

CHAPTER I
PRELIMINARY

1. Title.

These rules shall be called the General Rules (Civil), 1957

2. Commencement and extent.

They shall come into force on the first day of January 1958, and apply to all suits, appeals proceedings and matters, so far as may be, in the Civil Courts subordinate to the High Court, pending, or commenced on or subsequent to that date.

3. Repeal.

The General Rules (Civil) 1911, and the Avadh Civil Rules 1928 are hereby repealed.

Provided that until Amins have been appointed for the Civil Courts in Avadh the existing provisions in the Avadh Civil Rules relating to attachments and sales by process –servers and Nazirs shall continue.

4. Definitions

In these rules, unless there is anything repugnant in the subject or context:

“**Central Nazir**” includes the Nazir of a District Judge, or of a Civil and Sessions Judge¹ whose headquarters are situated in any outlying district.

“**Chapter**” means chapter of these Rules.

“**Civil Judge**”² includes Additional Civil Judge.

“**Code**” means the Code of Civil Procedure, 1908, as amended from time to time in its application to Courts subordinate to the High Court.

“**Collector**” is used synonymously with Deputy Commissioner.

¹ Note : The words “Civil and Sessions Judge” shall now be read as ‘Additional District and Sessions Judge’ – Ed.

² The Words “Civil Judge” shall now be read as “Civil Judge (Senior Division)”- Ed.

“**Form**” followed by a number, e.g. form 19, means a form prescribed by these Rules and described by such serial number in Appendix 4.

“**High Court**” means the High Court of Judicature at Allahabad.

“**Judicial Officer**” means the Presiding Officer of a Civil Court.

“**Munsif**”³ includes Additional Munsif.

“**Outlying District**” means a revenue district where the permanent Court of the District Judge is not situate.

“**Outlying Munsifi**” means a Munsif’s Court not situated at the headquarters of a District Judge or a Civil and Sessions Judge.

“**O-r**” means Order-Rule in the first Schedule of the Code.

“**Pleader**” means pleader as defined under Section 2(15) of the Code.

“**Rule**” means a rule of these Rules.

“**Section**” means section in the Code.

“**State**” means the State of Uttar Pradesh.

5. Administrative Control.

Subject to the superintendence of the High Court the District Judge shall have administrative control over all Civil Courts including the Court of Additional District Judge within the local limits of his jurisdiction; and where two or more Courts are located at a place other than the headquarters of the District Judge the officer of the highest rank or amongst the officers of the same rank the senior most officer in the station will be in immediate administrative charge of all the Civil Courts there subject to the administrative control of the District Judge.

6. High Court Rulings.

All subordinate Courts shall follow the rulings of the High Court which are in force.

7. Officers in charge.

Subject to the general control and supervision of the District Judge, the Central Nazarat, Record Room, Amins, and Copying Department at the headquarters of a District Judge or in an outlying district shall each be placed in charge of a Judicial Officer nominated by the District Judge.

³ The Words “Munsif” shall now be read as “Civil Judge (Junior Division)”-Ed.

8. Office hours.

The hours of work in offices of Civil Courts shall ordinarily be from 10 a.m. to 5 p.m. with a recess from 1.30 p.m. to 2 p.m. for the staff attached to Courts and also those working in the offices.

Provided that the Presiding Officer of a Court may fix different hours for recess for any official or officials of that Court to avoid dislocation of work.

9. Clerks not to take records.

Clerks shall not take records to their houses and shall finish their work within office hours in Court buildings.

10. Daily sittings of Judges.

The daily sittings of Civil Courts for judicial work shall ordinarily extend from 10-30 a.m. to 4 p.m. with a recess from 1.30 p.m. to 2 p.m., and Judicial Officers shall so arrange the business of their Courts as to supply work for that time; provided that a sitting may be prolonged by half an hour for the purposes of bringing to a conclusion the examination of a witness, the hearing of an argument, or any other proceeding which, in the opinion of the Judge, should not be or cannot be conveniently interrupted.

District Judges shall be in the Court building not later than 10-30 a.m. and shall sit in Court at the latest by 11-30 a.m. for judicial work. If administrative work remains unfinished by 11-30 a.m., it may be done after 4 p.m.

A District Judge may fix Court hours from 10 a.m. to 3.30 p.m. instead of from 10-30 a.m. to 4 p.m. for all or any of the Civil Courts in the judgship, or he may fix these hours for his own Court only, in which case he may do administrative work up to 11 a.m. and begin his Court work from that hour. Such changes should be reported to the High Court.

There shall be no departure from this rule, except for special reasons of urgency, which must be recorded in the register of daily sittings.

11. Administrative work.

All administrative work shall, so long as there is judicial work to be done between the above hours, be conducted outside those hours, and may be done in the Presiding Officer's retiring room.

15. Court Language.

Hindi *⁷ written in the Devanagri script shall be the language of the Civil Courts in Uttar Pradesh.

Provided that the continued use of any other language or script already in use under the existing law and rules shall be permissible in accordance with the executive instructions issued by the State Government from time to time.

16. Weekly Cause List.

A weekly list, in the form subjoined, of cases fixed for hearing, prepared in legible Hindi and signed by the Munsarim of the Court, shall be posted on the last working day of the previous week in some conspicuous place in every Court house. In the preparation of such list precedence shall be given to cases, which are at hearing or have been already adjourned, and the order in which cases are entered shall not be departed from without the express order of the presiding Judge of the Court.

Space shall be left in the list, at the head of the entries of each day for the subsequent insertion, if necessary, of adjourned cases.

In the fourth column it shall be noted in regard to each case for what purpose it is to be laid before the Court; whether, for instance, for settlement of issues or for final disposal or for delivery of judgment.

FORM Date, month & year

Number and Description of case	Name of parties	Names of parties' lawyer	Purpose

N.B. – *The maintenance of Memorandum book form Nos. 77, 78 and 79 does not obviate the necessity of complying with this rule.*

17. Presentation of applications to the Judge.

The District Judge shall fix a time, of which due notice shall be posted on the notice board, for his own Court and for all Courts subordinate to him, for the presentation of urgent applications or such as can be presented to the Presiding Officer only. Such applications shall, as far as practicable and

⁷ Added by Notification no. 4586(6)/III-17-47, dated 8th October, 1947 published in Part I of the U.P. Gazette dated 11th October, 1947 at p. 758

without prejudice to any case then at hearing, be disposed of by an order passed in Court as soon as they are presented.

18. Rubber stamps prohibited.

The use of rubber stamps in judicial orders or signatures required to be made by any law or rules, is forbidden.

18A. The reader shall maintain a diary in the form prescribed below. The diary will be kept in the Court room and be available to parties and their counsel for inspection.

FORM

Date, Month and Year

Case No.	Name of parties	Counsel's name	Purpose	Date fixed in adjourned cases	Remarks
1	2	3	4	5	6

CHAPTER II

JURISDICTION & SITUATION OF CIVIL COURTS

19. Table of Jurisdiction.

In every Courtroom there shall be hung up in a conspicuous place a notice setting forth, in tabular form, the territorial and pecuniary jurisdiction of the Court as notified by the State Government and the High Court. The Munsarim shall be responsible for the maintenance up to date of this table of jurisdiction.

20. Jurisdiction and place of sitting of Courts.

The territorial jurisdiction and places of sitting of the permanent Courts of District Judges and Additional District Judges, of Civil and Sessions Judges⁸ exercising the powers of a Civil Judge, of Judge Small Causes, of Civil Judges⁹ and Additional Civil Judges, and of Munsifs¹⁰ and Additional Munsifs shall be as specified in Appendix 12.

⁸ Note : These Courts have been abolished .- Ed.

⁹ The Words "Civil Judge" shall now be read as "Civil Judge (Senior Division)"- Ed.

¹⁰ The Words "Munsif" shall now be read as "Civil Judge (Junior Division)"-Ed.

CHAPTER III
SUITS AND APPEALS IN GENERAL

(A) – Parties

21. Authority to co - suitor to act.

If one or more suitors authorize a co-suitor to appear, plead, or act in his or their behalf it shall be done through a duly stamped power of attorney.

22. Authority to District Government Counsel or other counsel for Government.

In every case in which the District Government Counsel or other counsel authorize to act for the Government appears for the Government as a party on its own account or for the Government as undertaking under O-XXVII, r. 8(1) the defence of a suit against an officer of the Government, he shall, in lieu of a *Vakalatnama*, file a memorandum on unstamped paper signed by him and stating on whose behalf he appears. Such memorandum shall be, as nearly as may be, in the terms of the following form:-

FORM
Title of the suit etc.

I, A.B., District Government Counsel, or Counsel authorized to act for Government, appear on behalf of the Union of India/The State of Uttar Pradesh.

Plaintiff

Defendant

Appellant (or etc.) in the above named suit

Respondent appeal

Or on behalf of _____ public officer whose defence has been undertaken by the Union/State under

O-XXVII, r. 8 Defendant

Respondent

23. Authority of Legal Remembrancer.

The Legal Remembrancer is ex-officio authorized¹¹ to act for the Uttar Pradesh Government in respect of all judicial civil proceedings.

24. Certificate for Court fees and stamps filed in suits by or against Government etc.

In suits by or against Government, Indian Railways, District or Municipal Boards,¹² trustees of a trust, if any such party desires a certificate of Court fee and stamps filed in Court by it and furnishes particulars of the same, the Court shall direct the Munsarim, Reader or any other official to give such certificate free of charge upon the particulars furnished after verification from the record.

(B) Applications and pleadings

25. Paper for pleadings and petitions.

All pleadings, applications, and petitions of whatsoever nature, and also powers of attorney and certificates of pleaders, filed in the course of civil judicial proceedings, shall be written in a legible hand or type-written on Government water-marked paper.

Provided that when saleable forms have been prescribed by the High Court for any purpose, applications must be presented on such forms, if available.

Provided also that when Government watermarked paper is not available, Courts may accept pleadings or petitions on stout durable paper.

Margin.

Only one side of the paper shall be used, and a quarter margin, together with at least two and a half centimeter of space at the top and bottom of each sheet, shall be allowed.

¹¹ Notification No. 246/VII-280-1, dated April 2, 1886.

¹² Note : District Boards are now replaced by Zila Parishads, and Kshettra Samities and Municipal Boards by Nagar Mahapalika and Nagar Palika – Ed.

26. Heading of pleadings and applications.

In every pleading or petition on which proceedings commence the names of parties shall bear consecutive numbers, and a separate line shall be allotted to the name and description of each person.

27. Person presenting application.

Every application or petition shall at the time of presentation bear the name and also full signature or thumb mark of the person actually presenting the same together with the date of presentation.

28. Separate applications for distinct subject matters.

Separate applications shall be made in regard to distinct subject matters.

Applications containing argumentative matters to be returned

No application containing argumentative matter, e.g., quotations and discussions of the effect of certain sections of Acts, or of certain rulings of the High Court, shall be placed on record. They shall be returned to applicants without any order, except an endorsement that the application is returned under this rule.

29. Persons from whom applications may be received.

Except an application for a copy, no application or petition and no pleading required or authorized by law to be made by a party in Court, shall be received from any person other than the party himself, his pleader, or his recognized agent (See O. III, rr. 1 and 2).

Registered clerks of pleaders, as such, can present only such applications as they are authorized to present by the rules given in Chapter XXV of these rules.

30. How to deal with applications received by post.

An application or petition, not being an application for a copy, received through post shall be returned to the sender with a note that it should be presented according to law, provided that necessary postage stamps have been received with such application or petition; otherwise it shall be filed in a file book.

31. Valuation to be noted on petitions.

In every petition on which an appealable order may be passed by the Court, the petitioner shall give the value of the subject-matter affected by the petition.

32. Time for presenting applications.

Except as otherwise provided by these rules, applications and petitions which can be presented to the Munsarim of a Court shall be received on any day other than an authorized holiday between 10-30 a.m. and such hour as may be fixed by the Court; provided that an application or petition presented after such hour and before 4 p.m. may be received on the ground, if any, of limitation or other urgent reason. Presiding Officers when accepting plaints or applications after Court hours will note on such papers the time of their presentation.

Note: See also rule 17 Chapter I

33. Orders other than routine ones to be made in judge's notes.

No orders except routine orders are to be recorded on the applications themselves. All orders other than routine orders passed on applications are to be recorded in the Judge's notes which are intended to be a record in English or Hindi¹³ of the suit or proceeding from the date of the first hearing to its termination.

34. Receipt slip.

A petitioner may, if he wishes, attach to, and present with, his petition a receipt slip in form No.4. If this is done, the slip shall be signed in acknowledgement of the receipt of the petition and returned to the petitioners after the necessary entry has been made in column 4, care being taken that all space where any interpolation or insertion of words is possible is crossed with a line. The Presiding Officer of the Court shall satisfy himself, from time to time, that receipt slips are returned to petitioners duly filled in without delay.

35. Munsarim's duty in respect of plaints.

A Munsarim of a Civil Court appointed to receive plaints shall examine each plaint presented to him, and shall report thereon whether the provisions of the Code and the Court-fees Act, have been observed, whether the claim is within the jurisdiction of the Court, constitutes a cause of action, and has been presented within the period prescribed for the institution of such a suit, and whether the plaint is in proper form including that in a suit where a notice under section 80, CPC, is necessary, such a notice has been given.

¹³ Inserted vide Noti. No. 302/VII-D-60, Admn.(G), dated November 30, 1992 Correction slip no. 111, Published in U.P. Gazette II, dated 23rd January, 1993.

The Munsarim shall see that the actual date of the presentation of the plaint is entered upon the impressed stamp and adhesive label, if any, below the date of purchase endorsed on them.

On the back of all plaints, the Munsarim shall note

- (a) date of presentation of the plaint,
- (b) name of presenter,
- (c) classification of suit, and
- (d) Court-fee paid.

36. Opposite party to be given copies of written statement etc.

The party filing any of the following papers in a case, other than a case of a Small Causes Court nature, shall file a written acknowledgement from the opposite party or his counsel of having received a copy thereof, and also of the affidavit, if any, accompanying such paper, and on default the Court shall cause a copy to be furnished immediately or served as soon as possible on such opposite party or his counsel at the cost of the party filing the paper;

- (i) a written statement,
- (ii) an objection under section 47 or under Order XXI, rule 58, of the Code,
- (iii) an application for the amendment of any pleading,
- (iv) an application for the appointment of a Receiver or a Commissioner,
- (v) an application for the amendment of a decree,
- (vi) an application for remitting or setting aside an award and an objection to an award, or
- (vii) an application for grant of a temporary injunction.

Provided that the presiding judge, if he is of opinion that a copy of any other paper should also be supplied to the opposite party, may pass such orders about the copy being furnished to the opposite party as he deems fit.

37. How to make amendment in pleadings.

- (i) An application for amendment made under O.I, r. 10, O. VI, r. 17 or Order XXII of the Code shall also contain a prayer for all consequential amendments. The Presiding Officer shall reject the application if it is not in accordance with law or these rules.

- (ii) When a party dies pendent elite a note to that effect shall be added against the name of the party and necessary consequential amendment in the body of the petition or pleading shall also be made as prayed for.
- (iii) When the heirs of a deceased party are substituted for him, they shall be entered and numbered as follows. If the serial number of the deceased party was say “3” his heirs will be numbered as 3/1, 3/2, 3/3 and so on. If the party numbered as 3/1 dies, his heirs will be numbered as 3/1/1, 3/1/2, 3/1/3 and so on.

38. Return of petitions and complaints.

No application, which has been filed in a Court, shall be returned for presentation to proper Court.

39. Return of *Vakalatnama* with complaint.

When a complaint is returned to a pleader or recognized agent of the plaintiff, the authority executed in his favour shall also be returned to him.

When returning a complaint for presentation to proper Court a Court may order the plaintiff to file a copy of the complaint to be put on record in place of the complaint.

(C) Documents

40. Who may produce documents.

Documents may be produced in Court –

- (i) by parties,
- (ii) by persons, other than parties; and
- (iii) on requisition issued by the Court.

41. Translation to be filed with certain documents.

Every document produced by a party or his witness not written in Hindi, Urdu or English shall be accompanied by a correct translation of the document into Hindi written in the *Devanagri* script. The translation shall bear a certificate of the party’s lawyer to the effect that the translation is correct. If the party is not represented by a lawyer, the Court shall have the translation certified by any person appointed by it in this behalf at the cost of the party concerned.

42. Opposite party to record admission or denial on documents.

A party desiring to produce any document in Court shall, before producing it in Court, obtain admission or denial recorded on the back of the document by the opposite party's lawyer. If the opposite party is not represented by a lawyer, the Court shall get admission or denial recorded by the party in its presence and may, for the purpose, examine the party.

43. List to accompany all documents whensoever filed.

The list of documents required by O. VII, r. 14 and O. XIII, r.1 shall be in form (Part IV-71) and no document, whensoever produced, shall be received unless accompanied by the said form duly filled up. In the case of a document produced by a witness or person summoned to produce a document, the form shall be supplied by the party at whose instance the document was produced. The list as well as the documents shall be immediately entered in the general index.

44. Statement about erasures and additions.

Whenever any private document, other than a registered document or certified copy, containing erasures, additions or interlineations is produced by a party to a case, it shall be accompanied by a statement clearly describing each such erasure, addition or interlineations, and signed by such party. Reference to such statement shall be made in the list form (Part IV-71) with which the paper is filed.

45. Small documents and documents of historic value.

Small documents when filed in Court shall be filed pasted on a paper equal to the size of the record, and the margin of the paper should be stitched to the file so that no part of the document is concealed by the stitching. If a document contains writing both on the front and the back, it should be kept in a separate cover, which should be stitched to the file at the proper place leaving the main document untouched.

46. Affidavit to accompany an application for production of public record.

When a party requires the production of a public record, the application shall, unless the Court otherwise directs, be accompanied by an affidavit showing how the party requiring the record has satisfied himself that it is material to the suit and why a certified copy of the document cannot be produced or will not serve the purpose.

NOTE: See also rules 76 to 78 of Chapter III. – Ed.

47. Documents for production of which sanction of head of department is necessary.

When a Court decides that in the interests of justice it is necessary that it should have before it a document which cannot be produced without the sanction of the head of the department concerned, it shall in its order asking for such document set out as clearly as possible (a) the facts, for the proof of which the production of the document is sought; (b) the exact portion or portions of the document required as evidence of the facts sought to be proved. The Court summoning the document shall fix a date for its production, which should not be less than three weeks from the date of issue of summons.

48. Registers from Sub – Registrar’s office.

- (1) A summons for the production of any register or book belonging to the office of a Sub-Registrar shall be addressed to the District Registrar and not direct to the Sub Registrar.¹⁴

Production of documents in police custody.

- (2) A summons for the production of documents in the custody of the police should be addressed to the Superintendent of Police concerned, and not to the Inspector General.

Production of Municipal and District Board Records.

- (3) When duly authenticated and certified copies of documents in the possession of Municipal and District Boards¹⁵ are admissible in evidence, the Court shall not send for original records unless, after perusal of copies filed, the Court is satisfied that the production of the original is absolutely necessary.

Post Office records not to be unnecessarily disclosed.

- (4) When any journal or other record of a post office is produced in Court, the Court shall not permit any portion of such journal or record to be disclosed, other than the portion or portions which seem to the Court necessary for the determination of the case then before it.

¹⁴ Vide rule 256 of the Registration Manual Part II (1916).

¹⁵ District Boards are now replaced by Zila Parishads and Kshetra Samities and Municipal Boards by Nagar Mahapalika and Nagar Palika. – Ed.

49. Settlement Records.

When a Court requires the production of any Settlement Record in which the Settlement Officer acted in a judicial capacity, it shall be summoned in the manner provided by O. XIII, r.10. In other cases the procedure prescribed in O. XVI, r. 6 shall be followed. The summons to produce such documents shall be issued to the Collector/Deputy Commissioner, who may send the document by messenger or registered post.

50. Payment of postage fee etc.

The payment of postage and registration fees or of traveling and other expenses for messengers, incurred in the transmission of, or requisition of records, shall be governed by the provisions of these rules and shall be paid ordinarily by the party at whose instance the expense is incurred.

51. Covers of documents received by registered post to be retained.

When a document of any kind connected with a judicial case is received under a registered cover, the cover shall not be destroyed, but shall be attached to the file of proceedings in the case to which the document refers.

52. Documents produced how to be dealt with.

All documents produced must be received by the Court and must be dealt with in one or other of the following ways, viz. :-

- (a) returned,
- (b) placed on the record, or
- (c) impounded.

53. Duty of Court upon production of documents.

The Court shall inspect and consider all documents as soon as practicable after they have been produced and deal with them as follows: -

- (a) Documents which are proved (or admitted by the party against whom they are produced in evidence) shall be admitted in evidence and marked as exhibits in the manner prescribed in rule 57 and the fact shall be noted in the record.
- (b) Documents which are not proved (or admitted by the party against whom they are produced in evidence) shall be kept on the record pending proof and shall be rejected at the close of the evidence, if not proved or admitted.

- (c) Documents that are found to be irrelevant or otherwise inadmissible in evidence shall be rejected forthwith.

Note: *No document unless admitted in evidence shall be marked as an exhibit.*

54. Admission of genuineness not to be confused with admission of truth of contents.

When a certified copy of any private document is produced in Court, inquiry shall be made from the opposite party whether he admits that it is a true and correct copy of the document which he also admits, or whether it is a true and correct copy of the document which he denies, or whether it is a true and correct copy of the document the genuineness of which he admits without admitting the truth of its contents, or whether he denies the correctness of the copy as well as of the document itself.

Admission of the genuineness of a document is not to be confused with the admission of the truth of its contents or with the admission that such document is relevant or sufficient to prove any alleged fact.

55. Proper expression about admissions of documents.

Admission of a document by a party shall be indicated by the endorsement “Admitted by the plaintiff” or “Admitted by the defendant”. Admission of a document in evidence by the Court shall be indicated by the endorsement “Admitted in evidence”. If any question is raised as to the correctness of a copy and the correctness of its is admitted, the endorsement shall be “correctness of copy admitted”. The use of the expression “Admitted as a copy” in endorsement on document is prohibited.

56. Endorsement on documents in suits compromised or dismissed for default.

Documents filed in suits, which are dismissed for default or compromised, shall, before being dealt with in the manner provided in rr. 59 and 60 be endorsed with the particulars mentioned in O. XIII, r. 4(i) and the result of the suit.

57. Marking of documents.

- (1) Documents produced by a plaintiff and duly admitted in evidence shall be marked with a number, and documents produced by a defendant shall be marked with a number and the letter A, or, where there are more than one set of defendants by the letter A for the first set of defendants, by the letter B for the second, and so on. Where a document is produced by order

of the Court and is not produced by any party, the serial number shall be prefaced by the words "Court Exhibit" or an abbreviation of the same.

- (2) Where a document is produced by a witness at the instance of a party, the number of the witness shall be endorsed thereon, e.g., Ex.P.W.1 if it is produced by the plaintiff's first witness, and Ex.-A/D.W.1 if it is produced by the defendant's first witness.
- (3) The party at whose instance a document is produced by a witness shall deposit the cost of the preparation of a certified copy of that document before it is placed on the record. The office shall then prepare a certified copy and keep it with the original document. If the witness wants to take back his document it shall be returned to him unless there are special reasons for keeping the original on the record.

Provided that a certified copy shall not be necessary where the document is written in a language other than Hindi or English, and a translation has been filed as prescribed by rule 41.

- (4) Every exhibit-mark shall be initialed and dated by the Judge.

58. Marking of documents.

Where a number of documents of the same nature are admitted, as for example, a series of receipt for rent, the whole series should bear one figure or capital letter or letters, a small figure or letter in brackets being added to distinguish each paper of the series.

59. Return of unproved documents.

A document which is rejected as irrelevant or otherwise inadmissible under O. XIII, r. 3, or is not proved shall, unless impounded under O. XIII, r. 8, or rendered wholly void or useless by force of the decree, be returned to the person producing it or to his pleader, and such person or pleader shall give a receipt for the same in column 4 of list (Form Part IV-71).

60. Retention of impounded and certain other documents.

- (1) Documents impounded shall be dealt with in accordance with O. XIII, R.8, and the word "impounded" should be noted in red ink across columns 3-5 of the list (Form Part IV-71) against the entries relating to such documents in the said list.

- (2) Should either party or his pleader entitled to receive a document, under rules, be absent or for good cause unwilling to receive, it shall be marked “not part of the record”, a note of the same being made in column 5 of the list (Form Part IV-71).
- (3) A document, which is the basis of a suit or defence, or the proof of which is discussed in the judgment and which is ultimately held to be not proved, shall be entered in the General Index and shall not be returned to the party, nor marked “not part of the record”.

61. Care of impounded documents.

No document which the Court has ordered to be impounded or which is required by law to be filed and preserved (for instance a will under Section 294 of Act XXXIX of 1925) shall be allowed to pass out of the custody of the Court, and no document produced for the purpose of comparison of signature, writing or seal shall be returned within the periods specified in O. XIII, r.9 (1)(b). With reference to O. XIII, r.9 (1)(b) an interval of 4 months shall ordinarily be allowed to intervene from the date of decree before the documents, whether original or copies, filed in a case are returned to the parties who produced them.

62. Cost of proving documents.

Deleted.

[Omitted by Notification No. 920/VIII-b-28, dated 11.9.1979, w.e.f. 15.12.1979]

63. Return of documents.

A general notice shall be posted in a conspicuous part of every Court house, giving warning that all documents filed in any suit or proceeding which may legally be returned, must be withdrawn as soon as the decree or order made in the suit or proceeding has become final or after four months of the decree or order, whichever is longer, and that if they are not so withdrawn, they will remain at the risk of the persons concerned.

64. Books of business.

If a document be an entry in a letter book, a shop book, or other account in current use or an entry in a public record, produced from a public office or by a public officer, a copy of the entry, certified in the manner required by law, shall be substituted on the record before the book, account or record is returned, and the necessary endorsement should be made thereon, as required by O. XIII, r.5.

(D) Commissions

65. Commissions to be issued to whom.

- (1) A commission for the examination of any person including one or the administration of a special oath shall ordinarily be issued to a legal practitioner practising either before the Court issuing the commission or before the Court within whose jurisdiction the person resides. Such commissions may, if it is considered desirable, also be issued to a Court (not being a High Court) within the local limits of whose jurisdiction the person resides.

N.B.: *A list of persons exempted from appearance in Court is given in Appendix I.*

- (2) A commission for making a local investigation necessitating the taking of evidence shall ordinarily be issued to a legal practitioner, and in cases requiring some special and technical knowledge to a person possessing the necessary technical and special knowledge.

A commission for local investigation not necessitating the taking of evidence may be issued to a legal practitioner or an Amin.

- (3) A commission to examine accounts may be issued to any person (including a legal practitioner) who is a competent accountant.
- (4) A commission for preparation of a map or to make partition shall ordinarily be issued to a Civil Court Amin. When it is impracticable, in consequence of temporary pressure of business or for some other good and sufficient reason, to have it executed by the Civil Court Amin, a commission may be issued to a qualified commissioner on the list of commissioners framed by the District Judge under rule 66.
- (5) A commission for ascertaining the sufficiency of any security or the means of a person seeking permission to sue as an indigent person shall be issued to a Civil Court Amin, and only in exceptional cases to a legal practitioner on the list of Commissioners.
- (6) A commission for conducting sale of property which is subject to speedy and natural decay and which is in the custody of the Court pending the determination of the suit shall ordinarily be

issued to a Civil Court Amin, and only in exceptional circumstances it shall be issued to an Advocate Commissioner.

- (7) A commission to perform any ministerial act may be issued to an Advocate Commissioner.

66. List of Commissioners

- (1) Every District Judge shall maintain a separate list of legal practitioners for each revenue district and outlying Munsifi, authorized to execute commissions. The list shall be prepared by the District Judge in consultation with the Judicial Officers of each revenue district or outlying Munisifi, as the case may be. The list may be sub-divided into five parts, namely, (i) for accounts, (ii) for survey, (iii) for simple measurements where no survey is necessary, (iv) for service of injunction orders, stay orders or other notices, and (v) for recording of evidence and all other purposes. The number of Commissioners in each part shall be fixed by the District Judge.

Care should be taken to include in the list of Commissioners for accounts and survey only those lawyers who are well conversant with and experienced in such work but for commission in matters referred to in items (iii) and (iv) above, the names of junior lawyers should be included. For matters referred to in item (v) above, the names of lawyers with a minimum standing of two years and having fairly good experience of working in Courts (but not very senior lawyers) should be included in the list. In exceptional circumstances, however, and for reasons to be recorded even very senior lawyers may be appointed as Commissioners for recording evidence thought not included in list.

The list of Commissioners shall be maintained in the office of the District Judge at the headquarters and of the senior most Judicial Officer at other places, and all commissions issued shall be entered in it. Commissions shall be issued in strict order of rotation in respect of each part unless there are reasons to the contrary. No commission shall be issued to any person whose name is not entered in these lists except for special reasons. The lists shall be revised once a year.

- (2) No commission shall issue to a Collector or to any officer subordinate to a Collector unless the consent of the Collector

has been obtained previously. Munsarims, Nazirs, Copyists, Ahlmads, Pleaders' clerks and Petition-writers shall not be employed as Commissioners.

- (3) The Court shall ordinarily require the party asking for the issue of a commission to deposit a fee (to be fixed by the Court) before the issue of the commission. The fee shall be fixed with due regard to the circumstances of the case and the status of the Commissioner.

Provided that for the services of an Amin to whom a commission for local investigation not necessitating the taking of evidence or for preparation of a map is issued, the Court shall require the party applying to pay a fee of Rs. 10¹⁶ for each process in addition to the fee of Rs. 10¹⁷ to cover traveling allowance of the Amin and his peon.

In the case of protracted investigation, which extends beyond the time originally calculated, the Court may suspend the commission until a further sum sufficient to cover the additional expense is paid into Court.

- (4) For the remuneration of a legal practitioner to whom a Commission to examine a witness is issued, the Court should require the party applying to pay a fee which shall be Rs. 30 for the first witness and Rs. 20 for each subsequent witnesses to be examined. If payment of higher fee than the above is necessary, the reasons thereof shall be recorded by the Presiding Officer of the Court issuing the Commission.
- (5) Where a commission cannot be executed for reasons beyond the control of the Commissioner, the Court may order payment of such fees as may appear to be reasonable, with due regard to the time spent by the Commissioner.

67. Prohibition of commission fees to Government Officers.

The acceptance by Government officers of fees for executing commissions is prohibited except in the cases mentioned in paragraph 3 of the late Government of India Resolution No.II-Judl./1173-1190, dated September 8, 1896.

¹⁶ Substituted by Notification. No. 337/xb-88, Admn. (G) dated July 26, 1996 of the Allahabad High Court correction Slip No. 117, Published in U.P. Gazette, dated 28th September, 1996.

¹⁷ Substituted by Notification. No. 337/xb-88, Admn. (G) dated July 26, 1996 of the Allahabad High Court correction Slip No. 117, Published in U.P. Gazette, dated 28th September, 1996

68. Particulars to be given in the order for local investigation.

When issuing a commission for making a local investigation under O. XXVI, r. 9 the Court shall define the points on which the Commissioner has to report. No point which can conveniently and ought to be substantiated by the parties by evidence at the trial shall be referred to the Commissioner.

69. Time for executing commissions.

A reasonable time shall be fixed for execution of every commission and the Court shall see that it is executed within such time unless the Court for sufficient reason extends the time.

70. Payment in advance of expenses for issue of commission.

- (1) Whenever a commission is issued to any Court, the Court issuing the same shall require the party applying for issue to pay into Court before issue -
 - (a) where such witness is to be examined by a Court, the traveling and other expenses likely to be incurred by the witness :
 - (b) in other cases such additional sum also as it may consider necessary for the employment of a legal practitioner by the Court to which the commission is issued.
- (2) The Court issuing the commission may require the party concerned to deposit such further amount as the Court to which the commission is sent may lawfully require.
- (3) Moneys thus deposited shall be entered in the Register of Petty Receipts and Repayments.

71. Commissioner's responsibilities.

A Commissioner shall in his report always give reasons or data on which he bases his opinion.

A Commissioner shall not issue copy of any map or report prepared by him or of evidence taken by him or of any portion thereof to any party.

72. Local inspections by Presiding Officers.

When the Presiding Officer of a Court considers it necessary to make a local inspection he shall invariably during the inspection or as soon as is convenient thereafter, record a note to be placed on the file stating the purpose of the inspection and all facts perceived or impressions received in the course thereof which are likely to affect his decision in the case. This note shall as far

as possible be prepared in the presence of parties or their counsel. Where this is not possible the parties or their counsel shall be informed of it.

Where a Presiding Officer makes a local inspection at the request of a party or parties he shall be entitled to receive traveling allowance at the rates mentioned below.

- (a) If the place of local inspection is less than 8 kilometers from the headquarters he shall be entitled to receive the actual expenses subject to a maximum of Rs. 2.50^Ω for each succeeding kilometer, on his certifying that they were actually incurred.
- (b) If the place of local inspection is beyond 8 kilometers he shall be entitled to receive traveling allowance at the rate of Rs. 5.00^Ω for the first kilometer and Rs. 2.50^Ω for each succeeding kilometer.

In case the Presiding Officer is subordinate to District Judge, the T.A. bill shall be countersigned by the District Judge.

A Presiding Officer deciding to make a local inspection at the request of a party or parties shall require it or them to deposit in Court the amount of travelling expenses at the rate of Rs. 5.00^Ω for the first kilometer. If, in case of journeys within 8 kilometers, the amount of actual expenses of the officer is less than the amount deposited, the excess shall be refunded to the party or parties.

The officer shall himself arrange for the conveyance for the journeys and shall, as far as possible, avoid the use of a conveyance offered by a party.

The money deposited by a party under this rule shall be included in the costs incurred by it in the suit.

Provided that in case of a journey in hill regions the aforesaid rates shall be increased by 33-1/3 percent.

Provided further that the amount shall be rounded of the nearest multiple of five paise.

73. Commissions for execution in England.

Deleted.

[Omitted by Notification No. 149/VIII-b-1, dated 18.2.81, w.e.f. 30.10.81]

^Ω Noti. No. 469/VIII-b-40, dated 25.11.1994 (Correction Slip No.118) Published in U.P. Gazette on 31 Dec., 1994 .

74. Commissions to foreign Courts.

Letters of request, commissions and other judicial documents meant for foreign or Common Wealth countries shall be sent through the Ministry of External Affairs and Commonwealth Relations, Government of India, New Delhi.¹⁸

When issuing such commissions the Court shall have such funds deposited by the party at whose instance the commission is issued, as may, in the discretion of the Court, be considered sufficient to defray the expenses likely to be incurred by the executing Court. An undertaking should also be taken from the party concerned to pay such further sum as may be wanted by the executing Court.

75. Government Examiner of Questioned Documents.

When a Court considers it necessary to obtain the opinion and evidence of the Government Examiner of Questioned Documents it shall follow the procedure provided in Appendix 18.

(E) Affidavits

76. Affidavits and facts.

Affidavits shall be confined to facts only and shall not contain any arguments.

77. Munsarims to verify affidavits.

- (a) Munsarims of all Civil Courts may verify affidavits.¹⁹
- (b) The Court fee label of Rs. 1.50 shall be affixed on each affidavit verified before the Munsarims for filing in the Courts of Munsif²⁰ and Small Causes Courts and Rs. 2.00 to each affidavit verified before the Munsarim for filing in all other Courts and Rs. 4.00 to each affidavit verified before the Munsarims for filing in the High Court. The said fee shall be in addition to the stamp duty chargeable under Article 4 of Schedule “I-B” of the Indian Stamp Act.

¹⁸ Letter No. F-120-13/48-OX(III) dated 6.8.1948 from the Deputy Secretary to Government of India in the Ministry of External Affairs and Commonwealth Relations to the Chief Secretary to Government, U.P.

¹⁹ G.O. No. 58/17-2, dated 22nd March, 1884. Notification No. 5891 of 27th November, 1931 in U.P. Gazette of 5th December, 1931.

²⁰ The word ‘Munsif’ shall now be read as ‘Civil Judge (Junior Division)’ - Ed

78. Power of District Judges to appoint lawyers to verify affidavits.

A District Judge may appoint legal practitioners to administer oaths to declarants.²¹

The fees chargeable by Oath Commissioners so appointed shall be Rs. 1.50 for each affidavit for Courts of Munsifs²², Small Causes Courts and of Assistant Collectors and Rs. 2.00, for each affidavit for all other Courts and Rs. 4.00 to each affidavit for the High Court. The said fee shall be in addition to the stamp duty chargeable under Article 4 of Schedule ‘I-B’ of the Indian Stamp Act.

Provided that the Superintendent-cum-Accountant of the office of the Official Liquidator, High Court, Allahabad who has been appointed as ex-officio Oath Commissioner by the High Court for verifying the affidavits in liquidation cases pertaining to his office, shall not be entitled to charge any fee for verification of such affidavits and the affixation of coupons on such affidavits is also dispensed with.

78-A. The fees paid for verification of affidavits including stamp duty paid thereon shall be taxed in the decree.

(F) Adjournments

79. Instructions for dealing with applications for adjournments.

In dealing with application for adjournment Courts shall be guided by the following instructions: -

- (1) A date of hearing once fixed shall be adhered to as far as possible and no adjournment shall be granted except for good cause to be recorded by the Judge. Adjournment should not as a rule be granted on the request of one of the parties when the other party is ready to proceed with the case, except on payment of an adequate sum as costs including costs for summoning and attendance of witnesses and the day’s remuneration for counsel. Such costs, if paid, shall not be taxed in the decree.
- (2) The fact that a party is, through carelessness or negligence, not ready to go on with a suit, is not in itself a good cause for adjournment.

²¹ G.O. No. 135/VII-591 of 1st February, 1928

²² The word ‘Munsif’ shall now be read as ‘Civil Judge (Junior Division)’ - Ed

- (3) The rules regarding the filing of documents and exhibits should be strictly observed, and parties have no right to ask for adjournments in order to obtain copies of documents, if by the exercise of diligence they could have procured them in time.
- (4) A hearing should not be adjourned to call for a written report from an officer of the Court, unless such report be absolutely necessary and cannot be obtained the same day.

80. Priority to cases to which soldiers, sailors or airmen are parties.

- (1) No case in which witnesses are present shall be allowed to stand out of its place in the list except for special reasons to be recorded by the Judge under his hand : provided that every Court shall bring to a hearing without regard to the order in which they may have been filed, all suits in which an officer, soldier, sailor or airman or person who may have obtained leave of absence from the Army, Navy or Air Force, may be a party, and shall decide such suits as speedily as may be convenient and consistent with due administration of justice.

Priority to cases which are holding up other cases.

- (2) Suits, appeals, or applications for the decision of which other cases have been held up shall be given priority, and they shall on no account be adjourned except of good reasons.

81. Priority to cases (uncontested).

A Judge shall before beginning his work for the day go through the cause-list, dispose of all uncontested work first, and then begin the contested work.

82. Fixing of dates.

The first date of hearing in a case shall not ordinarily be fixed more than two months ahead. But in a case in which the Government, or any Railway Administration is a party, the date for the first hearing shall be fixed for a day not less than two months after the institution of the suit; and if necessary the date of hearing shall be changed if counsel can show that instructions have not been received or that sufficient time for instructions and necessary inquiries has not been allowed.

Before fixing a date for final hearing, the Judge shall, after consulting pleaders for both sides, if necessary, make a reasonable estimate as to the time required for the disposal of each particular case.

Long dates prohibited.

Cases in which a date for final hearing cannot be fixed within three months should ordinarily be put up within that period for fixing a date for final hearing.

83. Party's fault in non-service of summons on witnesses.

- (1) In all cases the Court shall require a party applying for an adjournment, on the ground that a summons has not been duly served to show that he applied, where it was possible to so apply, for the issue of the summons in time to enable the service to be effected and that he performed every other act required for the issue and service thereof.
- (2) When a date more than one month ahead is fixed for the examination of witnesses, the parties shall make repeated efforts to procure service of summonses on their witnesses. It shall be their duty in the absence of any special order of the Court to apply for the issue of summonses within ten days of the order fixing the date for examination of witnesses and to make subsequent applications within seven days of the return to the Court of a summons which has not been duly served.

84. Party's fault in non-service of summons on witnesses.

Where a summons has been returned unserved by reason of a wrong or insufficient address of the witness the Court may, before adjourning the case for issue of a fresh summons, require the party applying for the same to satisfy the Court, by affidavit or otherwise, that such party was not in a position to know the correct address at the date when he applied for issue of the former summons, and also that the presence of the witness will really be of advantage to such party.

(G) Hearing of the suit

85. Judge's Notes.

- (1) The Judge's notes are intended to be a record in English or Hindi²³ of the progress of the suit or proceeding from the date of the first hearing of the suit or proceeding and to include every material order passed therein on any interlocutory matter,

²³ Inserted vide – Notification No.302/VIID-60 Admn.(G) dated 30.11.1992 (Correction Slip No. 111) (Published in U.P. Gazette on 23.01.1993)

and shall also contain the issue framed. These notes shall be legible and complete.

- (2) The Judge's notes shall show how documents tendered in evidence have been dealt with, the admissions or denials thereof by the opposite party, whether such admissions or denials have been endorsed thereon by the said party, and, if any question of relevancy is raised the decision thereon.
- (3) All proceedings, notes, depositions, memoranda of evidence and reports shall be so recorded that a quarter margin is left.

86. Evidence common to two cases.

Whenever by consent of parties evidence given in one case is admitted by a Civil Court as evidence in another case, separate proceeding stating the fact shall be recorded, signed by the Judge and placed on the records of both cases.

87. Witnesses in attendance to be examined.

On the day fixed for recording the evidence of witnesses, the evidence of all witnesses in attendance shall, so far as is possible, be recorded. That some witnesses have not attended is no reason for not recording the evidence of those in attendance. If the examination of all the witnesses is not concluded on the same day, it shall be proceeded with, if possible, from day to day.

88. Judge's duty during the recording of evidence.

The memorandum required by O. XVIII, r. 8 shall state clearly what each witness deposes as to the points at issue, and shall be recorded as the examination of each witness proceeds.

89. Record of parties statements.

Statements of parties or their counsel under O.X, rr. 1,2 or of a similar nature shall be recorded either on the judge's notes or on a full sheet of foolscap paper and shall be signed by the persons making them.

(H) Transfer or withdrawal of cases.

89A. Procedure to be followed on transfer or withdrawal of cases.

- (1) When a case, i.e., a suit, appeal or other proceedings in which a date for attendance of a party or the parties in a particular Court has been fixed, is transferred from the Court to another, the former Court shall record the order of transfer in the order sheet and get it signed by counsel of the party or parties, if any

party is unrepresented information shall be sent to his registered address. The case shall be called out by the other Court on the date already fixed by the transferring Court and the presence of the parties noted.

- (2) A note to the effect that a party or the parties have been informed in accordance with sub-rule (1) shall be made on the record by the transferring Court.
- (3) Where cases are transferred in a large number the Court from which they are transferred shall, besides following the procedure laid down in sub-rule (1), draw up a list mentioning in it the numbers and years of the cases and the names of the parties and their counsel, and shall cause one copy of it to be posted on the notice board of the local bar association for information of the members of the bar and another copy to be posted on the notice board of the Court for information of the general public. It shall also send to the other Court along with the records of the transferred cases, a copy of the list (or relevant extract of it); the other Court shall post it on its own notice board. If the other Court is situated in a different place in which there is another bar association, an extra copy of the list shall be sent to it for being posted on the notice board of the bar association.
- (4) The Court to which cases are transferred shall not proceed without satisfying itself that the parties or their counsel, as the case may be, have been informed of the transfer.
- (5) In sub-rules (1) to (4) 'transfer' includes withdrawal of a case.

89B.²⁴

“When exercising powers of the District Judge under Section 10(1) of Bengal, Agra and Assam Civil Courts Act, 1887, the Additional Judge or the Civil Judge, as the case may be, shall only exercise such powers of the District Judge under Section 10(2) of the said Act which are necessary for the purposes of disposal of urgent applications made or pending before such Courts in the district and may also deal with the matters of routine nature. He shall, however, not make any orders for transfer or recall of the cases pending

²⁴ Added by – High Court of Judicature at Allahabad, Administrative (G) Section, Noti. No. 304/VIII-B-259, Correction Slip, No. 112, dated November 30, 1992, published in the U.P. Gazette, Part 2, dated 23rd January, 1993, p. 4, Sl. No. 4.

in the Civil Court in the district, save in exceptional circumstances and for reasons recorded by him in this behalf.”

(I) Judgment and decree

90. Mode of recording judgment.

Judgment shall be on foolscap paper, one quarter page being left blank. To each judgment shall be prefixed a heading specifying the number of the case and the names of all the parties.

No Court shall write a judgment or final order on the order-sheet, or any paper already on the file, such as pleadings, applications, objections, etc.

Provided that where the operative portion of the judgment is announced in open Court, soon after the close of the case, such operative portion may be written or type written on the order sheet and signed and sealed.

A judgment or order may be written or type – written by the Judge, or may be recorded at his dictation; but every page of the record of a judgment or order, not in the handwriting of the Judge, shall be attested by the Judge’s initials.

91. Provisions of C.P.C. to be given in certain judgments.

When complaints are rejected or returned, and in cases disposed of without decree, as also in cases in which decrees are passed without contest, the Judge shall put on record the Section or Order and rule of the Code under which the judgment or order is passed.

92. Reference of parties and witnesses in judgments and use of abbreviations.

- (1) A reference to a party or a witness shall be by name and number, and not merely by number like P.W. I or Defdt. I.
- (2) Judgments shall contain the terms in full and not in abbreviated forms except where the abbreviations are well recognized and are in common use, such as A.M., P.M., e.g., etc.

93. Judges may take records out of Courts.

Presiding Officers of Civil Courts may take records for perusal or writing judgment to their residence but only under proper entries made in a book kept for the purpose by the Reader or other clerk having custody of the record at the time. Records thus taken out of office must be returned as soon as possible.

94. (1) Judgments not to be delayed.

A judgment or the detailed reason where the operative portion only has been announced orally in open Court under rule 90 shall be delivered within a reasonable time after close of the case which shall not ordinarily exceed fifteen days.

(2) Completed cases to be decided by officer before proceeding on transfer.

When a Judge is transferred, he shall ordinarily deliver judgments in all cases complete in other respects. If necessary, he shall take the file to his new station and there finish the judgment which shall be pronounced by his successor. If owing to the bulk or importance of a record it be not considered desirable that he should take it with him, the judgment shall be written before the transfer takes place.

