it may deemed fit.**

(b)Where the Court orders that certain matters in controversy between the parties shall be decided on oral evidence, it may either itself record the evidence or may direct any Court or Tribunal or a Commissioner appointed for the purpose to record it in accordance with the procedure prescribed in the Code of Civil Procedure, 1908 for the trial of suits.[15. An application for any order of an interlocutory nature other than for ad-interim direction shall be made by a separate application.] [Substituted by Notification. No. 19, dated 9-5-1994 (w.e.f. 1-6-1994).]

**16. (a) An application for issue for an interim order, unless accompanied by an application for urgent disposal, shall be put up with the case on the date fixed for motion hearing of the case. If an application for an interim order is accompanied by an application for urgent disposal, it shall be laid before the appropriate Bench as early as possible. y.**

(b)[ Where any party against whom an interim order of any kind has been made, makes an application to the High Court for vacating the same, that application shall be listed immediately before the appropriate Bench for orders. ] [Inserted by Notification No. 8, dated 22-8-1979.]

**17. (a) No record of a case or proceeding in possession of any Court or public servant, relevant to the disposal of an application, shall be sent for, unless ordered by the Court either of its own motion or upon an application made by any of the parties to the petition.**

(b)Every application made under Rule 17(a) shall (unless the Court otherwise directs) be supported by an affidavit showing how the record is material to the case in which the application is made, and that the applicant cannot, without unreasonable delay or expense, obtain a duly authenticated copy of the record or of such portion thereof as the petitioner requires or that the production of the original is necessary for the purpose of justice.[18. The respondent shall file return, affidavit, and Annexures in four identical paper books with page numbers on all papers and index on the first page of each paper book.] [Substituted by Notification 19, dated 9-5-1994 (w.e.f. 1-6-1994).][19. After the completion of the period prescribed for filing pleadings, the petitioner shall supply four identical paper books with page numbers and index on the first page of each paper book containing main petition, affidavit and all documents and Annexure relied on and rejoinder, if any, unless the Court otherwise directs.] [Substituted by Notification 19, dated 9-5-1994 (w.e.f. 1-6-1994).]

**20. (a) All documents not in English shall be translated into English by the official translator of the Court before being included in the paper-books at the cost of the party relying upon them, unless exempted by the Court.**



Such payment shall be made within such time as may be fixed by the Registrar.(b)The attention of the Court shall be invited at the hearing to the costs of the above translation for orders.[21. If a party fails to file paper books as required by Rules 15 and 19 within the period prescribed, the case shall be laid before the Registrar or the Additional Registrar concerned for orders and in case of further default, the concerned Registrar or Additional Registrar may place it before the Court for orders.] [Substituted by Notification 19, dated 9-5-1994 (w.e.f. 1-6-1994).]

**22. Ordinarily only four copies of the paper-books shall be prepared in the Registry-one for the petitioner, one for the opposite-party and the remaining two for the use of the Court:**

Provided that in any case, the Registrar may order that the paper-book be given to any opposite-party other than party No. 1.

**23. If any other party desires to have a copy of the paper- book, he shall make an application for that purpose at least 2 weeks before the date of hearing. If the application is allowed by the Registrar, a copy of the paper-book shall be supplied to the applicant on the payment of the cost.**

**24. The Court may in such proceedings impose such terms as to costs as it thinks fit.**

**25. The Court may in its discretion, either before the opposite-party is called upon to appear and answer or afterwards on the application of the opposite-party, demand from the petitioner security in cash [x x x] [Omitted by Notification 19, dated 9-5-1994 (w.e.f. 1-6-1994).] for the costs of the petition.**

**26. The rules regarding deposit or withdrawal of the money in Chapter XII of the High Court Rules shall apply to the deposit or withdrawal of security ordered under Rule 25.**

**27. At the conclusion of each case, the Court shall pass such orders for the refund or disposal of the security in deposit as it may consider necessary.**

When the Court fails to make an order, the party entitled to the refund or payment shall make a stamped application for the purpose, and it shall be laid before the Court for order in motion.

**28. Any party to a proceeding under Article 226 of the Constitution of India desiring to obtain execution of the order relating to costs awarded in such proceedings shall apply to the Court by a stamped petition.**

**29. The Court thereupon shall direct the party against whom the costs are awarded to deposit the amount in Court within such time as it deems fit, and upon his failure to deposit the amount within the prescribed period, the Court shall order issue of a certificate for the recovery of costs, and may also include the costs of the proceedings before it.**

**30. The certificate shall be issued under the signature of the Deputy Registrar and tire seal of the Court and shall be executable as decree of a Civil Court.**

**31. The certificate shall be executable by the District Judge of the civil district in which the party from whom the costs are to be recovered actually resides or carries on business or works for gain or has some property.**

**32. The Court to which the certificate is issued shall execute it as a decree received on transfer for execution from another Court.**

**33. The form of the certificate shall be as prescribed in these rules.**

Forms(Forms relating to application in the nature of habeas corpus under Section 491 of the Code Criminal Procedure and Article 226 of the Constitution of India, and the forms relating to applications for writs in the nature of mandamus, prohibition, quo warranto and certiorari, etc. as approved by the Honourable Judges on the 7th September, 1951).In The High Court of Judicature at JabalpurNoticeGeneral FormMiscellaneous Criminal case/Miscellaneous Petition(Habeas Corpus)No.....of

19.....ApplicantTo,.....Non-ApplicantWherea

an application has been made in the above case by the applicant for a writ in the nature of habeas corpus or direction under Article 226 and/or under Section 491 of the Code of Criminal Procedure (copy of application enclosed).Take notice that the.....day of.....19...has been fixed for hearing and the case will be laid before the Court on that day or as soon thereafter as may be practicable. If no appearance is made on your behalf either in person or through counsel or some one legally authorised to act for you, it will be heard and decided ex parte.If you desire to file a return in answer to the application, your attention is drawn to Rule 5, Part I of the rules to regulate proceedings for directions, orders or writs in the nature of habeas corpus printed overleaf.Given under my hand and the seal of the High Court of Judicature at Jabalpur, this.....day of.....19...By order of the High Court,SuperintendentJudicial Branch.(Seal of the Court).Forwarded to the.....for favour of service and immediate return of the original duly endorsed. The necessary process fee has been levied.SuperintendentJudicial Branch.(Overleaf)Rule 5. - If a return is filed in answer to the rule

nisi, it shall be ' accompanied by an affidavit, and the officer or person concerned shall file four copies of the return, the affidavit and such other documents as may be produced.[High Court of Judicature at Jabalpur [Substituted by Notification No. 19, dated 9-5-1994 (w.e.f. 1-6-1994).]NoticeGeneral FormWrit Petition (Mandamus/Prohibition/Certiorari/Quo Warranto) No....of 19.....Petitioner.....RespondentTo.....Whereas a petition has been made in the above case by the petitioner for a writ of mandamus/prohibition/certiorari/quo warranto under Article 226 of the Constitution of India (Copy of petition enclosed).Take notice that you are required to submit a return personally or through a duly engaged Advocate on or before If no return is filed as aforesaid, the petition will be heard and decided ex parte.Given under my hand and the seal of the High Court of Judicature at Jabalpur, this.....day of.....19.....By Order of the High CourtService Officer.Forwarded to the.....for service and immediate return of the original duly enclosed. The necessary process-fee has been levied.Section Officer.][High Court of Judicature at Jabalpur] [Substituted by Notification No. 19, dated 9-5-1994 (w.e.f. 1-6-1994).]No.....From.....Deputy Registrar,High Court of Judicature at Jabalpur.To.....Jabalpur, the.....19.....Sub : Notice to Respondent No.....in Writ Petition (Mandamus/Prohibition/Certiorari/Quo Warranto) No.....of 19.....Sir/Madam,I am directed to inform you that one.....has filed a petition under Article 226 of the Constitution of India (copy enclosed) in this Court, and the same is registered as Writ Petition (Mandamus/Prohibition/Certiorari/Quo Warranto) No.....of 19.....Take notice that you are required to submit a return personally or through a duly engaged Advocate on or before.....19.....If no return is filed as aforesaid, the petition will be heard and decided ex parte.Yours faithfully,.....Deputy Registrar(Seal of the Court)Encl: Copy of petition.]High Court of Judicature At JabalpurMiscellaneous Petition (Mandamus/Prohibition/Certiorari/Quo Warranto)No.....19.....Versus. The State Madhya Pradesh (and others).ToThe State of Madhya Pradesh,Through the Chief Secretary to Government,Madhya Pradesh, JabalpurWhereas a petition has been made to this Court under Article 226 of the Constitution of India on behalf of the petitioner, the Division/Single Bench of the High Court, presided in by.....in presence of...counsel for the petitioner, and Advocate-General/Government Pleader, Counsel for the opposite party order that,-The costs of the petition will be borned by.....Given under my hand and the seal of the High Court of Judicature at Jabalpur, this.....day.....of.....19....By order of the High CourtDeputy Registrar(Seal of the Court)High Court of Judicature At Jabalpur(Warrant for release of a person in custody)Miscellaneous Criminal Case/Miscellaneous Petition(Habeas Corpus)No.....of 19.....son of.....VersusThe State.....Decided on the day of 19...ToThe.....Whereas an application has been made to this Court under Section 491 of the Code of Criminal Procedure/Article 226 of the Constitution of India on behalf of.....who is paid to have been restrained, arrested or detainedunder an order issued by.....under Section.....of the.....Act.....on the.....19....And whereas on hearing the application miscellaneous criminal case/miscellaneous petition (habeas corpus) No.....19....this Court has ordered this day that said.....be set at liberty.This is to authorise and require your forthwith to discharge the said..... from your custody unless he is liable to be detained for some other matter.The warrant after execution may be returned to this Court under your signature.Given under my hand and the seal of this Court, this.....day of.....19...By order of the High Court Deputy Registrar(Seal of the Court)High Court of Judicature

At Jabalpur(Warrant to produce a person in custody)ToThe Superintendent of Jailat.....(Name of Jail or Lunatic Asylum or other place, where the person is detained in custody) or to (name of person)You are hereby required to have the body.....now a prisoner in your custody (or now in your custody) produced under safe and sure conduct before the High Court of Judicature at Jabalpur, on the.....day of.....at.....o'clock in the afternoon of the same day to be dealt with according to law and you shall then and there abide by such order as shall in that behalf be made by the said Court (if the prisoner is detained in public custody) and unless the said.....shall then and there, by the said Court, be ordered to be released, you shall, after the said Court shall have dispensed with his further attendance, cause him to be conveyed, under safe and sure conduct back to the said Jail or asylum or other place of custody.Given under my hand and the seal of this Court, this.....day of.....19....By order of the High Court.....Deputy Registrar(Seal of the Court)High Court of Judicature At JabalpurCertificate of non-satisfaction of costsMiscellaneous Petition No.....of 19....Whereas the petitioner/respondent in the above case has applied to this Court for recovery of costs amounting to Rs.....from respondent/petitioner and the latter has failed to deposit the amount of Rs.....payable to the petitioner/respondent.And whereas a Bench of this Court consisting of the Hon'ble Shri Justice.....and the Hon'ble Shri Justice.....has ordered issue of a certificate.It is hereby certified that the petitioner/respondent is entitled to recover the amount of Rs.....from respondent/petitioner.Given under my hand and the seal of the High Court of Judicature at Jabalpur this.....day of.....19.....By order of the High Court.....Deputy Registrar(Seal of the Court)Forwarded to the District Judge at.....for necessary action.....Deputy Registrar[Form Prescribed for Petition under Article 226 of The Constitution of India] [Inserted by Notification No. 19, dated 9-5-1994 (w.e.f. 1-6-1994).]

### **1. Particulars of the petitioner : (If not given in the cause title).**

(His full name, description, place and residence)

### **2. Particulars of the respondent: (If not given in the cause title).**

(Name, designation with official & postal address).

### **3. Particulars of the order against which the petition is made :**

(1)Order No. :(2)Date :(3)Passed by :(4)Subject-matter in brief :

### **4. Delay in filing the petition, if any, and the explanation for, if any.**

(State the period within which the petition has been filed from the date of order complained against the explanation for delay, if any)

## **5. Facts of the case :**

The facts of the case are given below :(Give here a concise statement of facts in chronological order in separate paragraphs)

## **6. Grounds urged :**

(Give here separately the grounds on which the reliefs are claimed in the petition and legal provision, if any, relied on)

## **7. Reliefs sought:**

In view of the facts mentioned above, the petitioner prays for the following reliefs :(Specify below the reliefs sought and the interim order or direction sought to be issued)

## **8. Interim Order, if prayed for :**

Pending final decision of the petition, the petitioner seeks issue of the following interim order :(Give the nature of interim order prayed for with reasons)

## **9. Details of remedies exhausted :**

The petitioner declares that he has availed all the statutory and other remedies available to him under the relevant provisions of law.(Give here chronologically nature of remedy availed and exhausted, if any, or explain why according to the petitioner there is no efficacious alternative remedy)

## **10. Matter not pending in any other Court, etc.**

The petitioner further declares that the matter regarding which this petition has been made is not pending in any Court of law or any authority or Tribunal.

## **11. List of documents or annexures as per Rule 1(c).**

## **12. List of documents as per Rule 1(d).**

(An index indicating the page numbers of the Writ Petition, affidavit, documents or annexures should be at the first page of the paper book)

## **Chapter III**

## **Rules for Applications under Article 227 (1) of The Constitution**

## of India

In The High Court of Judicature At NagpurNagpur, 15th January, 1952No. 361. - In exercise of the powers conferred by Article 225 of the Constitution of India and clause 27 of the Letters Patent, the High Court of Judicature at Nagpur has made the following rules to regulate its proceedings under Article 227 (1) of the Constitution of India. These rules will come into force from the 1st day of February, 1952.Rules

### **1. (A) An application under Article 227 (1) of the Constitution of India shall comply with the provisions of Rules 2 and 3 of Chapter IV of the Rules of the High Court and shall also state clearly,-**

(i)the name, description and place of residence of each applicant and of the non-applicant;(ii)The name of the Court and Judge by whom the decree or order objected to was passed; and if the decree or order was passed in appeal, the name of the original Court and of the Judge presiding over it;(iii)the date or dates of the decrees or orders of the lower Courts;(iv)the grounds on which the relief is sought and also such material facts as may be necessary for the proper determination of the case;(v)the nature of the relief and the direction or order sought from the Courts;(vi)where a previous application has been made on the same facts the applicant shall give all details thereof and shall also indicate the decision thereon.(b)The application shall be accompanied by the order or decision (if any) accompanied of and an affidavit verifying the facts relied on.