95. Decree to contain addresses filed by parties.

Every decree or formal order must contain the names and addresses of the parties, as given in the plaint as also the addresses filed subsequently. The words, ‘non-contesting’, shall also be written in a bracket against the name of such defendant as has not appeared or has not filed a written statement or after having filed written statement has failed to appear and contest the suit at the hearing, as referred to in Order V, rule 4-A and Order XXII, rule 4(4).

96. Decree to be self contained.

Every decree and order as defined in Section 2, of the Code shall be drawn up in such a manner that in order to the understanding and execution thereof, it may not be necessary to refer to any other document or paper whatever, which is not made part of the decree or order.

Prescribed forms of decrees.

In all cases in which the form of a decree has been prescribed or indicated by statute, the decree shall be prepared, as far as possible, in the form so prescribed.

97. Taxing of diet money of witnesses.

In taxing costs the diet money of only such witnesses as are actually examined shall be included unless the Court directs otherwise.

97-A.

A party may file an affidavit stating the amounts spent by him on any one or more of the items referred to in clauses (a) to (f) of Order XX-A. Rule I

of the Code of Civil Procedure, and the Court may award such costs under these items as may appear to be reasonable, the cost so awarded shall be taxed as costs in the decree.*

**(Note:- This rule shall also apply to suits filed under rule 2 of Order XXXVII C.P.C.)*

98. Drawing up of decree.

- (1) The decree shall be drawn up by the decree writer ordinarily within seven days of the date of the judgment and shall bear that date. The formal order may, however, be drawn up only when a party applies for a copy of the formal order or the Court so directs, within seven days from such application or direction. After the decree or formal order has been examined and the provisions of Order XX, Rule 21, have been complied with, it shall be signed by the judge and the date of such signature entered by him immediately beneath the signature.

Contents of decree (original).

- (2) A Judge shall see that the decree or formal order drawn up specifies clearly the relief granted or other determination of the case and that the heading of the decree contains definite particulars of the claim.

99. Contents of appellate decree.

When an appellate Court modifies or reverses the decree of the trial Court, the appellate decree shall specify the relief actually granted as the result of such modification or reversal. The Judge shall satisfy himself before signing the decree that the relief thus specified has been embodied in the decree.

100. Copy of appellate judgment to be certified to lower Court.

A copy of an appellate judgment certified to the lower Courts shall, after noting the result in the appropriate register, be sent for perusal to the officer against whose order or decree the appeal was preferred. Such officer shall return the copy within a fortnight to the record keeper to be filed.

101. Information to departmental heads when necessary.

A Judge shall, after delivery of his judgment in any suit of proceeding, inform the head of the department of any circumstances personally affecting any public servant in that case.

CHAPTER IV

SUMMONSES AND OTHER PROCESSES

A-Summonses and other Processes (General)

102. Parties to file summonses.

- (a) A party shall file with the plaint, memorandum of appeal, or an application requiring the issue of a summons/notice, a printed summons/notice form²⁵ in duplicate, in the Nagri character, duly filled up except in respect of the date of appearance/hearing and date of issue of the summons/notice. The Court may also direct a party in any proceeding to file a summons or notice filled up as above to be served on the opposite party.

Provided that the Presiding Officer may in his discretion direct that such forms in general or any particular such form be filled up entirely in the office of the Court.

Date to be filled by office.

- (b) In summons and notice the date of appearance/hearing and the date of issue shall be filled up by the office of the Court and the Presiding Officer or the Munsarim, to whom such authority may have been delegated, shall sign the summons/notice and also put the date of signature.

Forms to be legibly written and signed by parties.

- (c) The forms shall not be accepted unless filled up in a bold, clear and legible hand-writing. The parties, their recognized agents or pleaders, shall sign the form in the left bottom corner, and will be responsible for the accuracy of the information entered in the forms.

Process to contain name of issuing Court.

- (d) In every process or order, issued or made by a judicial officer, the names of the district and the state, the Court and the officer issuing or making it, shall be legibly written at the top.

In all cases all judicial officers and Munsarims shall sign their names distinctly and legibly. No such signature shall be made by means of a stamp.

²⁵ These can be had on payment of a fixed price from licensed stamp vendors.

Form of process.

- (e) There shall be two types of the forms of process, one printed on white paper to be used in ordinary cases and the other printed on pink paper to be used in urgent cases. Where there are printed forms available for any process, such forms shall invariably be used. Where there is a prescribed form but no printed copies are available, a process shall be written in the prescribed form. In cases where there is no prescribed form, a standard form, if possible, shall be modified to meet the requirements of the particular case.

When translation to accompany process sent to other Courts.

- (f) Where a process is sent to the Court of a district of another state where a different language is in ordinary official use, a translation, certified by the transmitting Court to be correct, into such other language may also accompany the process.

103. Contents of process.

Before issuing a process the issuing officer shall satisfy himself that such description of the person for whom the process is intended or in respect of whom or whose person or property it is issued, is entered therein as will enable the process-server without risk of mistake to identify such person or property. The name, father's name, occupation, district, mohalla (if any), village or town shall be set forth in the process. Where such description does not appear in the application of the person moving the Court to issue the process or in the record, the orders of the Court shall forthwith be taken by the issuing officer.

104. Time to be allowed in processes to Government Department.

In all processes issued in any suit or proceeding to which the Government, or a Railway Administration be a party, care shall be taken, that a reasonable time is allowed for communication between the authorities competent to give instructions to the counsel or agent authorized to represent them in Court. The Court may also extend the time at its discretion, but the time so extended shall not exceed two months in the aggregate.

N.B.: *General Managers of Indian Railways have been appointed as Agents of Government for the purpose of receiving processes from the Civil Courts in Uttar Pradesh in all cases concerning Indian Railways.*

105. Payment of process fees and other expenses.

Except in so far as is otherwise provided by any rule or specially ordered by a Court, no process shall be drawn up or issued for service or execution, as the case may be, until the fee chargeable under these rules has been paid in Court-fee stamps.

A summons to a witness shall not be issued until due payment of the traveling and other expenses prescribed by rules has been certified by the officer of the Court authorized to receive such payment.

Provided that where the Government is the party applying for a summons to a Government servant or where the party or his agent applies that the summons to a witness be given to it for effecting service, no process fee shall be charged and the deposit of traveling and other expenses may also be dispensed with.

105A.

- (1) The other expenses to be allowed to the witnesses shall be on the following scale, namely:
 - (a) in the case of witnesses of the class of cultivators, labourers and persons including Government servants of corresponding rank, four rupees a day;
 - (b) in the case of witnesses of a better class, such as Bhumidhars, traders, pleaders and persons including Government servants of corresponding rank six rupees to twelve rupees a day, as the Court may direct;
 - (c) in the case of witnesses of a superior rank including Government servants of corresponding rank from eight rupees to twenty four rupees a day, as the Court may direct;

Provided that where a Government servant is summoned to produce official documents or to give evidence of facts which came to his knowledge in the discharge of his public duties, he shall be paid traveling and other expenses at the rates, admissible to him as for journeys on tour in accordance with the traveling allowance rules applicable to him.

- (2) If a witness demands any sum in excess of what has been paid to him, such sum shall be allowed if he satisfies the Court that he has actually and necessarily incurred the additional expense;

Illustration – A post office or railway employee summoned to give evidence is entitled to demand from the party, on whose behalf or at whose instance he is summoned, the traveling or other expenses allowed to witnesses of the class or rank to which he belongs, and in addition the sum for which he is liable as payment to the substitute officiating during his absence from duty. The sum so payable in respect of the substitute will be certified by the official superior of the witness on a slip, which the witness will present to the Court from which the summons issued.

- (3) If a witness be detained for a longer period than one day the expense of the detention shall be allowed at such rates not usually exceeding that payable under sub rule(1), as may seem to the Court to be reasonable and proper:

Provided that the Court may, for reasons stated in writing allow expenses on a higher scale than that herein before prescribed.

106. Process fees for notice in execution cases.

- (1) The process-fee for issue of notice either under rule 16 or rule 22 of O.XXI shall be paid when the application for execution is presented. After service of notice if the Court directs execution to issue, the fee for attachment or arrest, as the case may be, shall be paid promptly and if the judgment debtor's property is, after the attachment, ordered to be sold, the necessary sale fees shall be deposited.

Poundage how and when paid.

- (2) In cases covered by the note to Article 6-Part II of the table of process – fees in rule 365 Chapter XIII of these rules, the additional fees which may become payable shall be paid in Court fee stamps.

Process fees deposited in previous execution not to be used in later execution.

- (3) When an application for execution of a decree has been disposed of and a fresh application is made the process – fee deposited in connection with the previous execution and not spent shall not be utilized for issue of a fresh process. Such fee may be refunded according to law.

107. Ferry tolls etc.

When, in order to serve or execute any process, the peon, or other officer who is to serve or execute it, has to cross a bridge or ferry, the amount, if any, legally chargeable as toll shall be levied in cash from the person at whose instance the process is issued before delivery of the process to such peon or other officer.

108. Postage for sending processes.

No charge for postage for transmission of processes from one Court to another shall be levied from the parties, postal charges being paid by means of service postage stamps by the Court forwarding or making return.

109. Endorsement on processes sent for service to other Courts.

- (1) When a Court sends a process for service or execution to any Court beyond its jurisdiction, it shall endorse on the process a certificate that the fee chargeable under these rules has been levied.
- (2) When the warrant or process is required to be executed or served by the Court of Small Causes, Calcutta, conveyance charges at the rate of Rs. 10.00²⁶ per warrant and Rs.1.00* per copy of summons or other process shall be realized in advance in Court – fee stamps and a certificate of realization of the charges shall be endorsed thereon for the information of the Court of Small Causes, Calcutta.

N.B. – *The Court subordinate to the Calcutta High Court are bound to serve warrants and processes so endorsed. Vide rule 687 of the Civil Rules and Orders for the guidance of Civil Courts subordinate to the High Court of Fort William, Bengal-Vol. 1.*

110. Service of process from other Courts.

When a process bearing a certificate that the proper fee has been levied, is received by a Court from another Court in the Union of India the Court shall cause it to be served without further charge.

111. Particulars on return of summonses.

The Court to which the summons has been sent under O.V, r. 21, shall re-transmit it to the Court by which it was issued together with -

²⁶ Substituted by Notification No. 337/X-b-88, dated 26.7.96, Correction Slip No. 117 and Published in U.P., Gazette on 28.9.96.

* Ditto

- (1) the Nazir's return and the affidavit or examination on oath of the serving officer;
- (2) the record of further inquiry, if any, by such Court;
- (3) where the service has been effected by affixation under O. V., r. 17, a declaration by such Court whether the service is sufficient or not; and
- (4) in cases where the return of service is in a language other than Hindi or English it shall be accompanied by a Hindi translation of the report of service.

112. Processes for service by foreign countries.

A process meant for service in foreign or Commonwealth countries shall be sent through the High Court to the Ministry of External Affairs and Commonwealth Relations, Government of India, in accordance with such directions as may be issued from time to time.

Provided that where in a foreign territory Political Agent has been appointed or Court has been established in accordance with Order V, Rule 26, the process can also be sent direct by registered post or otherwise to such Political Agent or Court for service.

113. Directions for processes to be sent to foreign Courts.

The following directions shall be carefully complied with when any processes are to be issued for service in foreign countries (i.e., a State or Country outside the Union of India): -

- (a) They shall be drawn up in proper form and type written. Where printed forms are not used, they shall be type written on good durable paper.
- (b) They shall be written in English and shall be legible. Such summonses etc., shall not be signed by the Munsarim but by the Presiding Officer of the Court issuing them, and he shall satisfy himself that the documents are correctly addressed and properly sealed. This matter shall not be left to the parties and the Munsarim.
- (c) The names and addresses of the individuals upon whom a process is to be served shall also be stated in the forwarding letter accompanying the process.
- (d) All documents not in English shall be accompanied by their translation in English and in addition where the person upon

whom the service is desired, is not a British subject, by a translation into the language of the country concerned.

In case of Iran full translation into Persian shall accompany all judicial documents including summonses and notices. If, however, this be not possible necessary fee at the rates given below shall accompany such documents for their translation and certification.

- (i) Fees for making or verifying a translation of a document per page Rs. 20.00.²⁷
- (ii) Fees for granting any certificate not otherwise provided for, if not exceeding one page Rs. 25.00.²⁸

NOTE – *Bankers draft in rupees should be sent for the calculated fees chargeable.*

- (e) The returnable date to be specified in the documents shall be so fixed as to allow sufficient time for execution and return of the documents to India before the date fixed for the next hearing of the suit. In no case shall the returnable date be fixed at less than 3 months after the date on which the documents are finally dispatched to the High Court. In the case of Iran the period shall ordinarily be not less than six months and in case of Thailand not less than eight months.

114. Deposit of expenses in summons to be sent to foreign countries.

- (1) Where a process is issued to any Court outside India, the Court issuing the process shall require the party at whose instance the process is issued to pay in cash (and not in Court-fee stamps), such fee for service as is required by the Court to which the process is to be sent and shall transmit the same to such Court, together with, in the case of summons to a witness, reasonable traveling and other expenses.
- (2) Similarly a process issued by any such Court shall only be served upon receipt, of the process-fee chargeable under rule 365 Chapter XIII and of the expenses prescribed by Rule 105-

²⁷ Substituted vide Notification No. 337/xb-88 dated 26.7.96 of Hon'ble High Court published on 28.9.96 in U.P. Gazette (Correction Slip No. 117).

²⁸ Substituted vide Notification No. 337/xb-88 dated 26.7.96 of Hon'ble High Court published on 28.9.96 in U.P. Gazette (Correction Slip No. 117).

A. The process-fee thus received shall be expended in the purchase of Court-fee stamps to be affixed to the process.

B – Process to soldiers etc. and other public officers.

115. Summons to officers and soldier.

A summon to an officer in the Military, Naval, or Air Forces of the Union of India, as defendant or as witness, shall be sent direct to him for service and a summon to a soldier, sailor or airman, as defendant or as witness, shall be sent for service to his Commanding Officer. In such cases sufficient time shall be given to admit of arrangements being made for the relief of the person summoned.

116. Summons to public officers.

- (1) A summons/notice to a public officer, as defendant or as witness, shall ordinarily be sent for service to the head of the officer in which he is employed.

N.B.- *For summoning or issue of commission for the examination of Finger Print Expert see G.O. No.3716/VIII-520-45 of 27th June 1946 and C.L. No. 121/VIII f-8 dated 8th December 1951. For summoning of a Finger Print Proficient consult Appendix 24. For summoning of Government Examiner of Questioned Documents, consult Appendix 18.*

- (2) For service on gazetted officers in the state the list given in Appendix 3 shows in column 2 the authority through whom summons should be served.
- (3) A list of officers through whom servants of Railways working in whole or in part in this State shall be served, is given in Appendix 2.

NOTE: *see also Rule 104-Ed.*

117. Intimation to head of office when summons sent to public officer.

In every case where a Court sees fit to issue a summons direct to any public officer other than a military officer or a soldier, sailor or airman as a witness, simultaneously with the issue of the summons, notice shall be sent to the head of the office in which the person summoned is employed., in order

that arrangements may be made for the performance of the duties of such person.

118. Intimation for making arrangements for performance of duties of the public officer.

Where a public officer or soldier, sailor or airman has been summoned under O.V., r. 3 to appear in person through the head of the office or the Commanding Officer, in the forwarding letter or in a note on the summons it shall be stated that the summons should be regarded by such head of the office or Commanding Officer also as notice to make arrangements for the performance of the duties of such public officer or soldier, sailor or airman, during his absence. In the case of an officer in the Military, Naval or Air Forces of the Union of India, the summons shall be sent direct to him and a letter shall be addressed to the Commanding Officer.

NOTE: Before the personal attendance of an officer holding a responsible post is enforced, the presiding Judge shall satisfy himself that his attendance is necessary. If such officer is summoned away from his district, sufficient notice shall be given to him and to his immediate superior to enable arrangements to be made for the discharge of his duties in his absence.

119. Public officer summoned as defendant.

Neither of the preceding two rules shall apply where an officer or a soldier, sailor or airman in the Military, Naval or Air Forces of the Union of India, or a public officer is summoned as a defendant under O. V., r.1. In such cases he shall make his own arrangements if he wishes to appear in Court in person.

120. Warrant for arrest of public servants.

- (a) No warrant of arrest shall ordinarily be executed against any Government servant until notice of the intended arrest has been given to the head of his office.

In the case of a warrant issued for the arrest of an employee of the Telegraph Department, notice shall be given to the superior officer designated in column 2 of the subjoined list for the period specified in column 3.

Division to which employee belongs	Senior Officer to be advised	Period of notice
Telegraph Traffic employees of Agra office	Superintendent in charge, Agra Government Telegraph Office.	Seven clear days
Telegraph Traffic employees of other Offices in Uttar Pradesh	Post Master General, Uttar Pradesh Circle	Ditto
Telegraph Engineering employees of Lucknow Division.	Divisional Engineer, Telegraphs, Lucknow Division.	Ditto
Telegraph Engineering Employees of Patna.	Patna	Ditto
Telegraph Engineering employees of Allahabad Division	Divisional Engineer, Telegraphs, Allahabad Division.	Ditto
Telegraph Engineering Employees of Delhi Division	Divisional Engineer, Telegraphs, Delhi Division.	Ditto

- (b) No warrant of arrest shall be executed against any railway servant or any person working on a railway in the service of a contractor till notice of the intended arrest has been given to the proper officer of the railway or to the contractor or his representative.

121. Manner of service of process on a Member of Parliament or State Legislature.

No process shall be served upon a member of parliament or the Legislature while he is within the precincts of the House of Parliament or Legislature, as the case may be, nor shall it be served through the Presiding Officer or the Secretariat concerned. It shall be served direct upon the member outside the precincts of the House of Parliament, or Legislature, as the case may be.

C-Service of processes

122. Establishment of process servers.

- (1) There shall be one general establishment of process-servers under the immediate direction of the Central Nazir for the service of processes issued for service within the jurisdiction of

the Courts at the headquarters of every District Judge or Permanent Additional District and Sessions Judge.

- (2) There shall be one establishment of process-servers under the immediate direction of the Nazir at the headquarters of every outlying Munsifi for the service of processes issued for service within the jurisdiction of that Munsifi.

123. Number of processes to be served annually by a process server.

Subject to any orders of the High Court the normal establishment of process-servers shall be at the rate of one process –server for an annual average of 600 processes issued for plains and 400 for hills. An emergent process or a day occupied by a process–server on duty other than of process serving shall be reckoned as equal to three processes.

124. Process servers to be properly dressed.

It shall be the duty of the Central Nazir or Nazir to see that the process servers are properly dressed and wear their badges, belts and satchels.

125. Processes to be delivered to Nazir for service.

Every process issued or received by a Court at the headquarters of a district for service within its own jurisdiction or within the jurisdiction of any other Court at such headquarters shall be delivered to the Central Nazir or Nazir for service.

126. Duty of Nazir on receipt of processes for service.

The Nazir to whom the process is sent under the preceding rule shall be deemed the serving officer of the Court from which he receives the process, and shall forward direct to such Court in the case of a summons the return prescribed by O.V., r.18, and in the case of a warrant for arrest, the judgement-debtor, if arrested, and any decretal money received from the judgement debtor.

NOTE: (A Nazir may serve a process himself but ordinarily should get process served by process servers.)

127. Processes for service within outlying Munsifi.

Where any process is for service within the jurisdiction of an outlying Munsifi of the district, it shall be sent to the Munsif concerned:

Provided that –

a warrant of arrest, or

an urgent process, or

any other process which in the particular circumstances of the case it is advisable to serve or execute by a process-server at headquarters shall be delivered to the Central Nazir at headquarters for such service.

128. Processes issued or received by outlying Munsifi.

A process issued or received by an outlying Munsifi shall -

- (a) if it is for service within its own jurisdiction, be delivered to the Nazir of such Court;
- (b) if it is for service within the jurisdiction of another outlying Munsifi of the same district, be sent for service so such other outlying Munsifi.
- (c) if it is for service within the jurisdiction of a Court at headquarters but not within the jurisdiction of any outlying Munsifi, be sent for service to the District Judge or the Civil and Sessions Judge,²⁹ Civil Judge³⁰ or Munsif³¹ at headquarters, as the case may be.

129. Nazir's list of inhabited place.

Every Central Nazir and Nazir shall maintain for the jurisdiction for which he is the serving officer:

- (a) a list of all inhabited places within a five mile radius of his office;
- (b) a list of all inhabited places outside such five mile radius;

An "inhabited place" for the purpose of this rule means a place containing inhabitants and having a distinctive name.

- (c) a map of the area in the territorial jurisdiction of the Court of which he is Central Nazir or Nazir;
- (d) a map showing the beats fixed by the Nazir or Central Nazir for process servers under his control.

²⁹ NOTE: The words 'Civil and Sessions Judge' shall now be read as 'Additional District and Sessions Judge - Ed

³⁰ NOTE: The words 'Civil Judge' shall now be read as 'Civil Judge (Senior Division)'

³¹ NOTE: The words 'Munsif' shall now be read as 'Civil Judge (Junior Division)'

130. Beats of area outside eight kilometer radius.

- (1) The Central Nazir or Nazir shall divide the area outside the eight kilometer radius into beats, shall make the best beats, and shall make the best arrangement possible for the prompt service of processes in each beat.
- (2) The Central Nazir or Nazir shall prepare a statement showing:-
 - (i) the number of the beat.
 - (ii) The names of the parganas and villages included in the beat,
 - (iii) The day or days of the week on which processes are issued in the beat, and
 - (iv) The number of process servers posted at each beat.

The allotment of process servers to the various beats shall be done by the District Judge every year but for special reasons a process server may be transferred from one beat to another earlier also.

A copy of such statement after it has been approved by the District Judge shall be supplied to each Court and kept in the Court-room with a view to dates being fixed in accordance therewith.

Process almirah and distribution of processes.

- (3) In the office of the Central Nazir or Nazir there shall be kept an almirah which shall be divided into pigeon-holes the number of which shall be more than the number of beats, extra holes being used for urgent processes and each process shall be placed in its appropriate pigeon-hole as soon as it is received. The processes relating to a particular beat shall issue on the day fixed for that beat or if so ordered by officer incharge of the Nazarat, on any other day.

131. Issue of process within eight kilometers radius.

A process for service at a place within the eight kilometer radius shall ordinarily be returned either the same day or the next. Emergent processes shall be issued for service on the day they are received by the serving officer.

132. Priority to process servers with long stay.

In distributing processes to the process-servers priority shall ordinarily be given to the process –server or process –servers who have longest been at headquarters.

133. Processes from foreign Courts.

A process received for service from foreign Courts shall be shown in red-ink in the register of processes; and the Central Nazir or Nazir shall place the register once a week before the Munsarim of the District Judge’s Court or the Munsarim of his Court, as the case may be, who shall mark the last entry in the register and put his initials thereto indicating that he has checked all the entries and issued necessary orders for obviating delay.

134. Attendance of process servers.

An attendance register of process-servers shall be kept and the roll shall be called every morning at 10.

Diaries of process servers.

Every process-server shall keep a diary, containing a copy of this rule on the first page, in the following form wherein shall be recorded day by day in column 2 the time, period, and purpose of his attendance in the Nazir’s office or in Court, the duties performed, places visited by him together with the time spent therein, and stopping place for the night when away on duty from his headquarters; and in column 3, the signature of the Nazir, or of a Court, or of the lekhpal, or other respectable person of the places visited, as the case may be, in attestation of the contents of column 2.

Date	Particulars of work and time spent thereon	Signature of Nazir, Lekhpal etc.	Signature of Nazir, or other officer, acknowledging receipt of all sums of money refunded.	Remarks
1	2	3	3A	4

135. Service by special messenger.

A process may be executed by a special messenger,

- (1) in the case of a warrant for the arrest of a person,

Emergent service-fee.

- (2) in any other case in which a Court either suo motu or otherwise, records an order that, for the convenience of the parties or for some other reason, it is expedient that such process shall be executed by a special messenger. A special fee to be fixed by the Court shall be payable for such “emergent service”. The Court shall, at the time of passing the order,

declare by whom the fee shall be paid and whether it shall be included in the costs of the suit or be charged to a particular party.

136. Boat or ekka hire for emergent service.

In addition to the special fee payable for an emergent process the Court may direct payment by the party concerned of requisite railway fare, boat hire, ekka hire, or any other incidental charges.

137. Prompt service of processes.

The Nazir shall arrange for the prompt issue and service of all processes received by him having regard to the dates fixed for the appearance.

138. Mode of service of processes.

A process should be served with utmost care. One copy is to be delivered to the person named in the summons or to any adult member whether male or female of the family of the person or such other person as may be authorized to receive it for him. On the other copy must be entered the acknowledgment of the person served attested by the neighbours after explaining the contents of the process to him. The process server shall prepare his report on the spot at the time of executing the process.

NOTE: (1) It should be impressed upon the process servers that it is their duty and not of the party concerned to find out the person on whom the process is to be served. It is not necessary for the party to accompany them for identifying that person. They should seek the assistance of the village headman, Lekhpal, Chaukidar, etc. to find out person on whom the process is to be served.

NOTE: (2) A process served on a pleader of any party or left at his office or residence shall be presumed to have reached the party whom the pleader represents.

139. Witnesses to service.

If the summons is affixed on the outer door of a house an acknowledgement of this fact is to be taken from two respectable persons of the locality in a town or from headmen, Lekhpals, Chowkidars, or neighbours in a village.

140. Sufficiency of service and re – issue of processes.

When a process is received back with a service report as contemplated under O. V, r. 17, it shall be promptly laid before the Court for orders under

O.V., r. 19. A fresh service on payment of necessary process fee shall ordinarily be ordered if there is sufficient time for such service to be effected.

141. Service by publication.

Recourse to the mode of substituted service by publication in a newspaper shall be had only when service by any other method is considered impracticable.

A careful discretion shall be exercised in selecting the newspaper in which the publication is to be made under Order V., rule 20, C.P.C. Only a daily newspaper circulating in the locality in which the defendant to be served is last known to have actually and voluntarily resided or carried on business or personally worked for gain, shall be selected.

No summons or notice shall be published in a magazine.

CHAPTER V

PREPARATION OF RECORD

142. Particulars of case to be noted on every paper.

Every sheet of every document, in or relating to a suit, appeal or proceeding, from the institution of the suit down to the final execution of the decree, shall bear on the right hand center portion on the obverse side:-

- (1) the name of the Court in which the original suit was instituted;
- (2) the register number and the year of the original suit; and
- (3) the names of the parties to the suit.

For the purposes of this rule an appeal to the Civil Court from a decree passed by a Court of revenue shall be deemed to be the original suit.

143. General Index and Order sheet.

As each case is instituted the clerk in charge of the record shall prepare a general index in Form No. 1 and an order-sheet in Form No. 2.

The general index shall be prefixed to the record of every case and unless otherwise directed such paper shall be entered in it as it is filed.

The order sheet shall form the second paper of the record in every suit or case. It shall be maintained by the official in charge of the record for the time being and shall contain –

- (a) a record of the presence of parties, and the names of their recognized agents or pleaders,
- (b) a record of each order passed and material event occurring in the case, or
- (c) where such order or event is recorded elsewhere in the file, a note referring to such record and giving the subject matter and the date thereof.

The exhibit mark of every documents admitted in evidence shall be noted in bold letters and figures on the right hand margin of the index (Form no.1) opposite the entry relating to such document.

144. General Index and Order sheet (continued).

The expression “material event occurring in the case” used in the preceding rule shall, without prejudice to its generality, be held to include -

- (a) the filing of a plaint or written statement;
- (b) the examination of parties under O.X, rr. 1 and 2;
- (c) the recording or amendment of issues;
- (d) the examination and names of witnesses;
- (e) the reading of the deposition of a witness examined by commission;
- (f) the filing of a Commissioner's report and any objection (oral or in writing) thereto;
- (g) the presence of witnesses when a case is adjourned;
- (h) the date on which arguments are heard with names of counsel and parties present;
- (i) the delivery of judgment;
- (j) the signing of decree;
- (k) the filing of an application for review of judgment or amendment of decree; and
- (l) an order relating to a deposit, and order for repayment thereof, or an order for issue of a repayment order.

NOTE: - Upon receipt of an application for repayment, it will be necessary to consult the original record. If the original record is already in Court, the entry will be made in the Order-sheet of such record and initialed by the Judge; but if the original record is in the record-room and the procedure laid down in rule 300 of Chapter XI has been followed, an entry of such order passed by the Court shall be made by the Record-keeper under his initials.

145. Arrangement in Order sheet and Judge's signatures.

There shall be a separate entry in the order sheet for each distinct order or event. Each separate entry shall bear a serial number.

The Judge shall put his initials on the order sheet to signify its accuracy and correctness:

- (a) where an entry is the only record of an order or important event, after such entry;
- (b) otherwise, after the last entry of each day.

146. Information to and signatures of parties.

Orders fixing dates or adjourned dates for hearing or directing anything to be done by the parties or their pleaders whether recorded in the

order sheet or elsewhere, shall so far as possible be signed then and there by the parties or their pleaders.

147. Separate order sheets for separate proceedings.

If proceedings are going on simultaneously in two Courts, a separate order-sheet shall be maintained in each Court.

148. Separate order sheets for Parts 1 and II records.

A separate order sheet or separate order sheets shall be maintained for parts I and II of the records.

149. Entries regarding routine orders etc. on order sheets.

The fact of the filing of written pleadings and routine orders passed on applications for filling of talbana, addresses, diet money, copies of plaint etc., may be entered directly on the order sheet by the clerk concerned and no such orders shall be written upon applications or separate papers of the record.

150. Endorsement on back of applications.

A brief memorandum shall be made in Hindi on the back of each application or paper giving a reference to the order recorded in the Judge's note, thus:-

“Application allowed –vide order dated”

The memorandum will be written by the reader and initialed by the Judge.

151. Parts of Record.

- (1) In every suit and case instituted in a Civil Court, from its institution to the final proceeding in execution of decree, there shall be kept only one record, except as provided elsewhere in this rule. The record shall consist of not more than two parts, to be called respectively Part I and Part II: Provided that either part of the record may consist of several sub-parts, each sub-part being the complete record of the proceeding to which it relates.
- (2) Part I of the record shall contain every paper in a suit and in an appeal, reference, revision and review therein, other than papers relating to the execution of decree or final order in the suit.
- (3) Part II of the record shall, except as provided elsewhere in this rule contain every paper relating to the execution or adjustment

of the decree or order, or relating to any proceeding, whether original or appellate, in or arising from any application for the execution of the decree or order.

- (4) A separate general index in Form No. 1 shall be prepared for each sub-part of Parts I and II. Each such separate general index shall be headed with the name of the Court in which the suit was instituted, the register number and year of the suit and the names of the original parties to the suit.
- (5) The papers in each sub-part of Parts I and II shall be serially numbered and entered in its general index as they are brought on the record in the manner prescribed in paragraphs 6 and 10 in this rule.

Every paper which is brought on a record shall be marked with a letter indicating the file to which it belongs, and shall be placed with such file, and shall without delay be entered in the general index of Part I or Part II, as the case may be, by the official for the time being in charge of that part, who shall certify in column 6 of such index the state of every document filed or produced as an exhibit, noticing any blots, erasures, or interlineations appearing therein.

- (6) The serial numbers in each sub-part of Part II shall have added to them the letter E, as for instance, 1E, 2E, 3E, and so on. They shall commence with the first paper in that proceeding relating to the adjustment or execution of the decree or order, and shall continue consecutively in respect of all papers brought upon the record of that proceeding.
- (7) When a decree has been sent for execution by a Court subordinate to the High Court under Section 39 of the Code the Court to which such decree is sent shall prepare a sub-part of Part II and an index and order-sheet thereto and when, in accordance with the provisions of section 41 of the Code, it certifies the fact of the execution of, or the circumstances attending a failure to execute, such decree, it shall, at the same time transmit to the Court which sent the decree for execution, the record of the execution proceedings. These papers shall, when received, be dealt with as laid down elsewhere in this rule.
- (8) In every appeal to a Civil Court from a Court of revenue, the Civil Court record shall consist of Part I only and shall commence with the Memorandum of Appeal. Paragraphs (2),

(4) and (5) of this rule shall, so far as may be, apply to the compilation of such record.

- (9) If, in any case, proceedings other than those relating to the execution or adjustment of the decree or orders are continued or instituted in a Court, while that part of the record of the case to which the papers of such proceedings would appertain is in another Court or in the record room, all papers filed in such proceedings shall be entered in a supplementary general index in the Court in which such proceedings are, with new serial numbers to be used for the time being. As soon as possible such papers shall be added to that part of the record to which they appertain; the supplementary general index shall be added enblok to the general index of that part, and shall form part thereof; and the serial numbering of the general index shall be continued by entering in red ink a number against each entry in the supplementary general index.

Except in the case of a supplementary general index being brought on the general index, no entry shall be made in the general index otherwise than in black ink.

The serial number in red-ink in the general index appropriate to a paper, shall also be entered in red-ink on that paper.

- (10)(a) Where there are more than one proceeding relating to the adjustment or execution of the decree or order in a case, the entire record of each such subsequent proceeding, called a sub-part of Part II, shall be treated as one paper, and as such shall be given a serial number in the general index of the first sub-part of Part II, the entry being made in Form No.1 as indicated below—

Illustration of entry

File	Serial number of paper	Description of paper	Number of sheets in paper	Number of stamps	Value of stamps	Date of admission of paper to record	State of document	Remarks
1	2	3	4	5	6	7	8	9
Files A.C. & D	No.21	Execution files of application No. 1.	Papers Nos. 1 to 30 in 3 (or 4) files	Court Fees		5 th January to 8 th February, 1926	Clean	Remarks
				20 stamps	Rs. 10.75			

- (b) The number of the entry thus made in column 2 shall also be noted on the cover of file A 1 or B of the files brought on the record, near the left hand upper corner. The number of papers thus added to the record of the first sub-part shall be noted on the wrapper of that sub – part at the place provided for it.
- (c) Each sub-part of the record shall have its index but the general index of the first sub-part shall be the general index for the whole of Part II comprising the papers contained in all subsequent sub-parts.
- (11) The directions contained in paragraphs (9) and (10) shall be carried out by either the Court establishment or the record-room establishment, whichever of the two is first in charge at one and the same time of the part or sub-part of the record concerned, and of the subsequent record.

152. Classification of records.

There shall be four classes of records: Class I, Class II, Class III and Class IV.

- (a) The record of Class I is to be prepared when a suit or miscellaneous judicial case has been filed affecting immoveable property, personal status*, public trusts, charities, or endowments. It is also prepared whenever immoveable property is sold in execution of a decree or order in any suit or miscellaneous judicial case, or when immoveable property is involved in a case under the Companies Act.

Miscellaneous judicial cases which belong to Class I are:-

Lunacy cases, Guardian and Wards cases, Redemption cases, Trust cases, Land Acquisition cases, and cases under the Legal Practitioners Act.³²

** These do not include cases under the Provincial Insolvency Act, but where a question of title to immovable property arises in such a case the proceedings should be separated and file A of such proceedings prepared.*

- (b) The record of Class II is to be prepared in all suits and miscellaneous judicial cases not covered by the preceding sub-

³² NOTE : *Now repealed. – Ed.*

rule, e.g., suits relating to moveable property, Insolvency cases, Succession Certificate cases, Probate cases, cases of intestate Succession and cases under the Companies Act except when immovable property is involved.

- (c) The record of Class III is to be prepared in all suits tried by Courts of Small Causes and other Courts exercising Small Cause powers.
- (d) The record of Class IV is to be prepared in non-judicial cases³³.

NOTE: *All miscellaneous cases other than miscellaneous judicial cases are known as Miscellaneous Non-Judicial cases.*

153. Records and files in it.

Every part of a record shall be sub-divided into files -

- (i) Records of Class I is to consist of four files marked A 1, A 2, C and D.
- (ii) Records of Class II is to consist of 3 files B, C and D.
- (iii) Records of Class III is to consist of one file C.
- (iv) Records of Class IV is to consist of file D.

A paper when placed in any of these files shall be stitched to the other papers already therein.

154. File covers.

Files A1 and B shall respectively be put into brown cartridge demy card-board covers; and files A2, C and D shall respectively be put into ordinary paper covers; and on each cover a copy of the entries on the wrapper shall be made under a letter indicating the file.

155. List of papers to be placed in files A1, A2 or B.

The following papers shall be placed in file A1, or A2, of part I or file A1, or A 2 of Part II, as the case may be, namely:-

³³ **Note-** *All miscellaneous cases other than miscellaneous judicial cases are known as Miscellaneous Non-Judicial cases.*

Papers to be placed in File A1.

- (1) General Index.
- (2) Complaint
- (3) Any schedule annexed to a complaint.
- (4) Written statements and additional written statements under O. VIII of the Code.
- (5) Original documents, including surety bonds and genealogical tables.
- (6) Final order or judgment.
- (7) Decree, including decree under Section 47.
- (8) In mortgage cases, the order absolute after decree and under O. XXXIV of the Code in cases decided *ex parte*.
- (9) Award of Arbitrators, petition of compromise, commissioner's map referred to in decree, and statement recording confession of judgment.
- (10) Memorandum of appeal, objection, judgment and decree in first appeal; and certified copy of every judgment, decree and order forwarded by the High Court.
- (11) Receipt or acknowledgement of satisfaction of decree.
- (12) Order in execution declaring decree to be fully satisfied or to be incapable of execution.
- (13) Acknowledgement of receipt of possession.
- (14) Court copy of certificate of sale.

When immovable property is sold in execution of a decree or order, the following papers shall also be placed in File A1.

- (15) Order for sale.
- (16) Court copy of certificate of sale.
- (17) Surety bond, if any, given by the owner of the property sold.

N.B. – *The above papers Nos. 1 to 17 shall be kept in File B if the record belongs to Class II and File C if the record belongs to Class III.*

Papers to be placed in File A2.

- (1) Order sheet.
- (2) Orders under O.1, rr.8 to 10 and O. XLI, r.20 of the Code.
- (3) Authority under O. 1, r. 12.
- (4) Order granting leave under O. II, r. 2(3).
- (5) Summons, notice or order, to the defendant or respondent with return of service thereon when their service is personal or held sufficient.
- (6) Orders under O. IX, rr. 9 and 13, and O. XLI, rr. 19 and 21.
- (7) Examination under O.X of the Code, including record of admissions and denials by parties under r.1.
- (8) Evidence on memorandum of evidence under O.XVIII, rr. 5 and 8.
- (9) Evidence on the issues taken by affidavits.
- (10) Application and order under O. XXI, r. 16.
- (11) Order for sale of immoveable property of a surety other than a party to the suit.
- (12) Final order under O. XXI, rr. 58, 92, 99, and 101.
- (13) Order under Orders XXII, XXXI, XXXII and XLVII of the Code.
- (14) Authority under O. XXVIII, r. 1.
- (15) Accounts filed in cases under Act No. VIII of 1890.
- (16) Judges' notes.
- (17) Any other papers which the presiding Judge may, for reasons to be recorded in writing, order to be placed in File A-2.

N.B. – *The above papers Nos. 1 to 16 are to be kept in File B if the record belongs to Class II and in File C if the record belongs to Class III.*

Provided always that a Judge may for reasons to be recorded in writing direct that in lieu of File B, Files A1 and A2 be prepared and kept in any of the above mentioned suits, appeals, and cases. But File B shall not be subdivided into two Files B-1 and B-2.

156. Papers forming File C.

- (1) In suits tried by a Court of Small Causes or by any other Court in exercise of the jurisdiction of a Court of Small Causes, and

in all other cases not otherwise provided for in these rules, Files A, B or D shall not be maintained; and in such suits and cases all papers shall be placed in File C of Part I or File C of Part II, as the case may be.

- (2) In File C of records of Classes I and II shall be placed all papers which have not been under these rules directed to be placed in Files A 1, A2, B or D. The File C in such records shall be sub-divided into Files C1 and C2. In File C1 shall be placed only the papers of proof filed by the parties and the lists of documents (Form no. Part IV-71); in File C 2 shall be placed the other papers pertaining to File C.

157. Contents of File D.

File D of part I or Part II, as the case may be, shall consist of all unserved summons, all processes and returns thereto, other than those mentioned in rule 155, of all lists of witnesses, of petitions relating to the attendance of or the summoning of parties and witnesses, to the publishing of summonses and notices in newspaper; to adjournments, to precepts and to proceedings calling for or sending papers or records, of affidavits relating to matters in this rule mentioned, of petitions for inspection of records, of tenders for diet money and for copying charges of maps, etc., entered in the register of petty receipts no. 43 of postal receipts or memoranda in respect of money entered in the said register no. 43, of certified copies of judgments and decrees forwarded by an appellate Court other than the High Court, under Order XLI, rule 37 of the Code, of reports from, ministerial officers not relating to particular suits or cases, and of applications for leave or applications from candidates for employment, or any other proceedings, reports and applications not relating to particular suits or cases.

The following papers shall also be placed in File D of part I or II.

Order to the Nazir to have an order issued to arbitrators referring a case to them, served on the arbitrator.

Letter from heads of departments to whom summonses are sent for service on their subordinates enclosing the original summons after service or unserved.

Copies of plaint which are sent with summons to defendant but which are returned with unserved summons.

Applications by witnesses praying for more diet money than has been paid to them or asking to be excused from attendance.

158. Papers taken out of a record to be replaced by its copy.

When a document in any record civil or criminal, is made an exhibit in another record, civil or criminal, and is removed to that record, a certified copy of the document shall be retained in the record from which the document is removed and a note of the removal made on the general index or order-sheet. The certified copy shall be prepared by the Court Reader or clerk, and shall be signed by the Presiding Officer of the Court. After the decision of the appeal or after the expiry of the period of appeal, if no appeal has been brought the document shall be returned to the record of which it originally formed part, its place being taken by the certified copy.

159. Documents forming basis of suit how dealt with.

- (1) A party filing an original document on which his suit is founded (except in a Small Cause Court) must file also a copy thereof. This shall contain, at the top, a note of the stamp duty paid on the original document. The copy will either be prepared by the copying department on payment of fees, or compared there on payment of one –quarter of the charges for preparing a copy.
- (2) The document or documents will be kept on a separate file called supplementary A-1 or B, as the case may be, with an index.
- (3) This supplementary file containing the original document or documents and the index will be kept by the Munsarim in a locked almirah and the key will remain in his custody.
- (4) The typed copy will be placed on the record of the suit, and will serve the purpose of persons inspecting the record. An inspection of the file of documents will only be allowed in exceptional circumstances and will take place in the presence of the Munsarim and under his control, and on its termination he will certify that he has counted the documents and seen that none has been injured or obliterated.
- (5) The file of documents will be produced at the hearing of the suit for the purpose of proving the documents; but except when the file is being shown to a witness the file will remain on the table of the Presiding Officer. On the termination of the hearing the Munsarim will take the file into his custody.

- (6) When a record come to an Appellate Court the file of documents will be kept in the custody of the Munsarim of the Appellate Court.
- (7) A party may ask the Court to put any other document into a sealed cover on the record or to add any document to supplementary File A1 or B, and the Court may do so if it thinks fit.
- (8) After final disposal of a suit and orders on appeals, if any, supplementary File A1 or B with index will be added enbloc to main File A1 or B before consigning the record to the record room.

NOTE – *In this rule the expression ‘copy’ includes a Photostat copy.*

160. Wrappers.

The use of Form No. 10 is prescribed for the wrapper for Parts I and II in Civil Court Suits, the use of Form No. 11 is prescribed for the wrapper for Parts I and II in Small Cause Court suits; the use of Form No. 12 is prescribed for the wrapper for Part I in appeals to a Civil Court and the use of Form No. 14 is prescribed for the wrapper for all miscellaneous cases.

161. Munsarim’s certificate as to papers on record.

Before a record or part of a record is deposited in the record room, the Munsarim or clerk of the Court shall record a certificate in the following form at the foot of the general index:-

“I have this.....day of.....examined the papers in this part and find them to correspond with the general index; they bear (here state number) Court-fee stamps of the aggregate value of Rs.

All orders have been carried out. The part is complete up to the date of this certificate”.

When a record or part of a record has been taken from the record-room into Court, and any fresh papers have been added to it, the Munsarim or clerk of the Court shall, before the record or part is again deposited in the record room, record a further certificate in the same form as above, at the foot of any fresh entries in the general index. Such further certificate shall refer to the added papers only.

CHAPTER VI

EXECUTION

162. Prompt disposal of execution cases.

Every presiding Judge shall see that execution cases are not neglected or needlessly prolonged, but disposed of with the same care and regularity as original suits. Sufficient time should be allowed for the execution of all processes, warrants and orders issued which shall be drawn up in the execution department in strict rotation except in special cases under written orders of the presiding Judge. Processes and orders ordered to be given *dasti* to a party or counsel shall be promptly prepared and given out the same day in Court through the Reader.

The Judge shall see that the orders issued by him are carried out: and frequent or habitual carelessness, unpunctuality or procrastination in the execution department should be adequately punished.

An order staying execution shall be promptly complied. If execution has taken place there shall be no restitution in pursuance of the order of stay.

163. Recording of orders in execution.

All orders in execution cases shall be recorded on the order sheet in consecutive order with serial number prefixed and all such orders shall be legibly signed and dated by the Judge.

164. Procedure on receipt of decree from another Court.

- (1) A decree received for execution from the High Court or from a Court subordinate to the High Court shall be entered in the register of applications for execution of decrees and orders (Form No. 68). It shall on receipt be laid before the Court which will pass an order more or less to the following effect – “Let this be put up on this day year, or earlier, if any application is received for execution.” As soon as an application for execution of the same is made, along with such application the documents mentioned in O.XXI. r. 6, shall be laid before the Court and the Court to which the decree is sent shall proceed to execute the decree.

The record of proceedings, shall be returned to the Court by which the decree was sent for execution:-

- (a) when the decree has been executed, wholly or in part, by the Court to which it has been sent;
- (b) when the decree is found for any reason to be incapable of execution, or
- (c) if no application is made for execution, after the expiry of one year from the date on which the decree was received.

In the case of (b) or (c), along with the file shall be sent a statement explaining the reason for the return of the record. In no case shall such file be consigned to the record-room of the Court to which the decree has been sent for execution. The Court by which the decree was sent for execution shall, on receiving back these papers, cause them to be filed with the application of the decree-holder for execution.