**2. No advocate shall act for any person in these proceedings unless he has been appointed for the purpose by such person by a document in writing signed by such person or by his recognized agent or by some other person duly authorised by or under a power of attorney, to make such appointment.**

**3. Such applications shall be registered as [writ petitions Article 227 (M.P. Art. 227)] [Substituted by Notification No. 19, dated 9-5-1994 (w.e.f. 1 -6-1994).]**

[4. x x x] [Omitted by Notification No. 19, dated 9-5-1994 (w.e.f. 1 -6-1994).][5. Such petitions shall be heard by a Single Judge unless the Judge hearing the application refers the same to be heard by a Division Bench.] [Substituted by Notification No. 17, dated 21-2-1994 (w.e.f. 1-3-1994).]

**6. (a) No record of a case or proceeding in possession of any Court or Tribunal over which superintendence is claimed shall be requisitioned unless ordered by the Court either of its own motion or upon an application made by any of the parties to the application.**

(b)Every application made under Rule 7 (a) shall (unless the Court otherwise directs) be supported by an affidavit showing how the record is material to the case in which the application is made, and that the applications cannot without reasonable delay or expenses obtain a duly authenticated copy of the record or of such portion thereof as the applicant requires, or that the production of the original is necessary in the interest of justice.(c)[ Notices to Public Officers and corporations shall be sent in the prescribed form by registered post acknowledgement due.] [Inserted by Notification No. 23, dated 12-12-1997 (w.e.f. 1-1-1998).]

**7. (a) All questions of fact arising for determination under this part shall be decided ordinarily upon affidavit, but the Court may direct that such other evidence be taken as it may deem fit.**

(b)Where the Court orders that certain matters in controversy between the parties shall be decided on oral evidence, it may either itself record the evidence or may direct any Court or Tribunal or a Commissioner appointed for the purpose to record it in accordance with the procedure prescribed law.

**8. No relief of an interlocutory nature shall be granted unless a separate application in that behalf is made.**

**9. An application for issue of an interim order, unless accompanied by an application for urgent disposal, shall be put up with the case on the date fixed for motion hearing of the case. If an application for an interim order is accompanied by an application for urgent disposal it shall be laid before the appropriate Bench as early as possible.**

**10. The Court may in such proceedings impose such terms as to costs as it thinks fit.**

**11. The Court may in its discretion either before the non- applicant is called upon to appear and answer or afterwards on the application of the non-applicant, demand from the applicant security in cash for the costs of tire application.**

**12. The rules regarding deposit or withdrawal of money in Chapter XII of the High Court Rules shall apply to the deposit or withdrawal of security ordered under Rule 11.**

**13. At the conclusion of each case, the Court shall pass such orders for the refund or disposal of the security, in deposit as it may consider necessary. When the Court fails to make an order, the party claiming to be entitled to the refund or payment shall make a stamped application for the purpose and it shall be laid before the Court for orders in motion.**

**14. Save as herein provided, the rules of this Court which are applicable to civil or criminal revision, as the case may be, shall mutatis mutandis apply.**

## **Chapter IV**

### **Rules Relating to The Procedure for Giving Effect to Orders of The Federal Court under Section 209 of The Government of India Act, 1935**

**1. Where the Federal Court has allowed an appeal and remitted the case under Section 209 (1) of the Government of India Act, 1935, to the High Court with a declaration as to the judgement, decree or order which is to be substituted for the judgement, decree or order appealed against, or where the Federal Court upon any appeal has made any order as to the cost of the proceedings in the Federal Court under Section 209 (2) of the Government of India Act, 1935, the High Court shall fix a date of the hearing of the case and issue notice to the parties in the said appeal to appear on that date.**

**2. On the said date or any other day to which the hearing may be adjourned and after hearing such parties as may appear, the High Court shall pronounce a judgement, decree or order in accordance with the declaration or order of the Federal Court.**

**3. Notices under Rule 1 may be issued to the advocates of the parties to the appeal in the High Court and, if there is no such Advocate, by registered post to his registered address.**

Section Four Letters Patent Letters Patent Constituting a High Court of Judicature at Nagpur George the fifth by the Grace of God, of Great Britain, Ireland and the British Dominion beyond the Seas, kind Defender of the Faith, Emperor of India. To all to whom these presents shall come, greeting; Whereas in the Government of India Act, it was amongst other things enacted that it should be lawful for Us by letters Patent to establish a High Court of Judicature in any territory in British India whether or not included within the limits of the Local Jurisdiction of another High



Court and to confer on any High Court establish any such jurisdiction, power and authority as were vested in or might be conferred on any High Court existing at the Commencement of the Act; And Whereas the province known as the Central Province, is now subject to the jurisdiction of the Court of the Judicial Commissioner of the Central Provinces which was established by an Act of the Governor General of India in Council, being Act No. XIV of 1865, and was continued by latter enactment and no part of the said province is included within the limits of the local jurisdiction of any High Court.

**1. Establishment of a High Court at Nagpur. - Now know that we, upon full consideration of the premises, and to our special grace certain knowledge, and mere motion, have thought fit to erect and establish, and by these presents we do accordingly for Us, our Heirs and Successors, erect and establish, for the Central Provinces, aforesaid, with effect from the date of the publication of these presents in the Gazette of India, a High Court of Judicature, which shall be called the High Court of Judicature at Nagpur, and we do hereby constitute the said Court to be a Court of Record.**

**2. Constitution and the first Judge of the High Court. - And We do hereby appoint and ordain that the High Court of Judicature at Nagpur shall, until further or other provision be made by Us, or our Heirs and Successors, in that behalf in accordance with section one hundred and one of the Government of India Act, ordinarily consist of a Chief Justice and not less than five other Judges, the first Chief Justice being Esquire and the Gilhert stone other Judges being Fredrick Louis Grill, Esquire, M. Bhawani Shanker Niyogi, Esquire, Ronald Evelyn Pollock, Esquire, Flarold George, Gruer, Esquire and Vivain Bose, Esquire, being respectively qualified as in said Act is declared.**

**3. Declaration to be made by the Judge. - And We do hereby ordain that the Chief Justice and every other Judge of the High Court of Judicature at Nagpur, previously to entering upon the execution of the duties of his office shall make and subscribe the following declaration before such authority or person as the Governor of the Central Provinces may commission to receive it:**

"I, A. B., appointed Chief Justice (or a Judge) of the High Court of Judicature at Nagpur do solemnly declare that I will faithfully perform the duties of my office to the best of my ability, knowledge and Judgement".

**4. Seal. - And We do hereby grant, ordain and appoint that the High Court of Judicature at Nagpur shall have and use as occasion may require a Seal bearing a device and impression of Our Royal Arms, within an exergue or label surrounding the same, with this inscription "The seal of the High Court at Nagpur". And we do further grant, ordain and appoint that the said Seal shall be delivered to and kept in the custody of the Chief Justice, and in case of vacancy of the office of the Chief Justice or during any absence of the Chief Justice, the same shall be delivered over and kept in the custody of the person appointed to act as Chief Justice under the provisions of section one hundred five of the Government of India Act; and we do further grant, ordain and appoint that when soever the office of the Chief Justice or of the Judge to whom the custody of the said Seal be committed is vacant the said High Court shall be and is hereby authorised, and empowered to demand, seize and take the said Seal from any person or persons whomsoever, by whatsoever ways means the same may have come to his, her or their possession.**

**5. Writs, etc. to issue in the name of the Crown and under seal. - And We do hereby further grant, ordain and appoint that all writs, summonses, precepts, rules, orders and other mandatory process to be issued or award by the High Court of Judicature at Nagpur shall run and be in the name and style of Us, or of Our Heirs and Successors, and shall be sealed with the seal of the said High Court.**