- (2) A similar procedure shall be followed when a decree is received by the District Judge for execution from a Court not subordinate to the High Court except that the District Judge may send the decree together with the application for execution to a Court subordinate to him which shall, after the execution has been carried out, return the papers to the District Judge. The District Judge shall consign the papers to the record room of his Court certifying the results to the Court which passed the decree as required by Section 41 of the Code.
- (3) According to section 44A of the Code, a decree of any of the superior Courts of any reciprocating territory may be executed as if it had been passed by the District Court, in accordance with the procedure provided therein. A list of reciprocating territories in respect of which notifications have been issued so far is given in Appendix 9.

165. Copy of decree need not accompany execution application.

The application for execution of a decree need not be accompanied by a copy of the decree sought to be executed. But an application for an order for sale under O. XXI, r. 66(3) of the Code, shall invariably be accompanied by a verified statement containing all information the decree-holder can ascertain from the Collector's registers and all other sources bearing upon the matters specified in sub-rule (2) of O.XXI, r. 66.

166. Duty of Munsarim and office.

It shall be the duty of the Munsarim to receive applications for execution, and before putting up an application for orders the office shall, by

reference to its registers, ascertain and report whether the requirements of O. XXI, rr. 11 to 14 applicable to the case have been complied with and whether the application is within time and jurisdiction. For special reasons the applicant may be required to produce a certified copy of the decree.

The office report shall state that the application is in order, or, if it be not in order, shall state the exact defect and how the defect should be remedied.

The execution application must be put up before the Presiding Officer on the same day or on the next day.

167. Register of execution applications.

Every application for execution of a decree³³ shall, as soon as it is admitted be entered by the clerk appointed for the purpose in the Register of applications for Execution of Civil Decrees (Form No. 68).

168. Execution in U.P. of decrees passed by Courts outside U.P.

Courts in the Uttar Pradesh shall execute the decrees passed by Courts³⁴ notified under section 44 of the Code in the same manner as if they had been passed by them.

169. Serving officers' endorsement on warrants.

The officer executing a warrant of arrest or attachment shall endorse on the warrant the fact of satisfaction of the decree in whole or in part only when the amount is paid to such officer himself or paid to the decree-holder in his presence or payment of the amount is admitted by the decree-holder or his recognized agent in writing. The Court shall then fix a date for recording the reported satisfaction of the decree. Due notice of date shall be given to the decree holder or his counsel. The notice will be issued without any process fee and be served like a summons. If the decree holder or his counsel does not appear in spite of sufficient service, the Court shall record the decree satisfied to the extent of the payment so made or admitted by the decree-holder or his agent to have been made.

³³ Decree includes a decree of the Registrar of Co-operative societies or Arbitrators appointed by him.

³⁴ Government of India Notification No. 321-1(F and P) dated 15th May, 1929. Government of India Notification No. 111-1(F and P) dated 22nd March, 1933. Government of India Notification No. 152-1 (F and P) dated 1st April, 1933. Government of India Notification No. 229-1 (F and P) dated 25th May, 1933. Government of India Notification No. 407-1 (F and P) dated 1st July, 1933.

170. Mode of certifying under O. XXI. r.2.

A certificate in the form given below may be presented under O. XXI, r. 2(1) of the Code to the Court without any formal written application. Such certificate need not be stamped. Should the certificate accompany a formal written application, such application shall be stamped under Act No. VII of 1870, but the stamp shall not be charged as costs against the judgment – debtor. The form of certificate shall be as follows:

FORM
IN THE COURT OF THE..... OF
Plaintiff
Versus
Defendant

Suit No. of 19

Certified by decree – holder under O. XXI, r. 2(1) of Act No. V of 1908.

I,, decree-holder, certify to the Court payment or adjustment in the following terms of the amount of Rs. .. in the above suit by .. on the

Date:

Decree-holder

171. Transfer of Decrees to Collector under Sec. 68.

Deleted.

[Omitted by Notification No. 88/VIII-b-1, dated May 31, 1961]

172. Posting of proclamations and orders.

Copies of orders of attachment and proclamations of sale shall be so affixed with paste or gum that they may be maintained in a condition to attract the attention of those for whose information they are intended.

173. Publications of notices under O. XXI r. 67(2).

A direction for publication under the second paragraph of O. XXI, r. 67(2) of the Code shall be given only in exceptional cases.

174. Sale by Court in execution of a decree.

Where property to be sold in execution of a decree is a garden, or land occupied by a house or appurtenant thereto, or moveable property of any description, or is any interest in such garden, land or moveable property, the Court shall appoint a Civil Court Amin to conduct the sale, unless special reasons render it necessary that other agency should be employed; in which case such reasons shall be set forth in the handwriting of the presiding Judge in the order of appointment.

175. Non – interference by Court with Collector’s procedure.

Deleted

[Omitted by Notification No. 149/VIII-b-1, dated 18.2.81 (w.e.f. 3.10.81)]

176. Contents of sale certificates.

- (1) A certificate of sale issued under O. XXI, r. 94 shall invariably contain the following particulars:-
 - (a) the “addition” (as defined in section 2 of Act No. XVI of 1908) of the person who is declared to be the purchaser;
 - (b) particulars sufficient to identify the property as required in sections 21 and 22 of the said Act.

- (2) A certificate issued under O. XXI, r.94 in respect of any sale held after the first day of April, 1879, shall be drawn up upon a stamp paper of the value required by section 3 clause (a) and Article 18 of the 1st Schedule and section 35 of the Indian Stamp Act (No.II of 1899) as amended in its application to Uttar Pradesh.

- (3) On each copy of the certificate the amount of stamp-duty paid on the original certificate shall be noted.

N.B.- *Copies prepared in compliance with section 89 (2) of Act No. XVI of 1908 are, by Article 24(a) of Schedule 1 of Act No. II of 1899, exempt from stamp-duty.*

- (4) All copies of certificates of sale shall be prepared upon durable paper, sufficient margin being left for binding.

177. Fixed postal charges for transmission of decree to another Court.

Postage shall be levied in the form of ten³⁵ rupees cash from the decree-holder for the transmission and return by post of a decree, sent under section 39 of the Code to another Court for execution upon an application by the decree-holder. The money shall be credited into the treasury by pass book.

178. Decree holder’s liability to pay for civil prisoner’s detention in jail.

The Court shall direct the attention of a decree-holder, taking action under sections 55 and 59 of the Code, to the provisions of section 33 of the Prisons Act, 1894, and to **paragraphs 464 to 466 of the U.P. Jail Manual**, which are set out below.

³⁵ Substituted for Rs. 1.00 vide notification No. 337/X-b-88, dt. 26.7.96 of Allahabad. High Court (Correction slip No. 117) published in U.P. Gazette on 28.9.96

Section 33 of the Prisons Act, 1894.

"33(1) Every civil prisoner and un-convicted criminal prisoner unable to provide himself with sufficient clothing and bedding shall be supplied by the Superintendent with such clothing and bedding as may be necessary.

(2) When any civil prisoner has been committed to prison in execution of a decree in favour of a private person, such person, or his representative, shall within forty-eight hours after the receipt by him of a demand in writing, pay to the Superintendent the cost of the clothing and bedding so supplied to the prisoner; and in default of such payment the prisoner may be released".

Paragraphs 464 to 466 of the Jail Manual.

464. The scales of subsistence allowance in this and subsequent paragraphs have been fixed by the State Government under section 57 of the Code of Civil Procedure, 1908 (V of 1908).

The following scales of subsistence allowance are prescribed for the superior and ordinary grades of civil prisoners:

Grade	Diet Allowance	Clothing Allowance	
		Summer	Winter
Superior	Rs.2 per day.	Rs.60	Rs.75
Ordinary	Rs.1 per day.	Rs.40	Rs.50

The Superintendent shall decide what articles of clothing shall be supplied, taking into consideration the clothing already in possession of the judgment-debtor and his actual requirements.

NOTE-1. *An extra charge of Rs.12.62 for the provision of warm clothing shall be levied for each civil prisoner of the ordinary grade admitted to a jail in the summer, whose detention is prolonged into the winter.*

NOTE-2. *An extra charge of Rs.11 in the case of the hill jails of Almora, Haldwani and Pauri or of Rs.5.50 in the case of submontane jails of Bahraich, Bijnor, Dehra Dun, Gonda, Kheri, Pilibhit and Saharanpur, will be levied for each civil prisoner of the ordinary grade on admission in order to cover the cost of the provision of two blankets and one blanket respectively, in addition to the sanctioned scale. The money shall not be spent except on the object for which it is provided and the supply of blankets shall be made only in cases of necessity. If the money is not spent it shall be returned to the person making the payment.*

NOTE-3. *At the discretion of the Medical Officer old and infirm prisoners of the ordinary grade may be supplied with an additional blanket, both in winter and summer, and for this purpose decree-holders or Courts shall be required to deposit Rs.5.50 extra for each prisoner. The issue of this extra blanket should be made only in case of real necessity.*

465. The first payment of the subsistence allowance by the decree-holder shall be for such portion of the current month as remains unexpired on the date of committal of the judgment-debtor to prison, and shall be made to the proper officer of the Court committing him. If the money is not received from the Court within a reasonable time, the Superintendent shall remind it. Subsequent payments of subsistence allowance due, if any, shall be made by the decree-holder to the Superintendent of the jail by monthly payments for the whole month, or part thereof, in advance, before the first day of each month.

466. When a civil prisoner is detained in a jail which is more than five miles from his place of residence, a charge according to the scale laid down below shall be made at the time of his admission to the jail in order to cover his travelling and diet expenses for the journey back to his home on release. The number of days for which diet money is to be charged shall be calculated in the manner provided in paragraph 113. If the money is not received along with the subsistence allowance, the Superintendent shall request the Court which directed the judgment-debtor's detention, to order the decree-holder to deposit the same forthwith. The money shall be paid to the judgment-debtor on the day of his release to enable him to meet the expenses of the journey from the jail to his place of residence.

A. Travelling allowance

For civil prisoners of the superior grade the cost of a second class railway ticket and for civil prisoners of the ordinary grade the cost of a third class railway ticket, in addition to lorry fare or conveyance charges, if any, as calculated in accordance with the manner provided in paragraph 114(a).

B. Diet allowance

Diet allowance at the rate provided in paragraph 464 for the grade to which the prisoner belongs.

CHAPTER VII

RECORD ROOM AND THE PRESERVATION AND DESTRUCTION OF RECORDS

The Record room

The provisions of this chapter shall apply to all record rooms.

179. Racks for each Court.

A separate part of a rack or one or more separate racks in the record-room shall, as far as possible, be assigned to each Court within the local jurisdiction of the Court to which the record-room is attached.

180. Arrangement of records.

Records shall be kept according to the date of the institution in the Court of first instance, and not according to the date of the decision.

Provided that, in the case of appeals to a Civil Court from a Court of revenue or any authority other than a Civil Court, the records of such appeals shall be kept according to the date of the presentation of the appeal in the Civil Court.

Provided also that in the record rooms in Avadh the arrangement of records arranged before the enforcement of these rules shall not be disturbed.

181. Transmission of record to record-room.

At the beginning of every month the complete records of all suits, appeals to a Civil Court from a Court of revenue, or any authority other than a Civil Court, miscellaneous judicial cases not relating to suits or other cases, miscellaneous non-judicial cases, or the papers if any, of proceedings specified in clause 9 rule 151 of Chapter V, in each Court within the local jurisdiction of a District Judge shall be made up into a bundle; and on or before the twenty-fifth day of the month they shall be transmitted to the record-room of the District Court on such dates and in such manner as the District Judge may from time to time by his order direct. Records of miscellaneous cases relating to other suits and of appeals from decrees or orders of Civil Courts shall not be sent in a monthly bundle but would be dealt with as in paragraph 4 of this rule.

(N.B.- Records of cases in which proceedings are stayed or in which proceedings are held up for any reason shall not be consigned to the record room).

Every subordinate Court shall on the 28th of every month submit a certificate to the District Judge to the effect that all records which should have been transmitted to the record-room under the preceding paragraph have been so transferred, or explain the cause of delay if any records have not been transmitted. For the District Judge's Court this shall be done by the Munsarim of his Court.

If a completed record is required for use in the Court in which it was completed, or if it has been requisitioned by another Court, or if, for any other reason, a completed record is not sent to the record-room at the time specified in this rule, there shall be sent to the record-keeper, in the monthly bundle, in place of every such record, a copy of the form of requisition under which it has been detained, or transmitted elsewhere; the record-keeper shall deal with this as an original requisition (Chapter VIII rules 211 and 213).

Civil Appeals and Misc. Judicial cases relating to other suits or cases.

And where, for the purposes of an appeal from a Civil Court decree, or of an execution or other proceeding the record of the original suit has been requisitioned under Chapter VIII, rule 203, and subsequent rules, the complete record (the original record and the record of appeal or other proceeding), upon disposal of the appeal or proceeding shall be forwarded to the record-room along with the form for transmission of record; it shall not be sent in a monthly bundle.

An insolvency case is not to be deemed to be finished until the insolvent has been discharged; but the record may be sent to the record-room after the order of adjudication has been made, or the application has been dismissed, to be sent for again from the record-room for the proceedings for discharge.

182. List of records to accompany each bundle.

Each bundle transmitted to the record-room shall be accompanied by a list (Form Nos.15 to 18) of the records it contains prepared by the official in charge of the records and signed by the chief ministerial officer of the Court. The list shall be on a printed form and shall be placed on the top of the records before the bundle is closed.

183. Packing and transmission.

Each bundle shall be sewn up and sealed in the presence of the chief ministerial officer of the Court. In outlying Courts at places where there are no record-rooms the bundles of each class shall be sewn up into one large bundle and placed in a strong tin-lined box provided with duplicate keys, one

of which shall remain in the Court transmitting the records and the other in the record-room of the District Court. The cost of transmission shall be treated as a contingent charge of the District Court.

184. Preparation of invoices.

With the bundle shall be sent an invoice in Form No. 19, the upper portion of which shall be filled up in the Court transmitting the record, and shall be signed by the chief ministerial officer of that Court. On receipt of the bundle the record-keeper, after comparing the entries in the invoice with the lists (Form Nos. 15 to 18) accompanying the bundles and with the number of records of each class actually received, shall if the invoice be found to be correct, sign the acknowledgment at the foot of it, and return it to the Court from which it was received. If the invoice be found to be incorrect, the record-keeper shall acknowledge the receipt of the records actually received, and shall report the discrepancy for the orders of the District Judge.

185. Transmission of registers and books.

The rules for the transmission of records shall apply, *mutatis mutandis*, to the transmission of registers and books.

186. Bundles pending examination.

The bundles of records as received by the record-keeper shall, pending his examination under the next rule, be kept in racks set apart for the purpose.

187. Record keeper's examination of record received.

As soon as may be after the bundles have been received, the record-keeper himself or through his deputy or assistant record-keeper, shall compare the papers in each record with the general index and satisfy himself-

- (1) that the papers in the record correspond with those entered therein;
- (2) that each file contains the papers properly pertaining to it;
- (3) that documents in the record bear no blots, erasures, or interlineations, except those noted in column 8 of the general index;
- (4) that the papers bear the stamps entered in column 6 of the general index;
- (5) that the stamps have been duly cancelled;
- (6) that on each paper the number and aggregate value of the stamps on it have been recorded;

- (7) that the rules made by the State Government for regulating the number of stamps to be used for denoting fees have been complied with;
- (8) that there is nothing suspicious in the appearance of the stamps;
- (9) that all orders have been duly signed;
- (10) that all necessary receipts are in the record.

188. Record-keeper's certificate of correctness or report to District Judge.

If the record be found to be in order, the record-keeper, the deputy record-keeper or the assistant record-keeper, as the case may be, shall record a certificate to that effect in the general index. If the record be found to be defective in any respect he shall, in writing, report its condition for the orders of the officer-in-charge of the record room, or where no officer has been placed in charge, the District Judge; and the report with all other papers consequent on it shall, after being entered in the general index, be filed with the record. Such report shall be made on the printed form (Form Part IV-98) prescribed by the High Court.

If the officer-in-charge or the District Judge orders the file to be returned for correction, the record-keeper will fill up Form no. 23 columns 4, 5, 9 and 10, and deal with the form as if it were a form received from a Court.

Where the Court, of which the record has been found defective, is at headquarters, it will be preferable, as a rule, to send for the clerk at fault and have the necessary corrections carried out in the record-room. The record while under correction and the clerk correcting it should always be under the immediate eye of the record-keeper or of a deputy record-keeper.

189. Examination when to be completed.

The examination of the records of each bundle received in the record-room shall be completed within a month from the date of receipt.

190. Lists to be stitched into books.

As soon as the examination of the records in each bundle is completed, the lists (Form nos. 15 to 18) which accompanied the bundle, shall be stitched into a file book, and ordinarily at the end of the calendar year the lists of each class of records shall be separately bound up for each Court, so as to constitute registers of decided cases. No other register of decided cases shall be kept in the record-room.

If in any calendar year the number of sheets in any list is too small, the list may be bound up at the end of 2 to 5 calendar years as convenient.

191. Second punching of labels.

When a case is decided and consigned to the record-room, the record-keeper, the deputy record-keeper or assistant record-keeper shall punch a second hole in each label distinct from the first and note the date of his doing so at the same time. The second punching shall invariably be made in the middle of that part of the label on which its value is printed in eight principal languages, but shall not remove so much of the stamp as to render it impossible or difficult to ascertain its value or nature.

192. Arrangement of records in bundles.

The various classes of records shall be dealt with in the following manner:-

- (1) The records of all original suits instituted in a month shall be kept in one or more bundles.
- (2) The records of appeals to a Civil Court from a Court of revenue or any authority other than a Civil Court shall be retained by the Civil Court and kept in monthly bundles unless otherwise provided by law. The record of the Court of revenue, together with a copy of the judgment and decree of the Civil Court certified as required by O.XLI, r.37 shall be returned to the Court of revenue. Provided that, when in an appeal from a Court of revenue a Civil Court determines that the suit was wrongly instituted in a Court of revenue and remands the suit to a subordinate Civil Court, the record of the Court of revenue shall be deemed to be and be treated as a record of a suit instituted in a Civil Court. A certified copy of the judgment and decree of the appellate Court shall be sent to the Court of revenue.
- (3) (i) The records of execution cases shall -
 - (a) if they do not contain file D, be at once placed with the records of the original suits or cases to which they relate, and
 - (b) if they contain file D, be kept in a separate bundle until the destruction of file D and thereafter be placed with the records of the original suits or cases to which they

relate, and appropriate entries be made in the lists of the original suits or cases (Form 15).

- (ii) Records of execution cases relating to awards of arbitrators of co-operative societies shall be kept in the record room for three years and then returned to the societies concerned.
- (4) The records of miscellaneous cases relating to other cases, whether judicial or non-judicial, will be put up with the connected case subject to rule 193 of this Chapter.
- (5) The records of miscellaneous judicial cases not relating to other cases shall be kept in quarterly bundles.
- (6) The records of miscellaneous non-judicial cases not relating to other cases shall be kept in annual bundles.

193. Treatment of miscellaneous cases relating to pending cases.

When the other case to which a miscellaneous case disposed of in any month relates is pending, the record of the miscellaneous case will be put up with that of the other case by the proper officer of the Court, but the miscellaneous case will be entered in the list of miscellaneous cases (Form 17) for the month in which it was disposed of, a note being made in the column of remarks as to the fact of the record being so put up. A similar note will be made on the general index (Form No.1) of the other case with which the record of the miscellaneous case has been put up.

194. Arrangement of records and labeling of bundles.

In the bundles the records shall be kept according to their serial register number; the bundles shall be arranged so as to secure facility of access to the more recent records.

On each bundle shall be painted, by means of a stencil plate or otherwise, the year and month and the class of records; and to each bundle shall be attached a label showing by their serial numbers the earliest and latest records, for the time being, belonging to that bundle.

The Judge of the District Court may assign different coloured *bastas* to the different Courts within his local jurisdiction.

195. Period of retention of books and registers in Courts before consignment to record-room.

The following registers and books shall be retained in each Court for the period specified against each:

No	Description of register or book	Period of retention in the Court
1	Dispatch register	Five years after completion
2	Register of miscellaneous Judicial cases not relating to suits or other cases, and register of non-judicial cases	One year
3	Register and books kept by Amins	Do
4	Register of receipt of deposits	Three years after the items recorded in the register have been disposed of.
5	Register of petty receipts and repayments	Three years after the items recorded in the register have been disposed of
6	Register of applications for execution of decrees and orders	Twelve years after completion
7	Register of Civil Suits	Fifteen years after completion

All other registers, books, and papers specified in rules below shall be retained until completion.

Not later than 31st March following the period above prescribed for retention, the books, registers, and papers shall be forwarded to the record-room of the District Court, accompanied by a list in Form No. 20. Column 1 to 6 shall be filled up in the Court forwarding, and columns 7 and 8 in the record-room receiving the books, registers and papers. The list shall be pasted into a file book kept for the purpose in the record-room, a separate file being assigned to each Court.

196. Preservation and destruction of files.

- (1) File A1 shall be permanently preserved except in cases under the following Acts when the papers shall be destroyed after the expiration of the period noted against each :
 - (a) Act XXXIX of 1925- 20 years.
 - (b) Act VIII of 1890- 36 years.
- (2) File A2 shall be destroyed at the end of 30 years from the date of institution of the original suit or case.
- (3) File B shall be destroyed at the end of 20 years from the date of institution of the original suit or case, except in cases under the Provincial Insolvency Act, where the file shall be destroyed

after 12 years from the date of the grant of discharge, or where no order of discharge has been passed from the date of last order passed in the case.

- (4) File C shall be destroyed at the end of 15 years from the date of institution of the original suit or case, except that :
 - (a) in cases under the Provincial Insolvency Act, the file shall be destroyed after 12 years from the date of the grant of discharge, or, where no order or discharge has been passed from the date of the last order passed in the case; and
 - (b) in cases affected by section 5 of the Temporary Postponement of Execution of Decrees Act (Act X of 1937) the file shall be destroyed after 18 years.
- (5) File D, whether of Part I or Part II shall be destroyed at the end of three years from the date of institution of the original suit or case.
- (6) In all cases, where file D of Part I or Part II has not been so destroyed or has for any reason been revived, the surviving or revived file D shall be destroyed at the same time along with file C; in all cases where file D, whether of Part I or Part II has again survived or been revived, such surviving or revived portion shall be destroyed along with file B:

Provided always that a Judge may at the termination of a suit or of any application for execution by a decree holder, pass an order directing that for reasons to be recorded on the order-sheet, the papers in file C be kept for a longer specified period;

Provided also that no part of a record shall be destroyed until after the expiration of one year in addition to the time allowed for filing an appeal, even though the period prescribed for weeding under this rule has elapsed since the date of institution of the original suit or case.

Provided further that the appellate Court shall, as soon as an appeal is presented, send intimation thereof to the Court against whose decree the appeal has been filed, and on receipt of such intimation, the Presiding Officer of such Court shall forthwith issue instructions to the record-keeper not to weed out any paper so long as the appeal is not finally disposed of.

File D in the record of any miscellaneous case not relating to a suit or other case shall be destroyed at the end of one year from the date of final order.

- (7) The record of cases instituted under Section 472 of the Uttar Pradesh Nagar Mahapalika Adhiniyam; 1959 (U.P. Act No. 2 of 1959) shall be weeded out after six years from the date of final order.
- (8) Bahikhatas and other account books, whether included in file A1, file B or file C, may be destroyed under the orders of the District Judge after three years from the date of the final decree of the Court of first instance or of appeal, as the case may be, where the party who files such account books cannot be traced or where such party has been given at least one month's notice to apply for the return of such account books and has failed to do so.

In cases of doubt the record-keeper shall take the orders of the District Court as to the date of destruction.

197. Period of retention of papers.

The following papers shall be destroyed on the expiration of the periods specified against them computed from 1st January of the year succeeding that to which they relate:-

No.	Description of paper	Period of retention
1	Counterfoils of Amin's payment orders	Three months
2	File-Books of general number "slips".	Six months
3	File-books of weekly extracts from Amin's diary	Three months
4	File-books of Amin's weekly case returns	Six months
5	Counterfoils of property and cash receipt books of Amin	One year
6	Invoice counterfoils	One year
7	Counterfoils of receipt granted for payments into Court	Ditto
8	File-books of advice lists	Ditto
9	File-books of memoranda of monthly grand totals of amounts received and repaid at the Treasury	Ditto

10	File-books of daily and monthly extracts from registers of receipts and repayments of deposits	One year
11	Periodical statements, returns, and office copies of the same	Ditto
12	Proceedings of other Courts and offices forwarding summonses, notices, proclamations and the like	Ditto
13	Proceedings of lower Courts calling for records, asking for information and the like	Ditto
14	Reports from ministerial officers not relating to particular suits or cases	Ditto
15	Applications for leave, or from candidates for employment, or any other proceedings, reports and applications not relating to particular suits or cases	Ditto
16	File-books of Amin's weekly property statement	Ditto
17	Sahna certificate counterfoils	Ditto
18	File-books of applications for search (Chapter IX, rule 224)	Ditto
19	Application for renewal of certificates of pleaders and mukhtars and cancelled certificates	Two years
20	Plus and minus memoranda and file books of the same	Three years
21	Counterfoils of certificates for refunds or payments of Court-fees	Ditto
22	Treasury chalans (vide paragraph 3 of rule 514, chapter XX)	Six account years
23	Counterfoils of repayment order books	Twelve years

Provided that the District Judge may, in his discretion direct the retention for a longer period or permanently, of papers which he may consider likely to be useful in future, as containing the results of inquiries or other information, or the opinions of experienced officers, on matters connected with the general administration of justice; and provided also that no Court subordinate to the District Judge shall cause any papers to be destroyed under this rule without having first obtained his permission in writing to do so.

198. Period of retention (continued).

The following books shall be retained for the periods specified against them:

No.	Description of books	Period of retention after date of last entry
1	Register showing the classification and value of suits instituted	One year
2	Register of persons committed to jail	Ditto
3	Memorandum book of dates for original suits and appeals	Seven years
4	Memorandum book of execution and miscellaneous cases	Ditto
4A	Memorandum book of dates for applications in suits, execution cases, appeals, revisions and any other kind of judicial work	Ditto
5	Register of proceedings taken in execution of order received from the High Court	One year
6	Dispatch Register	Ditto
7	Process Register	Ditto
8	Process-server's diary	Ditto
9	Register of sanctioned estimates for maps and plans (From No.29)	Ditto
10	Register of time sheets	Ditto
11	Register of orders issued to Amins	Three years
12	Amin's diary	One year
13	Amin's proceedings register	One year
14	Register of fines, stamp duties and penalties levied	Ditto
15	Peon Book or Station Dak book	Ditto
16	Register of applications for copies	Ditto
17	Inspection register (Form No.26)	Ditto
18	List of unexpended diet money of register no.43	Ditto

	(Chapter XI, Rule 294)	
19	Register of cases in which salaries of public officers and railway servants are ordered to be withheld under Order XXI, rule 48 of the Code	Three years
20	Amin's property register	Ditto
21	Amin's cash register	Ditto
22	Register of petty receipts and repayments, and Munsarim's register of money-orders	Ditto
23	Pass Book	Ditto
24	Travelling allowance bill-book	Ditto
25	Day book	Ditto
26	Register of Court-fees and process fees	Ditto
27	Stock book of printed forms (Chapter XX, rule 512)	Ditto
28	Register of apprentices (Chapter XXVII, rule 631)	Ditto
29	Disbursing officer's Register of expenditure kept under G.O. No.B-769/X-III dated the 4 th March, 1924	Ditto
30	Register of casual leave	Ditto
31	Outstation dak book or service postage stamps account book	Ditto
32	Office copies of lists of lapsed deposits and clearance register. (Chapter XI, rule 327)	Three years after the close of the account year to which they relate.
33	Stationery register	Three years (After completion)
34	Register of contingent charges	Five years
35	Acquittance roll books (rule 355, chapter XII)	Five years (After completion)

36	Register of original suits disposed of (Form No. 67)	Six years
37	Register of disposal of applications for execution of decrees and orders (Form No.69)	Six years
38	Register of insolvents' in the hands of Receivers (Form No.83)	Ditto
39	Register of requisitions for records (Form No.24)	Twelve years
40	Register of appeals from decrees disposed of (Form No. 80)	Six years
41	Register of miscellaneous non-judicial cases (Form No.7)	Ditto
42	Bill Books	30 years
43	Absentee statement	Six years
44	General Provident Fund statement	Ditto
45	Insolvency register (Form No. 82)	Twelve years
46	Cash book (Form No. 41)	Ditto
47	Register of intestate property (Form No.40)	Ditto
48	Register of miscellaneous cases judicial (Form No. 74)	Ditto
49	Register of sale of stamps by the Nazir kept under rule 434 of the rules of 1894	Fifteen years
50	Register of circulars received (Form No. 65)	Twenty years
51	Register of returned documents (Form No. 71)	Ditto
52	Register of applications for execution of decrees and orders (Form No. 68)	Thirty years
53	Register of decided cases (Form Nos. 15, 16 17 and 18)	Ditto
54	¹ Register of receipts of deposits (Form Nos. 35 and 36)	Thirty years
55	Register of repayments of deposits (Forms Nos. 37 and 38)	Ditto
56	Register of civil suits, Small Cause Court cases ((Form No.3)	Forty years
57	Register of letters received (Form No.62)	Ditto

58	Register of letters issued (Form No.63)	Ditto
59	Register of miscellaneous Judicial cases (Form No.70)	Fifty years
60	Register of Miscellaneous appeals (Form No. 81)	Ditto
61	Register of Pleaders and Mukhtars enrolled	Ditto
62	Register of appeals from decree (Form No.9)	60 years
63	Register of Civil Suits (Form No.3)	Permanently
64	File Index (Form No.64)	Ditto
65	² Catalogue	Ditto
66	³ Stock register of furniture (Paragraph 801, Ch.LXVII of the Manual of Government Orders)	Ditto
67	List of registers consigned to the record room (Chapter VII rule 195)	Ditto
68	File Books of General and Circular Letters of the High Court	Ditto

Bill books prior to 1st April, 1932 should be retained for 35 years and those from 1st April, 1932, onwards should be destroyed after thirty years after the services have been verified in the manner laid down in the note below subsidiary rule 137 of the Financial Handbook Volume II.

¹ *If any item in the register remains unrefunded even at the end of 30 years the register should be preserved until all the lapsed deposit items pertaining to the register have been refunded to the parties concerned.*

² & ³ *They should be retained permanently or until revised books duly attested by the Head of the office are prepared.*

Provided that no Court subordinate to the District Judge shall cause any books to be destroyed under this rule, without having first obtained his permission in writing to do so :

Provided further that a register must be kept in the record room for all the files prior to the year 1870, which have been permanently preserved, in the form given below :

Number of Cases	Date of Institution	Names of parties	Date of decision	Number of papers on record
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Before destruction of the acquittance roll books, services of inferior servants should be verified and a note to that effect made in the service book concerned.

199. Monthly Destruction of files.

Month by month the files of which the period for retention has expired, shall be removed from their records under the personal superintendence and responsibility of the record-keeper and shall be sold as waste paper in accordance with the instructions contained in rule 636 of Chapter XXVII of these rules.

200. Destruction of books and papers.

In the selection of books and papers to be destroyed after the expiration of the periods specified for their retention in the rules in this Chapter and the procedure prescribed in the last preceding rule shall, so far as it can be made applicable, be followed by the officer in-charge of such books and papers.

Such books and papers shall be torn up and sold as waste paper, and the proceeds shall be credited to Government Account.

Where no period for weeding of any paper, book or register is prescribed the District Judge shall order their destruction at his discretion.

201. Destruction of files selected for weeding.

In the first week of each quarter of the year the record-keeper shall submit to the District Judge a list of those cases in which he has weeded out file 'C' and in which there are cumbrous and bulky exhibits, such as account books, khatas, zamindari paper and the like which have not been put up with the record of the trial.

The District Judge, unless he sees cause to the contrary shall order notice to issue to the pleaders and to the parties concerned that if these exhibits are not removed they will be sold as waste paper on the last day of the quarter in which notice is issued.

The notice will be in Form No. 13 (Part VI-84) and the Nazir shall be responsible that the notice is issued without delay.

In all cases in which there are exhibits of the kind abovementioned which have not been tendered in evidence, the Court in which they have been filed shall deal with them as prescribed in Chapter III-(c) rule 59.

201A. Retention in case of dispute or necessity.

If any dispute or necessity arises within the prescribed period of retention of any record, such record shall not be destroyed unless the dispute is settled or the necessity ceases.

202. Rules for branch record-rooms.

The following rules shall regulate the preparation, preservation and destruction of records in the record rooms not situated at the headquarters of a District Judge, which will hereafter be referred to as branch record rooms.

- (1) The records of all suits instituted in and decided by the Civil Courts at places where there are branch record rooms shall be kept in the 'branch record room for 15 years from the date of institution, and at the end of this period they shall be transmitted for deposit to the record room at headquarters of the judgeship:

Provided that –

- (i) in the branch record rooms at Pilibhit, Mirzapur and Banda, the records shall be retained for 20 years from the date of institution, and even at the end of this period they need not be transmitted to the record rooms at headquarters unless and until the latter can easily accommodate them;
 - (ii) records of suits instituted before the date of establishment of the branch record rooms shall be dealt with as records to be deposited and kept in the record rooms at headquarters;
 - (iii) no records of cases, instituted and decided by a Court before the establishment of a branch record room and already transmitted to the record room at headquarters, shall be sent back to the branch record room to be deposited there.
- (2) The rules relating to the preparation, transmission, preservation and destruction of records shall apply to the branch record rooms from the date of their establishment.

The rules regarding destruction of records shall be observed in the branch record room so long as the records remain there, and only those records which are not destroyed in accordance with the rules, will be transmitted to the record room at headquarters at the end of the prescribed period.

- (3) A tablet shall be put at the entrance of each branch record room with the inscription. "Branch record room established from (here will follow the date of establishment)".

CHAPTER VIII

PRODUCTION, RETURN AND TRANSMISSION OF RECORDS

203. Prohibition against issue of records.

Ordinarily no record shall be issued except on the requisition of a civil, criminal or revenue Court, of the Government, of the Board of Revenue, of the Commissioner of Division, or of the Commissioner of Excise and of the Inspector – General of Registration and Stamps, and then only on an order of the Presiding Judge under Rule 210. In all other cases, before a record is issued, the orders of the High Court shall be taken on the subject.

Original records should not be called for at the instance of a private party, if certified copies are admissible in evidence to prove facts, for the proof of which the record is required.

204. Forms of requisition.

Every requisition for a record or portion of a record shall be made upon the prescribed form. When a record or portion of a record is requisitioned from the High Court or a Civil Court subordinate to the High Court, the form of requisition shall be Form No. 21. When it is requisitioned from a Revenue Court Form No. 22 shall be used. Columns Nos. 1 to 6 of Form No. 21 and columns Nos. 1 to 8 of Form No. 22 shall be filled up by the Court calling for the record. It should also be stated specifically in the requisition why certified copies obtained in the usual manner by the parties will not serve the purpose, and that proper Court fee has been realized.

N.B.: When requisitioning the record or part of a criminal case Form No. 13, Part IX – Appendix B of General Rules (Criminal) is to be used.

205. Procedure for sending requisitions out of U.P.

A requisition under O. XIII, r. 10 of the Code, for a record pertaining to, and in the custody of a High Court other than the High Court at Allahabad, or pertaining to, and in the custody of, a Court subordinate to such other High Court, shall be transmitted through the High Court at Allahabad, and shall be accompanied by a copy of the affidavit required under that provision, together with a duly certified translation into English, if such affidavit be not in English. Such requisitions shall be forwarded to the High Court with a forwarding letter clearly indicating the suit, appeal or proceeding in which the record is required.

206. No charges payable on requisition by Court suo motu.

When a requisition for a record is made by a Court *suo motu* the fact should be stated in the requisition and no charges levied from any party.

207. Charges payable by a party for requisition.

When a record is requisitioned at the instance of a party a Court-fee of Rs. 5.00³⁶ shall be charged as in the case of inspection of records under rule 234 of Chapter IX of these rules. In applications for refund, the procedure laid down in that rule will also be followed. This fee shall be in addition to the Court-fee prescribed by the Court- Fees Act, Schedule II, Article 1(b), (c) or (d) and 1A.

208. Provision governing issue of record.

- (1) When, at the instance of a party, a Court requisitions a portion of a record it shall require the party to file a certified copy of the portion required, and such copy shall be attached to the requisition. The copy or copies will be placed on the record and then the original document or documents shall be sent. When the portion of the record is received back in the Court or record room the applicant shall be entitled to have the copy returned to him on application for the same.
- (2) Where the record is deposited in the same building, it may often be more convenient to send the whole record and not merely the portion requisitioned. In such cases the whole record and not merely the portion asked for may be sent in answer to the requisition.

209. Requisition for wills.

Regarding requisitions for wills, Courts shall comply with the proviso to rule 1 of the rules made by the U.P. Government for the preservation and inspection of wills filed in the Courts of District Judges, and issued as Notification No. 7459/VII-690(8)/54, dated March 31, 1956 in the Judicial (Civil) Department as subsequently amended, and reproduced in Appendix 14 to these rules.

³⁶ Substituted by Notification no. 337/X-b-88, dated Allahabad 26.7.1996 vide correction slip no. 117 published in UP Gazette part II on 28.9.1996

210. Office procedure on requisitions.

No requisition for a record or portion of a record shall be complied with except in accordance with an order of the High Court, the District Judge or the Presiding Officer of the Court in which the record is. The requisition shall, immediately after its receipt, be placed for orders before the District Judge or the Presiding Officer of the Court, as the case may be. The record keeper, or with the consent of the Judge, the clerk in-charge of the record shall comply with such order with as little delay as possible and shall send the record or portion of the record concerned to the requisitioning authority along with a copy of the printed form for transmission (Form No. 23) duly filled in columns 1 to 10 of the form shall be filled in the record room or in the transmitting Court and in column 14 the record keeper or the Munsarim, as the case may be, shall certify whether the record or portion of the record concerned does or does not contain all the papers entered in the general index of that part of the record. The requisition shall be placed at its proper place in the relevant bundle in the record-room.

A monthly statement of cases in which there has been a delay of more than a week in complying with the order shall be submitted to the District Judge along with an explanation of the clerk concerned with respect to such delay, for orders.

211. Register of Requisitions.

The record-keeper and the Munsarim of each Court shall keep a register of requisitions for records (Form No. 24), columns 1 to 10 of which shall be filled up as soon as a requisition is received, and column 11 when the record is transmitted.

A separate register of requisitions shall be kept by each assistant in the record-room in charge of records of a Court or group of Courts.

212. Return of Records.

When the record or a portion of a record is no longer required, it shall be promptly returned to the record- room or the Court from which it was received, as the case may be, Columns 11 to 13 of the form of transmission shall be filled up, and the original form shall be filed in the record of the suit for the purposes of which the record or portion was sent for, and a copy of this form shall be returned with the record or portion. In column 14 of such copy the Munsarim of the Court returning the record or portion shall certify whether the record or portion does or does not contain all the papers entered in the general index of the part or portion.

213. Procedure on return of record.

On receipt of the record or portion the record-keeper or Munsarim shall deal with it in the manner, *mutatis mutandis*, described in rule 219 of this chapter. In the case of records or portion returned to a record-room, so much of the procedure laid down in Chapter VII, rules 187 and 188, as is applicable shall also be carried out. The record-keeper or Munsarim shall then fill up columns 12 and 13 of the register of requisition (Form No. 24) and shall file the requisition with the record or portion, and replace the record or portion in its bundle. The copy of the form for transmission returned with the record or portion shall then be destroyed.

214. Check on delay in return of records.

Once every three months the record-keeper and the Munsarims of the Courts shall lay the register or requisitions before the District Judge or the Presiding Officer for orders as to records or portions which have been issued more than three months and have not been returned.

(N.B.- Records of cases appealed to the High Court will be returned for deposit in the record-room of the District Judge after the expiration of 6 months from the date of judgment in cases appealable to the Supreme Court, and after 90 days in other cases.)

215. Records of cases appealed to the High Court.

Records of cases appealed to the High Court shall be submitted forthwith on receipt of the precept calling for them; when the subordinate Court is unable to comply with the precept within the time fixed for the purpose it shall submit a report stating :-

- (1) The number of the High Court's precept;
- (2) The number of the case in which the precept was issued;
- (3) The name of the parties to the case;
- (4) The reason for non-compliance; and
- (5) The date by which the compliance is likely to be made.

If the compliance cannot be made by such a date, a further report shall then be made.

216. Loss of record.

Whenever it is discovered that a record or portion of a record or a document on the file of a record is missing, the loss or theft shall be immediately reported in writing to the Judge in whose district or office the

loss or theft has occurred, and he in turn shall report the fact to the High Court and state the steps taken to try and recover the paper or papers missing.

217. Record pertaining to foreign Courts.

Every requisition for a record or portion of a record pertaining to a Court in a Foreign or Commonwealth country shall be sent through the Ministry of External Affairs and Commonwealth Relations, Indian Union, and shall invariably be accompanied by an affidavit in the terms of O.XIII, r.10 of the Code. It should be stated by the Court summoning the record or a portion of it whether it has satisfied itself that the production of the original record or a portion of it is actually necessary.

Transmission

218. How to send records.

The following instructions shall be observed in connection with the transmission of records to the High Court, and with the transmission upon requisition of records from one Court to another and from a record room to a Court and *vice versa* :

- (1) Except in the case provided for in paragraph (5) of this rule, records shall be sent either by parcel post registered, or by passenger train. Those sent by parcel post shall be, between July and November, securely packed in wax cloth and sealed along the seams at intervals of not more than four inches. Those sent by rail shall be carefully placed either in gunny bag similarly sealed or in a well-secured wooden box.
- (2) The postage and the registration fee in the case of parcels sent by post shall be fully prepaid by means of postage stamps. Similarly in the case of parcels sent by rail the freight shall be prepaid.
- (3) No parcel sent by post shall include papers referring to more than one case. If papers referring to more than one case are enclosed in a parcel or box sent by rail, a list shall always be placed in the box containing the number of each record or portion thereof and its weight as a separate parcel.
- (4) All parcels sent by post or by rail shall be weighed before dispatch in the presence of the Munsarim or record-keeper, as the case may be, and the weight noted outside.

- (5) When the Court requiring a record, is in the same station, as the record-room, or the transmitting Court, the record may be sent by Government messenger, but it shall be secured by seals in such a manner as to prevent the record being opened or papers abstracted in transit without the seals being broken or the fastening severed.
- (6) An acknowledgment shall be invariably required from the Court to which a parcel containing a record has been sent and in the event of none being received within a reasonable time, the matter shall be brought to the notice of the Presiding Officer, and an inquiry made to ascertain the cause.

219. Examination of records on arrival.

- (1) On arrival, the parcel containing the record shall be received by the Munsarim. He shall examine it and have it weighed. If it appears intact and not open to suspicion, he shall then make it over to the clerk in charge of the records, who shall forthwith check the papers it contains, and see that they agree with the general index and order-sheet. If the record is found correct, it shall be so stated by the clerk in the form of acknowledgment. If the record is found to be in any way defective, a report shall be made without delay to the Presiding Officer.
- (2) If any parcel received by a Munsarim appears to have been tampered with he shall have it opened in the presence of an official of the post-office or railway in accordance with the rules of those departments. He shall himself check the papers and if he finds any paper to be missing he shall at once bring the matter to the notice of the Presiding Officer.

220. Applicability of rules for records to registers and books.

The above rules shall also apply to the production, return and transmission of registers, books, etc.

CHAPTER IX

INSPECTION AND SEARCH OF RECORDS

221. Separate room for inspection.

Each District Judge shall allot a special room where record shall be inspected, and shall specify the hours during which inspection will be allowed.

222. Surprise inspections.

District Judges shall pay frequent and surprise visits to the record and other rooms to see whether outsiders and pleaders' clerks are kept out of the office rooms except when allowed by rule 236.

223. Prohibition against giving surreptitious information.

Ministerial officers and the inferior staff of the Court should be made to understand that no information or copy shall, in any circumstance, be given otherwise than as laid down in the rules and that surreptitious or gratuitous supply of information or copy is strictly forbidden. The Munsarim, Record keeper and Head Copyist will be held responsible if this rule is violated; any person found committing the offence will be severely dealt with.

224. Application for information.

Any person desiring to ascertain the serial number and date of institution of any suit or other registered particulars respecting a suit, or any proceedings therein, or of any judicial proceeding, shall present or send by post to the Munsarim a written application stamped with a Court fee label of Rs. 5.00³⁷ and giving the best particulars he can as to the year of institution and the names of parties. The Munsarim shall mark such application with a serial number and direct the official in charge of the relevant register to make a search. The information, if obtainable, shall be given to the applicant in writing, signed by the official in charge of the register, within three days from the date of the receipt of the application. In case such information cannot be given within three days, the Munsarim shall forthwith, on the expiration of the said period, report in writing to the Judge for his orders, the cause of the noncompliance with the application. A printed copy of this rule in Hindi shall

³⁷ Substituted by Notification no. 337/Xb-807 dated 26.7.1996 of Hon'ble High Court (Correction Slip No. 17) published in UP Gazette on 28.9.1996

be kept posted on the notice – board in a conspicuous place in every Court, and also in the office of every Munsarim.

After disposal the application for search shall be posted in a file book in serial order. Each such file book shall be consigned to the record room at the end of each calendar year.

225. Application for information in pending cases.

In pending cases, it will be open to a party to obtain certain information by means of written questions and answers in form No. VI-122. To this form must be affixed a Court – fee label of 50 paise for every two questions or less asked pertaining to the same case.

N.B.- In no circumstance shall the right conferred by this rule be so exercise as to be in substitution of the method of obtaining more detailed information by inspection of the record or by copies.

226. Power of Judges to examine record.

When a District Judge desires to examine the record of a case in a Court subordinate to his Court, he may order the Court forthwith to forward the same to him.

227. Taking charge of a record by the Judge for examination at his residence.

The Presiding Judge of a Court requiring to examine at his private residence a record of a case in his Court, may take charge of such record. The official in whose custody such record may be shall enter in a book, to be kept in the office for that purpose, a note describing the record so taken charge of by the Judge, the date when the Judge took charge of the record, and the date when the same was returned to the said official.

228. Papers excepted from inspection.

No papers other than those appertaining to a judicial record and no register other than a register in Form nos. 3, 67, 70 or 74 of appendix 4, Volume II of these rules shall be open to inspection, except under an order in writing of the Presiding Judge made on an office report.