**6. Appointment of officers. - And We do hereby authorise and empower the Chief justice of the High Court of Judicature at Nagpur from time to time, as occasion may require, and subject to any rules and restrictions which may be prescribed from time to time by the Governor of the Central Province in Council to appoint so many and such clerks and other ministerial officers as may be found necessary for the administration of justice and the said High Court by these Our Letters Patent. And it is Our further will and pleasure, and We do hereby for Us, Our heirs and Successors, give grant, direct and appoint that all and every officers and clerks to be appointed as aforesaid shall have and receive respectively such reasonable salaries as the Chief Justice may from time to time appoint for each office and place respectively, and as the Governor of the Central Provinces in Council may approve : provided always and it is our will and pleasure, that all and every officers and**

**clerks to be appointed as aforesaid shall be resident within the limits of the jurisdiction of the said Court, so long as they hold their respective office; but this proviso shall not interfere with or prejudice the rights of any officer or clerk to avail himself of leave of absence under any rules prescribed from time to time by the Governor in Council and to absent himself the said limits during the terms of such leave in accordance with the said rules.**

**Admission of Advocates, Pleaders and Attorneys**

**7. Powers of High Court in admitting Pleaders and Attorneys. - And We do hereby authorise and empower the High Court of Judicature at Nagpur to approve, admit and enrol such and so many Advocates, Pleaders and Attorneys shall be and are hereby authorised to appear for the suitors of the said High Court, and to plead or to act or to plead and act, for the said suitors, according as the said High Court may by its rules and directions determine, and subject to such rules and directions.**

**8. Power of High Court in making rules for the qualification, etc. of Advocates, Pleaders and Attorneys. - And We do hereby ordain that the High Court of judicature at Nagpur shall have power to make rules from time to time for the qualification and admission of proper persons to be Advocates, Pleaders and Attorneys of the High Court, and shall be empowered to remove or suspend from practice, on reasonable cause, the said Advocates, Pleaders or Attorney shall be allowed to act or to plead for, or on behalf of any suitor in the said High Court, except that any suitor shall be allowed to appear, plead or act on his own behalf of a co-suitor.**

**Civil Jurisdiction of the High Court**

**9. Extraordinary original civil jurisdiction. - And We do further ordain that the High Court of Judicature at Nagpur shall have power to remove and to try and determine, as a Court of extraordinary original jurisdiction any suit being or falling within the jurisdiction of any Court subject to its superintendence when the said High Court may think proper to do so, either on the agreement of the parties to that effect, or for purpose of justice, the reasons for so doing being recorded on the proceeding of the said High Court.**

**10. Appeal to the High Court from Judges of the Court. - And We do further ordain that an appeal shall lie to the said High Court of Judicature at Nagpur from the judgement (not being a judgement passed in the exercise of the appellate jurisdiction in respect of a decree or order made in the exercise of the appellate jurisdiction by a Court subject to the superintendence of the said High Court, and not being an order made in the exercise of revisional jurisdiction and not being a sentence or order passed or made in the exercise of the powers of superintendence under the provisions of section one hundred and seven of the Government of India Act, or in the exercise of criminal jurisdiction of one Judge of the said High Court or one Judge of any Division Court, pursuant to section one hundred and eight of the Government of India Act and that notwithstanding anything hereinbefore provided an appeal shall lie to the said High Court from a judgement of one Judge of the said High Court or one Judge of any Division Court, pursuant to section one hundred and eight of the Government of India Act, made in the exercise of appellate jurisdiction in respect of decree order made in the exercise of appellate jurisdiction by a Court subject to the superintendence of the said High Court, where the Judge who passed the judgement declares that the case is a fit one for appeal; but that the right of appeal from other judgements of Judge of the said High Court or of such Division Court shall be to Us, Our Heirs and Successors in our in Their Privy Council, as hereinafter provided.**

**11. Appeals from other Civil Court in Central Provinces. - And We do further ordain that the High Court of Judicature at Nagpur shall be a Court of Appeal from the Civil Court of the Central Provinces and from all other Courts subject to its superintendence, and shall exercise appellate jurisdiction in such cases as were, immediately before the date of publication of these presents, subject to appeal to the Court of the Judicial Commissioner of the Central Provinces by virtue of law then in force or as may after that date the declared subject to appeal to the High Court of Judicature at Nagpur by any law made by competent legislative authority of India.**

**12. Jurisdiction as to infants and lunatics. - And We do further ordain that the High Court of Judicature at Nagpur shall have the like power and authority with respect to the person and estate of infants, idiots and lunatics within the Central Provinces as that which was vested in the Court of the Judicial**

**Commissioner of the Central Provinces immediately before the publication of these presents.**

Law to be administered by the High Court

**13. By the High Court in the exercise of extraordinary original civil jurisdiction. - And We do further ordain that with respect to the law or equity and rule of good conscience to be applied to each coming before the High Court of Judicature at Nagpur in the exercise of its extraordinary original civil jurisdiction, such law or equity and rule of good conscience shall, until otherwise provided, be the law or equity and rule of good conscience which would have been applied to such case by any Local Court having jurisdiction therein.**

**14. By the High Court in the exercise of appellate jurisdiction. - And We do further ordain that, with respect to the law or equity and rule of good conscience to be applied by the High Court of Judicature at Nagpur to each case coming before it in the exercise of its appellate jurisdiction, such law or equity and rule of good conscience shall be the law or equity and rule of good conscience which the Court in which the proceedings in such case were originally instituted ought to have applied to such case.**

Criminal Jurisdiction of the High Court

**15. Ordinary original jurisdiction of the High Court. - And We do further ordain that the High Court of Judicature at Nagpur shall have ordinary original criminal jurisdiction in respect of all such persons within' Central Provinces as the Court of the Judicial Commissioner of the Central Provinces had such criminal jurisdiction over immediately before the publication of these presents.**

**16. Jurisdiction as to persons. - And We do further ordain that the High Court of Judicature at Nagpur, in the exercise of its ordinary original criminal jurisdiction, shall be empowered to try all persons brought before it in due course of law.**

**17. Extraordinary original criminal jurisdiction. - And We do further ordain that the High Court of Judicature at Nagpur shall have extraordinary original criminal jurisdiction over all persons residing in places within the jurisdiction of any Court subject to its superintendence and shall have authority to try at its discretion any such person brought before it on charges preferred by any Magistrate or other officer specially empowered by the Government in that behalf**

**18. No appeal from High Court exercising original jurisdiction, Court may reserve points of law. - And We do further ordain that there shall be no appeal to the High Court of Judicature at Nagpur from any sentence or order passed or made by the Court of original criminal jurisdiction which may be constituted by one or more Judges of the said High Court. But it shall be at the discretion of any such Court to reserve any point or points of law for the opinion of the said High Court.**

**19. High Court to review cases on points of law reserved by one or more Judges of the High Court. - And We do further ordain that on such points of law being so reserved as aforesaid as the High Court of Judicature at Nagpur shall have full power and authority to review the case or such part of it as may be necessary and finally determine such point or points of law and thereupon to alter the sentence passed by the Court of original jurisdiction, and to pass such judgement and sentence as to the said High Court may seem right.**

**20. Appeal from other Criminal Courts in the Central Provinces. - And We do "further ordain that the High Court of Judicature at Nagpur shall be a Court of Appeal from the Criminal Court of the Central Provinces and from all other Courts subject to its superintendence, and shall exercise appellate jurisdiction in such cases as were, immediately before the date of the publication of these presents subject to appeal to the Court of the Judicial Commissioner of the Central Provinces by virtue of any law then in force, or as may after that date be declared subject to the appeal to the High Court of Judicature at Nagpur by any law made by competent legislative authority for India.**