229. Inspection of papers in office and free inspection by Government servants.

No record or paper in the office or in the custody of an officer of the Court shall be inspected by any person other than the Judge or an officer of the Court, except under an order in writing signed by the Judge, provided firstly that the Presiding Judge may, in his discretion, without making a

written order in that behalf, permit a party to a suit or his pleader to inspect in the Court room the record of a pending case on the day of hearing; and provided, secondly, that all Government officers duly authorized to examine records on behalf of the Government shall, at all reasonable times during the Court hours, be allowed to inspect any record with the permission of the Presiding Judge, and without payment of any fee for such inspection.

230. Applications for inspection.

Except in the cases mentioned in the provisos to the preceding rule no order for the inspection of a record or of any paper in a record, or for the inspection of a book or register under rule 243 shall be made, except upon a written and duly stamped application.

231. Applications for inspection by party to a suit.

Any party to a suit, appeal or other proceeding in the Court, and any such party's pleader, who has filed a document in writing as required by O.III, r.4 (1) of the Code, may apply for an order to inspect the record, or any papers in such suit, appeal or other proceeding.

232. Application for inspection by a stranger.

Any person, other than a person to whom rule 231 applies, may apply for an order for the inspection of a record or paper in a suit, appeal or other proceeding. No such person shall be entitled as of right to obtain an order for inspection, nor shall he, in any case, be allowed to inspect exhibits put in evidence except with the consent in writing of the person by whom they were produced or his successor in interest. Such consent shall invariably be filed along with the application for inspection.

233. Form and fees for application for inspection.

Every application for inspection shall be in writing in Form No. 25, and shall specify the record or paper of which inspection is desired, and shall have affixed to it a Court-fee label of Rs. 5.00.³⁸ Such an application will be treated as ordinary, but if an inspection is sought on the very date on which an application is filed, it shall be treated as urgent and shall have affixed to it a Court-fee label of Rs. 1.

N.B. *The form may be obtained from licensed stamped vendors.*

³⁸ Substituted by Notification no. 337/Xb -807 dated 26.7.1996 of Hon'ble High Court (Correction slip; No. 117) published in UP Gazette on 28.9.1996

234. Application for inspection by a party.

Where a party to a case applies, that any record, book or register, or set of books or registers, be sent for and inspected during the hearing of the case, the applicant shall, on the application being granted, pay into Court a Court-fee stamp of the value of five rupees³⁹ for each such record, book or register or set of books or registers. If for any reason, such record, book or register is not sent for inspection, the applicant shall be entitled to a refund of the inspection fee paid under this clause, less ten paise in a rupee, provided he applies for such refund within three months from the date of the order granting the application for inspection. The refund shall be made as directed in paragraph 1 of rule 392 of Chapter XIII of these rules.

235. Court-fee on inspection applications for registers.

The application for inspection referred to in rules 231 and 234 shall have affixed to it Court-fee labels of the aggregate value of Rs. 5.00⁴⁰ for each and every register sought to be inspected.

236. Order for inspection.

Every order for the inspection of a record or paper shall specify the record or paper of which inspection is ordered, and shall state the name of the person or persons not exceeding three who may make such inspection, and the day on which such inspection may be made.

The three persons who may inspect are the party or parties with their counsel, pairokars, or the counsels' registered clerks. The clerks and pairokars must withdraw from the rooms as soon as the parties or their counsel cease inspecting.

237. Order for inspection.

Every order for the inspection of a record or paper shall be sent to the Munsarim, and will entitle the person or persons named in such order, but not any other person or persons, to inspect the record or paper specified in the order, between the hours fixed for such purpose by the presiding Judge on the date named in the order, but on no other date. If no inspection is made on the date fixed, the application and the stamped paper shall be filed with the record and shall not entitle the applicant to inspect on any other date.

³⁹ Substituted by Notification no. 337/Xb-807 dated 26.7.1996 of Hon'ble High Court (Correction slip; No. 117) published in UP Gazette on 28.9.1996

⁴⁰ Substituted by Notification no. 337/Xb-807 dated 26.7.1996 of Hon'ble High Court (Correction slip; No. 117) published in UP Gazette on 28.9.1996

238. Duty of Record keeper.

The record keeper or the official in charge of the record shall, on the day mentioned in the order required by rule 237, deliver to the Munsarim the record or paper mentioned in the order, and shall receive an acknowledgment from the Munsarim.

239. Duty of Munsarim.

The munsarim shall, on the day of the inspection and immediately after the inspection has begun, make on the order, a memorandum showing the date on which the order has been complied with, and shall, on that same day, at any hour to be fixed by the presiding Judge return to the official from whom he received it every record or paper and every order. Such official shall return to the Munsarim his acknowledgment, and shall forthwith file every order which has been returned to him and shall not again issue for inspection on an order so filed any record or paper.

The inspection shall be made in the presence of the Munsarim or any other official specially deputed by him for the purpose who, before returning the file, shall examine the record and satisfy himself that all papers in the record are as they were before inspection.

240. Duty of Munsarim.

The Munsarim shall keep an inspection register in Form No. 26.

241. Use of pen and ink during inspection prohibited.

No person inspecting a record shall be allowed to bring into the room in which the inspection is made any pen or ink, nor to use any pen or ink; nor shall he be allowed to make any mark upon, or in any respect to mutilate any record or paper which is being inspected.

N.B.- The use of a fountain pen is also prohibited.

He may, if so desires, and within the time allowed make full copies in pencil of any paper that he is inspecting.

242. Munsarim not to allow any other person to have access to the record.

The Munsarim shall not allow any person or persons to inspect or have access to any record for the time being in his custody, other than the person or persons named in and inspecting under the order for inspection.

243. Inspection of Registers.

No person other than a Judge, or the Munsarim, or an officer of Government appointed for that purpose, shall be allowed to inspect any book or register maintained under the orders of the High Court, other than the registers prescribed in rule 400(1), (2), (5) and (11) of Chapter XIV of these Rules or the memorandum books prescribed in chapter XIV, rule 401 except under an order in writing of the presiding Judge of the Court, and in the presence of the Munsarim or any clerk specially deputed by him. The memorandum books referred to above shall be open to the public free of charge while the inspection of all other registers shall be in accordance with these rules with necessary modifications and adaptations.

244. Inspection by or on behalf of the High Court.

Nothing in these rules shall apply to any inspection by, or on behalf of the High Court.

244-A.

The fee prescribed by this Chapter shall be in addition to the Court fee payable under the Court Fees Act (Article I of Schedule II) as reduced by Government vide item no. 31 of their notification No. M 600/X-501, dated March 25, 1942 on written applications for inspection or search.

CHAPTER X

COPIES AND COPYING DEPARTMENT

Applications

245. Copies to be made only under an order on an application.

Except as may be otherwise directed by these rules, no copies shall be made or shall be permitted to be made of any record or of any decree, order, judgment or the last paragraph of the judgment, pleading, paper, exhibit or document in any record, unless ordered by the Judge* or the Head Copyist, as the case may be, on an application made as hereinafter mentioned.

** Judge includes the officer in charge of the Copying Department.*

246. Details necessary in application for copy.

Every application for a copy shall be made in Form No. 27* and shall describe clearly:-

- (a) the record, if any, in which the document, of which a copy is applied for will be found;
- (b) the document # , of which a copy is applied for;
- (c) whether or not the application is urgent; and
- (d) all other particulars required in Form No. 27 of the application for copies.

** The form can be obtained from licensed stamp-vendor.*

Document includes judgment, decree, order, pleading, deposition, exhibit, register or any other paper.

If the applicant desires the copy to be sent by post he shall also send:-

- (1) a duly stamped and addressed post card to enable him to be informed of the extra charges to be paid or of other requirements to be complied with, if any, on his application for the copy, and
- (2) in case the papers are to be sent by post, a duly stamped and addressed envelope.

NOTE: 1- *If the extra charges are not paid within 15 days from the date of issue of notice, the application for copy shall be rejected and*

the addressed envelope shall be used for informing the applicant of the order of rejection of his application.

NOTE:2 - *If the particulars given in an application for copy are wrong and are not corrected within fifteen days from the date of issue of notice, the application shall be rejected and the applicant informed accordingly if he has already supplied a duly stamped and addressed post card for the purpose. For purposes of priority in issuing copy an application with wrong particulars shall be deemed to have been made on the day on which correct particulars are supplied.*

For purposes of priority in issuing copy, an application with deficient copying fee shall be deemed to have been made on the date on which the deficiency is made good.

247. Pleader's clerk may apply for copy.

An application for copy, duly signed by a pleader, may be presented by his registered clerk and the copy may be delivered to such clerk.

248. Procedure for prisoner to apply for copies.

An application for a copy by a prisoner, civil or criminal, may be made through the Superintendent of the jail or through a friend acting on the prisoner's behalf, in the latter case the application shall be sent to the Superintendent of the jail, to be attested by the prisoner, and if it be so attested, shall thereafter be treated as the prisoner's own application. The Superintendent of the jail shall note on the application whether the prisoner wishes the copy to be sent to the jail or to be delivered to the friend, if any, who applied for it.

Persons entitled to copies

249. Parties to suit.

Except as hereinafter provided, any party to a suit, appeal, motion or proceeding may, at any time, obtain, upon an application, an order for a copy or copies of the record in such suit, appeal, motion or proceeding, or of any decree, order, judgment or the last paragraph of the judgment, pleading, paper, exhibit or document in such record; provided that a party who has been ordered to file a written statement shall not be entitled to inspect or take a copy of a written statement filed by another party until he has first filed his own.

250. Stranger to suit.

A stranger to a suit, appeal, motion or other proceeding, may, after final decree or order, obtain a copy or copies of any decree, order judgment or the last paragraph of the judgment, pleading, paper or document in the record, other than an exhibit and may, for sufficient reason shown to the satisfaction of the Judge obtain at any time before final decree or order, a copy or copies of any decree, order judgment or the last paragraph of the judgment, pleading, paper or other document in record other than an exhibit.

No order for a copy of an exhibit shall be made on the application of stranger to the suit, appeal, motion or proceeding in which such exhibit was produced unless along with the application is filed a properly authenticated consent, in writing, of the person who produced such exhibit to the granting of an order for the copy.

251. Supply of copies free of charge.

Notwithstanding anything contained in these rules, a Judge may, upon application by or on behalf of the head of any department of the Government in India or any High Court in India, any authority in India exercising jurisdiction similar to a High Court, any Court sub-ordinate to the High Court at Allahabad, any principal Court in any foreign country, in his discretion, order a copy or copies to be made and delivered of any record; and such copy or copies may be made free of charge, unless they be required for the purpose of a litigant other than the Government.

252. Supply of copies free of charge.

A copy of the original decree and of the appellate decree in a suit by an indigent person or appeal shall, on application, be supplied to a Government Law Officer free of charge.

A copy of the whole or any part of a record, when required for the purpose of conducting any trial or investigation or appeal on the part of Government in any criminal Court, shall ordinarily, on application, be supplied free of charge to a Government Law Officer or to any person authorized in this behalf by the Magistrate of the district; provided that, should the presiding Judge be of opinion that the demand made is in excess of what is necessary for the purpose stated in the application for such copy or copies, he may refuse to grant free of charge any or all of the copies applied for, and, in such case, he shall at once report his refusal, with the reasons therefore, to the High Court.

A copy of an award or agreement made under the Land Acquisition Act shall, on application, be supplied free of charge to a person claiming under such award or agreement.

Presentation

253. Mode of presenting applications.

- (a) Except as hereinafter provided, every application for a copy by a *stranger* to the suit, appeal, motion or proceeding in the record of which the copy is applied for, shall be presented to the Head Copyist, and shall be laid before the Judge for orders.

Copies from a case under hearing.

- (b) Every application for copies of deposition in a case under hearing and as the case proceeds, whether made by a stranger or a party to the case, shall be presented to the Judge for orders. All such applications must be for urgent copies.

If the application be granted the procedure prescribed by rule 254 shall be followed.

254. Duty of Head Copyist when application is received.

- (a) On the presentation of an application or on the receipt of any application by post, the Head Copyist shall then and there cause to enter thereon-
 - (i) the particulars required by Chapter V, rule 142, if not already recorded;
 - (ii) the date of the application and the serial number of the day.

On the stamped sheet, accompanying the application shall be entered only the date of the application and the serial number of the day. He shall initial these entries.

The Head Copyist shall then promptly make proper entries in the first six columns of the register of application for copies (Form no. 31). He shall send the application to the officials in charge of the records required, each of whom will enter in column 6-A of Form no. 31 his signatures and the date and hour on which he received the application relating to him. The official in charge of the record shall without delay send such application, order and stamped paper and a paper of which a copy is required to the Head Copyist and shall take from the Head Copyist, in a book to be kept for the purpose, a

receipt of the date and hour when such paper was delivered to him; and the Head Copyist shall enter in column no. 7 of the register (Form no. 31), the date and hour on which he received the aforesaid paper. Where the officer in charge of the record room considers that it is inconvenient or unsafe to break the Nathi of the record, the copy shall be made and compared by the Copyist in the record room under the direct supervision of the Record Keeper and the Record-Keeper shall fill in columns 5,6,7 and 8 of the register in Form no. 33-A.

When a copy of any paper is required from the record of a pending case the Head Copyist after having received the paper of which a copy is required shall see that the document so made over to him is free from erasures, interlineations or additions and shall make a note to this effect in the receipt book and the clerk in charge of the record shall make a similar note in the copying register at the time of taking back the document.

- (b)(i) At the time of presentation the Head Copyist shall tell the applicant to return the same day at 4 P.M. and on his return shall inform him whether his application has been granted and in the case of its being disallowed why it has been disallowed.
- (ii) As soon as the copy is made the head copyist shall forthwith return the paper of which a copy has been made, together with the application and order, to the official from whom he received it and such official shall forthwith place such application and order in file D of the record.
- (iii) The head copyist shall, at the end of each working day, deposit in a locked box to be kept for that purpose in the record-room at headquarters and in the Nazir's room elsewhere, all documents under copying.
- (iv) For the purpose of these rules the District Judge for his own Court and the Presiding Judge of other Courts in which copying work is done, subject to the sanction of the District Judge, shall select from the establishment of the Court a proper person to perform the duties of head copyist.
- (v) If an application is rejected, the Head Copyist shall at once return to the applicant the stamped paper which accompanied the application and take his receipt for the same in column 13 of register (Form No. 31). In case the applicant is a pleader, the unused stamp paper may be returned to his registered clerk.
- (vi) If the applicant be not present the Head Copyist shall inform him by post of the fact and direct him to appear without delay

and take back the stamped sheets forwarded by him with his application, provided that he has previously sent a duly stamped addressed envelope. When the applicant requests that the unused folios may be returned to his pleader they may be returned to the pleader or his registered clerk. If the pleader practices at the headquarters station, the unused folios shall be returned to him or his registered clerk and his signature taken. If he practices at an outlying Court, the unused folios may be returned to the Head Copyist of the outlying Munsifi at applicant's expense. The correspondence between the Head Copyist at the headquarters station and at the outlying Court shall be filed with the record of the suit to which the original application for copy belongs.

- (vii) The Head Copyist before returning any stamped sheets shall endorse each sheet with the words "returned unused to (being the applicant)" and initial them.
- (viii) Stamped sheets so returned may be used by the applicant in a subsequent application for copies.
- (ix) If no applicant appears within thirty days of the date on which the letter was sent to him under paragraph (vi), or in the case of an applicant who has not sent a duly stamped addressed envelope, within thirty days of the date on which the application was rejected, the Head Copyist shall render useless the stamped sheets by folding them down the middle vertically, tearing off the right half of each sheet, destroying it and causing the left half on which is entered the date and number (sub-rule (a) of this rule) to be filed in the record along with the application. An entry of the fact of destruction shall be made in the register of copies (Form No. 31) against the application.

Copying fees

255. Copies to be made on stamped paper provided by applicant.

Except for the use of the Court, or in a case falling within rules 251, 252 and 258 no copy of any record or of any part thereof, or of any decree order, judgment or the last paragraph of judgment proceeding, paper or other document in any record, shall be made, except on stamp paper provided by the person who has obtained an order for the copy.

256. Scale of copying charges.

The following shall ordinarily be the scale of charges for copies, namely-

(a) for copies containing 1,000 words or less-

⁴¹1. In the Courts of the District Judge, Civil Judge (Senior Division), Civil Judge (Junior Division):

	Judgment or the last paragraph of the judgment	Deposition or order sheet	Decree	Any other paper except a book, register, map or plan etc., or any extract thereof or documents mentioned in Rule 258
	Rs.	Rs.	Rs.	Rs.
Ordinary copy	5.00	5.00	5.00	5.00
Urgent Copy	10.00	10.00	10.00	10.00

(2) In the Court of Small Causes:

	Judgment or the last paragraph of the judgment	Deposition or order sheet	Decree	Any other paper except a book, register, map or plan etc., or any extract thereof or documents mentioned in Rule 258
	Rs.	Rs	Rs	Rs
Ordinary copy	5.00	5.00	5.00	5.00
Urgent Copy	10.00	10.00	10.00	10.00

(b) Deleted⁴²

For 1,000 words the charge shall be the same as detailed above, and for every subsequent 300 words or less an extra charge of 25 paise and 50 paise respectively for an ordinary or urgent copy, shall be made.

⁴¹ Substituted by Notification No. 337/Xb-88, dated Allahabad 26.7.1996 (Correction Slip No. 117) published in U.P. Gazette Part II on 28.9.1996

⁴² Deleted by Notification No. 337/Xb-88, dated Allahabad 26.7.1996 (Correction Slip No. 117) published in U.P. Gazette Part II on 28.9.1996

- (c) In the case of books, registers (not being registers in form Nos. 3, 67, 70 or 74 of Appendix 4 of Volume II of these Rules), maps or plans or extracts thereof, no general rule is laid down. In each case the charge shall be fixed by the Presiding Judge having regard to the quantity, difficulty or intricacy of the work to be done.

In the case of a register in Form nos. 3, 67, 70 or 74, the charge for an ordinary copy shall be 50 paise and for an urgent copy rupee one for every 250 words or part thereof, including the heading.

In cases in which an applicant desires to have more than one copy of a document and typed copies can be given, each copy after the first shall be supplied at half the rates prescribed above.

257. Use of stamped sheet for copy.

Except in the case of an application for copy of a book, register (other than a register in Form Nos. 3, 67, 70 or 74 of Appendix 4(c) of volume II of these Rules), map or plan, or any extract thereof, every application for a copy for which a charge is to be made, shall be accompanied by a sheet or sheets of stamped copying paper equal in value to the scheduled charges for the copy of the document in the preceding rule. If, upon any sheet or sheets so supplied, no part of the copy be written, the head copyist shall make a sign upon such sheet or upon each of such sheets, as the case may be, an endorsement to the following effect, filling up the blanks:-

'This sheet was used in application no. dated

If the whole of the copy cannot be made upon the sheet or sheets supplied, the remainder shall be written upon fullscap paper of durable texture, supplied from the stationery allowance. Each sheet of the copy, including every sheet supplied shall be stamped with the stamp of the Court and serially numbered by the head copyist.

In the case of copies of decrees the folio filed by the applicant shall be used as fly-leaf only. On it only so much of the decree will be copied as appears on the first page of the printed form, down to, in the case of original decrees, the word "defendant" and in the case of appellate decrees, the word "respondent." The whole decree is to be copied on a printed form similar to that used for the original decree.

258. Copies of maps etc.

When an application is made for a copy of a book, register (not being a register in Form Nos. 3, 67,70 or 74 of Appendix 4 Volume II of these Rules),

map or plan or any extract thereof, or for a copy of a paper not in the language of the Court, a photograph or the like, whether forming part of a decree or not, which the regular copying staff cannot prepare or for a copy of a decree, which, owing to its length and complexity, cannot reasonably, in the opinion of the judge, be prepared by the regular copying staff for the fixed charges in rule 256, an estimate shall be prepared under the orders of the Judge, and when prepared, shall be laid before him for sanction.

The particulars of the estimate as sanctioned shall be entered in a form (Form No. 28), the signature of the Judge shall be obtained in column 8 of the form and the amount of the estimate as sanctioned shall be communicated to the applicant. Upon payment of such amount being made by the applicant in copy folios to the value of the sanctioned estimate, the Presiding Officer of the Court shall arrange, if possible, for a copy to be made thereof and compared with the original by such special copyists as are forthcoming within his jurisdiction and may, in his opinion, be relied upon for the purpose. If no such persons are forthcoming, he may send such document together with a copy of this rule to a Court in another District or State where such special copyists are available with a request that such Court have the copy made. Any necessary charges incurred over and above the estimate amount shall be borne by the applicant. If payment is not made within a week of the communication of the estimate to the applicant, the application shall be dismissed.

The Head Copyist shall keep a register in Form No. 29 of the sanctioned estimates of copying charges for copies of books, registers, maps or plans, or extracts thereof.

The special copyist appointed for such purposes shall be paid his fee from the Court's contingent grant. But before payment is actually made to him, the sanctioned estimate shall be laid before the Presiding Judge and he should record an order for payment after satisfying himself that the fee to be paid to the special copyist is equivalent to the value of the copy folios filed in accordance with the sanctioned estimate.

259. Signing, examination and certification of copies.

When a copy has been made, it shall be signed by the person who made it; and it shall be examined, corrected, if necessary, and be certified to be true copy by the head copyist. If the copy was made by the head copyist or the head copyist is unable to certify, it shall be examined, corrected, if necessary, and certified to be a true copy by some other person selected by the Presiding Judge for that purpose.

No copy of a document shall be so certified to be a true copy unless it shows correctly number of words therein, and also the value of the stamps, if any, in the original document.

No copy shall be delivered to an applicant until it has been examined and certified.

260. Notice of copies ready for delivery.

When a copy is ready for delivery notice thereof in Form No. 30 shall forthwith be placed on the notice - board of the Court; and the head copyist shall endorse upon the first sheet of the copy the date of the application, the date of posting the notice on the notice-board, and the date when delivery of the copy was made. Such dates shall be entered in words as well as in figures.

If delivery of the copy is not taken within fifteen days of the notice being posted on the notice-board, the orders of the Judge shall be taken as to the disposal of the copy.

261. Order of compliance with applications.

Orders made on urgent applications shall have priority over all orders made on ordinary applications. Orders made on applications shall have strict priority amongst themselves according to the date and serial number of the order. Any departure from this rule shall be at once reported to the Judge with the reasons for such departure; and the fact of such departure shall be attested by the Judge's initials against the entry in the register of applications for copies relating to the applications exceptionally treated.

262. Urgent copies.

A copy for which an order has been made on an urgent application shall be delivered as a rule, not later than the working day next after the day on which the order was made.

263. Copies prohibited.

Except for special reasons to be noted by the presiding Judge on the application, no copy shall be granted of (1) official correspondence and reports; (2) a document which in itself a copy, and; (3) a document which does not form part of the record.

264. Application to subordinate Court when record is to go to headquarters.

If an application for a copy be made in any subordinate Court, the presiding Judge or Munsarim, as the case may be, may decline to grant a copy from a record which will, within three days, be required for transmission to

the record-room of the District Court and in such case the date of the application and the fact and date of such refusal shall be endorsed upon the application, and shall be signed by such Judge or Munsarim; and the application shall be returned to the applicant with instructions to present it in the Court of the District Judge.

If an application so returned be subsequently presented in the Court of the District Judge, the Munsarim shall endorse thereon the date of the presentation in the Court of the District Judge.

265. Register of applications for copies.

The head copyist shall, under the supervision of the Munsarim, keep a register of applications for copies in Form No. 31. The serial number marked on each application shall be entered in the register.

In such register the entries relating to urgent applications shall be made in red-ink, and all other entries shall be made in black-ink.

On the last working day of each week the record-keeper, and any other official from whose custody any record or paper has been supplied, shall verify by his signature the accuracy of the entries in columns 7 and 8 of this register (Form No. 31).

266. Difficulty to be referred to Judge.

In case any difficulty arises in complying with an order for a copy, the application and order, together with an office report shall be forthwith laid before the presiding Judge for orders.

267. Standard of work for copyist.

It shall be the duty of the head copyist to see that every copyist is fully employed during Court working hours or during such longer time as the District Judge may direct, that he is constantly at work during such time, and that his work comes up to the standard noted below. The head copyist shall himself carry out so much copying work as the Presiding Officer of the Court may consider practicable with reference to the head copyist's other duties.

The following standard of work⁴³ is fixed for typists and copyists :

English Typist	..	6000 words per day.
Hindi Typist	..	5000 words per day.
English copyist	..	3,500 words per day.
Hindi copyist	..	3,500 words per day.

⁴³ Substituted by notification no. 23/VIII-b-89, dated 13.1.1993 (Correction Slip no. 114) (Published in UP Gazette part II on 13.02.1993)

Provided that the standard of work for Hindi typist who is a beginner shall be 3,500 words per day for the first six months only.

Provided further that two⁴⁴ per cent of the total number of words shall be allowed to English and Hindi typists for each carbon copy prepared by them.

In the case of transliteration of documents the following standard of work is fixed for typists and copyists :

Typed transliterations	...	Two thousand and five hundred words per day.
Manuscript transliterations	...	Two thousand words per day.
Comparing private transliterations.	...	Six thousand words per day.

267A. Distribution Register.

The Head Copyist shall maintain a register in form no. 31-A, relating to the distribution of work to the copyists on each day.

267B. Register of break numbers.

The Head Copyist shall maintain a register in Form No. 31-B relating to breaking of serials of the application for copies.

268. Register of out-turn of copyists.

A register in Form no. 33A shall be maintained by all Head Copyists in which a note of the words copied by each Copyist shall be kept and averages shall be worked out. This register shall be submitted to the officer-in-charge of the Copying Department, or to the Presiding Officer of the Court fortnightly or monthly as the District Judge may direct.

Every copyist shall maintain a register in Form no. 33.

N.B.—*for the procedure as to counting of words in a copy, see Court's General Letter No. 43, dated the 10th of August, 1934.*

268A. Fortnightly statement of copying work done.

The Head Copyist shall maintain and submit a fortnightly statement of copying work done in the from below, together with Registers (Form Nos. 31 and 31B), to the Officer-in-charge, Copying Department, who, after examining it, shall pass such orders as may be necessary :

⁴⁴ Substituted by Notification No. 298/VIIIb-89, dated Allahabad 26.7.1988 (Correction slip no. 107), published in U.P. Gazette Part II on 24.9.1988

Statement showing the number of applications for copies received and disposed of during the fortnight ending.....20...

Description	Number of application at the end of the last fortnight	Number of applications received during the fortnight	Total of columns 2 & 3	Number of copies prepared	Number of applications rejected and returned	Total of columns 5 & 6	Number of applications pending at the end of the fortnight	Date of the oldest applications pending	Remarks
1	2	3	4	5	6	7	8	9	10

- (A) URGENT
 (B) ORDINARY

269. District Judge to be informed when work increases for copyists.

If, in any Court, copying work increases so much that the existing staff of copyists cannot cope with it, the head copyist shall at once report to the District Judge, in the case of the Court of the District Judge, through the Munsarim of that Court, and in the case of any other Court, through the Presiding Officer of the Court. The District Judge shall ascertain whether any increase of establishment is necessary; and if an increase be necessary in his opinion, he shall report the matter for the orders of the High Court. In urgent cases the District Judge may employ extra copyists and report to the High Court.

270. District Judge to be informed when work not sufficient for copyists.

If, in any Court, copying work falls off so that every copyist cannot be fully employed, the head copyist shall at once report to the District Judge, in the case of the Court of the District Judge, through the Munsarim of that Court and in the case of any other Court, through the Presiding Officer of the Court. The District Judge shall thereupon hold in abeyance fresh appointments to his clerical establishment till such time as he considers necessary.

CHAPTER XI

CIVIL COURT ACCOUNTS

271. Definitions.

In this chapter, unless there is anything repugnant in the subject or context-

“District Judge” shall include the Presiding Judicial Officer:

- (a) in the permanent Courts of Civil and Sessions Judges⁴⁵ not stationed at the headquarters of a Judgeship.
- (b) in Courts of Civil Judges, having separate account with the treasury, and
- (c) in Courts Of Small Causes, and the term “District Court” shall include the Courts over which such officers preside, the term “Court subordinate to the District Judge or District Court” meaning in such cases, all Courts lower in grade than such Civil and Sessions Judges⁴⁶;

“Judges” includes every District Judge, Additional Judge, Civil and Sessions Judge posted in a permanent Court, Civil Judge whose headquarters are situated in an outlying District, and the Judge of a Court of Small Causes:

“Receiving officer” means-

- (i) the ‘Central Nazir’ and the Deputy Nazir of the Courts of District Judges.
- (ii) the Nazir of the permanent Courts of Civil and Sessions Judges⁴⁷;
- (iii) the Nazir of an outlying Munsifi or of a Civil Judge⁴⁸ with headquarters in an outlying District, and the Nazir of the Court of Small Causes, Lucknow City;
- (iv) the clerk of the Court in the Courts of Small Causes:

⁴⁵ The word ‘Civil and Sessions Judge’ shall now be read as ‘Addl. District and Sessions Judge’ - Ed

⁴⁶ The word ‘Civil and Sessions Judge’ shall now be read as ‘Addl. District and Sessions Judge’ - Ed

⁴⁷ The word ‘Civil and Sessions Judge’ shall now be read as ‘Addl. District and Sessions Judge’ - Ed

⁴⁸ The word ‘Civil Judge’ shall now be read as ‘Civil Judge(Senior Division)’ - Ed

“**Treasury**” means the treasury or sub-treasury of the revenue district or sub-district in which a Civil Court is situated.

“**Treasury Officer**” means the officer in charge of the treasury or sub-treasury of the revenue district or sub-district in which Civil Court is situated.

272. Courts keeping separate accounts.

The following Courts shall have separate accounts with the Treasury and the Accountant General:

- (i) The Courts of all District Judges;
- (ii) the permanent Courts of all Civil and Sessions Judges⁴⁹ not stationed at the headquarters of a Judgeship;
- (iii) the Courts of Small Causes.

273. Head of Account.

The following are the heads of account under which the money received and paid under this chapter is classified:-

- (1) Civil Court Deposits and Repayments, including-
 - (i) Sums paid under decrees and orders;
 - (ii) Sums deposited under O.XX, r.14, and O.XXIV, r.1 of the Code, and section 83 of the T.P. Act (No. IV of 1882);
 - (iii) Sums deposited under O.XXI, r.84, or paid under O.XXI, r.85 ;
 - (iv) Sums deposited under S.379(1) of Act XXXIX of 1925;
 - (v) Sums deposited in lieu of security ; and
 - (vi) Sums deposited under the Land Acquisition Act (1 of 1894).
- (2) Cash and proceeds of sale of Intestate Property and Repayments.
- (3) Payments and refunds under-
 - (i) Fines, Section 480 of Act V of 1898;⁵⁰
 - (ii) Stamp duties and penalties, section 35 of Act II of 1899;

⁴⁹The word ‘Civil and Sessions Judge’ shall now be read as ‘Addl. District and Sessions Judge’ - Ed

⁵⁰ See section 345 of the new Code-Ed.

- (4) Petty cash accounts, including-
- (i) Traveling and other expenses of witnesses;
 - (ii) Subsistence money for judgment-debtors;
 - (iii) Sums paid under the rules framed by the State Government under section 27 Act XVIII of 1876 and O.XXI, r.43;
 - (iv) Incidental charges of Commissioners, Amins and Arbitrators, etc.;
 - (v) Commission fees received from or for other Courts;
 - (vi) Postage and registration fees (other than fixed postal fees);
 - (vii) Costs of publication of proclamations and orders,
 - (viii) Carriage hire for the Bailiff, Small Cause Court, City Lucknow, for service of processes and execution of warrants of arrest;
 - (ix) Copying charges received by money order under these rules; and
 - (x) Money deposited by a party or parties applying for local inspection by the Presiding Officer towards his traveling and other expenses.

274. Use of Indian numerals.

In the maintenance and preparation of accounts and in the submission of statements relating to accounts the international form of Indian numerals shall be used.

275. Payments to or through a Court.

Payments of money to, or through, a Civil Court shall be made in cash or by postal money-order or by cheques drawn on a recognized bank or by credit of some kind upon the treasury. Currency notes of any circle in the Union of India shall be received in payment of Government dues, e.g., sums payable to the Government under decrees and order, sums deposited under section 379(I) of Act No. XXXIX of 1925 and duties and penalties paid under section 35 of Act No. II of 1899. It shall not be obligatory to receive a currency note of any circle if it is necessary to give change.

NOTE 1: *The directions contained in paragraphs 23, 24, 25* and 26 of the Financial Hand Book, Volume V, Part I shall be strictly followed if deposit is accepted by cheques.*

**Also see paragraphs 25A and 25B of the Financial Hand Book, Vol. V, Part 1.- Ed.*

NOTE 2: *Postage stamps shall not be received.*

276. Remittance by money order.

In the case of remittance of money from one Court to another by postal money-order, the title of the case and the nature of the remittance shall be entered in the coupon, all the requisite entries in the form of application for the money-order being prepared free of charge by the Receiving Officer. The money-order shall be addressed to the Munsarim of a District Court, or the clerk of a Court of Small Causes, and in other cases to the Presiding Judge.

277. Deposits in cash.

Direct receipts of money which fall under Head of Account (I) of rule 273 shall, as far as possible, be avoided by Courts, but where the distance between the Court and the treasury is such that, in the opinion of the District Judge, inconvenience to applicants would arise, he may sanction the receipt by the Receiving Officer of cash deposits not exceeding Rs.50 each: provided that where remittances to the nearest sub-treasury are not made daily by the Receiving Officer of any Court, the limit of cash receivable under a single deposit shall be Rs.10.

Cash, however, must be received when tendered under Head of Account (I) in the following cases:-

- (1) When the Court is over 5 miles from the nearest treasury.
- (2) When the money is payable into Court under any of the following provisions of law, namely, section 55, O.XX, rr. 11 and 14, and O.XXI, rr.84 and 85 of the Code, and section 379 (I) of Act XXXIX of 1925, and is tendered after the hour prescribed in rule 279.
- (3) When the proceeds of movable property, sold in execution through the officer of a Civil Court, under O.XXI, r.77 cannot be paid into the treasury on the day of sale.

Repayments of money falling under Head of Account (I) shall be made through the treasury.

N.B.- *Also consult Appendix XVII of F. H.B. Vol. V, Part 1.*

278. Deposits in cash.

Money under Head of Account (2) shall be received by the Central Nazir when so payable under the rules hereinafter given for the disposal of intestate property; repayments shall only be made through the treasury.

Money under Head of Account (3) shall be received in cash at every Court having a separate Receiving Officer; refunds shall only be made through the treasury.

Money shall be received and cash payment made under Head of Account (4) by the Receiving Officer as hereinafter provided.

279. Time for receipt of Deposits.

The time during which cash payable into Court may be received is from the opening of the Court until a time which shall, except as hereinafter provided, be one hour in advance of the time fixed for the closing to the public of the treasury; and the accounts for the day shall then be made up. But even after this hour cash payable under Head of Account (I) must be received in the cases mentioned in rule 277; such transactions shall be entered in the accounts bearing date of the next open day; but the receipts given to the payer shall also show (as a denominator) the actual date of payment, e.g. November 7/6; provided that the District Judge, having regard to local circumstances, may prescribe the hours during which money may be received in any Court within his jurisdiction.

280. Registers.

The following registers shall be kept under these rules:-

- (1) The Central Nazir and the Deputy Central Nazir shall keep for each Court for which he is receiving officer, a separate set of the following registers:

Register of Receipts and Deposits (Form No. 35)

Register of Repayments of Deposits (Form No. 37)

Register of Fines, Stamp Duty and Penalties realized
(Form No. 39)

Cash Book (Form No. 41)

Pass Book (Form No. 42)

Register of Petty Receipts and Repayments (Form No. 43)

In addition to the above, the Central Nazir shall keep for all Courts one single register of intestate property (Form No. 40)

- (2) Such Officer of his Court as the Judge of the District Court may appoint shall keep in Hindi :-
- (a) For the District Court and all the Courts subordinate to the District Court, a single set of the following registers:-
Register of Receipts of Deposits (Form No. 36)
Register of Repayments of Deposits (Form No. 38)
- (b) For the District Court only-Cash-book.
- (3) The following registers shall be kept by clerks of Courts of Small Causes;
- Register of Receipts of Deposits (Form No. 35).
Register of Repayments of Deposits (Form No. 37).
Register of Fines, Stamp-duty and penalties Realized (Form No. 39).
Register of Petty Receipts and Repayments (Form No. 43)
Cash-book (Form No. 41).
Pass-book (Form No. 42).

The same registers shall be maintained in outlying munsif's Courts; the Register of Receipts of Deposits by the Munsarim, the other registers, the cash-book and the pass-book by the Nazir.

281. Registers.

When the District Judge keeps deposit accounts with more than one treasury, separate Registers of Receipt and Repayments of Deposits and a separate Cash-book shall be kept in his office for each revenue district, the Cash-book being in such cases a record of deposit transactions only.

282. Erasures prohibited.

No erasures shall be allowed in any register, book or extract kept under these rules; where an alteration is necessary the original figures shall be crossed out and the correct figures placed above them in red-ink and initialed by the presiding Judge.

283. Mode of payment of money into Court.

Payment of money into Court shall ordinarily be made by means of a tender upon a printed triplicate form (These forms may be obtained from licensed stamp vendors). The applicants shall enter in the Court language the

particulars required in columns 1 to 4 of the triplicate Form of Tender (Form No. 44) and shall affix to one of the tenders, herein called the Original Tender, the Court fee stamp, if any, required by law. The applicant shall then hand over the tender to the Munsarim or clerk of the Court. When a judgment-debtor pays decree money into Court, the form of tender to be used shall be No. 45.*

NOTE- (i) *No stamp is required for a tender of money which a party is bound to pay into Court in the progress of a suit or to complete a purchase. In cases where the payment is voluntary, as in the case of deposits made under O. XXIV, r.1, or by a mortgagor and the like, a stamp is required unless the tender be accompanied by a duly stamped application giving particulars of the payment. Also see G.L. 3147/44-18(5) of 11-11-1919.*

(ii) *In the case of sums deposited under section 379(1) of Act No. XXXIX of 1925, the tender shall show that the amount is deposited to the credit of the Judge.*

284. Verification of particulars of tenders.

The Munsarim or clerk of the Court shall then call upon the official in charge of the record of the case for an office report as to whether the amount and nature of the payment tendered and the number of the suit, if any, are correct, and whether the payment is due from the person on whose account it is tendered. Any necessary corrections shall be made, and the Munsarim or clerk of the Court shall then sign the tender prior to the order for receipt of payment being passed.

285. Order to receive payment.

The order to receive payment shall be prepared in the office of the Court and shall be enfaced upon the duplicate and triplicate forms of the tender, and shall run in the name of the Treasury or Receiving Officer as prescribed in rules 277 and 278. The order shall be signed by the Presiding Judge+ for all amounts payable under Heads of Account (1),(2) and (3), and by the Minsarim or clerk of the Court for all amounts payable under Head of Account (4). The Original Tender shall be retained in safe custody by the Munsarim or Clerk of the Court, the duplicate and triplicate forms being returned to the applicant for presentation and payment of the money to the officer named in the order endorsed thereon.

+ **NOTE-** *Except at Dehra Dun where the order in question shall be signed by the Munsarim of the Judge, Small Cause Court, Dehradun, during the period the Presiding Judge holds his Court at Mussorie.*

286. Munsarim or clerk to prevent delay.

The Munsarim or clerk of the Court shall see that no unnecessary delay occurs in obtaining the office report and the order to receive payment and in returning the duplicate and triplicate forms of tender to the applicant.

287. Acknowledgments.

On presentation of the two tender forms and on payment of the money to the officer named in the Court's order to receive payment, the applicant shall receive as an acknowledgment one of the forms of tender duly signed; and the other form shall be retained as a voucher by the Treasury or Receiving Officer and pasted in a file-book. In the case of payments made otherwise than in cash or currency notes, the acknowledgement shall not issue until the security has been realized.

288. Pass-book and Register of Petty Receipts

Every receipt of money under these rules by the Receiving Officer shall be forthwith entered by him-

- (1) in the pass-book, if the item falls under Head of Account (1),(2) or (3).
- (2) in the Register of Petty Receipts and Repayments, if the item falls under Head of Account (4).

289. Remittance of receipts to the treasury.

Except as hereinafter in this rule provided, the sums entered in the pass-book shall as soon as possible after the time for receiving money under rule 279 has expired, be forwarded on the day of receipt to the treasury, together with the Pass-book and an extract there from, showing the several classes of receipts in their appropriate columns.* The extract shall be retained by the Treasury Officer, who shall return the pass-book with his acknowledgement thereon of receipt of the remittance. Provided that when there is no sub-treasury in the same town as an outlying munsifi, remittances of cash from such Munsifi to the treasury, accompanied by the Pass-book, shall be made twice in the week instead of daily.

* **NOTE-** 1. *For every animal committed to the custody of the pound keeper as aforesaid, a charge shall be levied, as rent for the use of the pound for each 15 or part of 15 days during which such*

custody continues according to the scale prescribed under section 12 of Act No. 1 of 1871.

And the sums so levied shall be sent to the treasury for credit to the Municipal or District Board, as the case may be, under whose jurisdiction the pound is. All such sums shall be applied in the same manner as fines levied under section 12 of the said Cattle Trespass Act.

NOTE- 2 *Proceeds of sales effected under orders of the Commissioner under the last Para of sec.7 of Regulation V of 1799 as amended by Act No. IV of 1914 and Act No.XII (Local) of 1922 shall be entered in column 12 of the Pass-book.*

NOTE-3 *Sums entered in columns 11 to 19 of the Pass-book shall not be brought into the Cash-book.*

290. Remittance by Money Order or Letter.

- (1) When money is sent to a Civil Court by a money order or under cover of a letter, the procedure shall be as follows: the money-order or letter, and the amount sent shall be received by the Munsarim or clerk of the Court, and shall be laid before the presiding Judge; and an acknowledgement under his signature shall be given to the sender. If the money-order or letter requires a stamp the presiding Judge shall have it affixed, and shall deduct the cost from the remittance. If the money-order or letter covers only a single sum for deposit, it shall be filed as an Original Tender with the record of the case. If the money order or letter covers more sums than one for deposit, the coupon or letter shall be filed in a separate File of Tenders by Letters. For each item a report in triplicate shall be prepared in the office (to serve the purpose of tender), a reference being made to the original letter. The procedure laid down in the preceding rules shall then be followed, save that such sums shall in all cases be made payable to the Court's Receiving Officer. The Munsarim shall keep a register (Form No.6) for the entry of money received by money order.
- (2) In outlying Courts, the Munsarim (or the person acting in his place) for the period the Courts are closed for the Civil Court vacation shall receive all money orders, sign acknowledgement for the same and do other acts, which under the preceding rule are ordinarily done by a presiding Judge. The work of the Munsarim done under this rule shall be checked and reported to

the District Judge within a week by each Presiding Officer on the re-opening of the Courts after the vacation.

291. Advice List.

Every receipt of deposit, either direct or by transfer, at the treasury, shall be recorded in an Advice List (Form No. 46), which shall be forwarded at the close of the day (or where the treasury banks with the State Bank, as soon after as possible) to the Receiving Officer of the Court concerned. The Advice List when received shall be filed in a book kept for the purpose.

Items received under cover of the Receiving Officer's Pass-book shall be entered in a lump sum in the Treasury Advice List.

N.B. See also Rule 310, post. –Ed.

292. Correspondence between Court & Treasury Accounts.

At the close of the day the Munsarim shall take his Original Tenders to the Receiving Officer and shall compare them with the Advice List received from the treasury and with the Receiving Officer's Register of Petty Receipts and Repayments and Pass-book. When receipt has been acknowledged the Receiving Officer shall certify such receipt upon the Original Tender, giving the number of the register, the Court number, and the general or serial number and the date. The Munsarim shall then countersign the Receiving Officer's certificate, at the foot of the Original Tender, and cause the Original Tender to be filed with the record to which it relates. In Courts of Small Causes, where the Clerk of the Court is Receiving Officer the check shall be exercised by the Presiding Officer.

293. Entry of Receipts under heads of Account 1 & 2.

Receipts under Head of Account (1) shall be entered in the Register of Receipts of Deposits. Receipts under Head of Account (2) shall be entered in the Register of Intestate Property and, unless the cash be proceeds or sales effected under the orders passed by the Commissioner under the last paragraph of section 7 of the Regulation V of 1799 as amended by Act No. IV of 1914 and Act No. XII (Local) of 1922, also in the Register of Receipts of Deposits. Receipts under Head of Account (3) shall be entered in the Register of Fines, Stamp-duty and penalties.

Re-Payments

294. Repayment of petty receipts.

The repayment of sums entered in the Register of Petty Receipts and Repayments shall be made by the Receiving Officer upon his own

responsibility, the signature of the recipient being taken when practicable in column 15.

Unexpended items shall be returned direct to the Receiving Officer, who shall then enter them upon the receipt side, the name of the process-server or other person returning the items being entered in column 4 and a reference to the original serial number of receipt being given in column 6, thus: "Unexpended balance of receipt serial No. 432." Repayment of such unexpended items, provided they have not been remitted to the treasury as miscellaneous deposits (see rules 317 and 326), may be made by the Receiving Officer direct to the original payer or his duly empowered attorney either upon signature of the recipient being given in column 15, or by means of a postal money-order where repayment has not been so made. Where money is remitted by money-order the number and date of the money-order receipt shall be entered in column 15. The balance of unexpended and unrepaid item may also be repaid in presence of the presiding Judge when the case first comes on for hearing, and the signature of the recipient shall be taken in column 15.

At the end of each week the Receiving Officer of every Court shall ascertain what balances of moneys deposited and entered in the Register of Petty Receipts and Repayments are due and became repayable during the preceding week and shall enter a minute in respect of each such balance in Form No. 47 which form shall be affixed to the notice board in a conspicuous part of the Court-house.

295.* Repayment of other than petty items.

No repayment of any other sum shall be made except (1) upon an application in the prescribed form (Form No. 48) bearing an office report and the Court's orders thereon, or (2) upon an office report bearing such orders. Every such application shall be signed by the person to whom the money is due and payable and his signature shall be witnessed. No such form** other than the printed form shall be received by a Court.