**21. Hearing of referred cases and revision of criminal trials. - And We do further ordain that the High Court of Judicature at Nagpur shall be a Court of reference and revision from the Criminal Courts subject to its appellate jurisdiction and shall have power to hear and determine all such cases referred to it by the Session Judge, or by any officer in the Central Provinces, who were immediately before the publication of these presents, authorised to refer cases to the Court of Judicial Commissioner of the Central Provinces and to revise all such cases tried by any officer or Court possessing Criminal Jurisdiction in the Central Provinces, as were immediately before the publication of these presents, subject to reference to or revision by the Court of the judicial Commissioner of the Central Provinces.**

**22. High Court may direct the transfer of a case from one Court to another. - Any We do further ordain that the High Court of Judicature at Nagpur shall have power to direct the transfer of any criminal case of appeal from any Court to any other Court of equal or superior jurisdiction, and also to direct the preliminary investigation or trial of any criminal case by any officer to Court otherwise competent to investigate or try it, though such case belongs in ordinary course to the jurisdiction of some other officer or Court.**

Criminal Law

**23. Offenders to be punished under Indian Penal Code. - And We do further ordain that all persons brought for trial before the High Court of Judicature at Nagpur, either in the exercise of its original jurisdiction, or in the exercise of its jurisdiction as a Court of appeal, reference or revision charged with any offence for which provision is made by Act XLV of 1860, called the Indian Penal Code, or by any Act amending or excluding the said Act which may have been passed prior to the publication of these presents, shall be liable to punishment under the said Act or Acts and not otherwise.**

Testamentary and Intestate Jurisdiction

**24. Testamentary and Intestate Jurisdiction. - And We do further ordain that the High Court of Judicature at Nagpur shall have the like power and authority as that which was immediately before the publication of these presents, lawfully exercised within the Central Provinces by the Court of the Judicial Commissioner of the Central provinces in relation to the granting of**

**probates of last wills and testaments, and letters of administration of the goods, chattels, credits and all other effects whatsoever of persons dying intestate, provided always that nothing in these Letters Patent contained shall interfere with the provisions of any law which has been made by competent legislative authority for India, by which power is given to any other Court to grant such Probates and Letters of administration.**

#### Matrimonial Jurisdiction

**25. Matrimonial Jurisdiction. - And We do further ordain that the High Court of Judicature at Nagpur shall have jurisdiction within the Central Provinces in matters matrimonial between our subject professing the Christian religion; provided always that nothing herein contained shall be held to interfere with the exercise of any jurisdiction in matters matrimonial by any Court, not established by Letters Patent within the said Province, which is lawfully processed by that jurisdiction.**

#### Powers of Single Judges and Division Courts

**26. Single Judges and Division Courts. - And We do hereby declare that any function which is hereby directed to be performed by the High Court of Judicature at Nagpur in the exercise of its original or appellate jurisdiction may be performed by any Judge or by any Division Court, thereof appointed or constituted for such purpose in pursuance of section one hundred and eight of the Government of India Act; and if such Division Court is composed of two or more Judges and the Judges are divided in opinion as to the decision to be given on any point, such point shall be decided according to the opinion of the majority of the Judges, if there be a majority, but if the Judges be equally divided they shall state the point on which they differ and the case shall then be heard upon that point by one or more of other Judges and the point shall be decided according to the opinion of the majority of Judges who have heard the case including those who first heard it.**

#### Civil Procedure

**27. Regulation of proceedings. - And We do further ordain that it shall be lawful for the High Court of Judicature at Nagpur from time to time to make rules and orders for regulating the practice of the Court and for the purpose**



**of adapting as far as possible the provisions of the Code of Civil Procedure being an Act No. V of 1908, passed by the Governor General in Council and the provisions of any law which has been or may be made, amending or altering the same, by competent legislative authority for India, to all proceeding in its testamentary, intestate and matrimonial jurisdiction respectively.**

#### Criminal Procedure

**28. Regulation of proceedings. - And We do further ordain that the proceedings in all criminal cases brought before the High Court of Judicature at Nagpur shall be regulated by the Code of Criminal Procedure being an Act No. V of 1898, passed by the Governor General in Council or by such further or other laws in relation to Criminal Procedure as may have been or may be made by competent legislative authority for India.**

#### Appeals to Privy Council

**29. Powers to appeal in civil cases. - And We do further ordain that any person or persons may appeal to Us, Our Heirs and Successors, in our or Their Privy Council, in the matters not being of criminal jurisdiction from any final judgement, decree or order of the High Court of Judicature at Nagpur made on appeal, and from any final judgement, decree or made in the exercise of original jurisdiction by Judges of the said High Court, or of any Division Court, from which an appeal does not lie to the said High Court under the provisions contained in the tenth clause. It provided, in either case, that the sum or matter at issue is of the amount or value of not less than 10,000 rupees, or that such judgement, decree or order involves, directly or indirectly, some claim demand or question to or respecting property amounting to or of the value of not less than 1,000 rupees, or from any other final judgement, decree or order made either on appeal or otherwise aforesaid, when the said High Court declare that the case is a fit one for appeal to Us, Our Heirs or Successors in Our or Their Privy Council; but subject always to such rules and orders as are now in force, or may from time to time be made respecting appeals to Ourselves in Council from the Courts of the Central Provinces except so far as the said existing rules and orders respectively are hereby varied and subject also to such further rules and orders as We may with the advice of our Privy Council hereafter make in**

that behalf.

**30. Appeals from interlocutory judgement. - And We do further ordain that it shall be lawful for the High Court of Judicature at Nagpur at its discretion, on the motion or, if the said High Court, be not sitting, then for any Judge of the said High Court, upon the petition of any party who considers himself aggrieved by any preliminary or interlocutory judgement, decree order of the said High Court in any such proceeding as aforesaid not being of criminal jurisdiction to grant permission to such party to appeal against the same to Us, Our Heirs and Successors, in Our or Their Privy Council subject to the same rule, regulation and limitation as are herein expressed respecting appeals from final judgements, decrees and orders.**

**31. Appeals in criminal cases. - And We further ordain that from any judgement, order or sentence of the High Court of Judicature at Nagpur made in the exercise of original criminal jurisdiction, or in any criminal case where any point or points of law have been reserved for the opinion of the said High Court, in manner provided by the 18th Clause of these presents, by any Court which has exercised original jurisdiction, it shall be lawful for the persons aggrieved by such judgement, order or sentence to appeal to Us, Our Heirs or Successors in Council provided that the High Court declared that the case is a fit one for such appeal and that the appeal be made under such conditions as the said High Court may establish or require but subject always to such# rules and orders as are now in force, or may from time to time be made, respecting appeals to Ourselves in Council from the Court of the Central Provinces.**

**32. Rules as to transmission of copies of evidence and other documents. - And We do ordain that , in all cases of appeals made from any judgement, decree, order or sentence of the High Court of Judicature at Nagpur to Us, Our Heirs or Successors, in Our or Their Privy Council, such High Court shall certify and transmit to Us, Our Heirs and Successors in Our or Their Privy Council, a true and correct copy of all evidence, proceedings, judgements, decrees and orders had or made, in such cases appealed, so far as the same have relation to the matter of appeal such copies to be certified under the seal of the said High Court. And that the said High Court shall also certify and transmit to Us, Our Heirs and Successors in Our or Their Privy Council, a**

copy of the reasons given by the Judges of such Court, or by any such Judges for or against the judgement or determination appealed against. And We do further ordain that the said High Court shall, in cases of appeal to Us, Our Heirs or Successors, confirm to and execute or cause to be executed such judgements and orders as We, Our Heirs or Successors, in Our or Their Privy Council may think fit in the premises, in such manner as any original judgement, decree or decretal order, or other order or rule of the said High Court should or might have been executed. Exercise of jurisdiction elsewhere than the usual place of sitting of the High Court.