NOTE: - *The rules framed by the Government of India in respect of payments under the Land Acquisition Act, 1894 are given in appendix 17(H).*

*** NOTE:** *The Governor has been pleased to direct, under section 35 of the Court-fees Act, 1870, as amended by the Devolution Act, 1920, that the fees chargeable under Para 2 of Clause (b) of Article 1 of the Second Schedule, on applications for orders for the payments of deposits in cases in which the deposit does not exceed Rs.10 shall be limited to 13 P. and in case in which the*

deposit Rs.10, but does not exceed Rs. 25 shall be limited to 25 P. :

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

Uttar Pradesh Government Notification No. 1231/VII-353, dated 11.10.1923 as amended by Notification No. C-276/X-530-1927, dated January 19, 1928, and No. 7-600/X-501, dated March 25, 1942

****NOTE:** *These can be obtained from licensed stamp vendors.*

296. Repayment of other than petty items.

Before the form of application for repayment is signed by the person to whom the money is due and payable, columns 1 to 4 shall be filled up. The form shall then be presented to the Munsarim or clerk of the Court by which the money is held in deposit. The application shall bear the Court-fee, if any, prescribed by law (see note to rule 295), and shall be entered in a register to be maintained as directed in G.L. 16/44-7(1) of 17.3.1937.

If the person to whom the money is due and payable appears in person to receive the money and is not personally known to the presiding Judge, no order for payment shall be made until he has been identified by a pleader or other person known to such Judge. If the person to whom the money is due and payable does not appear in person, no order for payment shall be made unless and until the presiding Judge is satisfied by affidavit or otherwise that the person asking for payment has been duly authorized by the person to whom it is due and payable by an instrument in writing to receive the money :

Provided that, when the sum to be refunded does not exceed Rs. 500, the applicant may add to the application a request that the amount minus postal commission, may be forwarded by money-order to him at the address that he has registered as his address for the purpose of the service of processes under O. VII, r. 19.

A money order form shall, for the purpose be supplied by the applicant.

297. Repayment of other than petty items (by money order).

- (1) A Money-order form and the repayment order both duly filled in shall be sent to the Treasury Officer with Form No.

49. In the original repayment order the words “by money order” shall be written.

The following entries shall be made in the money-order form :-

(i)	For the amount remitted.	The amount of the payment order less the postal commission.
(ii)	For the name of the remitter.	The name of the treasury not the Court.
(iii)	For the address of the payee.	The registered address of the applicant.
(iv)	On the acknowledgment portion of the form in continuation of the printed entry, “Received the sum specified above on.....	The purpose of the remittance, leaving sufficient space below the manuscript entry thus made for signature or thumb impression of the payee.

(2) The right half of Form No. 49 shall be detached, completed, and returned by the Treasury Officer (when he has received an acknowledgement of the remittance from the payee) and shall be filed in the record with the application.

298. Repayment to co-operative Societies.

Applications for repayment of sums less than Rs.150 due to a Co-operative Society registered under Act II of 1912, may be sent or presented to a Court with a request that the amount due, minus postal commission, be forwarded by postal money order payable to an official of the Society, authorized to receive payments on its behalf, at the registered address of the Society; such applications must be signed by the said official.

The Court, if satisfied that the application is genuine and that the sum is due, shall send a Repayment Order to the Treasury Officer, who will issue a money-order for the amount less postal commission payable to the said official at the registered address of the Society.

Lists of such authorized officials as are mentioned above, with specimens of their signatures, will be supplied to District Judges by the Registrar of Co-operative Societies.

299. Repayment application to be compared with record of case.

If the record has not been sent to the record-room, the Munsarim or clerk of the Court shall cause the application for repayment to be compared with the record of the case, and a report shall be made in columns 5, 6, 7 and

8 of the form of application and shall be signed by the Munsarim or clerk of the Court. If the application be found to be incorrect or defective, the defect or error shall be noted upon it, and it shall be returned to the applicant for correction by him or for reference by him to the Court.

300. When the record is in record room.

If the record of the case has been dispatched to the record-room of the District Judge, the Munsarim or clerk of the Court shall forward the application to the record-keeper of the District Judge, who shall certify the particulars required in columns 5 to 8 of the form of application and shall sign the same.

If the record of the case has been dispatched to the High Court, the Munsarim or clerk of the Court shall forward the application to the High Court giving reference to the case in connection with which the record has been sent. On receipt of such application in the High Court, the Munsarim concerned shall certify, under his signature, the particulars required in columns 5 to 8 of the form of application and shall forthwith return it to the Court which forwarded it.

301. Receiving Officer's Report.

The Receiving Officer of the Court to which application is made or the Munsarim in outlying Munsifis shall then report as to the particulars required in column 9 of the form of application and shall sign the same. The Receiving Officer or Munsarim before making his report shall carefully ascertain whether or not there is any attachment or stop-order affecting the money.

302. Order of Presiding Judge.

The application shall then be laid before the presiding Judge for his order, and if the order be one for repayment, the amount to be repaid shall be entered both in figures and words upon the form of application by the presiding Judge in his own handwriting.

303. Repayment Order.

The repayment order shall be prepared in the form and manner prescribed in paragraph 109 of the Treasury Manual 1931.* The entries in the repayment order, both on the voucher itself and on its counterfoil, shall be made in Hindi. The presiding Judge shall himself enter in figures, in the space provided above his signature, both on the order itself and on the counterfoil, the amount of repayment ordered by him.

NOTE-In cases where Court-fee stamps are to be purchased by the Receiving Officer from deposits (e.g., under section 379(1) of Act No. XXXIX of 1925) the final order for repayment of such deposits shall contain a direction to the Treasury Officer to pay the amount in stamps to the Receiving Officer of the Court to whose credit it was deposited, and to transfer the amount from Civil Court Deposits to Stamp Revenue.*

In repayment order the following words should be written:-

“By transfer credit to stamp revenue”.

During the months of January, February and March, all repayment orders, issued for the payment of items, which would lapse under rules 327 and 328 on 31st March, following, shall have an entry made thereon in red ink at the top “ *Not to be cashed after 31st March, 19....* ”(Now read 200....Ed.).

304. Bilingual forms for repayment of deposits.

Civil Court deposits shall be repaid through repayment orders in form no. 39, Financial Handbook, Volume V, Part I. These forms are issued in books of 100 forms each.

For the sake of convenience each book is divided into two parts or volumes, the first part or volume containing forms bearing serial nos. 1 to 50 and the other containing forms bearing serial nos. 51 to 100. Each book bears a printed number which is repeated on every form contained in it. Use of a loose repayment order form is strictly forbidden.

The books shall be supplied by the Treasury Officer to Presiding Officers of Courts on written application. Presiding Officers of subordinate Courts shall apply for the books through the District Judge or the Civil and Sessions Judge⁵¹ as required under paragraph 109 of the Treasury Manual. Both volumes of a book will be issued simultaneously; but a new book or volume shall not be brought into use until all forms of the book or volume previously in use have been issued. As soon as a Presiding Officer commences to use a new book, he shall report the fact to the Treasury Officer. The counter-foils of a used up book shall be retained by the Court for 12 years and then destroyed; they are not to be returned to the Treasury Officer.

⁵¹ The words ‘Civil and Sessions Judge’ shall now be read as “Additional District and Sessions Judge”.
-Ed.

A Presiding Officer shall on receipt of a book from the Treasury Officer count the forms in it and give a certificate specifying the number printed on it and the number of forms contained in it.

305. Procedure on transfer of the officer and custody of repayment order books.

A Presiding Officer shall keep the books in his personal custody, giving out the volume in use each morning and receiving it back in the evening, after satisfying himself that no forms have been removed beyond those required for repayments duly ordered.

A Presiding Officer on being transferred from the Court shall deliver the books to his successor, shall take a receipt from him as required under paragraph 57, Financial Handbook, Volume V, Part I, and shall send it to the Treasury Officer. In case he is unable to deliver the books to his successor, he shall return them to the Treasury Officer, who shall keep them with other unused books in his stock so long as they are not delivered to the successor on his application.

306. Specimen signature.

A specimen of the signature of the drawing officer shall be sent to the treasury.

306A. Manner of drawing a repayment order.

The forms in each book must be used in regular order and care must be taken to fill in the various particulars required.

The name of the person to whom the amount is actually payable should be entered by the Court issuing the repayment order in the blank space provided for the purpose.

Payments to officials for or on behalf of original payees are strictly forbidden except in the case of repayment order to officers of the Court of deposits made for translation and copying fees, etc.

The deposit repayment orders should not be marked as payable to 'A' through 'B'. If it is required to make payment to 'B' on behalf of 'A', when 'B' is not a Government official, the repayment order should be marked by the issuing Courts as payable to 'B' for 'A'.

307. Delivery of Repayment order to applicant.

The repayment order when prepared shall be made over to the applicant for presentation at the treasury, the number of the order being entered in column 10 of the form of application, and a receipt for the order

being taken from the applicant at the foot of the form of application, and upon the counterfoil of the order.

In cases where an application for repayment is not made by the pleader, who represented the applicant in the original litigation or such pleader has ceased to represent the applicant and is not, therefore, available for identifying him, the repayment order shall be delivered in the presence of the Presiding Officer, who should satisfy himself as to the identity of the applicant.

When the entry has been made in column 10 of the form of application and the applicant's receipt has been taken, the Munsarim or clerk of the Court shall cause an entry to be made in the remarks column of the Register of Receipts of Deposits (Form No. 35) against the item or items in respect of which the repayment order has been issued. Such entry shall show the number and amount of the repayment order, the date of issue and the name of the person to whom the repayment order has been made payable.

In cases referred to in the provision to rule 296 when the number of the order has been entered in column 10 of the form of application, the repayment order shall be sent duly entered in the Dak Bahi, to Treasury Officer who will sign the Dak Bahi as a receipt for the repayment order and return it to the Court.

After the entry has been made in column 10 of the form of application and before the repayment orders are sent to the Treasury Officer, the Munsarim or clerk of the Court shall cause an entry to be made in the remarks column of the Register of Receipts of Deposits (Form No. 35) against the item or items in respect of which the repayment order has been issued. Such entry shall show the number and amount of the repayment order, the date of issue and the name of the person to whom the repayment order has been made payable, and note the fact that the repayment order has been sent to the Treasury Officer together with the date of dispatch.

308. Duty of Munsarim or clerk of the Court.

It shall be the responsibility of the Munsarim or clerk of the Court to see that no unnecessary delay occurs in obtaining the necessary report, and in preparing the repayment order and delivering the same to the applicant.

Presiding Officer, shall inspect every week the Register of Refund Applications and require an explanation in any case in which the order for repayment was passed with undue delay. Three days from the date of application if the record of the case was in the same station as the Court and

8 days if the record was in another station should ordinarily suffice for the disposal of an application for refund of deposit.

309. Lapse of Repayment Order.

Should the repayment order be not presented within three months from its date, or, in the case mentioned in paragraph 2 of rule 303, before 1st April of that year, encashment of it shall be refused; and a fresh application accompanied by a return of the order, will be required.

When a fresh Repayment order may be issued.

On the receipt of such application or when for any reason the repayment order has not been issued within 3 months, the original repayment order shall be effaced with the word 'Cancelled' written in red-ink, and initialed by the Presiding Judge and shall be transmitted to the Treasury Officer. A fresh order shall then issue, the counterfoil of the original order being cancelled in a similar manner. Any spoilt form similarly be cancelled and sent to the Treasury Officer.

In the case of a repayment order which has been issued but has not been cashed by the 31st March, a refund application in Form No. 42 of the Financial Handbook Volume V, Part I (Treasury Form No. 334) for sanction of the Accountant General will be necessary. The fact of the item having lapsed should in such cases be noted on the counterfoil of the original order.

Procedure on loss of a Repayment Order.

When a repayment order is lost, a certificate of non-payment shall be obtained by the Court from the treasury before a fresh order is issued.

310. Advice List

Every repayment and transfer from Civil Court deposits made by the Treasury under these rules shall be recorded in the daily Advice list (Form No. 46) and furnished at the close of the day to the Receiving Officer.

311. Entries after receipt of Advice list.

On receipt of such Advice List, the repayment shall be entered in the Register of Repayments of Deposits, and in the appropriate column of the Register of Receipts of Deposits and, in the case of cash belonging to the estate of intestate, also in the Register of Intestate Property. The entries shall be initialed by the Receiving Officer. No entry regarding repayment of a Civil Court deposit shall, in any circumstances, be made in the register of Repayments of Deposits without receipt of advice of repayment.

312. Application for repayments to be filed with case.

When the repayment or transfer has been so advised and entered, the Receiving Officer shall endorse the fact of repayment upon the form of application, which shall then be filed with the record to which the repayment relates.

313. Exclusion from Accounts of direct payment by ones to another party.

Moneys paid by one party to another in Court but not through an officer of the Court shall not be entered in the Court's registers of accounts. When money is to be paid by one person to another and both are present in Court, the money may be passed direct from the one to the other under the sanction of the presiding Judge, who shall have a receipt (Form No. 50) executed in his presence, a copy of which shall be filed with the record of the case.* The payee, when not personally known to the presiding Judge, shall be identified by some one who is so known. Care must be taken in these cases that no officer of the Court receives or becomes in any way responsible for the money.

** NOTE-This procedure may be conveniently followed in cases of payment of decretal amounts by judgment debtors to decree-holders or their counsel, and when costs of the day are allowed by the Court*

314. Initialing of Registers by Munsarim and Judge.

Each entry in Registers of Receipts and Repayments of Deposits shall be initialed by the Munsarim or clerk of the Court and the presiding Judge of the Court ordering receipt or repayment. Each entry in the consolidated Registers of Receipts and Repayments of Deposits kept in the Court of the District Judge shall be initialed by the Munsarim; and the District Judge and Munsarim shall both initial the daily total.

Each entry in the Register of Petty Receipts and Repayments, in the Register of Fines, Stamp-duty and Penalties, and in the Register of intestate property shall be initialed by the Munsarim and the daily totals shall be initialed by the Presiding Judge.

Where the entries for several Courts are kept in one register, they shall be grouped for each Court separately, and be distinguished by lines drawn in red ink.

315. Daily extracts from outlying Courts.

Presiding Judges of outlying subordinate Courts shall submit to the District Judge daily extracts (Forms Nos. 51 and 52) from their Registers of

Receipts and Repayments of Deposits; and the deposit items of all subordinate Courts, each item receiving a general serial number, shall day by day be incorporated with the accounts of the District Judge. The daily extracts shall be pasted into file-books kept for the purpose. On the next working day a slip (Form No. 53) shall be issued by the District Court to each subordinate Court showing the general serial number borne by each item in its daily extract from its Register of Receipts of Deposits (Form No. 51), and in all subsequent transactions the general number as well as the Court number shall be quoted. The slip shall be pasted into a file-book kept for the purpose.

The daily extracts shall be forwarded to the District Judge on the day of the transactions to which they refer.

316. Cash book.

The daily totals of all the registers shall at the close of the day be posted in the Cashbook. Column 4 shall show the cash receipts of the Receiving Officer, and column 8 shall show his remittances to the treasury by means of the Pass-book. Columns 5 and 9 shall be confined to transactions at the treasury.

The Cashbook of the District Court shall show all the receipts and disbursements of that Court, and also all the receipts and repayments of deposits of all the subordinate Courts other than a Court of Small Causes in that revenue district. The closing balance of each month in column 9 shall correspond with that shown in the treasury accounts and in the consolidated Plus and Minus Memorandum.

The Cashbook maintained by the Central Nazir shall contain all items, including deposits received and disbursed by the Courts, for which he is a Receiving Officer; and shall daily be separately balanced for each Court.

In the last column of the Cash-book, kept for the District Court and for Court subordinate to the District Court other than such Courts of Small Causes as aforesaid, shall be shown each day the total cash balance for all Courts in the hands of the Receiving Officer in order that the judge may have in a single view a statement* of all the money in the Receiving Officer's possession. The same procedure shall be followed, as far as applicable, in the case of the Court of Small Causes at Agra, Allahabad, Varanasi, Kanpur, Lucknow and Meerut.

***NOTE-** *This statement may be as follows:-*
 Cash balance of Cash-book
 Ditto Day-book

Other items, if any, with explanation
Total cash in Receiving Officer's possession

317. Excessive balance in Receiving Officer's hands.

When the aggregate cash balance in the hands of the Receiving Officer, "other than the Central Nazir at the Head-Quarters"⁵² exceeds one half of the amount for which he has given security, and is not capable of immediate reduction, the excess shall be remitted to the treasury as a miscellaneous deposit being so entered in the pass-book. The several items making up this remittance shall be entered separately in the Register of Receipts of Deposits and shall be repaid in the manner prescribed for repayments of deposits.

318. Original vouchers to be produced before the Judge.

In laying the registers before the presiding Judge of each Court as prescribed in rule 314, the Receiving Officer shall produce the original orders as vouchers to enable the judge to satisfy himself of the correctness of each entry.

All registers shall be compared with the Cash-book and signed by the presiding Judge daily. At the time of signing the registers he shall see:

- (1) that the daily totals of all registers have been properly carried to the Cash-book.
- (2) that the entries in the Register of Receipts and Repayments of Deposits are supported by the treasury advice list and the daily extracts;
- (3) that the items in the Register of Repayment of Deposits have been properly written off in the Register of Receipts of Deposits ;
- (4) that the repayment from any deposit does not exceed the available balance ;
- (5) that, when deposits have lapsed to Government, they have been properly marked off in the Register of Receipts of Deposits and debited in the Cash-book.

⁵² Inserted by Notification no. 435/VIIIb-112, dated Allahabad 20.8.1986 (correction slip no. 105 w.e.f. 25.4.1987,) published in U.P.Gazette II dated 25.4.1987

TALLYING ACCOUNTS

319. Correspondence between Court & Treasury Accounts.

To prevent disagreement between the returns of receipts and repayments of deposits submitted to the Accountant General by the Judge and the Treasury Officer, the Judge must be careful to exhibit only completed transactions in his registers ; that is –

- (1) deposit items of Courts at the headquarters of a district of which the receipt and repayment have been advised by the Treasury Officer; when the Advice list is not received on the date of actual receipt or repayment, the date of entry should be written as a numerator, and the date of actual receipt or repayment as a denominator, in registers; thus $\frac{1}{2}$ April;
- (2) deposit items of subordinate outlying Courts included in the monthly accounts of the Treasury Officer of the District treasury. Items received and repaid at the sub-treasuries during the closing days of the month, and not brought upon the books of the district treasury will not be included in the District Judge's registers for the closing month, but will be carried into the accounts of the succeeding month, with double dates as 1st December/28th November, the upper being the date of the register of the District Judge, and the lower the date of the entry in the register of the subordinate Court.

No deposit items shall in any case be entered in the registers of the Civil Court unless and until the advice of deposit or repayment has been received from the treasury, e.g., when, after confirmation of sale, the Collector of the district intimates that the amount of the purchase money is transferred and held at the disposal of the Civil Court, the amount shall not be entered in the Register of Receipts of Deposits until it has been included in the Treasury Advice List of receipts; and similarly when an amount is transferred from Civil Court deposits under rule 303 (note) or rule 330, it shall not be entered as a repayment until the Treasury Officer has so advised on the repayment side of his Advice List.⁵³

⁵³ Note – (1) Sale-proceeds (including earnest-money) of agricultural lands sold under the rules prescribed by the State Government under section 68 of Act V of 1908 shall after deduction of the auction fee leviable be credited by the Collector in the first instance to Revenue deposits. The Collector is required under the said rules, to confirm the sale on the

320. Method of maintaining correspondence between Court and Treasury Accounts.

31st day from date of sale in the event of no application to set aside the sale being made. When the sale is confirmed by the Collector, the sale-proceeds will be at once transferred from Revenue to Civil Court deposits in the treasury accounts, and intimation shall be given in the Daily Advice List, and in the form annexed, to the Presiding Officer of the Court which transmitted the decree, on the same day on which the transfer is made in order that the corresponding entry may be made in the Register of Civil Court Deposits.

REPORT OF Transfer of sale proceeds of Agricultural Land from Revenue to Civil Court Department Accounts.

To,
The-----

No. of decree	Date of decree	Name of decree holder and Judgment debtor	date of Transmission of decree to collector	Property sold	Amount of Sale Proceeds less poundage	Date on which the amount was credited in Civil Court Deposit Account of Treasury	Remarks
1	2	3	4	5	6	7	8

N.B. Columns 1 to 6 are to be filled in the Collector’s office and column 7 in the Treasury office.

Treasury
The.....20 Treasury Officer,

Note - (2) The accounts of actual receipts and expenditure of agricultural property leased on farm, or managed by the Collector under the procedure authorized by the State Government or otherwise saved from sale under schedule III, paragraph 7, clause (1)(b) of Act No. V of 1908 shall be dealt with under “Personal Deposits,” the sum at the credit of the personal deposit account being periodically transferred by the Collector to credit of Civil Court deposits, and intimation being sent on the same day to the Civil Court concerned.

Note - (3) Auction fees shall be credited direct to Government in the register of “Law and Justice-Receipts” against “Fees on sale of revenue-paying lands sold under orders of Civil Courts”. Poundage fee shall be credited direct to the Government by the Collector under head, “XXI- Administration of Justice-Court fee realized in cash-fees for sale of revenue paying land”+

+Note: Now for figures ‘XXI’ figure ‘0070’ shall be read. –Ed.

A week before the close of each month the Treasury Officer incharge of the district treasury will, at the time he sends the information to officers incharge of sub-treasuries, inform the District Judge and the subordinate outlying Courts of the date upto which the transactions of the respective sub-treasuries will be incorporated in the district accounts; and only items received or paid up to such date shall be shown in the monthly extracts forwarded under rule 322 to the District Judge, and in the registers of the District Judge. Items of subsequent date shall be carried forward and included in the extracts for the following month under a double date in the manner prescribed in the last preceding rule.

321. Memo of receipts and repayments.

At the beginning of every month each Court having a separate Receiving Officer shall forward to the Treasury Officer a memorandum (Form No.54) of the grand totals of receipts and repayments during the previous month under each head specified in the form. The Treasury Officer shall check the totals with his accounts; and, if he finds them correct, he shall certify on the memorandum to that effect. If there be any discrepancy he shall note the same upon the memorandum. The Treasury Officer shall in either case return the memorandum to the Court from which it was received. Any discrepancy which may exist must be reconciled.

322. Monthly Accounts to be submitted by subordinate Courts.

Every subordinate Court, other than a Court of Small Causes mentioned in rule 272 as soon as its monthly memorandum has been certified and signed by the Treasury Officer, shall forward to the District Court:-

- (1) the monthly memorandum signed by the Treasury Officer.
- (2) a monthly extract from the Register of Receipts of Deposits in Form No. 55, beginning with the items of subsequent date mentioned in rule 320 and including all items for the month which under the same rule will be incorporated in the accounts of the District Treasury;
- (3) a monthly extract from the Register of Repayments of Deposits in Form No. 56 similarly prepared;
- (4) a plus and Minus Memorandum for the month in Form No. 57.

At the foot of the monthly extracts the presiding Judge shall record and sign a certificate in the following term; "I certify that I have personally carefully examined the Register of Receipts/Repayments of Deposits and that the entries are made therein with care and regularity."

These four monthly returns shall reach the District Judge not later than the 7th of the month following that to which they refer.

323. Consolidated monthly returns.

As soon as the District Judge has received the monthly returns from outlying subordinate Courts, he shall cause a consolidated Plus and Minus Memorandum to be prepared, showing details for each Court separately. The office copy shall be forwarded to the Treasury Officer for verification and counter signature; and, after its return, it shall be pasted in a file-book kept for the purpose.

The presiding Judges of the Courts of Small Causes at Agra, Allahabad, Varanasi, Kanpur, Lucknow and Meerut shall also forward to the Treasury Officer for verification and signature a Plus and Minus Memorandum for their respective Courts; and after such Plus and Minus Memorandum is returned, it shall be pasted in a file-book kept for the purpose.

324. Consolidated monthly returns.

The Judge shall then forward to the Accountant General monthly extracts in Forms Nos. 38 and 40 of the Financial Hand Book, Vol. V Part I (Treasury forms 149 and 104) and the Plus and Minus Memorandum so verified. These returns shall reach the office of the Accountant General by the 15th of the month succeeding that to which they refer and before they are forwarded shall have endorsed on them a certificate in the hand of the Judge in the following form:-

“I certify that I have personally carefully examined and that the entries have been made therein with care and regularity”.

325. Quarterly certificate.

At the end of every quarter a certificate in the following terms shall be recorded upon the Deposit Registers, and signed by the presiding Judge for every Court.

I certify that I have personally carefully examined the Register of Receipts/Repayments of Deposits, and that the entries are made therein with care and regularity.

The objects of the examination are to see:-

- (1) that all necessary entries are made and initialled at the time of transaction.

- (2) that no money is unnecessarily placed in deposit or remains there without good cause.

326. Unclaimed balances.

Once in every quarter the presiding Judge shall check the Register of Petty Receipts and Repayments and shall cause unclaimed balances, which it is no longer necessary to retain in the Court, to be remitted to the treasury as miscellaneous deposits. Each item so remitted shall be treated as a separate deposit, and if not claimed, shall lapse to Government.

The result of the quarterly check by the presiding Judge under this rule shall be reported for the information and orders of the District Judge.

Checking of cash balance.

Once in every week the Munsarim of the Court of the District Judge and the Munsarim of every outlying sub-ordinate Court shall examine the cash balance in the hands of the Nazir and shall submit to the presiding Judge a certificate in the following terms:-

I certify that I have personally examined the register kept by the Nazir and counted the cash balance in the hands of the Receiving Officer and have found the same to be correct.

327. List of deposits about to lapse.

Early in March, each year, the registers of Receipts and Repayments of Deposits shall be carefully examined by the Munsarim and Receiving Officer of each Court and a list shall be prepared of-

- 1.(a) all deposits not exceeding five rupees which have remained in deposit from a date prior to 1st April, of the preceding year, and
- (b) all balances not exceeding five rupees of all existing deposits which have been partially repaid;
2. all deposits and balances which at the date of the preparation of the list had remained in deposit from a date two years prior to 1st April of the preceding year.

This list shall include items for which repayment orders may have been issued already but not cashed at the treasury.

The list shall be placed on a notice-board in a conspicuous part of the Court house, with a notice to the effect that the items mentioned therein will lapse to Government if not withdrawn before 1st April then following.

328. Preparation of list of lapsed sums.

On 1st April, or the first working day thereafter, the items repaid at the treasury in the course of the preceding month and not those for which repayment orders may have been issued but not cashed before 1st April, shall be struck out of the list, and the remaining items shall be marked off in red ink, along columns 12 to 24 of the Register of Receipts of Deposits (Form No. 36) as having been credited to Government as lapsed, thus “Lapsed on 31st March, 19.....”, (*now read as 200...Ed*) and the amount so lapsed should be entered in column 25. These items shall not be entered in the Register of Repayments of Deposits, but the aggregate of them shall be debited in the Cash-book in column “Treasury”, and shall be deducted in the Plus and Minus Memorandum from the closing balance of March.

Information of lapsed sums to Treasury Officer.

The list shall forthwith be submitted to the District Judge by the subordinate Courts other than the Courts of Small Causes at Agra, Allahabad, Varanasi, Kanpur, Meerut and Lucknow and the District Judge shall, after having the several items carefully checked with the registers and discrepancies reconciled, forward a list of the items to the Treasury Officer, in order that they may be credited to Government by transfer entries in the Account Office. A copy of the list shall be forwarded to the Accountant General.

Information of lapsed sums to Treasury Officer.

Similarly the presiding Judges of the Courts of Small Causes at Agra, Allahabad, Varanasi, Kanpur, Lucknow and Meerut shall cause the list for their respective Courts to be checked and forwarded to the Treasury Officer and a copy thereof shall be sent to the Accountant General.

Note: *Also see directions of the Accountant General in U.P. Gazette, Part V, dated 25.3.1939.*

329. Refund of lapsed sums.

Deposits thus credited to the revenues of the State cannot be repaid without the sanction of the Accountant General, U.P. which will be given on its being ascertained that the items of which refund is claimed were really received and carried to credit as lapsed, and are now claimed by the person or persons who might have drawn them at any time before the lapse. The amount of a lapsed deposit refunded will be charged as a refund and not debited to deposit. But the application for refund shall be recorded in the column of remarks in the Register of Receipts of Deposits and on the office copy of the List of Lapsed Deposits, if it has not already been weeded so as to guard against a second repayment. Every application for refund shall be in Form No.

42, F.H.B. Vol. V, Part I (Treasury Form 334), and shall be made in the manner required by para. 353 of F.H.B. Vol. V, Part I. Application by subordinate Courts for refund of lapsed deposits must be forwarded to the Accountant General through the District Judge, except in the case of the Courts of Small Causes at Agra, Allahabad, Varanasi, Kanpur, Lucknow or Meerut, the presiding Judge of which shall forward direct such applications as relate to lapsed deposits in his Court.

Note 1: *The currency of "Lapsed deposit refund voucher" in one year.*

Note 2: *Refund of lapsed deposit can also be made by money orders.*

Note 3: *See also Rule 294 ante. – Ed.*

330. Rules regarding forfeitures.

The rules in Appendix 15 shall regulate the procedure in case of forfeitures ordered by Court under O.XXI R. 86 and lapses under the last para of Sec.7 of Regulation V of 1799 as amended by Act No. IV of 1914 and Act No. XII (local) of 1922.

331. Clearance Register.

On or about 1st April of each year every subordinate Court, other than the Courts of Small Causes at Agra, Allahabad, Varanasi, Kanpur, Lucknow and Meerut shall submit the Clearance Register, prepared in accordance with the instructions contained in paragraph 349 of the Financial Handbook, Vol. V, Part I, to the District Judge, who shall cause to be prepared in his office a general clearance register of the outstanding balances of deposits in such Courts and in his own Court, and shall have the same checked with the English Registers.

On the Clearance Register a certificate to the effect that total of lapsed and clearance has been taken with closing balance should be recorded (vide Treasury Manual).

When the statement is complete it shall be submitted to the Accountant General.

Similarly the presiding Judges of the Small Cause Courts at Agra, Allahabad, Varanasi, Kanpur, Lucknow and Meerut shall cause a clearance register of outstanding balances of deposits in their Courts to be prepared, checked and submitted to the Accountant General.

N.B. : *See also Rule 328, ante. –Ed.*

332. Duty on applications for certificate under the Indian Succession Act.

Every application under section 372 of Act No. XXXIX of 1925 shall state the value of the debts and securities in respect of which the certificate is applied for; and shall be accompanied by a deposit of the estimated amount of stamp-duty payable on such certificate, and any person who may take objection to the issue of a certificate to himself, shall in like manner be required to bring into Court with his claim the estimated amount of stamp-duty payable on such certificate.

Every amount brought into Court under this rule shall be deposited in the Government treasury, and, if the application or claim be granted, will be drawn under rule 303.

If the application or claim is rejected the amount shall be repaid to the party by whom it was brought into Court.

333. Payments to Amins.

Every Amin shall give receipts for all cash payments for all movable property that may come into his custody by virtue of his office to the person from whom he receives the same; Counterfoil receipt-books shall be supplied.

334. Payments to Amins.

When the sale is of immovable property the Amin shall receive in cash the twenty-five percent deposit required by O. XXI, r. 84. For the rest of the purchase money he shall ordinarily give a payment order (Form No. 111), entering therein as the date of payment the latest safe date, having regard to the terms of O. XXI, r. 85. Counterfoil books of payment orders will be supplied for this purpose. If the amount of the purchase-money be less than Rs. 50, the Amin may at his discretion receive payment of it in full at the time of sale.

335. Payments to Amins.

The auction-purchaser to whom such payment order has been given shall pay the money noted therein to the Receiving Officer of the Court which made the order of sale, in the manner prescribed in rules 283 and 287 and shall with his tender file the payment order delivered to him by the Amin. Such payment order shall, along with the tender, be filed with the record of the case to which it relates.

336. Amin's cash Register.

With the exception hereinafter noted all moneys received by an Amin shall immediately on receipt be entered by him in his Cash Register, and shall, with as little delay as possible, be paid by him into the State Bank of India and when there is no branch of the Bank, the Treasury or Sub-Treasury, as the case may be Petty items such as charges for maintenance of live stock, cost of preparing attached property for sale, wages of Shahnas paid through the Amin, wages of Chainman (Chapter XIII, Rule 377) and payment for tolls made over to Amin (Chapter IV, Rule 107), etc., which pass through the Amin's hands but are not required to be paid into the State Bank or Treasury or Sub-Treasury, as the case may be, shall not be shown in the Amin's Cash Register (Form No. 110), but in columns 14 to 17 of the Register of Orders (Form No. 106) and in columns 11 to 16 of the Proceedings Register (Form No. 108):-

The entries in column 14 of Form No. 106 shall be made when the money is remitted to the Amin, and those in columns 15 to 18 when the Amin's report is received. The entries in columns 11 to 12 of Form No. 108 shall be made by the Amin at the same time as those in columns 1 to 8; and those in columns 13 to 14 when entries are made in column 10.

The Amin may transfer to the State Bank or Treasury or Sub-Treasury, as the case may be, small items upto a limit of Rs. 50 at a time through a peon by whom security for that amount has been furnished. The Amin will be personally liable for loss of any sums exceeding Rs. 50 which are transferred by him to the State Bank or Treasury or Sub-Treasury, as the case may be, through such peon.

N.B.: *Government Order No. A-610/X-175, dated 13th February, 1926 merely defines the expression "responsible person" for a particular purpose, and does not affect the rule above.*

337. Remittance of receipts to the Treasury.

Money paid by an Amin into a State Bank of India or Treasury or Sub – Treasury, as the case may be, shall be accompanied by a pass – book (Form No. 112) and an extract there from respecting each item therein. The Officer in charge of the State Bank of India or Treasury or Sub – Treasury, as the case may be, shall retain the extract and return the pass – book to the Amin, and shall enter the sum received as a Civil Court deposit.

338. Extract from Amin's pass book to be sent to Court.

The Amin shall forward to the Court concerned an extract from the signed Pass Book duly verified by him to be correct and on receipt thereof the presiding Judge shall cause the item acknowledged therein to be entered in his

Register of Receipts of Deposits, and a note of the fact of such entry to be made in columns 11 to 13 of the Register of Orders issued to the Amin (Form No. 106). The extract shall be filed with the record of the case to which it relates.

339. Returns to be sent by Amins.

On the first working day of each week the Amin shall submit to each Court in the execution of the orders of which he has been employed:-

- (1) a return in Form No. 113 of the sums realized by him under the orders of the Court during the preceding week; and
- (2) a statement in Form No. 114 of the movable property attached under the orders of the Court remaining in his custody or in that of an intermediate custodian at the close of the preceding week; or if such property has been previously entered in a similar statement, a reference to the serial number and date under which it was entered in such statement.

340. Check of Amin's cash Return.

The weekly cash return in Form No. 113 shall be checked by the Court's Receiving Officer with the cash account of the Court, and any discrepancy, or any delay exceeding one week in the payment of money into the State Bank of India, Treasury or Sub-Treasury, as the case may be, shall be brought to the notice of the Judge.

The weekly statement (in Form No. 114) of movable property remaining in the custody of the Amin shall be checked by the Munsarim with the records of the cases concerned.

The weekly extracts, returns and statements shall after disposal be pasted into file-books kept for the purpose in each Court.

341. Repayment of Deposits by Amin.

Money deposited by an Amin under Rule 336 shall remain at the State Bank of India or Treasury or Sub-Treasury, as the case may be, in which it was deposited unless and until a repayment order is made under rule 303 upon an application for repayment regularly made and passed. If the money has been deposited at a sub-treasury the repayment order shall be made payable there or at the district treasury, as the applicant may desire.

Note: *Payments which have to be made at sub-treasuries may be arranged for by obtaining cash orders issued by the District Treasury (vide paragraph 45 E (4) of F.H.B. Volume V, Part I).*

CHAPTER XII

DEPARTMENTAL CASH ACCOUNTS

342. Departmental Cash Accounts.

The rules in this chapter relate to the Departmental Cash Accounts kept by the Courts. The heads of accounts thus kept by the Courts in their administrative capacity include:-

- (1) Salaries of establishment (See Appendix A, Treasury Manual, Page iii).
- (2) Travelling allowance of establishment.
- (3) Fixed stationery allowance.
- (4) Contingencies (See G.L.No. 41/180-1(a) of 7.10.1939).
- (5) Miscellaneous, such as:-
 - (a) sale proceeds of forms;
 - (b) sale proceeds of old furniture, disused belts and badges, and the like, and of fruit and grass in Court compounds;
 - (c) sale proceeds of waste paper, stationery boxes, etc., etc.,

343. Departmental cash Accounts to be kept by Central Nazir and Nazirs.

The accounts for the Courts at the head-quarters of the District Judge or of the Additional District and Sessions Judge where there is no District Judge shall be kept by the Central Nazir, and for outlying subordinate Courts by the Nazir, under the supervision of the presiding Judge.

In the Courts of Munsifs of Kashipur, Ranikhet, and Lansdowne the account shall be kept by the Munsarim and not the Nazir.

344. All moneys to be entered in accounts.

All moneys received and paid by or through any officer or official in his official capacity as an officer or official of a Court shall, without any reservation, be entered in the public accounts.

Unauthorized funds disallowed.

No unauthorised funds, as for instance from fines or from deductions made from the pay of establishments or from any other source, shall be maintained.

345. Observance of Financial Handbook, Vol. V, Part I.

The orders contained in the Financial Handbook, Volume V, Part I, Regarding salary and travelling allowance of establishment and contingent charges, and the instructions of the Deputy Chief Accounting Officer regarding the treatment of contingent expenditure met from a contract grant, shall be strictly observed.

346. Establishment Order book.

An establishment order book in the following form shall be maintained in the Court of the District Judge in which the final result of each order on the subject of leave, promotion, reversion etc., of individual officials should be shown. The Munsarim shall check the office copies of establishment pay bills by comparison with the entries in this establishment order book. The officer who passes establishment pay bills should also occasionally check a few items with the establishment order book.

Establishment order book

S. No.	Name of outgoing man and his pay	Nature of vacancy	Period	Proposals	Orders passed by District Judge	Date of charge taken or made over	Remarks
1	2	3	4	5	6	7	8
1	X Rs. 100	Leave on average pay	Four months	Y Or Z	Y appointed	Oct., 6	
After two Months Y is found unfit and is reverted.							
2	Y Rs. 100	Substantive pay.	Nil		Z appointed.	Dec., 6	Link Arrangement S.1 & 2.
3	Z Rs. 100	Ditto	Nil	X		Feb., 6	Ditto.

Note - Reversion or reduction will always be a fresh entry.

347. Fixed stationery allowance.

Fixed stationery allowances shall not be made over on a contract system or otherwise to Nazirs, Daftaris or others. The expenditure shall be under the direction and control of the presiding Judge of each Court. The system of fixed allowances in no way relieves the disbursing officer from maintaining a regular account of the expenditure he incurs; though it is not necessary under that system for him to render accounts to the accounts office. Expected savings may be utilized during the current financial year in the purchase of furniture; but unexpended balances must be credited to Government at the close of each financial year by deduction from bills of the next year.

348. Stationery and miscellaneous expenses of subordinate Courts.

Stationery allowances and miscellaneous expenses of subordinate Courts shall be defrayed from the fixed stationery allowance, with the exception of:-

- (a) The contingent charges falling under the following heads:-
 1. Purchase of books.
 2. Office rent.
 3. Judicial process servers contingencies.
 4. Hot and cold weather charges.
 5. Carriage of records and forms.
 6. Purchase and repair of furniture.
 7. Cloth for bastas.
- (b) Charges for (1) service telegrams, service postage labels, including postage on judicial processes, and cash postage, and (2) rates and taxes other than Municipal rates and taxes on the Government buildings under the control of civil departments.

The items in (a) and (b) shall be charged in the contingent bill of the District Court but the charges referred to in clause (b) shall be defrayed from State lump allotments over which the Accountant General will keep a watch.

- (c) The charges for Municipal rates and taxes on the Government buildings under the control of civil departments shall be met out of the amount sanctioned for “maintenance and repairs” subordinate to the minor head ‘Works’.

349. Check over Postage.

District and Sessions Judges and the Presiding Officers of subordinate Courts shall be responsible for checking expenditure on service telegrams, service postage labels including postage on judicial processes and cash postage.

They shall see:-

- (a) that the Central and other Nazirs are thoroughly acquainted with the postal rules and rates and take advantage of the most economical method of despatch;
- (b) that all letters and papers* intended for one office are despatched in one cover; and

- (c) that one of the clerks of their Court is appointed to sort and despatch the letters and papers of each department of their Court in different covers to the Nazir.

**Note: Papers do not include records.*

350. Mode of obtaining Postage Stamps.

The value of service postage stamps shall be adjusted by book transfer* instead of by cash.

District Judges shall obtain their supplies of these stamps for the use of Courts at head-quarters by means of treasury Form No. 314 from the Treasury Officer of the district.

Outlying Courts shall obtain their supplies by indenting on the prescribed form on the treasuries or sub-treasuries at the places where their respective Courts are located. The details of labels used shall continue to be shown in the register of contingent charges form No. 60 for inclusion in register form No. 61.

351. Custody of cash and articles of value.

- (1) The Central Nazir shall report to the District Judge at the close of each working day about the total cash with him. The District Judge shall ensure that out of the said cash, an amount not exceeding the security furnished by the Central Nazir is kept in the safe provided to the Central Nazir and the amount in excess thereof is kept in the safe with double lock installed in the chamber of the District Judge. The double lock safe may be opened during the course of the day if more money than that in the hands of the Central Nazir is required.
- (2) One key of the safe with double lock installed in the chamber of the District Judge shall be kept by the District Judge, if or so directed by him in writing, by the Officer-in-charge, Nazarat, and the other key by the Central Nazir.
- (3) A register in Form 57-B will be maintained in duplicate in respect of the double lock safe. One of these registers will be kept inside the safe and the other will remain with the Central Nazir. Entries will be made in the registers every time the safe is opened and money is kept in or taken out. The registers shall be signed by the District Judge or by the Officer-in-charge

* G.O. NO. 1908/x-169 (Financial Department), dated 15th August, 1917.

Nazarat, if so directed by the District Judge and also by the Central Nazir.

- (4) If at any time in the opinion of the District Judge, the amount in deposit in the double lock safe in his chamber exceeds the normal or anticipated requirements of the judgeship, the District Judge shall forthwith direct the same to be deposited in the Treasury as a miscellaneous deposit being so entered in the Pass-book. The several items making up this remittance shall be entered separately in the Register of Receipts of Deposits and shall be repaid in the manner prescribed for repayment of deposit. The District Judge shall for this purpose make periodical checking of the cash balance in the double lock safe in the first and third weeks of the month and put down his remarks in the register in Form 57-B mentioned above.

Explanation- The unclaimed balances referred to in Rule 326 shall notwithstanding the foregoing provisions continue to be dealt with in the manner provided in that rule.

- (5) The Central Nazir shall also be supplied with a large box for keeping therein articles of value received by him for safe custody. The box shall be securely locked and remain in the Treasury. If any of the articles in it is required by the Court, the box will be sent for from the Treasury and returned to the Treasury the same day. The article taken on will also be kept in the box before returning it unless the Court directs otherwise. The articles received by the Central Nazir at a time when it is not possible to have access to the box may be kept in his safe, but these articles shall subject to the orders of the Court be placed in the box on the next working day.
- (6) The Central Nazir shall maintain a register in Form No. 57-A in duplicate, one to be kept inside the box and the other in the office showing contents of the box and shall make appropriate entries therein as soon as any article is kept in or taken out of the box.
- (7) The Presiding Judge of an outlying Court shall see that the Nazir, on the closing of the Court each day, makes over his cash chest for safe custody to the local treasury or sub-treasury, as the case may be.

- (8) The District Judge when inspecting an outlying Court shall see that the cash and stamps are kept in strong boxes secured with good locks.
- (9) The District Judge shall make surprise visits to the Nazarat at headquarters once in every quarter and maintain a record certifying that the provisions of Chapter XI, Rule 317 and this rule are being strictly complied with, Presiding Officers will make these inspections for outlying Nazarats.
- (10) Cash and articles of value received by a subordinate Court at headquarters shall be sent to Central Nazir for safe custody.
- (11) The armed guards provided in the Judgeship shall be responsible for the security of the safes in the District Judge's Chamber and the Nazarat. In case no armed guards are provided in any judgeship, the Chowkidars shall be responsible for the same.

352. Submission of bills to the District Court.

At the close of every month each outlying Court shall submit the following bills to the District Judge, or in districts where there is no District Judge, to the Additional District and Sessions Judge:

Provided that till such time as the district of Uttar Kashi is formed as an independent Judgeship, the bills in respect of the district of Uttar Kashi shall be submitted to the District Judge of Tehri.

- (1) Salary bill of fixed establishment.
- (2) Salary bill of record-fund establishment.
- (3) Salary bill of process-servers.
- (4) Bill for fixed stationery allowance.
- (5) Bill for contingent charges.

These bills shall be checked by the Central Nazir and be incorporated in the consolidated bills of the District Judge or the Additional District and Sessions Judge, as the case may be.

Where the outlying Courts are situated in more than one revenue district having an independent treasury, there shall not be included in the same consolidated bill amounts payable in more than one revenue district.

353. Monthly checking of pay bills.

Deleted.

[Omitted by Notification No. 250/VIII-b-1, published in U.P. Gazette Part II, dated February 3, 1962]

354. Encashment of bills and disbursement.

The amounts⁰ relating to Courts at the headquarters of the District Judge or the Additional District and Sessions Judge, as the case may be, shall be received in cash from the treasury at his head-quarters and be disbursed by the Central Nazir.

Amounts relating to outlying Courts situated in the same revenue district as that in which the head-quarters of the Court of the District Judge or of the Additional District and Sessions Judge, as the case may be, are situated, shall be remitted by means of treasury cash orders issued from the treasury of that district on its sub-treasuries.

Amounts relating to outlying Courts, situated in a revenue district other than that in which the head-quarters of the District Judge or the Additional District and Sessions Judge, as the case may be, are situated, shall be shown in separate consolidated bills. The District Judge or the Additional District and Sessions Judge, as the case may be, shall send these bills to the officer in charge of the treasury of that revenue district and advise the Courts of his having done so. Of the amounts shown in the bills the portion relating to Courts at the head-quarters of that revenue district shall be paid in cash from the treasury of that district, the portion relating to other Courts being remitted by means of treasury cash orders issued from that treasury on its sub-treasuries.

Amounts relating to outlying Courts shall be received and disbursed by the Nazirs of those Courts under the supervision of the senior most Presiding Officer in the station.