**33. Special commission and circuits. -** And We do further ordain that wherever it appears to the Governor in Council of the Central Provinces, subject to the control of the Governor-General convenient that the jurisdiction and power by these Our Letters Patents or by or under the Government of India Act, vested in the High Court of Judicature at Nagpur should be exercised in any place within the jurisdiction of any Court subject to the superintendence of the said High Court, other than the usual place of sitting of the said High Court, or at several such places by way of circuit, one or more judges of the Court shall visit such place or places accordingly.

**34. Proceedings of Judges on special commission or circuit. -** And We do further ordain that whenever any Judge or Judges of the High Court of Judicature at Nagpur visit any place under the 33rd Clause of these presents, the proceedings in cases before him or them at such place shall be regulated by any law relating thereto which has been or may be made by competent legislative authority for India.

Provisions regarding Pending Proceedings

**35. And We do further ordain that all suits, appeals, revisions, applications, reviews, executions and other proceedings whatsoever pending immediately before the publication of these presents in the Court of the Judicial Commissioner of the Central Provinces in the exercise of any jurisdiction vested in it by any law, shall be continued and concluded in the High Court of Judicature at Nagpur as if the same had been instituted in the said High Court; and the said High Court shall in relation to all such proceedings exercise the jurisdiction given to it by these presents.**

Delegation of Duties to Officers

**36. Power to delegate duties. - High Court of Judicature at Nagpur from time to time make rules for delegating to any Registrar, Prothomotary or Master or other official of the Court any judicial, quasi judicial and non-judicial duties.**

Calls for Records etc. by the Government

**37. High Court to comply with requisition from Government for records etc. - And it is our further will and pleasure that the High Court of Judicature at Nagpur shall comply with such requisitions as may be made by the Governor General in Council or by the Governor in Council of the Central Provinces, for records, returns and statements, in such form and manner as he may deem proper.**

Powers of Indian Legislature

**38. Power of Indian Legislature preserved. - And We do further ordain and declare that all the provisions of these our Letters Patent are subject to the legislative powers of the local Legislature and of the Indian Legislature and also of the Governor General in Council under section seventy-one of the Government of India Act; and also of the Governor General under section seventy-two of that Act; and may be in all respects amended and altered thereby.**

In witness whereof we have caused these Our Letters to be made Patent. Witness ourself at Westminster the Second day of January, in the twenty-sixth year of our Region. By warrant under the King's Sign-Manual Provisions relating to the Madhya Pradesh High Court contained in the State Reorganisation Act, 1956 [No. 37 of 1956] High Courts

**49. High Courts for the new States. - (1) The High Courts exercising immediately before the appointed day jurisdiction to the existing States of Bombay, Madhya Pradesh and Punjab shall, as from the appointed day, be deemed to be the High Courts for the new States of Bombay, Madhya Pradesh and Punjab respectively.**

(2) As from the appointed day, there shall be established a High Court for each of the new States of Kerala, Mysore and Rajasthan.

**50. Abolition of certain Courts. - (1) As from the appointed day, the High Court of all the existing Part B States, except Jammu and Kashmir, and the Courts of the Judicial Commissioners for Ajmer, Bhopal, Kutch and Vindhya Pradesh shall cease to function and are hereby abolished.**

(2) Nothing in sub-section (1) shall prejudice or affect the continued operation of any notice served, injunction issued, direction given or proceedings taken before the appointed day by any of the Courts abolished by that sub-section under the powers then conferred upon that Court. (3) Every such Judge of a High Court abolished by sub-section (1) as the President after consultation with the Chief Justice of India may, by order made before the appointed day specify, shall, as from that day, become a Judge, or if so specified the Chief Justice of such High Court as the President may in the order specify.

**51. Principal seat and other places of sitting of High Court for new States. -**

**(1) The principal seat of the High Court for a new State shall be at such place as the President may, by notified order, appoint.**

(2) The President may after consultation with the Governor of a new State and the Chief Justice of the High Court for that State, by notified order, provide for the establishment of a permanent Bench or Benches of that High Court at one or more places within the State other than the principal seat of the High Court and for any matters connected therewith. (3) Notwithstanding any thing contained in sub-section (1) or subsection (2), the Judges and division Courts of the High Court for a new State may also sit at such other place or places in that State as the Chief Justice may, with the approval of the Governor, appoint.

**52. Jurisdiction of High Courts for new States. - The High Court for a new State shall have in respect of any part of the territories included in the new State, all such original, appellate and other jurisdiction, as, under the law in force immediately before the appointed day, is exercisable in respect of that part of the said territories by any High Court or Judicial Commissioner's Court for an existing State.**

**53. Power to enrol advocates etc. - (1) The High Court for a new State shall have the like power to approve, enrol, remove, admit and suspend advocates and attorneys and to make rules, with respect to advocates and attorneys as are under the law in force immediately before the appointed day, exercisable by the High Court for the corresponding State.**

(2) The right of audience in the High Court for a new State shall be regulated in accordance with the like principles, as, immediately before the appointed day, are in force with respect to the right of audience in the High Court for the corresponding State : Provided that, subject to any rule made or

direction given by the High Court of a new State in exercise of the power conferred by this section, any person who, immediately before the appointed day, is an advocate entitled to practice, or an attorney entitled to act in any such High Court or Judicial Commissioner's Court as may be specified in this behalf by the Chief Justice of the High Court for the new State, shall be recognised as an advocate or an attorney entitled to practice or to act, as the case may be, in the High Court for the new State.

**54. Practice and procedure. - Subject to the provisions of this Part, the law in force immediately before the appointed day with respect to practice and procedure in the High Court for the corresponding State shall, with the necessary modifications apply in relation to the High Court for a new State, and accordingly, the High Court for the new State shall have all such powers to make rules and orders with respect to practice and procedure as are, immediately before the appointed day, exercisable by the High Court for the corresponding State :**

Provided that any rules or orders which are in force immediately before the appointed day with respect to practice and procedure in the High Court for the corresponding State shall, until varied or revoked by rules or orders made by the High Court for a new State, apply with the necessary modifications in relation to practice and procedure in the High Court for the new State as if made by the Court.

**55. Custody of seal of the High Court. - The law in force immediately before the appointed day with respect to the custody of the seal of the High Court for the corresponding State shall, with the necessary modifications, apply with respect to the custody of the seal of the High Court for a new State.**

**56. Form of writs and other processes. - The law in force immediately before the appointed day with respect to the form of writs and other processes used, issued by the High Court for the corresponding State shall, with the necessary modifications apply with respect to the form of writs and other process used, issued or awarded by the High Court for a new State.**

**57. Power of Judges. - The law in force immediately before the appointed day relating to the powers of the Chief Justice, single Judges and division Courts of the High Court for the corresponding State and with respect to matters ancillary to the exercise of those powers shall, with the necessary modifications, apply in relation to the High Court for a new State.**

**58. Procedure as to appeals in the Supreme Court. - The law in force immediately before the appointed day relating to appeals to the Supreme Court from the High Court for the corresponding State and the Judges and division Courts thereof shall, with the necessary modifications, apply in relation to the High Court for a new State.**

**59. Transfer of proceedings to Bombay High Court. - (1) Except as hereinafter provided, the High Court at Nagpur (which on the appointed day becomes the High Court for the new State of Madhya Pradesh and is referred to in this Act as the High Court of Madhya Pradesh) shall, as from that day, have no jurisdiction in respect of the territory transferred from the existing State of Madhya Pradesh to the new State of Bombay.**

(2) Such proceedings pending in the High Court at Nagpur or the High Court of Hyderabad immediately before the appointed day as are certified by the Chief Justice of that High Court, having regard to the place of accrual of the cause of action and other circumstances, to be proceedings which ought to be heard and decided by the High Court for the new State of Bombay (referred to in this Act as the High Court of Bombay) shall, as soon as may be, after such certification, be transferred to the High Court of Bombay. (3) All proceedings pending in the High Court of Saurashtra or in the Court of Judicial Commissioner for Kutch immediately before the appointed day shall stand transferred to the High Court of Bombay. (4) Notwithstanding anything contained in sub-sections (1) and (2), but save as hereinafter provided, the High Court of Madhya Pradesh shall have, and the High Court of Bombay shall not have jurisdiction to entertain, hear or dispose of appeals, applications for leave to appeal to the Supreme Court, application for review and other proceedings, where any such proceedings seek any relief in respect of any orders passed by the High Court at Nagpur before the appointed day : Provided that if after any such proceedings have been entertained by the High Court of Madhya Pradesh, it appears to the Chief Justice of that High Court that they ought to be transferred to the High Court of Bombay, he shall order that they shall be so transferred, and such proceedings shall thereupon be transferred accordingly. (5) Any order made before the appointed day by any Court referred to in sub-section (2) or sub-section (3) in any proceedings transferred to the High Court of Bombay by virtue of sub-section (2) or sub-section (3) shall, for all purposes, have effect, not only as an order of that Court, but also as an order of the High Court of Bombay, and any order made by the High Court of Madhya Pradesh in any proceedings with respect to which that Court retains jurisdiction by virtue of sub-section (4) shall for all purposes, have effect, not only as an order of the High Court, but also as an order of the High Court of Bombay.

**61. Transfer of proceedings to Madhya Pradesh High Court. - (1) Such proceedings pending in the High Court of the existing State of Rajasthan immediately before the appointed day as are certified by the Chief Justice of that High Court, having regard to the place of accrual of the cause of action**

**and other circumstances, to be proceedings which ought to be heard and decided by the High Court of Madhya Pradesh shall, as soon as may be after such certification, be transferred to the High Court of Madhya Pradesh.**

(2) All proceedings pending in the High Court of Madhya Bharat or in the Court of the Judicial Commissioner for Bhopal or in the Court of the Judicial Commissioner of Vindhya Pradesh, immediately before the appointed day shall stand transferred to the High Court of Madhya Pradesh. (3) Any order made before the appointed day by any Court referred to in sub-section (1) or sub-section (2) shall for all purposes have effect not only as an order of that Court but also as an order of the High Court of Madhya Pradesh.

**67. Right to appear or act in proceedings transferred to other High Courts. - Any person who immediately before the appointed day is an advocate entitled to practise, or an attorney entitled to act in the High Court for an existing State and was authorised to appear or to act in any proceedings transferred from that High Court to any other High Court under any of the foregoing provisions of this Part shall have the right to appear or to act, as the case may be, in the other High Court in relation to those proceedings.**

**68. Interpretation. - For the purposes of Sections 59 to 66 :-**

(1) Proceedings shall be deemed to be pending in a Court until that Court has disposed of all issues between the parties, including any issues with respect to the taxation of the costs of the proceedings and shall include appeals, applications for leave to appeal to the Supreme Court, applications for review, petition for revisions and petitions for writs; (2) references to a High Court shall be construed as including references to a Judge or division Court thereof, and references to an order made by a Court or a Judge shall be construed as including references to a sentence, judgement or decree passed or made by that Court or Judge.

**69. Saving. - Nothing in this Part shall affect the application to the High Court for a new State of any provisions of the Constitution, and this Part shall have effect subject to any provision that may be made on or after the appointed day with respect to that High Court by any Legislature or other authority having power to make such provision.**

Jabalpur dated 24th October, 1972 (Published in M.P. Rajpatra, Part I, dated 1-12-1972 at pages 1675-1676). (1) In supersession of all previous orders and in exercise of the powers conferred on me by the proviso to the Notification No. 16-20-68-Judl-III, dated 28th November, 1968, issued by the President under Section 51 (2) of the States Reorganisation Act, 1956, (No. 37 of 1956) establishing a permanent Bench of the Madhya Pradesh High Court at Indore, I hereby order that with effect from today fill further order the following cases arising from the revenue districts of Indore, Ujjain,



Dewas, Dhar, Jhabua, Ratlam, Mandsaur, West-Nimar (Khargone), Shajapur and Rajgarh shall ordinarily be heard at Jabalpur except those cases which may be notified by me to be heard at the Indore Bench on tour on dates to be intimated to the Bench Registry at Indore.(1)Income-tax, Wealth-tax, Expenditure-tax, Gift-Tax, Estate Duty, Sales tax and other tax references.(2)All petitions under Articles 226 and/or 227 of the Constitution pertaining to tax matters.(3)All petitions under Articles 226 and/or 227 of the Constitution directed against any order or decision of the State Transport Appellate Authority or State Transport Authority or Transport Commissioner or any Regional Transport Authority constituted under the Motor Vehicles Act, 1939.(4)All petitions under Articles 226 and/or 227 of the Constitution arising from the aforesaid revenue districts and pending for hearing and disposal at Jabalpur on the date of this order.(2)In supersession of all previous orders and in exercise of the powers conferred on me by the proviso to the Notification No. 16-20-68-Judl. Ill, dated that 28th November, 1968, issued by the President under Section 51 (2) of the States Reorganisation Act, 1956 (No. 37 of 1956), establishing a permanent Bench of the Madhya Pradesh High Court at Gwalior, I hereby order that with effect from today till further orders the following cases arising from the revenue districts of Gwalior, Shivpuri, Datia, Guna, Vidisha (Bhilsa), Bhind and Morena shall ordinarily be heard at Jabalpur, except those cases which may be notified by me to be heard at the Gwalior Beach on tour on dates to be intimated to the Bench Registry at Gwalior :-(1)Income-tax, Wealth Tax, Expenditure Tax, Gift Tax, Estate Duty, Sales Tax and other tax references.(2)All petitions under Articles 226 and/or 227 of the Constitution pertaining to tax matters.(3)All petitions under Articles 226 and/or 227 of the Constitution directed against any order or decision of the State Transport Appellate Authority or State Transport Authority or Transport Commissioner or any Regional Transport Authority constituted under the Motor Vehicles Act, 1939.(4)All petitions under Article 226 and/or 227 of the Constitution arising from the aforesaid revenue districts and pending for hearing and disposal at Jabalpur on the date of this Order.Provisions Relating to the Chhattisgarh High Court contained in the M.P. Reorganisation Act, 2000(Act No. 28 of 2000)High Court

**21. High Court of Chhattisgarh. - (1) As from the appointed day, there shall be a separate High Court for the State of Chhattisgarh (hereinafter referred to as "the High Court of Chhattisgarh") and the High Court of Madhya Pradesh shall become the High Court for the State of Madhya Pradesh (hereinafter referred to as the High Court of Madhya Pradesh).**

(2)The principal seat of High Court of Chhattisgarh shall be at such place as the President may, by notified order, appoint.(3)Notwithstanding anything contained in sub-section (2), the Judges and Division Courts of the High Court of Chhattisgarh may sit at such other place or places in the State of Chhattisgarh other than its principal seat as the Chief Justice may, with the approval of the Governor of Chhattisgarh, appoint.