355. Registers.

The following registers shall be kept by the receiving officer of each Court:-

- (1) An acquittance roll book (Form No. II-B of the Financial Handbook, Volume V, Part I) a separate page being used for each month, names being ordinarily entered month after month in the same order.

Note -This register is kept only for peons and other inferior servants who are not shown by name in the office copy of the pay bill. For the clerks, etc. the office copy of the pay bill should be used as an acquittance roll, a separate column being made for the signature of the Munsarim.

- (2) A day book (Form No. 58) with vertical columns for the following heads of account:-
 - Salary of fixed establishment.
 - Salary of process-servers.
 - Travelling allowance of establishment.
 - Fixed stationery allowance.
 - Contingencies.
 - Miscellaneous.
- (3) A stationery register (Form No. 59) to show the expenditure of the fixed stationery allowance.
- (4) A register of contingent charges (Form No. 60) for the use of outlying Courts and (Form No. 13 of the Financial Handbook, Volume V for the use of District Courts).

356. Travelling allowance bills.

Travelling allowance bills of establishment shall be copied into a book, a column being added wherein to take the receipt of each payee, with date of payment. In such office copy the date of signature of the countersigning officer shall also be noted.

A separate book shall be maintained in each Court for the travelling allowance bills of Amins and their peons.

357. Retention and destruction of receipts for fixed stationery allowance.

Receipts for sums disbursed from the fixed stationery allowances of subordinate Courts shall be retained in monthly bundles in those Courts, and shall be destroyed after the annual inspection by the District Judge. Those relating to the fixed stationery allowance of the District Court shall be destroyed monthly, after being defaced in the presence of the District Judge.

358. Vouchers for contingent charges.

Vouchers for contingent charges shall be submitted by outlying subordinate Courts to the District Judge, and shall be treated in the manner prescribed in the Financial Handbook, Volume V, Part I.

359. Instructions for entry in the Day-Book.

Entries in columns 3 to 8 on the receipt side of the day-book shall be made when the bills or cash orders on which the sums are drawn are cashed at the treasury; and entries in column 9 shall be made when cash is received.

When a portion of a salary or travelling allowance bill, drawn by District Judge, is remitted to an outlying Court by treasury cash order, the amount of that portion need not be included in the entry in columns 3, 4, 5 or 6 of the day-book kept by the Central Nazir. But when fixed stationery allowances or contingent charges are so remitted, the amount must be included in the entry in column 8 of that day-book; the reason being that those sums are entered in the Central Nazir's register of contingent charges, from which they will pass into the corresponding column 17 of the disbursement side of his day-book.

360. Instructions for entry in the Day-Book.

Entries in columns 12 to 14 of the disbursement side of the day-book shall be made daily from the acquittance-rolls; and in column 15 from the office copy of the travelling allowance bill-book; reference being given to the several items paid on the day for which entry is made, but the daily total only being entered. The entry in column 16 shall be the daily total shown by the stationery register. The entry in column 17 shall be:-

- (1) The daily total of entries in the register of contingent charges in the case of outlying subordinate Munsifs⁵⁴;
- (2) The daily total of entries in the register of contingent charges for all Courts at headquarters minus any entry in column "Fixed stationery allowance of District Court" in the case of a District Court. The entries in column 18 shall be the miscellaneous receipts remitted to the treasury; a sufficient account of the occasional sums received under this head shall be entered in this column, to avoid the necessity for a separate register.

361. Grouping of entries in the registers of Central Nazir.

Entries in the books and registers of Central Nazirs, except the register of contingent charges, shall be grouped for each Court separately, the entries for the several Courts being distinguished by lines drawn in red ink, contingent charges of subordinate Courts at head-quarters shall be treated as contingent charges of the District Court.

⁵⁴ The word "Munsif" shall now be read as "Civil Judge (Junior Division)"

362. Initialing by Judge & Munsarim.

The day-book shall be laid before the presiding Judge of each Court at the beginning of each working day, in order that he may examine and initial the entries. The entries in other books and registers shall be initialed by the Munsarim of each Court.

363. Register of Contingent Charges.

The register of contingent charges shall be maintained in the manner prescribed in the Financial Handbook, Volume V, Part I, entries in it being made daily. From this register, as kept by the Central Nazir or clerk of the Court, shall be prepared the abstract contingent bill, and the detailed monthly contingent bill as prescribed in the Financial Handbook, Volume V, Part I. The District Judge shall sign the register whenever he passes either an abstract or a detailed bill. The abstract and the detailed bills for each revenue district shall be kept separate.

364. Necessary rules for Nazirs to know.

- (1) Every Central Nazir, Nazir, Deputy Central Nazir and Assistant Nazir shall acquaint himself with:-
 - (a) the rules regarding purchase, maintenance, and repairs of bicycles as contained in G.O. No. 922/XVIII-220 dated 15-3-1935 and G.O. No. U-1066/1258, dated 28th December, 1940.
 - (b) Rules regarding purchase, maintenances, condemnation, and repair of typewriters as contained in Chapter IV of the Printing and Stationery Manual.

Report about new structures.

- (2) The Nazir of the outlying Courts of Munsifs⁵⁵ and Additional District and Sessions Judges not at headquarters and the Central Nazir in each district shall report not later than the first week of May each year to the Registrar⁵⁶ of the High Court, through the District Judge, that he has inspected the grounds attached to the Court buildings and certify that no new permanent structures have been erected within the said grounds during the last financial year (April to March), for the erection of which the sanction of the High Court has not been obtained; and that all erections of a temporary nature have been removed.

⁵⁵ The word "Munsif" shall now be read as "Civil Judge (Junior Division)"

⁵⁶ The word "Registrar" shall now be read as "Registrar Generazi"

Handling of private funds.

- (3) The following instructions for handling of private funds by Government servants should be observed very carefully:-
- (i) Accounts of funds belonging to private persons and local bodies should be kept entirely separate from those of Government funds. For this purpose a separate cash book for private funds should be maintained on exactly the same lines as the main cash book for Government moneys.
 - (ii) All cheques received by post and all money orders should be immediately entered in the proper cash book under the initials of the head of the office or institution.
 - (iii) The head of the office or institution should keep the cheques in his personal custody, and should cash them as soon as disbursement has been arranged. The amounts should be disbursed the same day as the cheques are cashed. If any payee after due notification is absent on the day of disbursement, his money should be sent by money order the same day as the cheque is cashed.
 - (iv) Bills of local firms should be paid in the presence of the head of the office or institution. As regards outside firms, money orders should be sent the same day as the cheques are cashed under the signature of the head of the office or institution.
 - (v) The head of the office or institution should as far as possible entrust the work connected with private funds to his accounts clerk, who will have furnished a security in respect of Government funds placed in his charge.
 - (vi) All amounts received in cash should also be entered in the proper cash book immediately on their receipt and the amounts deposited as far as possible on the same day in the State Bank or where there is no such bank in any other bank. A receipt in Form I given at page 265 of the financial Handbook (Volume V) should be issued for all amounts received.
 - (vii) Private moneys taken as deposits or securities and refundable to the private persons concerned should be

deposited in the Post Office Savings Bank and the pass book should be hypothecated in favour of the head of the office or institution concerned.

- (viii) All officers concerned should supervise the accounts of private moneys as strictly as those of Government funds, as they are personally responsible for their custody and disbursement.

CHAPTER XIII

PROCESS FEES AND COURT FEES

PROCESS FEES

365. Scale of process fee and poundage.

The fees exhibited in the following table shall be charged for serving and executing the several process against which they are respectively ranged:—

Table of fees

Part I ⁵⁷ —In the Courts of District Judges, Civil Judges ⁵⁸ and Judges of Courts of Small Causes when exercising the powers of Civil Judges and in the Courts of Munsifs ⁵⁹ in suits in which the amount or value of the subject-matter exceeds Rs. 2,000.	Rs.P.
Article 1. — Summons to defendants, notice of appeal or other notice to respondents when the defendants or respondents are not more than four in number, one fee	5.00 ^Ω
When such defendants or respondents are more than four in number, then the fee above-mentioned for the first four, and an additional fee of Rs. 5.00 ^Ω for every such person in excess of four : provided that the aggregate amount of the fees levied under this article shall not exceed Twenty Five Rupees ^Ω .	
Article 2 — Summons to witnesses, when the witnesses are not more than four in number, one fee.	5.00 ^Ω
When such witnesses are more than four in number, then the fee above-mentioned for the first four, and an additional fee of Rs. 5.00 ^Ω for every such witness in excess of four.	
Article 3 :- Every order of attachment.	20.00 ^Ω

⁵⁷ NOTE : When a District Judge, Civil Judge or Judge of a Court of Small Causes invested with the powers of a Civil Judge is exercising original jurisdiction in any suit in which the amount or value of the subject-matter does not exceed two thousand rupees, the fees chargeable will be those prescribed in Part II or Part. III, as the case may be.

⁵⁸ The Words “Civil Judge” shall now be read as “Civil Judge (Senior Division)”-Ed.

⁵⁹ The Words “Munsif” shall now be read as “Civil Judge (Junior Division)”-Ed.

<p>Article 4 :- In respect of the services of the officer making an attachment in the manner prescribed in O. XXI, rules 43, 44, 51 or 54 and section 46 of the Code when property is to be attached in one town or village only, one fee.</p> <p>When property is to be attached in more than one town, or village, then the fee above-mentioned for the first town or village specified in the order of attachment, and an additional fee of five rupees^Ω for every other town or village: provided that the aggregate amount of the fees levied under this article shall not exceed thirty rupees^Ω.</p>	<p>20.00^Ω</p>
<p>Article 5 :- Every warrant of arrest in respect of each person to be arrested.</p>	
<p>Article 6⁶⁰ — In respect of the services of each peon in whose custody a judgment debtor is left under O. XXI, r. 40(3) of the Code, per diem</p>	<p>5.00^Ω</p>
<p>Article 7⁶¹ — Every order for the sale of property -</p> <p>{a} in respect of the order of sale</p> <p>{b} by way of poundage on the full amount of the purchase money —</p> <p>If the sale be effected through a broker under O.XXI, r.76 of the Code —</p>	<p>10.00^Ω</p> <p>The Commission payable to the broker, and in addition a sum equal to one-quarter of such commission .</p>

⁶⁰ NOTE Fees will be paid under this Article in advance for such period as the Court may from time to time direct.

^Ω Substituted by notification no. 337/X-b-88 Allahabad Dated: 26.7.1996 published in U.P. Gazettee on 28.9.1996

⁶¹ NOTEThe portion (a) of this fee must be paid when the process is obtained, and the poundage (b) at the time and in the manner prescribed in rules 371, 372 or 373.

<p>(1) On sales conducted by Civil Courts, where the property pays revenue to Government, at the rate of 5 per cent^Ω; and</p> <p>(2) On sales conducted by Civil Courts where the property pays no revenue to Government, at the rate of 9 per cent^Ω.</p>	Rs. P.
<p>Article 8 — In respect of the services of the officer making delivery of possession of property under 0. XXI, rules 31, 35, 36, 95, 96, 98 or 101 of the Code when property is to be delivered in one town or village only, one fee.</p> <p>When property is to be delivered in more than one town or village, then the fee above-mentioned for the first town or village specified in the warrant of delivery, and an additional fee of five rupees^Ω for every other town or village: provided that the aggregate amount of the fees levied under this Article shall not exceed thirty rupees^Ω.</p>	20.00 ^Ω
<p>Article 9 — Notice, proclamation, injunction or other order not specified in any preceding Article of this part, when the copies to be served or posted are not more than four in number, one fee.</p> <p>When such copies are more than four in number, then the fee above-mentioned for the first four, and an additional fee of Rs. 5.00^Ω for every such copy in excess of four : provided that the aggregate amount of the fee levied under this Article shall not exceed thirty rupees^Ω.</p>	05.00 ^Ω
<p>Article 10⁶² — If the service of a process, other than a warrant for the arrest of the person, be declared "emergent".</p>	5.00 ^Ω
<p>PART II (Exception suit specified in Part III)</p> <p>In the Courts of Munsifs⁶³ and Civil Judges⁶⁴ in suits in which the amount or value of the subject matter does not exceed Rs.2,000 and in Courts of Small Causes :</p>	

⁶² NOTE This fee will be payable in addition to the ordinary fees specified in article 1, 2 or 9 of this part

^Ω Substituted by notification no. 337/X-b-88 Allahabad Dated: 26.7.1996 published in U.P. Gazettee on 28.9.1996

⁶³ The Words "Munsif" shall now be read as "Civil Judge (Junior Division)"-Ed.

⁶⁴ The Words "Civil Judge" shall now be read as "Civil Judge (Senior Division)"-Ed.

<p>Article 1 — Summons to defendants, when the defendants are not more than four in number, one fee.</p> <p>When the defendants are more than four in number, then , the fee above-mentioned for first four, and an additional fee of Rs.5.00^Ω for every such defendant in excess of four : provided that the aggregate amount of the fees levied under this Article shall not exceed thirty rupees^Ω.</p>	5.00 ^Ω
<p>Article 2 — Summons to witnesses, when the witnesses are not more than four in number, one fee.</p> <p>When the witnesses are more than four in number then the fee above-mentioned for the first four, and an additional fee of Rs.5.00^Ω for every such witness in excess of four.</p>	5.00 ^Ω
<p>Article 3 — Every order of attachment.</p>	20.00 ^Ω
<p>Article 4 — In respect of the services of the officer making an attachment in the manner prescribed in 0. XXI, rules 43, 44, 51 and 54 and section 46 of the Code when the property is to be attached in one town or village only, one fee.</p> <p>When property is to be attached in more than one town or village, then the fee above-mentioned for the first town or village specified in the order of attachment, and an additional fee of five rupees^Ω for every other town or village : provided that the aggregate amount of fees levied under this Article shall not exceed thirty rupees^Ω.</p>	20.00 ^Ω
<p>Article 5 — Every warrant of arrest in respect of each person to be arrested</p>	10.00 ^Ω

<p>Article 6⁶⁵ — Every order for the sale of property —</p> <p>(a) in respect of the order of sale</p> <p>(b) by way of poundage on the full amount of the purchase money —</p>	<p>05.00^Ω</p>
<p>If the sale be effected through a broker under 0. XXI, r. 76 of Act No. V of 1908—</p>	<p>The commission payable to the broker and in addition a sum equal to one quarter of such commission.</p>
<p>(1) On sales conducted by Civil Courts, where the property pays revenue to Government, at the rate of 5 per cent^Ω;</p> <p style="text-align: center;">and</p> <p>(2) On sales conducted by Civil Courts, where the property pays no revenue to Government, at the rate of 9 per cent^Ω.</p>	
<p>Article 7 — In respect of the services of the officer making delivery of possession of property under 0. XXI, rules 31, 35, 36, 95, 96, 98 or 101 of the Code when property is to be delivered in one town or village only, one fee.</p>	<p>10.00^Ω</p>
<p>When property is to be delivered in more than one town or village, then the fee above-mentioned for the first town or village specified in the warrant of delivery, and an additional fee of five rupees^Ω for every other town or village: provided that the aggregate amount of the fees levied under this article shall not exceed thirty rupees^Ω.</p>	

⁶⁵ NOTE : The portion (a) of this fee must be paid when the process is obtained and the poundage (b) at the time and in the manner prescribed in rule 371, 372 or 373.

^Ω Substituted by notification no. 337/X-b-88 Allahabad Dated: 26.7.1996 published in U.P. Gazettee on 28.9.1996

<p>Article 8 — Notice, proclamation, injunction or other order not specified in any preceding Article of this part, when the copies to be served or posted are not more than four in number, one fee.</p> <p>When such copies are more than four in number, then the fee above mentioned for the first four, and an additional fee of five rupees^Ω for every such copy in excess of four: provided that the aggregate amount of the fees levied under this Article shall not exceed thirty rupees^Ω.</p>	10.00 ^Ω
<p>Article 9⁶⁶ — If the service of a process, other than a warrant for the arrest of the person be declared "emergent."</p> <p>Part III — In the Courts of Munsifs⁶⁷ and in Courts of Small Causes in suit in which the amount or value of the subject-matter in dispute does not exceed Rs. 50</p>	10.00 ^Ω
<p>Article 1 — Summons to defendants, when the defendants are not more than two in number, one fee.</p> <p>When the defendants are more than two in number, then the fee abovementioned for the first two, and an additional fee of five rupees^Ω for every such defendant in excess of two : provided that the aggregate amount of the fees levied under this article shall not exceed six rupees^Ω.</p>	05.00 ^Ω
<p>Article 2 — Summons to witnesses in respect of each witness.</p>	05.00 ^Ω
<p>Article 3—Every order of attachment</p>	20.00 ^Ω
<p>Article 4 — In respect of the services of the officer making an attachment in the manner prescribed in 0. XXI, rules 43, 44, 51 and 54, and section 46 of the Code when property is to be attached in one town or village only, one fee.</p>	20.00 ^Ω
<p>When property is to be attached in more than one town or village, then the fee above-mentioned for the first town or village specified in the order of attachment, and an additional fee of five rupees^Ω for every other town or village : provided</p>	

⁶⁶ NOTE : This will be payable in addition to the ordinary fee specified in Article 2 or 8 of this part.

⁶⁷ The Words "Munsif" shall now be read as "Civil Judge (Junior Division)"-Ed.

that the aggregate amount of the fees "levied under this Article shall not exceed thirty rupees ^Ω .	
Article 5 — Every warrant of arrest in respect of each person to be arrested.	10.00 ^Ω
Article 6 ⁶⁸ — Every order for the sale of property —	
(a) in respect of the sale. (b) by way of poundage on the full amount of the purchase money— If the sale be effected through a broker under 0. XXI, r. 76 of the Code	20.00 ^Ω The commission payable to the broker, and in addition a sum equal to one-quarter of such commission
(1) On sales conducted by Civil Courts, where the property pays no revenue to Government at the rate of 9 per cent ^Ω	
Article 7 — In respect of the services of the officer making delivery of possession of property under 0. XXI, rules 31, 35, 36, 95, 96, 98 or 101 of the Code, when the property is to be delivered in one town or village only, one fee	10.00 ^Ω
When property is to be delivered in more than one town or village, then the fee above-mentioned for the first town or village specified in the warrant of delivery, and an additional fee of five rupees ^Ω for every other town or village : provided that the aggregate amount of the fees levied under this Article shall not exceed twenty rupees ^Ω	
Article 8 — Notice, proclamation, injunction or other order not specified in any preceding Article of this part, when the copies to be served or posted are not more than two in number, one fee	10.00 ^Ω

⁶⁸ Note¹. The portion (a) of this fee must be paid when the process is obtained and the poundage (b) at the time and in the manner prescribed in rules 371, 372 or 373.

^Ω Substituted by notification no. 337/X-b-88 Allahabad Dated: 26.7.1996 published in U.P. Gazettee on 28.9.1996

When such copies are more than two in number, then the fee above-mentioned for the first two and an additional fee of five rupees ^Ω for every such copy in excess of two provided that the aggregate amount of the fees levied under this Article shall not exceed twenty rupees ^Ω . -	
Article 9 ⁶⁹ — If the service of a process, other than a warrant for the arrest of the person be declared "emergent"	10.00 ^Ω

For every process under parts I, II and III of this rule in which the services of an Amin are involved, an additional fee of Rs. 10.00^Ω shall be charged to cover the travelling allowance of the Amin and his peon.

Provided that where the amount works out to any fraction of a rupee below 25 paise, or above 25 paise but below 50 paise, or above 50 paise but below 75 paise, or above 75 paise but below one rupee, the amount shall be rounded off to the next higher quarter of a rupee.

NOTE : Notwithstanding rule 365, fee for processes in execution of a decree or order for money shall be charged irrespective of the grade of the Court issuing such process and of the value of the original suit, according to the amount, including interest, if any due, upon the decree or order : that is to say if such amount exceeds Rs. 2,000, fees shall be charged under part I; if it be Rs. 2,000 or less 'and more than Rs. 50, they should be charged under part II; and if it does not exceed Rs. 50, they should be charged under part III .

366. Exemptions.

Notwithstanding rule 365 no fee shall be chargeable for serving or executing -

- (1) any process which may be issued by any Court, of its own motion unless the order of the Court is for payment of the necessary process by a party;

⁶⁹NOTE — This fee will be payable in addition to the ordinary fee specified in article 1,2 or 8 of this part.

^Ω Substituted by notification no. 337/X-b-88 Allahabad Dated: 26.7.1996 published in U.P. Gazettee on 28.9.1996

- (2) any process issued a second time in consequence of an adjournment made otherwise than at the instance of a party or an intervenor;
- (3) any copy of a warrant, order or certificate posted under O. XXI, rr. 36, 54 or 96 when the fee chargeable under Article 4 or Article 8, part I, or under Article 4 or Article 7, parts II and III, has been paid;
- (4) any copy of a summons, notice, order, proclamation or other process posted in a Court house or in the office of a Collector;
- (5) Deleted;
- (6) any order intimating withdrawal of attachment or postponement of sale;
- (7) any order intimating to a sale officer that permission has been given to a decree-holder to bid for or purchase property under O. XXI, r. 72;
- (8) any copy of a notice of an application under Act No. VIII of 1890 sent to a Collector;
- (9) any order directing an officer in charge of a jail to detain or to release a person committed to his custody;
- (10) any process, or order issued to any person during the course of any departmental inquiry.

367. Process fee on commissions.

Fees for processes to be issued by a Court to which a commission is addressed shall be payable at the rates declared in rule 365 to be chargeable for serving and executing processes issued by such Court.

368. Unexpended process fee.

Except as hereinafter provided no fee paid in respect of an order of attachment or an order of sale shall be refunded if the order in respect of which the fee has been paid, has been passed.

If, for any reason, it becomes unnecessary for an officer to proceed to make an attachment in the manner prescribed in O. XXI, rr. 43, 44, 51 or 54 or delivery of possession of property under order O. XXI, rr. 31, 35, 36, 95, 96, 98 or 101 of the Code any fee paid in respect of his services shall be refunded after a deduction at the rate of 10 paise in the rupee or part thereof.

If in consequence of a compromise or for some other reason, it becomes unnecessary to serve or execute a summons, notice, warrant, proclamation, injunction or order not here-in-before in this rule specified, for which a fee has

been paid, and if the process has not been issued, the fee shall be refunded after deducting from it ten paise for each rupee or part thereof.

369. Poundage.

Sales in execution of Civil Court decrees are held either by the Collector or by the Civil Court Amin or other person appointed by the Civil Court; and on all such sales fees by way of poundage shall be payable. The fees payable by way of poundage where the sale is conducted by any person other than the Collector have been stated in rule 365, Part I, Article 7, and Parts II and III, Article 6.

370. Poundage.

When any sale in execution of a decree of a Civil Court is conducted by a Collector, a fee shall be payable by way of poundage on the full amount of the purchase money at 1 per cent.

The fee payable shall be deducted by the Collector from the sum deposited under 0. XXI, r. 84 of the Code by the purchaser, and shall be credited to Government.

371. Mode of paying poundage.

When any sale in execution of a decree of a Civil Court is conducted by a Civil Court Amin, the fee payable by way of poundage on the full amount of the purchase money shall be paid in stamps, which shall be affixed on the first application, if any be filed, for payment of such purchase-money out of Court, whether it be or be not made by the person who obtained the order of sale, or whether it does or does not extend to the whole of the purchase-money. If no such application be filed, then the stamps representing the fee payable shall be affixed on the office report on which the Court has recorded its order for payment under Chapter XI, rule 295. If such an application be filed, it shall bear the requisite stamps for the fee, in addition to such stamps, if any, as are needed for its own validity:

Provided that when such fee has once been paid in full in respect of any sale, no further fee shall be payable in respect of the same sale:

Provided also that the party paying such fee shall recover the amount of it out of the purchase-money prior to the distribution thereof among the persons entitled thereto:

Provided also that when a sale of immovable property is set aside under 0. XXI, rule 92 (2) upon applications under 0. XXI, rr. 90 and 91 of the Code, no fee shall be payable by way of poundage on the purchase-money.

When a sale of immovable property is set aside under 0. XXI, r. 92(2), upon application under 0. XXI, r. 89, fees due by way of poundage shall be payable by the judgement-debtor, and shall be paid in stamps affixed to the application to set aside the sale.

When a sale is made under either rule 65 or rule 76 of 0. XXI, of the Code by a person other than an officer of the Court, an Amin or a Collector, the procedure in this rule before prescribed shall be followed, but the amount of the poundage fee to be paid in stamps shall be the full amount chargeable under rule 365, less the amount of such person's commission.

Such commission shall be payable out of the sale-proceeds next after the payment mentioned in the second proviso of this rule.

372. Mode of paying poundage.

When the fee payable by way of poundage has already been realized the officer conducting the sale, if he be the Collector, shall credit such fee to the Government as is required by rule 370, and if he be not the Collector, shall purchase the necessary stamps therewith and attach them to the proceeding by which he reports the sale to the Court cancelling them before despatch in the manner prescribed in rule 386.

373. Mode of paying poundage.

If default be made in the payment of purchase money within the time specified 0. XXI, r. 85, of the Code the fee payable by way of poundage shall be deducted from the deposit paid under 0. XXI, r. 84, and stamps representing such fee shall be bought and affixed by the Court on the order directing the deduction to be made.

374. Poundage less than a paisa.

Any fraction of paisa in a fee payable by way of poundage shall be remitted.

375. Amin's fees.

The fees payable for the services of Amins when employed on the duties mentioned in clauses (1), (2), and (3) of Chapter XXI, rule 529, have been set forth in rule 365 and in Chapter XXI, rule 66 (3). For the services of Amins when employed in ascertaining the sufficiency of securities a daily fee of three rupees shall be charged : provided that when the duty is connected with a suit falling under part III of the table of fees in rule 365, the daily fee chargeable shall be one rupee and 50 paise only: provided also, that when the inquiry is as to the sufficiency of the security of a public accountant, no fees shall be chargeable.

A sum sufficient in the opinion of the Court to cover the daily fee payable under this rule for the time which the duty to be performed is likely to require shall be paid before the order for the performance of the duty, is issued to the Amin. If the duty be not completely performed within the period so estimated, a further sum sufficient to cover the daily fee for the excess period extending from the close of the estimated period up to, and exclusive of, the date of the complete performance of the duty, shall be paid before the Amin's report is issued or acted upon.

Should fees be paid in excess, or should it become unnecessary, for any reason ascertained in time to admit of the order being cancelled, that the duty be performed, the party by which the fees were paid shall be entitled to a refund of a proportionate part or of the whole of the same, as the case may be, after deduction at the rate of 10 paise in the rupee or part thereof.

Provided that the fee prescribed under this rule shall be in addition to the fee of Rs. 10.00^Ω per process prescribed under rule 365 to cover travelling allowance of Amins and their peons.

376. Mode of paying Amins' fees.

Fees chargeable for the services of Amins mentioned in Chapter XXI, rule 529, shall be collected in Court-fee stamps and shall be paid in the manner following :-

- (1) in the case of duties mentioned in clauses (1), (2) and (3), in the manner prescribed in Chapter IV rule 105,
- (2) in the case of duties mentioned in clause (4), by affixing the stamps to the order by which the Amin is entrusted with the duty.

377. Wages of chain-men and incidental charges.

Incidental charges, such as the wages of chainmen and the like, shall be levied in cash. Their amount will be at the discretion of the Court, and they shall be paid by the party named by the Court before the Amin is deputed.

378. Amin's deputation fees when sale is not held.

Before an Amin is deputed to sell property a payment shall be required on the following scale to meet the expenses of his deputation in the event of

^Ω Substituted by notification no. 337/X-b-88 Allahabad Dated: 26.7.1996 published in U.P. Gazettee on 28.9.1996

no sale taking place by reason of the claim being satisfied or for any other cause : —

When the amount, including interest, due upon the decree or order does not exceed Rs. 50.	Rs. P. 1.50
When such amount exceeds Rs. 50, but does not exceed Rs. 1,000	3.00
When such amount exceeds Rs. 1,000	6.00

If the sale takes place, the above amount shall be deducted from the poundage payable under rule 365 (part I, Article 7; parts II and III, article 6); and if for any reason it becomes unnecessary for the Amin to proceed to the place where the sale was to have been held, the payment made under this rule shall be refunded, after a deduction at the rate of 10 paise in the rupee or part thereof. In no other case shall a refund be allowed.

Provided that the fee prescribed hereunder shall be in addition to the fee of Rs. 10.00^Ω prescribed for T.A. of Amins and their peons under rule 365.

379. Process fees taxable as costs.

The fees paid in pursuance of these rules shall in all proceedings be deemed and treated as part of the necessary and proper costs of the party who pays them : provided that no fees or charges which have been refunded, or in respect of which a party might have obtained a refund, shall be deemed and treated as necessary and proper costs within this rule.

380. How to file process fees.

Process fees payable under these rules shall except where otherwise indicated, be paid in adhesive Court-fees stamps pasted on a separate sheet of paper on which shall be written the particulars required by chapter V, rule 142 and the description of the process of which it be the fees.

COURT FEES

381. Classification of Court-fees.

The Court- Fees payable by means of stamps into Civil Courts may be classified under the following heads:-

- (1) Ad valorem fees (Schedule I of Act VII of 1870 as amended in Uttar Pradesh)-
 - (a) On plaints, memoranda of appeals and applications for review of judgment;

- (b) On copies and translations;
- (c) On certificates, probates and letters of administration.
- (2) Fixed fees (Schedule II of Act VII of 1870 as amended in Uttar Pradesh)-
 - (a) On plaints and memoranda of appeal;
 - (b) On other documents.

^Ω Substituted by notification no. 337/X-b-88 Allahabad Dated: 26.7.1996 published in U.P. Gazettee on 28.9.1996

- (3) (a) Fees payable for searches and for the inspection of records books, and registers;
- (b) Process fee.

382. Classification of Court-fees.

- (1) Of the three heads described in the preceding rule heads (1) and (2) alone are provided for by the Court-fees Act; and are paid by means of Court-fee stamps, impressed or adhesive,
- (2) Heads (3) (a) and (3) (b) are payable under these Rules.
- (3) A search and inspection fee is paid by a Court-fee adhesive label of 6 paise and 25 paise, respectively vide item No. 31 to Appendix C. III of the U.P. Stamp Manual, 1945.
- (4) Copying fees, which are not to be confused with Court-fees payable on copies under Articles 6 to 9 of the First Schedule to the Court-fees Act, 1870, are payable by means of impressed copy stamps, known as ‘copy folios’ and Court fee labels overprinted with the words ‘FOR COPIES ONLY’ in the manner prescribed in rule 39 of the U.P. Stamp Rules, 1942.

NOTE-*For rules as to search and copying fees see Chapters IX and X of these rules. The succeeding rules relate only to the Court-fees leviable under the Court- fees Act 1870*

383. Rules and Remissions under the Court Fees Act.

The rules framed by the State Government with respect to the kind of stamps to be used for different purposes, for denoting any fee chargeable under the Court Fees Act, 1870 as amended in Uttar Pradesh and the remissions and reductions granted by the State and Central Governments (see

section 26 of the Court-Fees Act, 1870 and appendices C-III and C-V of the U.P. Stamp Manual 1945) shall be complied with by all the Courts.

384. Punching and cancellation of stamps.

- (1) Each judicial officer, should, under section 30 of the Court-fees Act, 1870, formally appoint an officer for the purpose of canceling stamps. That officer, who should ordinarily be the reader for documents filed in Court and the munsarim for documents presented before him, shall personally attend to, and be personally responsible for, the strict fulfillment of the duty of receiving documents to be filed, examining the correctness and adequacy of the stamps attached thereto and immediately cancelling such stamps as are required by section 30 of the Court-fees Act. There is no objection to the ministerial officer appointed employing trustworthy subordinates to do the mere manual work of cancelling the stamps, subject to the approval of the Court, but it will be on the distinct understanding that that officer will be personally responsible for the due execution of the duty and for any defalcation or fraud that may occur in connection with it.

NOTE- (1) *The presiding Judge should see that punching is done immediately on presentation of the petitions and other documents in Court.*

- (2) *A rubber stamp in the following form shall also be used:*



It should be applied across the adhesive stamps and upon the paper on either side but not in such a way as to obliterate the entries thereon or to render the detection of forgeries more difficult.

- (2) Too strict a compliance with the provisions of section 30 of the Court-fees Act cannot be enjoined. In all cases it should be carefully seen that the top of Ashok Pillar of the Court-fess stamps are punched out, that the pieces are destroyed, and the stamps registered before the documents to which the stamps are attached are filed or acted upon.
- (3) Every judicial officer should inspect and test the work of his officers from time to time so as to ensure attention to their duty and to limit opportunities for fraud. A very efficient check

could be kept on any attempt to defraud Government if each presiding judge examines daily some of the records he handles and if he also examines periodically bundles of records of cases dealt with by him, taken out at random from the shelves in which they are placed.

385. Aggregate value and number of stamps to be noted.

The official entrusted with the work of cancellation and first punching of Court-fee labels and impressed stamps shall legibly record on the document, below the stamps, the aggregate value and number of the stamps used to denote each separate fee.

When two or more impressed stamps are used the official concerned shall record the aggregate value and number of stamps on the first sheet and on the other sheets he shall make a note that it forms part of that particular document.

386. First punching of labels on copies etc.

The Court or office issuing copies, certificates or other similar documents liable to the payment of Court-fees shall, before issue, cancel the labels affixed to them by punching out the top of Ashoka Pillar label in such a manner as not to remove that part of the label upon which its value is expressed.

A portion of the stamp on the left side of the top of Ashoka Pillar shall be punched out by the Munsarim on the issue of the copy, translation, certificate, probate or letters of administration. On the filing of the document a second hole shall be punched in the stamp in the manner prescribed by these rules. (Rule 258 of the U.P. Stamp Rules, 1942).

387. Destruction of pieces punched out.

The portion of the stamp removed by the punching prescribed in rules 384 and 386 shall be burnt or otherwise destroyed by the officer charged with the duty of punching it out.

388. Report by District Judge to Board when probate is found to have been granted on insufficient duty.

Every District Judge shall, report directly to the Board of Revenue, Uttar Pradesh, every instance in which it appears from accounts filed in probate and administration cases under sections 289 and 290 of the Indian Succession Act (XXXIX of 1925), that the proper Court-fee was not realized at the time the probates or letters of administration were granted to executors or administrators.

389. Forgery of stamps to be reported to Government.

The presiding Judge of every Civil Court shall report immediately to the State Government, through the Chief Inspector of Stamps, Uttar Pradesh, any instance of forgery or fraudulent use of any description of stamps, whether general, Judicial, postal or telegraph coming to his notice. Such reports shall be accompanied by full particulars as to the nature of the forgery or fraud perpetrated, and, if possible, by specimens, and shall, in the case of Judges of Courts of Small Causes, Civil Judges⁷⁰ and Munsifs⁷¹, be made through their District Judge.

390. Use of adhesive and impressed stamps.

The following directions shall be followed in the use of adhesive and impressed stamps:

- (1) where fee chargeable under the Court-fees Act, 1870 as amended in Uttar Pradesh, is less than Rs. 25 , such fee shall be denoted by adhesive stamps only.
- (2) Where the fee chargeable under the said Act is Rs. 25 or above, such fee shall be denoted by impressed stamps bearing the words 'Court Fees' adhesive stamps being used only to make up fractions of Rs. 25 or less.
- (3) Where the amount of the fee chargeable under the said Act involves a fraction of one paisa such fraction shall be remitted.

391. Manner of denoting additional Court-fee payable under Section 19 of Act VII of 1870.

The additional Court fee payable under section 19-E of the Court-fee Act, 1870, as amended in Uttar Pradesh, on probate and Letters of administration shall be denoted either:-

- (1) in accordance with rule 38(1) of the Uttar Pradesh Stamp Rules, 1942 by impressed and adhesive stamps in the manner prescribed in rule 34 of the aforesaid rules,

or

- (2) Wholly by adhesive stamps in accordance with rule 38(2) of the Uttar Pradesh Stamp Rules, 1942 of the kind prescribed in rule 32(b) of the aforesaid rules.

⁷⁰ The words 'Civil Judge' shall now read as 'Civil Judge (Senior Division)

⁷¹ The Words "Munsif" shall now be read as "Civil Judge (Junior Division)"-Ed.

Refund

392. Refund certificate.

Refund of Court fees shall be obtained by means of a refund certificate which may be granted in one of the three following ways:

- (a) on an application for refund to a Court,
- (b) on an application for refund to the Collector supported by a certificate from the Court concerned that the refund ought to be granted (vide, Government of India, Finance Department, Notification No. 4650 of 1889).
- (c) on an application for refund made directly to the Collector without the intervention of a Court vide -
 - (3) G.O. No 132 of 11.1.1888 as amended by G.O. No. 19/XIII-565A of 25.1.1899.
 - (4) G.O. No. 654/XIII-129 of 18.9.1916
 - (3) G.O. No. 361/XIII-68 of 10.6.1913
 - (4) G.O. No. 363/XIII-61 of 16.8.1909 Separate Revenue (Stamps) Department
 - (5) G.O. No. 1267/XIII-61 of 18.12.1919-Separate Revenue (Stamps) Department.

393. Refund of Court-fees on order of remand.

When a suit is remanded on appeal by an order under R.23,O. XLI the refund certificate shall not be granted by the appellate Court authorizing the appellant to receive back the whole or any part of the fee paid on the memorandum of appeal until the order of remand has become final, either by being affirmed in appeal or by the expiration of the time for filing of a second appeal.

394. Order for refund.

An order for refund of Court-fees or process fees shall be made on an application bearing an office report or on an office report. The presiding Judge shall with his own hand note in figures the amount to be refunded; and the Judge shall refer to such order before signing the certificate for refund.

395. Fee on delayed applications in outlying Courts.

When an application for refund of Court-fees is made and it is found necessary in an outlying Court to call for the record of the case from the

record room, the applicant will be required to pay a fee of Re. 1 if the application for refund is made beyond three weeks of the decision of the case.

396. Certificate of refund.

The refund shall be made by a certificate for refund in Form No 104 granted by the Court to the person entitled to such refund, authorizing him to receive from the Collector the amount therein specified. The sum to be paid shall be written both in words and figures by the Presiding Officer in his own hand English numerals being used for the figures.

397. Note of refund certificate.

When a refund certificate has been signed by the Judge, the clerk concerned shall record in red ink on the document bearing the stamps in respect of which the refund has been ordered, a certificate indicating that refund certificate number has been issued on (give date) for rupees (give figures) in respect of the stamps pasted above.

He shall also record, at the same time, in the remarks column of Form No. 103 against the original entry of the fee, a certificate indicating that refund certificate No..... for a sum of Rs..... has been issued on.....

398. Parts of refund certificate and their disposal.

Part I of Form No. 104 shall be retained in the Courts and parts II and III shall be made over to the person to whom the refund or repayment is to be made for presentation to the Collector or at the treasury or sub-treasury.

Such presentation shall be made within 15 days from the date of the certificate and the certificate shall not remain in force for more than 15 days.

On the refund or repayment being made at the treasury or sub-treasury, the officer in charge shall fill up part III and return it to the Court which granted the certificate, retaining part II as his voucher for the refund or payment.

Provided that in the case of refunds where the amount to be refunded does not exceed Rs. 100, the person entitled to the refund may-

- (a) apply that the amount due, minus postal commission, be forwarded to his address by postal money-order;
- (b) obtain on the application the counter signature of a Judge, Munsif⁷² or Magistrate as to his identity, and

⁷² The word 'Munsif' shall now be read as 'Civil Judge (Junior Division)' - Ed

- (c) forward his application, countersigned, as aforesaid, to the Judge, and if the identity seems sufficiently established, parts II and III shall be sent to the Treasury Officer who shall issue a postal money-order in favour of the applicant for the sum due less postal commission.

On the issue of the money-order from the treasury the officer in charge shall fill up Part III and return it to the Court which granted the certificate, retaining part II as his voucher for the refund.

399. Part of refund certificate and their disposal.

On receipt of part III, such officer, as the presiding Judge may appoint in this behalf shall-

- (1) paste part III to part I, noting on the former the date of its receipt from the treasury or sub-treasury;
- (2) certify below the order of the presiding Judge directing the refund or payment that the refund or repayment has been made;
- (3) file the document, on which the refund or payment was ordered, with the record, unless it has already been so filed;
- (4) record in red ink a certificate in the following form on the document bearing the stamp or stamps in respect of which the refund or payment has been made and obtain the signature of the presiding Judge thereto;

“Certified that the sum ofhas been refunded (or paid as the case may be) under certificate No..... dated” and

- (5) Make entries in columns 27 to 29 of Form No. 103 against the original entry of the fee, and record on part III of Form No. 104, the fact of such note having been made.

CHAPTER XIV

CIVIL COURT REGISTERS

400. Registers to be maintained in all Courts.

The following registers shall be maintained in all Civil Courts:-

- (1) Register of Civil Suits (Form No. 3);
- (2) Register of Original Suits Disposed of (Form No. 67);
- (3) Register of Applications for Execution of Decrees and Orders (Form No. 68);
- (4) Register of Disposal Applications for execution of Decrees and Orders (Form No. 69);
- (5) Register of Miscellaneous Judicial Cases not relating to suit or other cases, (Form No. 70), a list of which is printed on the form in the appendix;
- (6) Register of Returned Documents (Form No. 71);
- (7) Register⁷³ of Miscellaneous Non-judicial Cases (Form No.7);
- (8) Register of References to and from Revenue Courts (Form No. 8);
- (8-A) Register of References from Criminal Courts (Form No. 169)⁷⁴ and for the purpose of statistical statements the following registers shall be maintained in all Civil Courts:
 - (9) Register showing the classification and value of suits instituted (Form No. 72);
 - (10) Register of cases in which salaries of public officers as servant of the Government or of a servant of a railway company or local authority or of a servant of a corporation engaged in any trade or industry which is established by a Central, Provincial or State Act or a Government company, as defined in section 617 of the Companies Act, 1956 are ordered to be withheld under Order XXI, rules 48 and 48-A of the Code (form No.73)
 - (11) Register of “Miscellaneous Cases, Judicial”(Form No.74 relating to other cases);
 - (12) Register of persons committed to jail (Form No. 75);

⁷³ Note: it is not intended by this register that separate records are to be prepared for any of these cases. The papers relating to each so-called case will always remain in the file of the parent suit.

⁷⁴ Note: The figure ‘169’ now shall be read as ‘168’-Ed.

- (13) Register of proceedings taken in execution of orders received from the High Court (Form No. 76);
- (14) Register of cases under section 220 of U.P. Zamindari Abolition and Land Reforms Act, 1951 (Form No. 147)

401. Memorandum books for all Civil Courts.

The following memorandum books shall be maintained in all Civil Courts:

- (1) A memorandum book of dates for original suits and appeals in Form No. 77; column 3, and so much of the heading of other columns as relates to appeals being omitted in the memorandum books of the Courts of Munsifs⁷⁵ and of Small Causes.
- (2) A memorandum book of dates for execution cases in Form No. 78, and another memorandum book in the same form for miscellaneous cases.
- (3) A memorandum book of dates for applications in suits, execution cases, appeals, revisions and any other kind of judicial work.

Note: The memorandum books in (1), (2) and (3) shall be open for inspection to lawyers, registered clerks of lawyers, and the parties, between hours to be fixed by the Presiding Judge.

- (4) Presiding Officers shall keep a diary in their own handwriting in the following form in which they shall note for their own use the dates fixed in all contested cases with, where possible, a rough estimate of time likely to be occupied.

This sub-rule shall not apply to Small Cause Court and miscellaneous cases, for which special days should ordinarily be allotted. They shall, however, be shown in the same diary or in a separate diary under separate heads under the supervision and control of the Presiding Officer. The old or otherwise important cases amongst them shall be entered in the diary by the Presiding Officer in his own hand so as to avoid the chance of their being over-looked. Criminal cases shall also be entered in the diary by the Presiding Officer in his own hand with such particulars as may be considered necessary.

⁷⁵ The word 'Munsif' shall now be read as 'Civil Judge (Junior Division)' - Ed

**FORM
DIARY OF DATE**

Case no.	The number of times already adjourned			Name of the Parties	Purpose	Rough estimate of time likely to be occupied	Remarks
	At the instance of plaintiff (P)	At the instance of Defendant (D)	For Other reasons (O)				
1	2A	2B	2C	3	4	5	6

402. Additional Register for appellate Courts.

(A) The following registers shall be maintained in the Courts of district and other Judges exercising appellate powers:

- (1) A register of Appeals from Decree (Form No. 9).
- (2) A register of Appeals from Decrees disposed of (Form No. 80)
- (3) A register of Miscellaneous Appeals (Form No. 81).

Register of references from revenue courts

(B) The following register shall be maintained in the Courts of District Judges:

A register of references received from revenue Courts (Form No.8).

(C) The following register shall be maintained in the Courts of Munsifs-

A register of revisions filed against the decisions of Panchayati Adalats in Form No. 165.

403. Insolvency Registers.

The following registers also shall be maintained in the Courts of District Judges and in all other Courts specially invested with jurisdiction under section 3 of the Provincial Insolvency Act (No. V of 1920), namely:

- (1) An Insolvency register in Form No. 82.

- (2) A Register of Insolvents Estates in the hands of Receivers in Form No. 83.

In the first week of each month the dates in column 24 of Form No. 82 shall be examined and a report made to the Court by the clerk concerned for orders about cases in which no application for discharge has been made within the period originally fixed or subsequently extended by the Court under section 27 of the Act.

Entries in the register in Form No. 83 shall be made on receipt of the quarterly statements from the Receiver and shall be totaled annually in order to check the annual accounts of the Receiver.

404. Gradation List.

A gradation list of the establishment of the Judgeship shall be maintained in the office of the District Judge in the following form, and subject to the educational test and other conditions for appointment prescribed by Government, promotion shall be given with reference thereto and with due regard to the seniority in grade, qualification and conduct of officials.

Serial number in the grade	Name and residence of the Official	Date of birth	Permanent post held by the official	Acting appointment, if any	Date of entering Government service	Date of promotion to present grade	Examination passed by the official	Remarks
1	2	2A	3	4	5	6	7	8

405. Nazir's Registers and Dispatch Register.

Every Central Nazir or Nazir shall maintain-

- (a) A Process Register (Form No. 105)
- (b) A Register of Process-servers.
- (c) A Dispatch Register (Form No. 84).
- (d) A separate Dispatch Register for papers to be sent by post in State Form No. 52, the weight of the parcel and the value of

postage labels affixed on the cover to be noted in column 6 thereof.