**22. Judges of Chhattisgarh High Court. - (1) Such of the Judges of the High Court of Madhya Pradesh holding office immediately before the appointed day as may be determined by the President shall on that day cease to be**

## **Judges of the High Court of Madhya Pradesh and become Judges of the High Court of Chhattisgarh.**

(2)The persons who by virtue of sub-section (1) become Judges of the High Court of Chhattisgarh shall, except in the case where any such person is appointed to be the Chief Justice of that High Court, rank in that Court according to the priority of their respective appointments as Judges of the High Court of Madhya Pradesh.

**23. Jurisdiction of Chhattisgarh High Court. - The High Court of Chhattisgarh shall have, in respect of any part of the territories included in the State of Chhattisgarh, all such jurisdiction, powers and authority as, under the law in force immediately before the appointed day, are exercisable in respect to that part of the said territories by the High Court of Madhya Pradesh.**

**24. Special Provision relating to Bar Council and Advocates. - On and from the appointed day, in the Advocates Act, 1961 (25 of 1961) in Section 3, in sub-section (1), in clause (a), for the words "and Madhya Pradesh", the words "Madhya Pradesh and Chhattisgarh" shall be substituted.**

(2)Any person who immediately before the appointed day is an Advocate on the roll of the Bar Council of the existing State of Madhya Pradesh may give his option in writing, within one year from the appointed day to the Bar Council of such existing State, to transfer his name on the roll of the Bar Council of Chhattisgarh and notwithstanding anything contained in the Advocates Act, 1961 (25 of 1961) and the rules made thereunder, on such option so given his name shall be deemed to have been transferred on the roll of the Bar Council of Chhattisgarh with effect from the date of the option so given for the purposes of the said Act and the rules made thereunder.(3)The persons other than the Advocates who are entitled immediately before the appointed day, to practise in the High Court of Madhya Pradesh or any subordinate Court thereof shall, on and after the appointed day, be recognised as such persons entitled also to practise in the High Court of Chhattisgarh or any subordinate Court thereof, as the case may be.(4)The right of audience in the High Court of Chhattisgarh shall be regulated in accordance with the like principles as immediately before the appointed day are in force with respect to the right of audience in the High Court of Madhya Pradesh.

**25. Practice and procedure in Chhattisgarh High Court. - Subject to the provisions of this Part, the law in force immediately before the appointed day with respect to practice and procedure in the High Court of Madhya Pradesh shall, with the necessary modifications, apply in relation to the High Court of Chhattisgarh and accordingly, the High Court of Chhattisgarh shall have all such powers to make rules and orders with respect to practice and procedure as are immediately before the appointed day exercisable by the**

## **High Court of Madhya Pradesh :**

Provided that any rules or orders which are in force immediately before the appointed day with respect to practice and procedure in the High Court of Madhya Pradesh shall, until varied or revoked by rules or orders made by the High Court of Chhattisgarh, apply with the necessary modifications in relation to practice and procedure in the High Court of Chhattisgarh as if made by that Court.

**26. Custody of seal of Chhattisgarh High Court. - The law in force immediately before the appointed day with respect to the custody of the seal of the High Court of Madhya Pradesh shall, with the necessary modifications, apply with respect to the custody of the seal of the High Court of Chhattisgarh.**

**27. Form of writs and other processes. - The law in force immediately before the appointed day with respect to the form of writs and other processes used, issued or awarded by the High Court of Madhya Pradesh shall, with the necessary modifications, apply with respect to the form of writs and other processes used, issued or awarded by the High Court of Chhattisgarh.**

**28. Powers of Judges. - The law in force immediately before the appointed day relating to the powers of the Chief Justice, Single Judge and Division Courts of the High Court of Madhya Pradesh and with respect to all matters ancillary to the exercise of those powers shall, with the necessary modifications, apply in relation to the High Court of Chhattisgarh.**

**29. Procedure as to appeals to Supreme Court. - The law in force immediately before the appointed day relating to appeals to the Supreme Court from the High Court of Madhya Pradesh and the Judge and Division Courts thereof shall, with the necessary modifications, apply in relation to the High Court of Chhattisgarh.**

**30. Transfer of proceedings from Madhya Pradesh High Court to Chhattisgarh High Court. - (1) Except as hereinafter provided, the High Court of Madhya Pradesh shall, as from the appointed day, have no jurisdiction in respect of the transferred territory.**

(2) Such proceedings pending in the High Court of Madhya Pradesh immediately before the appointed day as are certified, whether before or after that day, by the Chief Justice of that High

Court, having regard to the place of accrual of the cause of action and other circumstances, to be proceedings which ought to be heard and decided by the High Court of Chhattisgarh shall, as soon as may be after such certification, be transferred to the High Court of Chhattisgarh.(3)Notwithstanding anything contained in sub-sections (1) and (2) of this Section or in Section 23, but save as hereinafter provided, the High Court of Madhya Pradesh shall have and the High Court of Chhattisgarh shall not have, jurisdiction to entertain, hear or dispose of appeals, applications for leave to the Supreme Court, applications for review and other proceedings where any such proceedings seek any relief in respect of any order passed by the High Court of Madhya Pradesh before the appointed day :Provided that it after any such proceedings have been entertained by the High Court of Madhya Pradesh, it appears to the Chief Justice of that High Court that they ought to be transferred to the High Court of Chhattisgarh, he shall order that they shall be so transferred and such proceedings shall thereupon be transferred accordingly.(4)Any order made by the High Court of Madhya Pradesh-(a)before the appointed day, in any proceedings transferred to the High Court of Chhattisgarh by virtue of sub-section (2); or(b)in any proceedings with respect to which the High Court of Madhya Pradesh retains jurisdiction by virtue of sub-section (3), shall for all purposes have effect, not only as an order of the High Court of Madhya Pradesh, but also as an order made by the High Court of Chhattisgarh.

**31. Right to appear or to act in proceedings transferred to Chhattisgarh High Court. - Any person, who, immediately before the appointed day, is an Advocate entitled to practise or any other persons entitled to practise in the High Court of Madhya Pradesh and was authorised to appear in any proceedings transferred from that High Court to the High Court of Chhattisgarh under Section 30, shall have the right to appear in the High Court of Chhattisgarh in relation to those proceedings.**

**32. Interpretation. - For the purposes of Section 30-**

(a)proceedings shall be deemed to be pending in a Court until that Court has disposed of all issues between the parties, including any issues with respect to the taxation of the costs of the proceedings and shall include appeals, applications for leave to the Supreme Court, applications for review, petitions for revision and petitions for writs; and(b)references to a High Court shall be construed as including references to a Judge or Division Court thereof, and references to an order made by a Court or a Judge shall be construed as including references to a sentence, judgement or decree passed or made by that Court or Judge.

**33. Saving. - Nothing in this Part shall affect the application to the High Court of Chhattisgarh of any provisions of the Constitution, and this Part shall have effect subject to any provision that may be made on or after the appointed day with respect to that High Court by any Legislature or other authority having power to make such provision.**

[Inserted by Notification No. 42, dated 30-5-1973.]