Note: Registers in Form 84 may be used by Court officials and by the Central Nazir or Nazir for transmission of papers, other than returns or services of processes to and from their respective offices.

The Process-servers Register shall be in the following form with separate pages allotted for entries about the work of every process server:-

1	2	2A	3	4	5	6	7	7A	8
Date of entry	Serial number	Total number of processes of all kinds given to the process-server for service	Warrants executed	Warrants not executed	Summonses and notices personally served	Summonses and notices served but not personally	Summonses and notices returned unserved	Percentage of personal service of processes	Remarks

It shall be written up by the Nazir or officer deputed by him upon the return of a process server after serving a warrant, summons or notice.

For the purposed of working out the figure to be given in column 7A the following formula of calculation shall be adopted:

$$\frac{\text{The figure in column 5} + \text{the figure in column 3}}{\text{The figure in column 2A}} \times 100$$

The figure in column 2A

At the end of the month the several columns shall be totaled up. In the remarks column the District Judge and the officer-in-charge of the Nazarat shall give such remarks and orders as they consider necessary.

406. Register of orders to Amin.

In every Civil Court a register shall be maintained in Form No. 106 of all orders issued to the Amin. This register shall be checked by the presiding Judge weekly, and he shall note in it, in his own handwriting, whether the explanation of delay is or is not satisfactory; and if it is not, what orders have been passed.

407. Register to be kept by Amins.

Every Amin shall keep in his own handwriting a diary in Form No. 107, a Proceedings Register in Form No. 108, a Property Register in Form No. 109 and a Cash Register in Form No.110.

408. Register of Process-Fees & Court-Fees.

A Register of Court-fees and Process-fees (From No. 103); shall be kept in Hindi in each Court by such officer as the presiding Judge may appoint.

409. Registers to be kept by Hony. Munsif.

The District Judge shall decide what registers shall be maintained by each Honorary Munsif subordinate to him; and such Honorary Munsif shall maintain those registers and not others.

410. Register of Casual Leave.

Every authority which grants casual leave shall cause a register of such leave to be maintained for (1) gazetted officers and (2) ministerial officers in the following form. This register shall be regularly examined by inspecting officers:

Name and designation of the Official.	Leave taken during the year
	14, 13, 12, 11, 10, 9, 8, 7, 6, 5, 4, 3, 2, 1
Mr. A	6/1, 7/1, 8/7, 9/7.....
Mr. B	3/2, 3/3, 4/3,.. .. .

411. Duty of filling up registers and inspection of registers.

The Court official appointed for the purpose by the Presiding Officer of each Court shall daily enter the particulars of the day’s cases in the proper registers and, at least once a month in the first week, shall lay these registers before the presiding Judge, who will inspect and sign his name and put the date under the entries of the previous month. District Judges, Civil Judges⁷⁶ and Munsifs⁷⁷ should also inspect and sign Munsarims’ and Nazirs’ registers.

412. Work under new legislation.

- (1) Where any appeal, case or execution application, under any existing law or under any law which may be made hereafter, other than those provided for in the code or in these rules is instituted in any Civil Court it shall be treated for statistical

⁷⁶ The word ‘Civil Judge’ shall now be read as ‘Civil Judge (Senior Division)’ - Ed

⁷⁷ The word ‘Munsif’ shall now be read as ‘Civil Judge (Junior Division)’ - Ed

purposes as a regular appeal, miscellaneous (judicial) case, or execution proceeding, as the case may be, and entries will be made in the appropriate registers and in the periodical returns accordingly.

Provided that where any election case is instituted in any Court in accordance with any law such a case shall be treated as a regular suit for statistical purposes.

Illustrations;

- (i) of Appeals: those instituted under the U.P . Industrial Disputes Act, 1947;
 - (ii) of Miscellaneous (Judicial) cases: applications under section 7E of the U.P. (Temporary) Control of Rent and Eviction Act, 1947:
 - (iii) of Execution applications: those under section 386(3) of the Code of Criminal Procedure or under section II of the U.P. (Temporary) Accommodation Requisition Act, 1947,
 - (iv) of election cases: those under section 18 of the U.P. District Boards Act, 1922.
- (2) In the remarks column of the registers the section and the Act under which such appeals, cases or execution applications are instituted shall always be noted, and in the periodical returns the figures for each type of appeals, cases or execution applications shall be separately shown and at the bottom they should be totaled.

CHAPTER XV
RETURNS AND REPORTS

413. Annual Statements.

The following annual statements shall be submitted by all Civil Courts:

A- (For Central Statistics)

- (1) Annual statement showing the general result of the trial of civil suits in Courts of original jurisdiction (Form No. 85).
- (2) Annual statement showing the number and description of suits instituted (Form No. 93).
- (3) Annual statement showing the number and value of suits instituted (Form No. 94).
- (4) Annual statement showing the mode of disposal of “Miscellaneous cases, Judicial” (Form No. 95).
- (5) Annual statement showing the business of Civil Appellate Court in appeals from decrees (Form No. 88).
- (6) Annual statement showing the business of Civil Appellate Court in “Miscellaneous Appeals (Judicial)” (Form No. 96).

B – (For State Statistics)

- (1) Annual statement of undecided suits classified according to years (Form No. 86).
- (2) Annual statement showing the result of proceedings on applications for execution of decrees and orders (Form No. 87).
- (3) Annual statement of injunctions and Stay Orders issued by Courts (Form No. 89).
- (4) Annual statement showing proceedings in insolvency under Act V of 1920 for declaration of insolvency and the number of insolvents before the Courts (Form No. 97).
- (5) Annual statement showing the number of civil cases tried by Panchayati Adalats (Form No. 166).

C- (General)

- (1) Annual statement showing the number of process serving peons employed and the fees paid for their services (Form No. 90).
- (2) Annual statement showing the number of persons summoned and examined (Form No. 98).
- (3) Annual statement showing the income and expenditure of Civil Courts (Form No. 99).
- (4) Annual statement showing the number of probates and letters of administration and certificates issued (Form No. 100).
- (5) The return of renewed certificates of pleaders and Mukhtars required by Chapter XXIV rule 581.⁷⁸

414. Quarterly statements.

The following quarterly statements are to be submitted by all Courts :

- (a) Quarterly statements showing the result of the trial of civil suits in Courts of original jurisdiction (Form No. 115).
- (b) Quarterly statement showing the result of proceedings on applications for execution of decrees and orders (Form No. 116).
- (c) Quarterly statements showing the business of Civil Appellate Courts in appeals from decrees and orders (Form No. 117).
- (d) Quarterly statement of injunctions and stay orders issued by Courts (Form No. 89).
- (e) List of pending regular suits stayed or orders passed by the High Court, prescribed under G.L. No. 9/167-4 of 28-4-1931.
- (f) List of pending execution cases stayed by the High Court, in the form prescribed in G.L. No. 43/167-4 of 3-10-1933.
- (g) Statement of outturn of work of Judicial Officers in Form No. 167.

Together with the quarterly statements shall be submitted forms of explanation of suits and execution applications pending over a year (Form Nos. 91 and 92). The explanations shall be dealt with by the District Judge as directed in G.L.No. 1/44-5 of 8-1-36 and G.L. No. 68/VIII b-236 of 18-10-1948.

⁷⁸ Note : This has now become redundant. –Ed.

415. Monthly statement of pending files.

Every subordinate Court shall submit to the District Judge by the 2nd of every month a statement in Form No. 146⁷⁹ of the pending cases in that Court at the close of the preceding month.

The District Judge shall by the 7th day of every month send to the High Court a similar statement regarding his Court along with the monthly statement of other Courts subordinate to him.

416. Submission of quarterly statements.

Quarterly statements shall be dispatched by the subordinate Courts to the District Judge on or before the 5th day of the month next succeeding the quarter to which they relate. Quarterly statements are not required for the quarter ending 31st December.

On receipt of these statements District Judges shall make such short comments as they may think necessary and shall send such comments with any necessary orders to the officer concerned, forwarding a copy to the High Court for information.

417. Submission of quarterly statements.

Quarterly statements shall be dispatched by District Judges on or before the 15th day of the month next succeeding the quarter to which they relate.

418. Delay in Judgments.

At the end of every quarter each Court shall submit to the District Judge a statement in the form given below of cases in which judgment was delivered more than a month after the date of the close of evidence.

The District Judge shall examine the statements so submitted, endorse thereon his comment regarding delay in the delivery of judgment in cases in which judgment was delivered more than a month after the conclusion of arguments and forward them together with a similar statements prepared for his own Court, to the High Court.

⁷⁹ N.B. This has been substituted by C.L. No. 27/AD(E) dated 6.3.80. -Ed

Statement of cases in which judgment was delivered more than a month after the close of evidence in the Court of during the quarter ending20....

Name of the Court	Number and date of institution	Date of close of evidence	Date or dates on which arguments were heard	Date of delivery of judgment	Name of Presiding Officer	*Brief explanation of delay, if required
1	2	3	4	5	6	7

**Note : No explanation is required in cases in which judgment was delivered within a month of the conclusion of arguments.*

419. Submission of annual statements.

Annual statements for the year (with the exception for Form No. 100) shall be submitted by subordinate Courts to the District Judge on or before 20th day of January in the following year and by the District Judge to the High Court on or before 15th of February then next.

The annual statement for the previous financial year showing the number of probates, etc. (Form No. 100) shall be forwarded by subordinate Courts to their District Judge on or before 10th of April, and a consolidated statement for Judgeship shall be submitted by the District Judge to the High Court on or before 20th of April.

420. Annual Report.

District Judges shall submit to the High Court, together with the annual statements, a report for the year on the administration of Civil Justice.

421. Contents of annual report.

The following matters shall be noticed in the Annual Report :

1. (a) the condition of judicial buildings;
- (b) new structure as explained in Circular Letter 3159 of 5.10.1909.
2. the preparation, arrangement and transmission of records;
3. the cancellation of stamps;
4. the classification and registration of Administrative correspondence, circulars, and returns;

5. the distribution and preservation of Circulars and General letters;
6. the destruction of records;
7. the condition of the District Court Library;
8. the result of inquiry into the sufficiency of security given by public accountants;
9. the working of rules under sections 20 and 21 of the Court-fees Act, 1870;
10. the condition of accounts of the Courts;
11. the working of the rules relating to Civil Courts' Amin;
12. the arrangement, distribution and use of printed forms;
13. the observance of the rule as to hours of sitting;
14. the observance of the rule relating to the checking of Amin's work by the officer in charge;
15. the effect of recent legislation and of rules of the Government or the High Court on the working of the Courts;
16. any work done by an officer which does not appear in the annual returns e.g., Election work, work in administrative tribunals. The number of days spent over such work shall also be indicated.
17. deleted.

422. Contents of annual report.

In the preparation of their annual reports officers should refrain from the expression of censure or criticism of officers of other departments of the Government. Cases in which such censure or criticism seems to be called for should be reserved for special and separate report, if it is thought necessary that they be brought to notice.

423. District Judge's notes for his successor.

A District Judge, before leaving a district, shall place on record for the information of his successor and for the purposes of the annual report a minute embodying his opinions regarding the capacity of the judicial officers subordinate to him, and, generally, regarding the administration of civil justice in the district.

424. Prohibition against calling for extra returns by the District Judges.

In calling for returns other than the ordinary returns to enable him to supervise work, the District Judge shall see that such returns are brief in form and easily collected from existing registers.

425. Return of acquisition and parting of landed property by judicial officer.

Every District Judge shall submit to the High Court on or before 20th of January of each year a return in the following form of all landed property acquired, whether in his own name or not, or parted with by himself or any subordinate Judicial Officer during the preceding calendar year:-

Name	Appointment	Village, pargana and district	Area in Acres	Revenue assessed	Estimated Value	Whether acquired or parted with	How acquired or Parted with	From whom acquired or to whom parted with`	Remarks
1	2	3	4	5	6	7	8	9	10

Together with this statement shall be submitted (1) a statement in the following form of the landed property⁸⁰ held, whether in his own name or not, by him or any subordinate Judicial Officer, who has been appointed to this district during the preceding calendar year:-

⁸⁰ Note : The term landed property includes all such property held under a lease.

Number	Name	Appointment	Land held in		Area in acres	Acquired or ancestral	Annual revenue assessed		Estimated value		Remarks
			District	Pargana			Rs.	P.	Rs.	P.	
1	2	3	4		5	6	7	8	9		

(2) A list showing in the case of the above-mentioned officers,

- (a) the names of immediate blood relations;
- (b) the names of immediate connections, with the place of residence of each.

426. Examination of adequacy of securities.

The adequacy of all securities shall be examined every year between April and June 30 and a report made to the High Court in form B soon after the examination. When it appears to the District Judge that the value of a security has from any cause become insufficient, he shall call upon the official for whom such security was furnished to furnish adequate and sufficient security within a definite time and he shall in the meantime obtain a personal bond with sureties for the deficiency of the security. A mortgage security may be considered sufficient if it is a first mortgage of immovable property situate in India; provided that the property be not a lease-hold for a term of years, and that the value of the property exceeds by one-third the amount secured. When there has been no mutation of ownership or sensible depreciation of the property pledged, it will be unnecessary to renew the security bond. A note of the result of the verification should be made in column 7 of Form No. 2F given in Chapter XXIII rule 546.

Form B. *Annual report regarding security bonds of public accountants*

District	Name of public accountant and office held by him	Amount of security given		Security bond where lodged	Have the provisions of the rules been duly observed	Remarks
		Value in pronotes or cash and notes or cash where lodged	Value in landed property and when last verified			

427. Statement showing receipts under head.

The following special procedure is laid down for observance with regard to the requirements of paragraphs 87 to 90 of the Financial Handbook, Volume V, Part I.

“Administration of Justice”

The Presiding Officer of each Court shall before the 15th of every month prepare a statement in the form given below showing the amounts of receipts under the respective revenue heads specified in the form, which were credited into the treasury during the previous month. This statement should then be sent to the local treasury and verified there by the Treasury Officer in the manner laid down in rule 321, Chapter XI of these rules. The discrepancies, if any, pointed out by the Treasury Officer should be reconciled and after the statement has been duly verified it should be submitted to the District Judge who, as Controlling Officer, will see that the dues of Government are regularly paid into the treasury;

Statement showing the grand total of amounts of receipts under head 'XXI-Administration of Justice'* which were credited into the Treasury at During the month of.....

**Note: The figure 'XXI' shall now be read as '0070'Ed.-*

Name of Court	Sale-proceeds of unclaimed and escheated property	Court-fee realized in case		General fees, fines and forfeitures		Miscellaneous fees and fines		Miscellaneous	Remarks
		Civil Court Amin's fee	Other items	Fees and fine of Civil Court	Other items	Judicial record room receipts	Fees for vend of food and sale proceeds of produce of Civil Court compound		

428. Defalcation or loss of public money.

On the occurrence in any department of a Civil Court of any defalcation or other loss of public money, the fact shall be reported to the High Court at once.

When the matter has been fully inquired into, a further complete report shall be submitted to the High Court of the nature and extent of the loss, showing the errors or neglect of rules by which such loss was rendered possible.

CHAPTER XVI

ADMINISTRATIVE CORRESPONDENCE

429. Classification of Administrative correspondence.

The departments into which the Administrative correspondence of Civil Courts is classified are as follows:-

- (1) Appointment, promotion, transfer, leave, removal and inquiry into the conduct of Government servants.
- (2) Pensions and gratuities.
- (3) Security of public accountants.
- (4) Legal practitioners.
- (5) Precepts received from the High Court.
- (6) Processes sent to and received from other Courts.
- (7) Annual reports and periodical returns.
- (8) Bills.
- (9) Budget.
- (10) Deposit account.
- (11) Books, maps, forms and stationery.
- (12) Buildings and furniture.
- (13) Inspection of district and subordinate Courts.
- (14) Rules and practice.
- (15) Miscellaneous.

430. Arrangement of files.

The correspondence under each head shall be arranged by files; each file shall consist of all the letters received and issued in the course of a consecutive correspondence upon one subject. The letters in each file shall be arranged in chronological order: the first letter received or issued being at the bottom of the file, and the last letter received or issued being at the top.

431. Register of letters received.

Every letter received shall be docketed and entered in the register of letters received (Form No. 62). The date of receipt of the letter and its register number shall be entered on the docket in red ink.

432. Register of letters issued.

Every letter issued shall be fairly copied: the original draft and the fair copy shall be numbered with the annual serial number, one set of such serial numbers running through all the Civil Court correspondence for the calendar year; the letter shall then be entered in the register of letters issued (Form No. 63), and the draft letter shall be docketed, the date of issue and the annual serial number being entered on the docket.

433. Marking of serial number of letter.

The serial number of the letter in its file shall also be marked in red ink on the docket of each letter i.e., the first letter received or issued on a file shall be marked S.No. 1; the second letter received or issued shall be marked S. No. 2, and so on. When a letter is received or issued, if it pertains to a previously existing file, the file shall be got out, and the next consecutive serial number of the series of that file shall be assigned to the letter. Within each letter, thus serially numbered, shall be kept as a “keep-with” (K.W.) any office notes regarding it.

434. Connected files.

If a letter refers to, or be connected with, another file under the same or another head, that file shall be linked with the file to which the letter pertains, the files being separately tied up, but connected by a piece of tape. The linked files shall remain together until the file containing the reference or connection has been finally disposed of, when they shall be relegated to their proper places, a note being made on each that it was linked with the other on receipt of the letter.

435. Division of files into two classes.

Files shall be divided into two classes, namely:-

- (1) Closed files; that is to say, files in which further correspondence is not expected; and
- (2) Pending files; that is to say, files in which further correspondence may be expected.

36. Correspondence press.

A separate press, divided into fifteen or more compartments, shall be reserved for closed files; and over each compartment the head to which it is appropriated shall be noted. This press shall be known as the “Correspondence Press”.

437. Closed files.

The closed files pertaining to each head shall be tied together between stiff boards in separate annual bundles of convenient size, and on the upper board shall be written the head and the year, or the portion of the year, to which the bundle relates.

No closed file should be out of its bundle, except when it is in actual use.

438. Pending Files.

Pending files shall be in two packets: those of –

- (1) Files containing references that have been answered or require no answer, and
- (2) Files containing references that are unanswered.

As soon as new file is opened by the issue or receipt of any letter, columns 1,2 and 4 of the File Index Register (Form No. 64) shall be filled up. The serial number assigned to such file shall be noted on such letter and every subsequent letter, issued or received, belonging to such file.

As soon as a pending file is closed, the remaining columns of the File Index Register shall be filled up and the file removed from the packet of pending files and placed in its appropriate compartment in the correspondence press.

(N.B.- The file index will be supplied on application to the Superintendent, Printing and Stationery).

439. File Index.

In the file index a few pages shall be allotted to each head of correspondence; and to facilitate reference the right hand margin of the file index shall be so cut and numbered as to show where the entries under each head of correspondence are to be found.

440. Reopening of closed file.

If correspondence relating to a closed file be reopened, the file shall be withdrawn from the correspondence press and placed among pending files, with which it shall be kept till the renewed correspondence terminates. It shall then be returned to the correspondence press and placed in the bundle for the year, or the portion of the year, in which the renewed correspondence terminated. When a closed file is thus withdrawn and returned, a note of the date of withdrawal at the time the file is withdrawn, and a reference to the

bundle in which the file has been placed at the time the file is returned, shall be made in column of remarks against the former entry in the file index (Form No. 64). A slip of paper with a similar note recorded on it shall be placed in the bundle from which the file was withdrawn.

441. Register of circulars.

There shall be one register for all general letters and circulars received (Form No. 65) and all general letter and circulars shall, on receipt, be entered in the register, the date of receipt and the register number being marked upon each general letter and circular in red-ink. The general letters and circulars shall then be posted into separate file-books, as follows:-

- (1) General letters of the High Court.
- (2) Circular Letters of the High Court.
- (3) Circulars of the Government.
- (4) Other circulars.

To each file-book shall be prefixed an index in which the number, date and subject of each circular shall be entered at the time the circular is filed.

442. Supply of copies of General and Circular Letters.

The District Judge shall arrange that copies of general letters and Circular Letters are supplied to all Courts in the Judgeship. Such Courts shall maintain two separate file books, one of Circulars and the other of General letters. Prefixed with an index containing the particulars mentioned in rule 441.

When any General Letter or Circular Letter relates to the duties of an Amin, or specially affects the work of any official, an additional copy shall be furnished to such Amin or official, who shall paste it into a file book and shall prefix to the file book an index containing the particulars mentioned in rule 441.

443. Correspondence originating from a circular.

If a Circular gives rise to correspondence the correspondence shall be kept in a separate file, a note being made on the first letter in the file that the Circular referred to is pasted into its appropriate file-book, and a note bearing reference to the correspondence being recorded on the Circular itself. A copy of such Circular should also be kept in the file.

444. List of Returns and Reports due.

- (1) In every Administrative office a list showing the returns and reports due, the office to which they are sent, and the date they

are due shall be hung up near the Munsarim's desk. A similar list shall be hung up in the Judge's private room. Every clerk responsible for preparing a return shall be given a similar list of those returns for, which he is responsible, and such list shall be hung up near his desk or place in the office.

Register of pending files.

- (2) In every Court shall be kept by or under the supervision of the Munsarim a register in the following form wherein shall be entered every pending file of the Administrative office and every return which is pending or which falls due in the current month. Such register shall be placed before the Presiding Officer of the Court not less than once a week.

FORM
Month and year

Serial No.	File heading or description of returns and reports	Date and substance of Judge's last order	Office to which sent	Due date	Date of submission	Remarks
1	2	3	4	5	6	7

445. Dispatch Book.

A dispatch book in Form No. 66 shall be kept for the District Judge's office. Covers to be delivered by a messenger in the vicinity of the Court-house shall be sent, with this book, to the addressee, whose acknowledgement will be taken in the last column. Covers to be sent by post shall be similarly sent to, and acknowledged by, the Central Nazir.

The Central Nazir or any other official specially deputed for the purpose with the approval of the District Judge, after affixing the necessary postage stamps, shall dispatch the covers, after entering them in the register, in State Form No. 52 maintained under rule 405.

Two dispatch books may, at the discretion of the District Judge, be kept: one for covers to be delivered by messengers and the other for covers to be sent by post.

446. Correspondence with High Court.

In all correspondence with the Registrar⁷⁹ of the High Court the following instructions shall be observed:-

- (1) As a rule, the Registrar⁷⁹ shall be addressed by letter and not by docket or endorsement.
- (2) A list of the enclosures accompanying a letter shall be made at the foot of it. Every judicial file shall be reckoned as a separate enclosure.
- (3) Where a demi-official letter is addressed to the Registrar⁷⁹, only one subject should be dealt with in one letter; a second subject should be made the subject of the second letter.

447. Correspondence relating to suits and cases.

Administrative correspondence relating to suits, appeals or cases, judicial or non-judicial, shall be dealt with according to the following rules:-

- (1) Letters forming such correspondence shall be filed with the case to which they relate.
- (2) Every case with which is filed such correspondence shall be deemed to be pending notwithstanding that a final order or decision has been passed therein, so long as the correspondence relating thereto is pending. Correspondence shall be said to be pending only when any letter requires to be issued or received and not when after a certain lapse of time or upon some possible contingency further correspondence may arise.
- (3) To indicate that the Presiding Officer considers no further action necessary in respect of any correspondence he shall write the word 'File' with his initials on the last letter. The Munsarim must then after examining the previous papers, mark the last letter "Concluded and filed" before the correspondence is consigned with the case to the record-room.
- (4) Every letter received should bear an order recorded on it by the Presiding Officer, or the word "seen" with his initials, as an indication that he has seen it.

Judicial Officers, in corresponding with the High Court, shall address their communications through the District Judge to the Registrar⁸¹, with the exception of notices and summonses issued by the High Court and served by subordinate Courts, acknowledgment of records, and all correspondence relating to the case-work of the High Court which shall be addressed to the Deputy Registrar.

⁸¹ The word 'Registrar' shall now be read as words "Registrar General"

448. Confidential letters.

All confidential communications shall be sent in double sealed covers, the inside cover being addressed by name to the person for whom it is meant and marked confidential while the outer cover is addressed in the ordinary way.

All covers marked 'confidential' shall be opened only by the persons whose name it bears (or in his absence by a responsible officer to be specified by him).

Confidential letters shall be kept in the Judge's fire proof box.

449. Weeding of correspondence

- (a) The papers of closed files in the Administrative Office of the District Court and the Courts subordinate to it shall be weeded as follows:

Reminders and office memoranda which are unnecessary for the understanding of the file and are not likely to serve any immediate separate purpose, shall be destroyed when the file is closed.

- (b) Correspondence on or relating to the following subjects shall be retained for a period of one year from 1st January of the year succeeding that in which the file is closed :

- (1) Medical examination of ministerial officers.
- (2) Leave, transfer and certificate of transfer of charge of ministerial officers. (These are to be retained for one year after entry in the service book).
- (3) Verification of securities of public accountants and officials. (These are to be retained for one year after the next verification).
- (4) Contingent bills.
- (5) Change of office hours.

- (c) The following correspondence or correspondence on or relating to the following subjects shall be retained for a period of two years from 1st January of the year succeeding that in which the file is closed :-

- (1) Explanations of delay and letters calling for them
- (2) Covering dockets and letters on mere matters of routine, such as those returning enclosures, etc.,

including those sent to and received from the High Court concerning the grant of certificates to Legal Practitioners under Act XVIII of 1879

- (3) Explanations called for by the High Court on quarterly and annual statements
- (4) Office copies of all statements and returns prescribed for periodical submission or specially called for by the High Court
- (5) Service and execution of processes of other Courts
- (6) Questions of practice and procedure which have been subsequently settled by published rules of the High Court
- (7) Not printed
- (8) Impounding of documents, and also relating to fines and penalties
- (9) Printing and adjustment of charges
- (10) Accountant General's objections on the establishment return
- (11) Transmission of records
- (12) Entertainment of temporary extra copyist and weeders on temporary record-room establishment.
- (13) Civil and criminal annual reports
- (14) The preparation of list of legal practitioners willing to execute commissions.
- (15) The Judicial calendar and holidays not specified therein
- (16) Attendance of lekhpals
- (17) Famine allowance
- (18) The supply of repayment order book
- (19) Process-serving establishment
- (20) Correction of deposit accounts and lapsed deposit accounts
- (21) Cases transferred by order of the High Court
- (22) Reconciling of discrepancies in sale commission fee returns

- (23) Plus and minus memorandum of Civil Court deposits and objection of Accountant General regarding deposit accounts
- (24) Appointment of, retirement of, or grant of pensions to officials who are dead
- (c) The following correspondence or correspondence on or relating to the following subjects shall be retained for a period of three years from 1st January of the year succeeding that in which the file is closed :
- (d)
 - (1) Appointment in the case of temporary establishment. (The period of retention of the correspondence relating to appointment in the case of permanent establishment in THIRTY-FIVE YEARS).

N.B.- *Care shall be taken to return all original testimonials to the applicant.*

- (2) Transfer, posting, charge, leave, drawing fresh increment of pay and last pay certificates of gazetted officers.
- (3) Indents for printed forms, stationery and additional copies of circulars.
- (4) Gratuities to ministerial officers. (But the sanctioning order should be retained for TWENTY-FIVE YEARS from the date of retirement of the pensioner or for THREE YEARS from the date of his death whichever is earlier.)
- (5) Verification of services of ministerial officers.
- (e) The following correspondence or correspondence on or relating to the following subjects shall be retained for a period of five years from 1st January of the year succeeding that in which the file is closed :-
 - (1) The distribution of territorial jurisdiction of Civil Courts.
 - (2) Budgets.
 - (3) Applications for additional grants.
 - (4) Powers of Officers.

- (5) The annual vacation and arrangement of work during the vacation.
 - (6) Payment of rent of buildings secured for Court houses.
 - (7) Travelling allowance bill books.
- (f) The correspondence on or relating to salary bills of gazetted officers should be retained for six years from 1st January of the year succeeding that in which the file is closed.
- (g) The following papers among others shall be retained for ten years, computed from 1st January of the year succeeding that in which the correspondence relating to them was weeded :-
- (1) Estimate of Budgets.
 - (2) Annual reports (Civil and Criminal).
 - (3) Inspection notes, the High Court's orders thereon and correspondence relating thereto.
- (h) Correspondence on the following subjects shall be retained until the Presiding Officer orders their destruction :-
- (1) Correspondence relating to pensions.
 - (2) Complaints against officials and correspondence relating thereto, if containing papers likely to be required by the Accountant General when application is made for pension or gratuity.
 - (3) Creation and abolition of Courts.
 - (4) Correspondence relating to books, maps, furniture and repairs of Court houses.

NOTE¹ :*The Presiding Officer shall ordinarily order the destruction of records (1) and (2) when there remains no possibility of the papers being required to answer a reference of the Accountant General. Ordinarily in the case of (1) the sanctioning order shall be retained for twenty-five years from the date of retirement of the pensioner or for three years from the date of his death whichever is earlier and the other correspondence should be destroyed after three years. The correspondence relating to (2) shall ordinarily be destroyed after the official has died or retired or has been removed.*

NOTE²: *Such correspondence shall be laid before the Presiding Officer every year and he shall in the case of each*

file pass one of the following orders to be recorded on the first sheet :-

- (a) *that it be at once destroyed;*
- (b) *that it be retained for a period of one, five, or ten years from 1st January of the next year;*
- (c) *that it be kept permanently;*
- (d) *that it be retained until further order be passed.*

If the order described in (b) or (c) be passed, the file shall be placed with the files which are governed by paragraph (b), (d), (e) or (g) above as the case may be.

- (i) Correspondence on or relating to the following subjects, and any other correspondence which the Presiding Officer shall in any particular case so direct, be retained permanently, namely:-
 - (1) Assessment of taxes or rates on Civil Court buildings.
 - (2) Suits to which Government is a party.
 - (3) Revision of establishment.
 - (4) Acquisition of land or other property by Government.
 - (5) Appointment of Honorary Munsifs, etc. Provided that the District Judge may from time to time direct the destruction, after ten years, of any such file or part of such file the preservation of which is, in his opinion, unnecessary.
- (j) For instructions regarding the preservation and destruction of service books of Government servants, see Subsidiary Rule 136-A, Financial Handbook, Volume II.

Any service book may, however, be retained for special reason to be noted therein, and no official can claim, as of right, the return of his service book.

Character Rolls are the property of the Government. They shall be kept in the office where he was last employed and shall be put up before the District Judge, five years after the retirement, resignation, dismissal, removal or discharge from service, as the case may be, of the Government Servant concerned, or, in case of the Government Servant's death, six

months after his death, whichever is earlier, for orders as to whether they should be retained or destroyed.

- (k) In the month of May each year, the head clerk or such other officer as may be appointed by the District Judge in that behalf, shall examine the files affected by the preceding paragraphs, and having selected the papers to be destroyed, shall lay them before the Munsarim. When the Munsarim has satisfied himself that the papers are liable to destruction, he shall cause them to be sold as waste paper in accordance with the instructions given in rule 199, Ch.VII of these rules, unless he considers that any of them should be retained for a longer period, in which case he shall submit such papers with a memorandum of the ground of his opinion for the orders of the District Judge. Notes and orders shall be treated as confidential papers.

CHAPTER XVII

LIBRARY

450. Catalogue.

Official publications will be issued from the Government press; and officers receiving such publications shall register them, as well as books purchased by them, in a catalogue which shall be kept in the following form:-

Class	Sub-head, if any-	Serial number.	Title.	Number of volume.	Price	Date of receipt.	Number of copies received		REMARKS
							English.	Other scripts	
1	2	3	4	5	5A	6	7	8	9

The right-hand margin of the catalogue shall be so cut and numbered as to show where the entries under each class and sub-head, represented by the numeral prefixed thereto in rule 451, are to be found.

451. Classification of books.

Books shall be classified in the catalogue, and arranged in the library, in the manner following:-

- I. Regulations and Acts.
- II. Special Acts (when printed separately).
- III. Commentaries and Acts.
- IV. Law Digests and Treatises.
- V. Departmental Codes, Guides, Manuals and Circulars.
 - i. Civil
 - ii. Criminal
 - iii. Revenue
 - iv. Miscellaneous.
- VI. Law Reports -
 - i. Sdar Diwani Adalat.
 - ii. Sadar Nizamat Adalat.

- iii. High Court.
- iv. Indian Law Reports-
 - (a) Calcutta Series.
 - (b) Madras Series.
 - (c) Bombay Series.
 - (d) Allahabad Series.
- v. Miscellaneous
- VII. Periodicals
- VIII. Administration-
 - i. Indian
 - ii. Uttar Pradesh
 - iii. Other States.
 - iv. Miscellaneous Departments.
- IX. Dictionaries, Glossaries, Lists and Directories.
- X. Miscellaneous.

452. Room for Library and its use by lawyers.

The books composing the Library of each Court shall, if practicable, be collected together in a separate room assigned for the purpose. A District Judge may in his discretion admit legal practitioners to the use of the library in his Court on such conditions as he may think fit.

453. Librarian and his duties.

In each office an official, to be nominated by the District Judge, shall be specially placed in charge of the Library as Librarian.

It shall be the duty of the Librarian-

- (1) to stamp the seal of the Court on the title page, the tenth page and the last page of print of each book;
- (2) to affix on the lower portion of the back of every book received for deposit in the library a label in the following form :-

GOVERNMENT PROPERTY		
	Class sub-head Serial No.	
District Court Library	Received The 19.....(now read as 200..)	District

(N.B.- These labels in two or three different sizes in English and in Hindi will be supplied on indent by the Government Press)

- (3) to submit to the Registrar⁸² of the High Court after 1st January each year, a certificate as to the condition of the books in the Library;
- (4) to check the catalogue at the commencement of each year;
- (5) to issue books from the library in accordance with the rule following, and to see that no books are issued otherwise;
- (6) to report the loss of any book from the library as soon as discovered.

454. Receipt for books taken out.

When any officer requires books from the library he shall send a receipt for it on a slip of paper, which shall be returned to him when the book is returned to the library.

The Librarian shall enter in a book to be kept for that purpose-

- (1) the name and number of each book removed from the library on that day and not returned before the close of the day;
- (2) the date when it was removed;
- (3) the name of the person who received it; and
- (4) the date when such book is returned to the library.

When any legal practitioner, who has under rule 452 been admitted to the use of the library, requires a book, he shall give a receipt in the manner above provided; but he shall not be allowed to remove any book from the library room.

Every reasonable facility is to be afforded to Government counsel to consult the law books in the Court's library.

455. Check of books.

In January, April, July and October every year a quarterly list showing the books which have been out of the library for more than three months will be submitted by the Librarian to the District Judge, who will then take necessary steps to secure the return of the books unless there is good reason for their detention by the borrower. The Librarian shall submit to the District

⁸² The word 'Registrar' shall now be read as the words 'Registrar General'

Judge a report at the end of every quarter that all correction slips received during the quarter have been duly pasted in the books.

456. Loss of books.

When the loss of any book is reported, the District Judge will, from the charge certificates of the clerks concerned during the year and after making necessary inquiries, decide whether the cost of the missing books should be recovered from them or from other persons responsible. The District Judge is, however, authorized to remove from the catalogue the name of a book the value of which does not exceed rupees twenty-five.

457. Books for different Courts.

Every District Court and every outlying -Munsifi is supplied with the volumes of the Central Acts, Uttar Pradesh Code, with the Acts of the Legislature in annual volumes from 1876 and with all the Indian Law Reports, published under Act No. XVIII of 1875, in English, from the year 1876 onwards.

Only one copy of the majority of other official books and reports is sent to each district, and that copy is kept in the office of the Magistrate. Other officers are merely supplied with their own departmental reports and such books of reference and gazettes as they may frequently have to consult.

The head clerk of the Magistrate's office should circulate to all officers at the district head-quarters at the end of each week a list of the books and reports received by him during the week so that any officer desirous of persuing them may have an opportunity of doing so.

District Judges shall indent direct on the Government Press for copies of such Central and State Acts as may be required for use in their Courts or in Courts subordinate to them.

458. Binding of books.

Valuable books may, with the previous sanction of the High Court, be sent to be bound at the Government press, but, where it can be done efficiently, books should be bound locally.

459. Communication with Govt. Press by subordinate Courts.

Judges of Courts of Small Causes, Civil Judges⁸³ and Munsifs⁸⁴ shall communicate with the Superintendent of Printing and Stationery, U.P. Allahabad through the District Judge.

⁸³ The word 'Civil Judge' shall now be read as 'Civil Judge (Senior Division)' - Ed

460. Purchase of suitable books by District Judges.

District Judges shall, without obtaining the previous sanction of the U.P. Government, purchase such books as are suitable for the libraries of their Courts or of the Courts subordinate to them, subject to the condition that all charge so incurred are within the budget allotments sanctioned for the purpose.

461. Gazettes.

Only Parts nos. I, I-Ka, II, III, VI and VII of the *Gazettes* shall be regularly filed and stitched in file covers into annual volumes to be retained only for five years. If there is any outlying Court in the Judgeship these parts shall be bound and retained in the outlying Courts permanently. The remaining parts after being detached from the *Gazettes* shall be sold as waste papers in the following years. One copy of all parts of *Gazettes* and *Extra ordinary Gazettes* in English and Hindi shall be bound and retained permanently in the District Judges library. Copies supplied to Munsifs⁸⁵ and Civil Judges⁸⁶ shall be retained for five years and thereafter forwarded to the District Judge, who will, after meeting the requirements of his own library, consult the Superintendent, Printing and Stationery, U.P., as to whether the superfluous copies should be returned to him, or sold, or sent to another district.

462. Books etc. not to be weeded.

The following books and publications shall not be weeded, without reference to the High Court :—

- (1) Regulations and Acts, whether in force or repealed.
- (2) Commentaries on Acts.
- (3) Law Digests and Treatises.
- (4) Latest editions of the Manual of Government Order, Book Circulars of the Board of Revenue, Civil Service Regulations, Treasury Manual, Financial Hand Books, Standing Orders of the Accountant General and of the Directions and Manuals (including circulars) of the various departments; also single copies of superseded editions of the above.
- (5) Law Reports.

⁸⁴ The word 'Munsif' shall now be read as 'Civil Judge (Junior Division)' - Ed

⁸⁵ The word 'Munsif' shall now be read as 'Civil Judge (Junior Division)' - Ed

⁸⁶ The word 'Civil Judge' shall now be read as 'Civil Judge (Senior Division)' - Ed

- (6) Government Gazettes in English, subject to rule 461.
- (7) Civil statements and note, criminal statements and note, Revenue administration reports, Police administration report, Registration department report, Census report and appendices.

463. Publications which may be weeded.

District Judges may weed out the following publications without reference to the High Court :-

- (1) Duplicate copies of superseded editions of publications mentioned in rule 462 (4)
- (2) Superseded editions of village directories, histories of gazetted officers and Civil and Army lists.

464. Weeding of valuable books.

When it is proposed to weed duplicate copies of works of any value, reference should be made to the High Court for information as to whether the books are required elsewhere.

465. Sale of books etc.

Non-official publications and official publications which have been priced for sale to the public should, if it is decided to weed them under these instructions, be sold to the best advantage. All such publications shall, prior to sale, be stamped inside the cover "Sold by order of the Court." For this purpose a special stamp will be supplied on application made to the Registrar⁸⁷.

⁸⁷ NOTE: The words "Registrar" now shall be read as "Registrar General".-Ed

CHAPTER XVIII

TESTAMENTARY AND INTESTATE JURISDICTION

Section A

Preliminary.

466. Definitions.

In this Chapter, unless the context otherwise requires —

- (i) "**The Act**" means the Indian Succession Act, 1925;
- (ii) "**will**" includes a codicil.

467. General heading.

The following shall be used as general headings in all cases under the Act or this Chapter :-

IN THE COURT OF DISTRICT JUDGE/DELIGATE

AT

Testamentary Case/Suit No. of 19

In the matter of goods of Deceased.

Section B

Non-contentious Business.

468. Non-contentious business.

Non-contentious business shall include the business of obtaining probate and letters of administration (with or without the will annexed, and whether general, special or limited) where there is no contention as to the rights thereto, or where there has been contention 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 or letters of administration.

469. Notice to Collector.

The Court shall give notice of every application for probate or letters of administration to the Collector within one week of the filing of the application.

The notice shall be accompanied by a copy of the application with annexures. Copies of any subsequent annexures under head (b) of the next succeeding rule shall also be sent to the Collector.

470. Application for probate.

Application for probate shall be made by petition with the will annexed, accompanied, if the will is not in English or Hindi, with an official translation thereof in Hindi. Such application shall contain an undertaking that an inventory and account will be filed within six and twelve months respectively after the date of issue of probate. The petition shall be in Form No. 148 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, in Form No. 149; and
- (b) an affidavit of valuation in the form set forth in Schedule III of the Court-fees Act, 1870 along with an appropriate account specifying all the property in respect of which estate duty is payable upon the death of the deceased.

A copy of the affidavit under clause (b) shall also be delivered to the Controller of Estate Duty, Uttar Pradesh.

N.B. The circulars relating to estate duty are not being reproduced here as the estate duty has been discontinued w.e.f. 23.8.84 with respect to agricultural land (Act No. 53 of 1984) and 16.3.85 with respect to other property (Act No. 52 of 1985). However, the instructions contained in the circulars will continue to apply in cases where the deceased died before the said dates. - Ed.

471. Application for letters of administration.

Application for letters of administration shall be made by petition in Form No. 150 or as near thereto as the circumstances of the case may permit and shall be accompanied by annexure (b) mentioned in the last preceding rule.

472. Application for letters of administration with will annexed.

Where the application is one for letters of administration with the will annexed it shall be in Form No. 151 or as near thereto as the circumstances of the case may permit and shall also set out the names and addresses of the legal representatives of the deceased (unless the Court sees fit to dispense with them), and shall also be accompanied by annexure (a) referred to in rule 470.

473. Certificate that no other grant has been made.

Within fourteen days of the filing of an application for probate or letters of administration the Court shall certify whether any intimation has been received by it from any High Court or District Court of any grant of probate or of 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 Form No. 152.

474. Certificate as to Court-fee.

No order for the issue of a grant of probate or letters of administration shall be made—

- (a) *until after the Court has certified either that the Court-fee payable on the grant has been paid or that no Court-fee is payable, such certificate being made on the order sheet in Form No. 153, 154, 155 or 156, as the case may be; and*
- (b) *Not printed in view of the discontinuance of Estate Duty Act, 1953. - Ed.*

474A.⁸⁸

No certificate from the Controller under the Estate Duty Act shall be needed for passing an order for issue of a grant of probate or letter of administration or succession certificate in respect of any property (other than agricultural land) which passed on the death of any person on or after the 16th day of March, 1985 or to agricultural land to which the Estate Duty Act, 1953 does not apply.

475. Proof of identity.

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

476. Interlineations, alterations, etc. in will to be sworn to by attesting witness.

Where interlineations, alterations, erasures or obliterations appear in the will (unless duly executed as required by the Act or recited in or otherwise identified by the attestation clause) a statement shall, if possible, be made in

⁸⁸ Added vide Notification No. 346/VII-f-124Admn. (G), Allahabad dated 8.8.1994 (Correction Slip No. 115) (Published in U.P. Gazette II on 12.11.1994)

the affidavit of the attesting witness whether they existed in the will before its execution or not.

477. 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 handwriting of the deceased and one attesting witness, and also of any circumstances which may raise a presumption in favour of due execution.

478. Attempted cancellation must be accounted for.

Any appearance of an attempted cancellation of a 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, must be accounted for.

479. Unsigned or unattested will.

In cases in which it is not necessary that a will should be signed by the testator 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 be clearly proved by affidavit.

480. 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 the leave of the Judge, take out representation to the same deceased in another character.

481. Application for administration by 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 applicant has any and what security therefor.

482. Production of deed, paper, etc. referred to in will.

If a will contains a reference to any paper, memorandum, or other document of such nature as to raise a question whether it ought not to form a constituent part of the will, such paper, memorandum or other document shall be produced with a view to ascertain whether it is entitled to probate, and where not produced, its non-production must be accounted for.

483. Persons consenting to an application for letters of administration shall do so on affidavit

Persons desiring to give their consent to an application for letters of administration shall do so on affidavit, stating their relationship to the deceased and that they consent to the grant of letters of administration to the petitioner.

484. Citation to rightful parties.

On an application for letters of administration, unless otherwise ordered by the Judge, a citation shall issue to all persons including the Administrator General 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.

485. 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 to 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, and a general citation shall be issued to all persons claiming to have any interest in the estate of the deceased.

486. Citations.

All citations shall, unless otherwise ordered, direct the persons cited to show cause on such day certain as the Judge shall direct and shall be in Form 157 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 newspaper as may be directed, of a notice in Form No. 158.

487. Proof of publication.

Proof of due publication of a citation by advertisement shall be by affidavit, unless the Judge 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. The affidavit shall be in Form No. 159 or as near thereto as circumstances permit.

488. Proof of power of attorney.

Unless a power-of-attorney constituting such attorney or the attorney of an executor absent from the State 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.

489. Grant when to have effect in the State.

All grants of probate or letters of administration (with or without the will annexed), shall, unless otherwise ordered, be drawn up to have effect within the State.

490. Grant 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, such grant shall be expressly asked for, and it shall be shown where the assets are situated.

491. Administration bond.

Every person, to whom a grant of letters of administration, other than a grant under section 241 of the Act, is committed, shall give a bond to and in the name of the Presiding Officer with one or more sufficient sureties to be approved by him. Such bond shall in all cases be prepared in the office of the Court and shall, unless otherwise ordered by the Court, be given in the amount of full value of the property for which the grant is to be made less the amount of debts (if any) secured by mortgage of the estate property. The bond, unless given by a Guarantee Society, shall be in Form No. 160.

492. Guarantee Society as surety.

A Guarantee Society, if approved of by the Court may be accepted as surety upon its joining in a bond, which shall be in Form No. 161 with the administrator or administrators.

493. Representation of Guarantee Society by agent.

Where such a Guarantee Society is represented by an agent, the document or documents authorizing the latter to act on behalf of the Society shall in the first instance be submitted to and approved of by the Court, and whenever a bond is sent to him for signature, it shall be accompanied by a letter in Form No. 162 and the agent shall send a reply under his signature in Form No. 163.

494. Filing of annual balance sheet by such Society.

Every such Society shall each year file in Court a copy of the Society's annual balance sheet duly audited which copy shall be verified by the affidavit of the agent or principal officer.

495. Attestation of bond.

The execution of administration bond by person other than a Guarantee Society shall be attested by the Munsarim or where executed outside the Court house, by the Munsarim or such person as the Presiding Officer may nominate.

496. Consequence of neglect to proceed with petition or to furnish security.

If a petitioner for a grant of probate or letters of administration, for three months from the date of admission of the petition, neglects to proceed with the petition, or for three months from 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 Court 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 Court may either dismiss the petition or pass such order as it may think fit.

497. Schedule of property to accompany certificate under section 274 of the Act or section 24 of the Administrator General's Act, 1913.

With every certificate to be sent to a High Court under the provisions of section 274 of the Act, the Court shall send a copy of so much of the Schedule of the property and credits of the deceased as relates to the estate within the jurisdiction of such Court.

498. Extension of grants.

A grant under the Act having effect within the State may be amended so as to extend its effect throughout the territory of India. The application shall be by petition supported by a further affidavit of valuation in the form set out in Schedule III of the Court-fees Act, 1870, with such variations as the circumstances may require, and on payment of the probate duty 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.

499. 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. 101 and 102 respectively and shall be verified in the manner following —

"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, information and belief, and that the same contains a full, true and perfect inventory of all the property in the possession of the deceased, at the date of his death, and of all credits owing to him, and of all debts owing by him"; 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, information and belief 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."

Section C

Contentious Business

500. Caveats.

Any person intending to oppose the issuing of a grant of probate or letters of administration must either personally or by his pleader file a caveat in Court in Form No. 164. Notice of the filing of the caveat shall be given by the Court to the petitioner or his pleader in Form No. 34.

501. Affidavit in support of caveat.

Where a caveat is entered after an application has been made for a grant of probate or letters of administration with or without the will annexed, an objection supported by affidavit shall be filed within fourteen days of the caveat being lodged. Such objection shall state the right and interest of the caveator and the ground of objections to the application.

502. When caveat is entered before application for grant is filed.

Where an application for grant of probate or letters of administration with or without the will annexed is presented after a caveat has been filed, the Court shall forthwith issue notice to the caveator calling upon him to file his objection supported by affidavit within fourteen days from the service of such notice.

503. Consequence of non-compliance.

Where the caveator fails to file any objection in compliance with rule 501 or in compliance with the notice issued under rule 502, the caveat may be discharged by an order to be obtained on application to the Court.

504. Conversion of application into suit.

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

505. 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 costs of the other side, unless the Court shall be of opinion that there was no reasonable ground for opposing the will.

506. Trial of 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. Where 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 the issue of probate or letters of administration, as the case may be.

Section D

Miscellaneous

507. Preservation and inspection of wills.

The rules made by the Government of this State and for the preservation and inspection of wills filed in the Court of District Judges, and reproduced in Appendix 14 shall be complied with by the Courts concerned.

N.B. Deleted.

508. Charge of European or Anglo Indian's property after death.

Whenever a European or Anglo-Indian dies leaving assets within his jurisdiction, the District Judge is required to retain the property under his charge, or appoint an officer under the provisions of section 269 of the Indian Succession Act, 1925, to take and keep possession of the same until the Administrator General has obtained Letters of Administration, or until some other person has obtained such Letters or a certificate from the Administrator General. There is no objection to a friend of a deceased person being appointed, under the section and Act last mentioned, to take and keep possession of the property of the deceased.

509. Notice of application for grant of Succession Certificate.

Under section 373, clause 1(b), Act No. XXXIX of 1925, notice of application for grant of a certificate shall be given —

- (1) by posting a proclamation on the notice-board of the Court;
- (2) by posting a duplicate thereof on the house of the deceased;
- (3) by beat of drum in the mohalla of the town or village in which the deceased last resided.

The sum of 25 paise in cash shall be tendered with every such application to cover the expense of proclaiming the notice by beat of drum.

CHAPTER XIX

RULES RELATING TO CERTAIN ENACTMENTS OF THE LEGISLATURE

510. The following table gives references to the rules framed and notifications issued under certain enactments, and the places where they may be found.

Serial No.	Name of Act	Subject of Rules or Notifications	Reference	Remarks
1.	Regulation No. V of 1799 as amended by Act IV of 1914 and Act XII (Local) of 1922-Intestate property.	Receipt and disposal of the moveable property of persons dying intestate.	Appendix 17(A)	Should be read with paras 625-636 of the Manual of Government Orders and para 165 of the Police Regulations. This applies only to the portion of the State formerly known as the province of Agra. For Avadh Appendix 17(A1) may be referred to.
2.	Indian Divorce Act, No. IV of 1869.	Limitation for confirmation of decree <i>nisi</i> .	Appendix 17(B)	
3.	Indian Oaths Act, No. X of 1873. ⁸⁹	Oaths and affirmations prescribed under section 7 ⁹⁰	Appendix 17(C)	

⁸⁹ NOTE: Indian Oaths Act, 1873 has now been replaced by The Oaths Act, 1969.- Ed.

⁹⁰ NOTE: See S.6 of the Oaths Act, 1969.- Ed.

4.	The Transfer of Property Act. No. IV of 1882.	Notification of towns under section 58(f)	Appendix 17(D)	
5.	The Suits Valuation Act. No.VII of 1887	Mode of valuation of certain kinds of property for purposes of suits.	Appendix 17(E)	
6.	Guardians and Wards Act No. VIII of 1890	Forms under the Rules made under the Guardians & Wards Act, 1890	Appendix 17(F) ⁹¹	
7.	Indian Registration Act, No.XVI of 1890	Report to District Registrar and Information to registration office of cancelled documents	Appendix 17(G)	Should be read with Section 39 S.R. Act ⁹² and Order XXI, r.94, C.P.C.
8.	The Land Acquisition Act, No.1 of 1894	Rules for payments under the Land Acquisition Act.	Appendix 17(H)	Should be read with Appendix XI to F.H.B. Vol. V, Part I.

⁹¹ NOTE: Added by Notif. No.359/VIIIb-284.– Ed.

⁹² NOTE: See S.31 of the Specific Relief Act, 1963. – Ed.

9.	Indian Lunacy Act, No. IV of 1912 ⁹³	Time to be given to Collector by a Civil Court in the order to assume charge of the person and estate of a lunatic.	Appendix 17(I)	
10	The Indian Companies Act No. VI of 1913. ⁹⁴	Procedure of cases	Chapter XXVIII, Part VII, Rules of Court, 1952.	
11	The Provincial Insolvency Act, No. V of 1920	Procedure of Insolvency cases, Registers and forms.	Appendix 17(J) and (J1)	
12	The Indian Soldiers (Litigation) Act, No. IV of 1925.	Notifications and rules under the Act.	Appendix 17(K)	
13	The Indian Succession Act, No. XXXIX of 1925.	Powers of Munsifs ⁹⁵ and Civil Judges ⁹⁶	Appendix 17(L)	
14	The Arbitration (Protocal and Convention) Act. No. VI of 1937. ⁹⁷	Rules framed under sec. 10	Appendix 17(M)	

⁹³ NOTE : Indian Lunacy Act, 1912 has now been replaced by Mental Health Act, 1987. – Ed.

⁹⁴ NOTE : The Indian Companies Act, 1913 has now been replaced by Companies Act, 1956.- Ed.

⁹⁵ The word ‘Munsif’ shall now be read as ‘Civil Judge (Junior Division)’-Ed.

⁹⁶ The word ‘Civil Judge ’ shall now be read as ‘Civil Judge (Senior Division)’-Ed.

⁹⁷ now been replaced by Indian Arbitration & Conciliation Act, 1996

15	The Arbitration Act. No. X of 1940 ⁹⁸	Rules framed under the Act.	Appendix 17(N)	
16	The Special Marriage Act, 1954 Act XLIII of 1954.	Rules framed under the Act.	Appendix 17(O)	
17	The Hindu Marriage Act, 1954 Act XXV of 1955.	Rules framed under the Act. ⁹⁹	Appendix 17(P)	
18 ¹⁰⁰	Commission of Inquiry Act, 1952	Rules framed in pursuance of Rule 7 of the Commission of Inquiry (Uttar Pradesh) Rules ,1980	Appendix 25	

⁹⁸ NOTE: The Arbitration Act No. X of 1940 has now been replaced by Indian Arbitration & Conciliation Act, 1996

⁹⁹ NOTE :Also see Supplement 1 of G.R. (Civil) Vol.II. –Ed.

¹⁰⁰ Added by Not. No.336/VIII-154, dated All. 26.8.1998, (Correction slip no. 109), published in U.P. Gazette II on 2.3.1991

CHAPTER XX

FORMS, STATIONERY AND THEIR INDENTS

(NB- THE RULES IN THIS CHAPTER ARE TO BE READ ALONG WITH THE RULES IN PARAS 43 TO 52 AND 63 TO 93 OF THE PRINTING AND STATIONERY MANUAL).

511. Sanctioned Forms.

A list of printed forms for use in district and subordinate Civil Courts, which may be obtained from the Government Press, is given in Appendix 4, List A.

Those forms which are saleable are also shown for facility of reference in Appendix 4, List AA.

512. Forms of Indent for printed forms.

Every Civil Court will be furnished by the Superintendent, Printing and Stationery, U.P., Allahabad, with a printed form of indent for printed non-saleable forms. State Form No. 173.

Non-saleable forms shall be obtained in the following manner:-

In Courts subordinate to the Court of the District Judge the indent shall be prepared under the supervision of the presiding Judge and shall be submitted to the District Judge not later than 15th January. Forms enough to last for a whole year and to leave a margin of three month's consumption at the end of that year shall be entered in the indent. When forms are published in books, the number of books should be stated.

The District Judge, having received the indents for all Courts subordinate to him, shall dispatch them with the indent for his own Court in time to admit of their reaching the High Court by the 1st March.

Forms for Courts at headquarters will be sent, separately packed and labeled for each Court, to the District Judge. Forms for subordinate outlying Courts located at places remote from a railway will be sent to the District Judge or to some Munsif¹⁰¹ on a line of railway, who will cause them to be forwarded to such Courts in the manner he may consider most convenient and economical. Outlying subordinate Courts located on or near a line of railway will receive their forms direct from the press.

¹⁰¹ The word 'Munsif' shall now be read as 'Civil Judge (Junior Division)' - Ed

513. Stock of printed forms.

Each District Judge, each outlying Civil and Sessions Judge,¹⁰² and each outlying Munsif¹⁰³, shall be allowed to hold certain quantities of saleable forms as permanent advance in accordance with the general directions issued by the High Court. The District Judge shall be responsible for the advances to all the Courts in his judgship and shall deal with indents for saleable forms in respect of the Courts subordinate to him, direct with the Superintendent, Printing and Stationery, Uttar Pradesh, Allahabad.

514. Stock of printed forms.

- (1) When the stock of saleable forms falls short of one - half of the quantity fixed by the High Court as permanent advance, the District Judge shall take steps to recoup the shortage direct from the Superintendent, Printing and Stationery, Uttar Pradesh, Allahabad. He shall apply in Manual Miscellaneous Form No. 131-A (Recoupment Order of the Superintendent, Printing and Stationery, Uttar Pradesh, for saleable forms) furnishing the certificates mentioned therein.
- (2) Forms shall be sold at the rate of nine rupees per hundred to licensed stamp-vendors, who may retail them to the public at the rate of 10 paise per form. Forms shall not be sold in packets of less than hundred each unless the permanent advance of any particular form has been fixed at less than hundred. Receipt books of form Part VI-No. 74 shall be issued only to Official Receivers at the rate of two rupees and seventy five paise per book. The procedure herein contained for the supply of saleable forms to licensed stamp-vendors shall apply *mutatis mutandis* to the supply of receipt books to Official Receivers
- (3) The licensed stamp-vendors shall not pay to the Nazir in cash the price of the saleable forms that they require, but they shall deposit the money in the treasury by means of treasury chalans in duplicate. One copy shall be retained in the treasury and the other shall be returned to the stamp-vendors who shall submit it to the Nazir in lieu of the price of the forms received by them. Before signing the certificate mentioned in (1) above, the indenting officer shall verify the recoupment order and formally cancel the chalans by writing across them "cancelled"

¹⁰² Note: The words 'Civil and Sessions Judge' shall now be read as 'Additional District and Sessions Judge'. -Ed.

¹⁰³ The word 'Munsif' shall now be read as 'Civil Judge (Junior Division)' - Ed

in red-ink. The chalans so cancelled shall be immediately consigned to the record-room where they will be retained till destroyed under the weeding rules.

- (4) The stock of saleable forms in hand on the 31st March, shall be examined and a statement in Form No. 145 sent by the indenting officers to the District Judge in no case later than the 15th April each year. These statements along with a similar statement relating to the Court of the District Judge shall be forwarded to the Superintendent, Printing and Stationery, Uttar Pradesh, Allahabad by the end of April each year.

515. Arrangement of printed forms.

The list of printed forms prescribed by the High Court is arranged in parts. Forms should, at the time they are received in any Civil Court, be similarly arranged there; the forms in each part again being arranged in the order of the numbers they bear. The forms should be stored upon racks or in presses.

516. Stock-book of forms.

Deleted.

(Notification No. 325/VIII-b-1, dated 2nd November, 1960, published in U.P. Gazette, Part II, dated March 25, 1961)

517. Charge of saleable forms.

All saleable forms shall be in the charge of the Central Nazir or in outlying Courts the Nazir, who shall keep them under lock till issued and maintain a register in Form No. 144.

518. Surplus stock of forms.

Surplus forms should not be returned to the Government Press unless with the knowledge of the Superintendent, and all such consignments must be sent carriage paid. When large surpluses of forms exist, the Superintendent of the Government Press may be asked to arrange for their distribution.

519. Prohibition of unauthorized forms.

District Judges shall ensure that no saleable forms printed by a press other than the Government Press are used in the Court.

520. Stationery indents.

Indents for stationery shall be drawn up for fifteen months from October 1 as prescribed in paragraph 68-A of the U.P. Printing and Stationery

Manual by District Judges and Judge, Small Cause Court, Lucknow and submitted to the High Court by July 10 in a form which may be procured from Superintendent, Printing and Stationery, Uttar Pradesh, Allahabad.

521. Register of stationery.

A register of stationery shall be kept by indenting officers in State Form No. 180.

CHAPTER XXI

AMINS

522. Qualification for appointment as Amin.

Before appointing any person to be an Amin the District Judge shall satisfy himself that the candidate has a competent knowledge of-

- (1) Hindi
- (2) Arithmetic
- (3) Mensuration
- (4) Elementary land-surveying and mapping
- (5) Order XXVI of the Code
- (6) Order XXI of the Code so far as it relates to attachment and sale
- (7) Rules framed by Government relating to cattle pounds.
- (8) Rules in this volume relating to the work and duties of Amins and also a working knowledge of Urdu.

523. Instruments for Amin's work.

The District Judge shall, from time to time as funds allow, purchase from the Director, Stores Purchase Section, Uttar Pradesh, Kanpur, and supply to each Amin in his jurisdiction, out of the contract grant for his district, the instruments given in the following list:

- Plane Table
- Box of drawing instruments.
- Measuring chain (jarib) 30 metres.
- Measuring rod (3 metres).
- Brass sight (60 centimetres).
- Brass scale (fifteen centimeters).
- Measuring tape (15 metres).

Such minor articles as mapping pens, boxes of colours, tracing cloth, etc., if not procurable from the Superintendent, Printing and Stationery, Uttar Pradesh, Allahabad, can be purchased locally. The District Judge shall inspect

and verify the stock of the above instruments in his annual inspection of the office of Civil Judges¹⁰⁴ and Munsifs¹⁰⁵.

524. Additional Amins.

When a District Judge applies for the appointment of an additional Amin he must show that there is necessity for the appointment being made, and shall state the average number for three years for each Amin within his jurisdiction of commissions of all kinds executed, and of attachments and deliveries of possession made, and of all other work done.

525. Grades of Amins.

Promotion from the second to the first grade of Amins shall, as a rule, be made within the local jurisdiction of a Judge upon the ground of superiority of general qualifications irrespective of mere length of service.

526. Drummers' fees.

Each Amin shall receive, in addition to his pay, a grant of thirty rupees a month as remuneration for the services of a drummer. The District Judge shall draw the total grant for drummers for his district and shall distribute it among the Amins.

527. Circles and beats of Amins.

- (a) The District Judge shall fix circles of work for every Amin in the judgeship so as to ensure even distribution of work for every Amin.

The District Judge shall divide the circle of every Amin into beats and fix dates for the Amin to work in those beats.

- (b) The District Judge shall appoint a Judicial Officer to be incharge of the work of the Amins, provided that where an Amin works in the jurisdiction of an outlying Court the Presiding Officer of such Court shall be in charge of the work of such Amin.
- (c) The Amin shall so plan his tour within the beat that places lying in the same direction are covered in one trip.

528. Amin to work personally.

Amins shall perform their duties in person and not by deputy.

¹⁰⁴ ¹⁰⁴ The word 'Civil Judge' shall now be read as 'Civil Judge (Senior Division)' - Ed

¹⁰⁵ ¹⁰⁵ The word 'Munsif' shall now be read as 'Civil Judge (Junior Division)' - Ed

529. Work for Amins.

Civil Court Amins besides being employed to conduct sales under Chapter VI, rule 174, may be employed on any of the following duties:

- (1) in executing commissions-
 - (a) to examine witnesses,
 - (b) for local investigation,
 - (c) to examine accounts, and
 - (d) to make partitions.
- (2) In making attachments under an order of the Court
- (3) In making delivery of possession of property under an order of the Court
- (4) In ascertaining the sufficiency of securities.
- (5) In ascertaining means of persons suing as an indigent persons.

530. Day's journey of Amin.

When, in order to the execution of a commission or to the ascertainment of the sufficiency of a security, an Amin has to travel, the Court in determining the fee to be paid for his services shall assume a day's journey to be twenty-four or thirty kilometers, according to the nature of the country to be traveled, unless the place is connected by bus or rail.

530A. T.A. to Amins.

Amins and their peons are entitled to draw traveling allowance admissible under the Financial Handbook, Volume III. The traveling allowance bills shall be submitted monthly to the officer incharge who shall scrutinize the entries, compare them with the Amin's diary in Form No.107 and satisfy himself as to the correctness of the entries made in the bill.

531. Programme of Amin.

When an Amin proceeds on tour he shall make such arrangements as will ensure that orders issued by the Court shall reach him without delay. The arrangements so made shall, on each departure of the Amin, be notified by him in writing to the Courts whose orders he executes and also to the Officer-in-charge of his work.

532. Information by Amin to Decree-holder.

An Amin shall inform the decree-holder or his pleader by registered post or otherwise, within sufficient time, of the date on which he proposes to

be at a certain spot to make an attachment or deliver property, so as to enable the party concerned or his representative to attend on that date.

533. Instructions for measurement and mapping.

Amins shall be guided by the following instructions in making field and land measurements in local inquiries –

- (1) All measurements shall be made with chain and compass, and the chain shall be 30 metres in length.
- (2) The work shall be plotted in scale and the scale to be used shall be 5000 : 1 , 2000:1,1000 : 1, 500 :1, 200:1, 100:1 or 50:1 according as the area to be measured is large or small, the largest convenient.
- (3) The starting point and every bearing and measurement taken shall be recorded in a field-book as the measurement proceeds. The field-book shall be submitted with the map prepared therefrom, and in it any prominent landmarks adjacent to or on the line of measurement shall be noticed.
- (4) All water, running or standing, shall be indicated in blue; land or building in dispute shall be shaded red; and all writing on the map shall be so made as to be read when the map is held with the north side uppermost.

534. Procedure for police help to Amin.

When an Amin has to make an attachment under an order of the Court (Rule 529), and he apprehends that resistance will be offered by the judgment-debtor or any other person he may apply for requisite police help if and when necessary, subject to the conditions following:

- (i) Application for such assistance should be made through the Presiding Officer of the Court who should not forward the application unless he is satisfied that the attachment cannot be effected without police assistance.
- (ii) The Superintendent of Police will be entitled to refuse assistance but he should not ordinarily refuse it unless he has not the necessary force available. When he refuses assistance, he will inform the Presiding Officer of the Court of the reasons for his refusal.
- (iii) If in any particular case, for reasons of urgency, it is not possible to resort to this procedure, the Amin may apply direct to the Officer-in-charge of the police station concerned who

may refuse to give assistance but should inform the Superintendent of Police, immediately of his reasons for such refusal.

535. Statement of work done by Amin.

At the end of each month the Amin shall submit to the Officer-in-charge of his work a statement beat-wise of the work done by him in the month in the following form, namely-

No. of processes pending from last month	Number of processes received in the month	Total Number	Number of processes executed within the 1 st date fixed	Number of processes in which extension was claimed	Number of processes which were executed and returned after the date fixed without obtaining extension	Number of processes returned unexecuted	Explanation of each processes of column 5,6 and 7	Remarks
1	2	3	4	5	6	7	8	9

A certificate will be attached by the Amin at the foot in the following form:-

“The Amin visited each beat on the prescribed date. No departure from the rules was made”.

536. Scrutiny of the Amin’s statement of work.

The Officer-in-charge shall, with the help of a map of the beats, examine the above statement and satisfy himself that there has been no avoidable delay in executing a process, and that the Amin in his tour has taken the shortest route.

The Officer-in-charge shall submit the above statement with his remarks to the District Judge by the 10th of the next month.

CHAPTER XXII

DUTIES OF A MUNSARIM

537. Munsarim to be the Chief Ministerial Officer.

In every Civil Court, the Chief Ministerial Officer shall be the Munsarim.

538. Date of presentation to be noted on papers.

A Munsarim appointed to receive complaints or other papers under the Code shall see that the actual date of presentation is entered upon the complaint, memorandum of appeal, cross-objection or any other paper filed and also upon the labels on such papers.

539. Duties of Munsarim.

Munsarim shall perform the following duties:-

- (1) assigned by the Code to the Chief Ministerial Officer of a Court;
- (2) for the performance of which he is appointed by the Court under the provisions of the Code, or otherwise;
- (3) assigned to him in the General Rules (Civil);
- (4) if the Court appoints him in this behalf, to sign routine orders, summonses, and notices which the presiding Judge is not himself required to sign under any law or order in force;
- (5) to see that such accounts and statements as are by any law or order required to be exhibited and filed are exhibited and filed in due time and form, and to take the orders of the Court thereon;
- (6) to keep up such books and registers and to perform such duties as he is expressly required to do by any rule, General Letter, or Circular Letter of the High Court;
- (7) to arrange for the preparation and due submission of periodical returns and statements; to draft letters; and to carry out orders contained in precepts of the High Court as to issue of notices and transmission of records;
- (8) under the orders of the Court, to assign to his subordinates the duties to be performed by each;

- (9) generally to supervise the working of the office in all departments;
- (10) to maintain a register of attendance of all the ministerial officials under his control;
- (11) to inspect the work of each clerk attached to his office once every six months; and
- (12) to see that decrees are properly drawn up and the names and descriptions of parties including their registered addresses, if any, are clearly and legibly entered therein.

540. Exceptions of duties to be delegated.

No duty the performance of which is specifically imposed by any law or rule upon the Court itself, shall be delegated to the Munsarim or any other officer.

CHAPTER XXIII

SECURITY BY CIVIL COURT OFFICIALS

541. Security to be taken from certain officials.

Every Central Nazir, Nazir, Civil Court Amin, Process-server, Amin's Peon, Clerk of a Court of Small Causes, Sessions Clerk or other ministerial official employed in a Civil Court, who by reason of his office is entrusted with the receipt, custody or control of moneys, securities for money or other property, shall give security in such an amount for the due discharge of the trusts of his office and for the due account of all moneys, securities for money or other property which shall come into his possession by reason of his office as shall be equal to the maximum amount which he ordinarily has in his hands at any one time. The District Judge, subject to the control of the High Court, shall use his discretion in calculating this amount and shall be responsible for seeing that the sum left in the hands of any of his subordinates is not more than the amount of the security taken from such subordinate.

Security shall in no case be dispensed with except where exemption may be made under special or general orders of Government. Exemption cannot be sought on the ground that a person is an apprentice, outsider or other temporary incumbent, and he shall be required to furnish security or execute a personal bond as may be necessary under the rules.

The minimum amounts of security required for the posts of Central Nazir, Deputy Nazir, Assistant Nazir, Amins of Grade I and II and Process Servers, and Amins' Peons for big and small judgeships are given below. This, however, does not in any way fetter the discretion of the District Judge to fix a larger amount of security in any case where circumstances justify it.

Post	Bigger Judgeships	Smaller Judgeships
Central Nazir	Rs.2,000/- in cash or Rs..4,000/- in immoveable property.	Rs. 1,000/- in cash or Rs. 2,000/- in immoveable property.
Deputy Nazir & Assistant Nazir.	Rs.500/- in cash or Rs. 1,000/- in immoveable property.	Rs.250/- in cash or Rs..500/- in immoveable property.
Amin 1 st	Rs.1000/-in cash or	Rs.750/- in cash or

Grade	Rs..2,000/- in immoveable property	Rs.1,500/- in immoveable property
Amin Grade 2 nd	Rs.750/- in cash or Rs.1,500/- in immoveable property.	Rs.500/- in cash or Rs.1,000/- in immoveable property
Sessions Clerk	Rs.250/- in cash or Rs.500/- in immoveable property	Rs. 250/- in cash or Rs. 500/- in immoveable property
Process Server or Amin's Peon.	Rs.50/- in cash.	Rs.50/- in cash

- (2) A Session's Clerk who fails to furnish security as required by the preceding sub-rule shall not be allowed to hold that post and also other posts of equivalent status.

Explanation- Posts of Suits Clerk; Execution Clerk; Appeals Clerk and Readers of the Courts of Judge Small Causes, Civil Judge and Musnif shall for purposes of this rule, be deemed to be in status equivalent to that Sessions Clerk.

542. Nature of security.

In obtaining securities District Judge shall be governed by the rules in paragraphs 69 to 73 of the Financial Handbook, Volume V, Part I. Without prejudice to the provisions of those rules, the rules hereinafter appearing in this Chapter are made for the guidance of District Judges.

Attention must also be paid to secure that the proper forms of securities or bonds are used.

Fixed deposit receipts of banks accepted as security must be issued in the name of the U. P. Government. In such case a clause must also be inserted in the depositor's security bond to the effect that Government will hold the fixed deposit receipt at the depositor's risk and will not be liable to the depositor in the event of loss of the security, due to failure of the bank or any other cause; and that if the security is lost, the loss will fall on the depositor who must furnish fresh security forthwith.

543. Officiating incumbents of above posts.

A leave vacancy of any official mentioned in rule 541 shall be filled up by an official who has already furnished security in his former office or from a reserve of men who have furnished securities for these appointments. The District Judge shall arrange to maintain a list of such officials and their securities must be scrutinized annually.

544. Verification of security.

The value and adequacy of a security shall be verified as soon as it is furnished. If the verification is likely to take time and the appointment or promotion cannot be delayed, a personal bond with sureties, shall be obtained, but the same shall be discharged when the original security has been finally verified.

545. Custody of security bonds.

All security bonds and all securities other than Government promissory notes given by officials shall be placed under double locks in the treasury strong-room at the headquarters of the District Judge. Government promissory notes shall be dealt with under Chapter VIII of the Government Securities Manual. "Cash or interest-bearing securities" or fixed deposit receipts of banks lodged as security may be returned after six months on vacation of office; bonds shall be retained permanently or until it is certain that there is no necessity for keeping them any longer. In order to obviate the loss of interest to the depositor the authority accepting the fixed deposit receipts of banks as security should call for the receipt annually and get it renewed.

546. Register of securities.

District Judges shall keep up a register of securities in Form No.2-F, prescribed under para.71-B of F.H.B., Vol. V – Part I, which shall be kept with the bonds in the treasury of the headquarters of the District Judge and shall note in general terms without details in their annual report on the administration of Civil Justice that this has been done. District Judges will be held personally responsible if loss is suffered in consequence of the neglect of these orders. Columns 4 and 7 should contain full particulars as to the pecuniary responsibility of the public accountant and his sureties and the nature and value of the security offered.

Form 2 – F. Register of securities taken from public accountants:-

District	Office held by public accountant	Name of public accountant & pay of office	Maximum amount ordinarily in his hands at any one time	Amount of security demanded	Date of security bond	Character of security with opinion of District Judge
1	2	3	4	5	6	7

547. Retention of Security.

In order to provide against cases in which discovery may be made, after the official has vacated his office, of defalcations made prior to such vacation of office, the security deposited by him shall be retained by the District Judge for 6 months after the official has vacated his office.

548. Annual inquiry into sufficiency of security.

Deleted.

[vide notification no. 88/VIII-b-1, dated 31.5.1961]

CHAPTER XXIV

LEGAL PRACTITIONERS.

Section A

Right to Practice, Admission and Enrolment.

549. Interpretation.

In this Chapter the term ‘District Judge,’ shall in the case of a district where the highest permanent Civil Court is that of an Additional District and Sessions Judge, include such Additional District and Sessions Judge and the term ‘District Court’ shall include the Court over which such Additional District and Sessions Judge presides.

550. Advocate holding vakalatnama.

- (1) Any Advocate on the roll of the High Court who is not under suspension may appear, plead or act in any Court subordinate to the High Court on filing a document prescribed by rule 4(1) of the Order III of the Code (Vakalatnama) and producing before the Presiding Officer of such Court his certificate of enrolment or otherwise satisfying him of the fact of such enrolment.

Brief-holder.

- (2) Any Advocate on the roll of the High Court who is not under suspension may appear and plead for any other Advocate on the roll of the High Court who is not under suspension, in any suit, appeal or proceeding in which such other Advocate is duly engaged, in any Court, subordinate to the High Court, but may not act for him without filing a vakalatnama.

551. Pleaders.

Person entitled to be admitted as pleader in courts subordinate to High Court are those who are eligible –

- (a) under Circular Order (Civil), No. 7 of 1882;
- (b) under the Rules of March 13, 1895; or
- (c) under the Rules contained in this Chapter.

552. Pleader of the first grade.

Subject to these rules a pleader holding a certificate written upon a stamp paper of the value of twenty-five rupees shall be competent to appear, plead and act in any subordinate court civil or criminal and in any revenue office as defined in Section 3 of the Legal Practitioner's Act, 1879.

553. Pleader of the second grade.

Subject to these rules a pleader holding a certificate written upon a stamp paper of the value of fifteen rupees shall be competent to appear, plead and act in any criminal subordinate court and in any Court of Small Causes, Civil Judge or Munsif and in any revenue office.

554. Pleader of the third grade,

Subject to these rules a pleader holding a certificate written on a stamp paper of the value of five rupees shall be competent to appear, plead and act in the court of a Munsif or a Collector or in revenue office subordinate to a Collector in any subordinate criminal court except the court of Session and the court of a Magistrate when such Magistrate is exercising appellate jurisdiction.

555. Mukhtar of the first grade.

A Mukhtar holding a certificate written on a stamp paper to the value of fifteen rupees shall be competent to appear, plead and act in any subordinate criminal court or revenue office and to practice as a Mukhtar in any subordinate civil court.

556. Mukhtar of the second grade.

A Mukhtar holding a certificate written on the stamp paper of the value of ten rupees shall be competent to appear, plead and act in any subordinate criminal or revenue office and to practice as a Mukhtar in the court of a Civil Judge or Munsif or in a court of Small Causes.

557. Mukhtar of the third grade

A Mukhtar holding a certificate written on the stamp paper of the value of five rupees shall be competent to appear, plead and act in any subordinate criminal court except the Court of Session and the court of a Magistrate when such Magistrate is exercising appellate jurisdiction or revenue office and to practice as a Mukhtar in the court of any Munsif.

558. Right of a Mukhtar entitled to practise as a mukhtar

A Mukhtar entitled by his certificate to practice as a Mukhtar in any subordinate civil court being duly appointed by a vakalatnama may not plead before such court. He may, however, address it for the purpose of stating the nature and effect of any application but may not offer any legal argument. He may not examine or cross-examine any witness without the special leave of the court. He may perform the following acts, namely-

- (1) present plaint, memorandum of appear or petition;
- (2) file written statement;
- (3) file objection;
- (4) receive service of process;
- (5) apply for summonses to persons whose attendance may be required either to give evidence or to produce document;
- (6) pay into court process-fee, money or security for money;
- (7) given notice requiring admission of genuineness of a document;
- (8) inspect record;
- (9) apply for the summoning of the record of a case;
- (10) instruct an Advocate, Vakil or pleader;
- (11) be present at the execution of a commission;
- (12) apply for and receive a copy;
- (13) bid for purchase for his principal any property which such principal may himself legally bid for a purchase;
- (14) receive delivery of possession of immovable property, decreed or sold;
- (15) receive back documents produced in evidence; or
- (16) receive funds or repayment of court-fees moneys or securities for money;

Provided that a Mukhtar who also holds a certificate as a revenue agent under section 18 of the Legal Practitioner's Act, 1879, may on being duly appointed by a Vakalatnama, appear, plead and act in any such court (*added by Notification No. 24/VIII-b-180 and I, U.P. Gazette, Part II, dt. October 2, 1961*) [in any reference, appeal another proceeding which on the day immediately preceding the day of the coming into force of the U.P. Nagar Mahapalika Adhiniyam, 1959, was cognizable by the Commissioner or the District Magistrate, or] in any suit, appeal, application or proceeding or the

class or substantially of the class of suits, appeals, applications or proceedings which prior to the passing of the U.P. Zamindari Abolition and Land Reforms Act, 1951, were cognizable by revenue court. Where a question arises as to the right of any Mukhtar to appear, plead and act in any case under this proviso the decision of the court in which such case is proceeding shall be final for the purposes of that case.

559. No right to practise without enrolment.

A pleader or Mukhtar is entitled to practice only after enrolment and then only in a court or revenue office within the territorial limits of the jurisdiction of the District Judge of the district in which he is enrolled or in a court or revenue office without such limits if the case is one in which the cause of action arose within such limits.

560. Admission as pleader.

Any of the following persons may be admitted as a pleader if he satisfies the High Court that he possesses an adequate knowledge of the Hindi language and can read and write it with ease and correctness and can also read and write the Urdu language in the Persian character; that unless he has passed an examination in the law relating to Land Tensures, Rent and Revenue in the State of Uttar Pradesh from a University recognized by Law, he possesses an adequate knowledge of that subject; and that he is a fit and proper person to be admitted as proper:-

- (a) A person who has obtained a degree in Law from any University established by law in the State of Uttar Pradesh.
- (b) A person who has obtained a degree in Law from any University recognized by law in India outside the State of Uttar Pradesh, provided that, unless specially exempted by the High Court, the High Court of the State in which such University is situate admits as pleader law graduates of the Universities situated in the State of Uttar Pradesh on a reciprocal basis.
- (c) A person who took a degree in Law from the University of Dacca or Lahore before the 15th day of August, 1947, and has permanently settled in India.
- (d) Subject to such conditions as the High Court may impose, a person who was, or is, entitled to practice as a pleader, Vakil or Advocate in an area which has been, or thereafter may be merged with the State of Uttar Pradesh. [*inserted by Notification No. 126/VIII-b-48 and I, U.P. Gazette, Part II, dt. October 3, 1959*]

561. Admission of pleader of another High Court.

An Advocate or pleader of any other High Court in India as it was before the 15th day of August, 1947 may be admitted as a pleader provided that:

- (a) he is by his character and conduct a fit proper person to be enrolled as pleader;
- (b) he possesses an adequate knowledge of the Hindi language and can read and write it with ease, and correctness in the Devanagri character;
- (c) the High Court in which the applicant was enrolled as an advocate or pleader has a reciprocal agreement in this regard with the High Court at Allahabad; and
- (d) he submits from Registrar of the High Court in which he was previously enrolled to the effect that he has been permitted to suspend his practice in that court or courts subordinate thereto:

Provided that the condition as to reciprocal arrangement provided in clause (c) of the certificate referred to in clause (d) shall not be necessary in the case of an advocate or pleader who was practicing before the 15th day of August, 1947, in the area now included in Pakistan.

562. Applications for admission.

An application for admission as a pleader or Mukhtar shall, as nearly as may be, be in the form given in Appendix 19 bear a proper court-fee stamp. It shall be accompanied by a stamp paper of the requisite value. The applicant shall also furnish the necessary certificates along with his application.

The application shall be presented to the district Judge of the district in which the applicant desires to practice. If the District Judge finds that the application is in order and is satisfied as to the correctness of the particulars mentioned therein shall forward it to the High Court.

563. Certificate under section 7 of Legal Practitioner's Act, 1879.

If the application is granted by the High Court a certificate shall be issued to the applicant under Section 7 of the Legal Practitioners' Act, 1879, under the signature of the Registrar in the prescribed form. Such certificate shall be written on the stamp paper of the appropriate value.

564. Application for enrolment.

On a certificate being granted under Section 7 of the Legal Practitioners' Act, 1879, the pleader or the Mukhtar, as the case for enrolment

accompanied by such certificate in person to the District Judge of the district in which the applicant desires to practice.

(2) If the certificate be in order and the District Judge is satisfied that the applicant is not suffering from leprosy or other dangerous malady and is otherwise a fit and proper person to be enrolled, he shall cause his name to be entered in a register to be kept in the form given below and shall cause to be entered on such certificate a memorandum certifying that the applicant has been so enrolled.

If the District Judge considers that the applicant is not a fit and proper person to be enrolled as a pleader or Mukhtar he shall make a report to the High Court.

FORM OF REGISTER

Name	Father's name	Pleader or Mukhtar	Value of Stamp on certificate	Date of enrolment	Remarks
1	2	3	4	5	6

565. Enrolment in more than one district.

Where a pleader or Mukhtar wishes to practice in more than one district every application for enrolment other than the first shall be forwarded to the High Court by the District Judge concerned with a report indicating whether in his opinion he is a fit and proper person for such further enrolment.

566. Legal training.

No person other than a person to whom rule 562, 574, 575 or 576 applies shall unless specially exempted by the High Court be enrolled as a pleader unless he has furnished to the High Court a certificate in writing by an advocate of not less than twelve years' standing or by a pleader of not less than fifteen years' standing [including a pleader subsequently enrolled as an advocate who has practiced for not less than fifteen years (*Inserted by Notification No. 216/VIII-b, published in U.P. Gazette II, dated September 9, 1961*)] that he has read with such advocate or pleader and worked in his chambers for a period of not less than six months, that he has during that period regularly attended court with him and that he has worked regularly and with diligence.

567. Submission of certificate of training to the High Court.

(1) The certificate of training referred to in the next preceding rule shall be submitted to the High Court through the District Judge who shall

endorse thereon a certificate to the effect that he has satisfied himself that the applicant has undergone the requisite training in accordance with the rules. Where the highest judicial officer in the station where the applicant is undergoing such training is a Civil Judge or Munsif, such certificate may be endorsed by such officer and countersigned by the District Judge concerned.

(2) Where the District Judge is not satisfied with the training undergone by the trainee he may call for an explanation from the senior advocate or pleader with whom he was under training concerning any matter upon which he may not be so satisfied.

The District Judge shall forward the certificate and such explanation alongwith his opinion thereon, if any, to the High Court.

If the certificate is approved by the High Court such approval shall be communicated to the District Judge who may then enroll such person as a pleader.

568. Choice of senior and his fee.

The pupil may engage himself for training with a senior advocate or pleader of his own choice provided that no senior advocate or pleader shall, save for exceptional reasons and with the approval of the High Court or the District Judge, have more than four pupils under training with him at any time. No senior advocate or pleader shall demand from such pupil a large fee than three hundred rupees for such training.

569. Right of trainee.

While under training with a senior advocate or pleader, a pupil may, after his admission as a pleader, hold the brief of his senior with his permission and appear and plead but not act for him in any case.

570. Change of district of enrolment.

Any pleader or Mukhtar desiring to be enrolled in any district other than one in which he was last enrolled or re-enrolled shall submit along with his application his last certificate of practice together with a certificate of practice together with a certificate from the District Judge of the district in which he last practiced that he is a fit and proper person to be enrolled and that nothing is known against him such as may debar him from being enrolled as a pleader or Mukhtar. If sufficient cause is shown why the applicant is unable to furnish his last certificate of practice or the aforesaid certificate from the District Judge in which he last practiced the District Judge may accept any other evidence of the district in proof of his having been previously enrolled in such district and of his being a fit and proper person to be enrolled as a

pleader or Mukhtar. If the application is in order and District Judge is satisfied that the applicant is not suffering from leprosy or other dangerous malady and is otherwise a fit and proper person to be enrolled, he may enroll him.

Upon every enrolment under this rule the District Judge shall notify the fact of such enrolment to the High Court.

571. Re-enrolment after discontinuing practice.

Any pleader or Mukhtar desiring to be enrolled in the same district after an interval during which his name was not on the roll shall submit along with his application his last certificate of practice and furnish to the District Judge satisfactory proof of his being fit and proper person to be enrolled. If sufficient cause is shown why the applicant is unable to furnish his certificate of practice the District Judge may satisfy himself in any other way as to his having been previously enrolled as pleader or Mukhtar. If the application is in order and the District Judge is satisfied that the applicant is not suffering from leprosy or other dangerous malady and is otherwise a fit and proper person to be re-enrolled he may re-enroll him.

Upon every re-enrolment under this rule the District Judge shall notify the fact of such re-enrolment to the High Court.

572. Right of certain persons to practice as Mukhtar in the Kumaun Division.

The following persons are declared as Mukhtars of the first grade and shall on the renewal of their certificates on payment of the requisite fee be competent to appear, plead and act in any subordinate criminal court or in any civil court presided over by a Munsif, sub-divisional office or tahsildar in the Kumaun division, namely:-

- | | | |
|----|--------------------------|--------------------|
| 1. | Sri Harak Singh | Naini Tal District |
| 2. | Sri Mathura Dutt | Ditto |
| 3. | Sri Jitendra Nath Saxena | Ditto |
| 4. | Sri Shibdatta Pande | Almora District |
| 5. | Sri Mathura Datt Pant | Ditto |
| 6. | Sri Kirti Ballabh Joshi | Ditto |

573. Right of certain persons belonging to the former States of Samthar and Charkhari to be enrolled as pleader.

The following legal practitioners of the former State of Samthar and Charkhari shall be entitled to be admitted as a pleader of the third grade and enrolled as such in the districts in which the said States or certain areas

therefrom have been absorbed under Notification No. 163/7/III-604-50, dated January 25, 1950 of the Ministry of Law, namely:-

Samthar State –

- (1) Sri Gopal Singh
- (2) Sri Baboo Prasad
- (3) Sri Raghuraj Singh
- (4) Sri Madan Mohan Lal; and
- (5) Sri Kunj Behari Lal.

Charkhari State –

- (1) Sri Viswanath Prasad
- (2) Sri Lakshmi Prasad Verma; and
- (3) Sri Kamta Prasad Verma.

574. Right of certain persons to be enrolled as Mukhtar in Rampur Judgeship.

Where a person was enrolled as an advocate or vakil of the first or second grade by the late High Court of Rampur State on the date of merger with the State of Uttar Pradesh he shall be entitled to be admitted as a pleader or Mukhtar in accordance with the following rules:

- (a) If he has passed the law examination held by the High Court of Rampur or Hyderabad or possesses the LL.B. degree of any University established by law in India as constituted on before or after the 15th day of August, 1947 he may on application and on payment of the requisite fee be admitted as a pleader entitled to be enrolled in Rampur district only.
- (b) If he has not passed any of the examinations mentioned in clauses (a) above he may on application and on payment of the requisite fee be admitted as a pleader of the second or third grade or as a Mukhtar entitled to be enrolled in Rampur Judgeship only.

575. Rights of certain persons to be enrolled as pleader or Mukhtar in Tehri district.

Where a person was enrolled as a legal practitioner in the State of Tehri-Garhwal on the date of its merger with the State of Uttar Pradesh he shall be entitled to be admitted as a pleader or Mukhtar in accordance with the following rules:

- (a) If he was enrolled as an advocate by the late Hazoor Court of the said State he may on application and on payment of the requisite fee be admitted as a pleader entitled to be enrolled in Tehri District with the right to practice in any court in Kumaun Judgeship in respect of cases relating to Tehri District.
- (b) If he was enrolled as Mukhtar in the said State he may on application and on payment of the requisite fee be admitted as a Mukhtar entitled to be enrolled in Tehri district with the right to practice in any court in Kumaun Judgeship in respect of cases relating to Tehri District. He shall notwithstanding anything contained in rule 559 be entitled to appear, plead and act in any civil court other than that of the District Judge in which he has a right to practice as a Mukhtar.

576. Pleader or Mukhtar not to take up appointment or engage in trade or business.

While carrying on legal practice no pleader or Mukhtar shall ordinarily be permitted to take up appointment or to engage actively in any trade or business.

- (2) Where an applicant for admission as a pleader or Mukhtar holds any appointment or is engaged in any trade or business the High Court may refuse to admit him or may pass such order as it may deem proper.
- (3) Where any person having been enrolled as a pleader or Mukhtars accept any appointment or engages himself in any trade or business he shall give notice thereof through the District Judge concerned to the High Court which may there upon withdraw his certificate of practice or pass such order it may deem fit.

Section B

Renewal

577. Application for renewal of certificate of practice.

Every certificate of practice granted under this chapter shall be renewable at the end of the calendar year and an application for such renewal shall be made on or before the 15th day of December and shall bear the requisite court-fee stamp. The application shall be addressed to the District Judge of the district in which the applicant is enrolled. The application shall

be accompanied by the expiring certificate and stamp paper of the requisite value for the renewed certificate and shall be presented by the applicant in person or by a legal practitioner practicing in the District court duly authorized by him in this behalf. Where the applicant practices at a station outside the headquarters of the District Judge the application may be presented to the presiding officer of the highest civil court at the station and such presiding officer shall forward it to the District Judge for orders.

578. Order on application for renewal.

Unless it appears to the District Judge that the applicant is unfit by reason of leprosy or other dangerous malady, or is otherwise not a fit and proper person whose certificate should be renewed, a renewal certificate shall be prepared. It shall be signed by the District Judge and delivered to the applicant or the legal practitioner who may have presented the application on his behalf under the next preceding rule. The memorandum of enrolment recorded on the expiring certificate shall be endorsed on the renewed certificate and duly authenticated by the District Judge. The District Judge shall not renew the certificate unless he is satisfied that the applicant was at the time of the application ordinarily practicing in any civil, criminal or revenue court within the local limits of his jurisdiction.

If for any reason it appears to the District Judge that the applicant is not a fit and proper person whose certificate should be renewed he shall report the matter to the High Court for order.

579. High Court's power of renewal when application made after 15th December.

If an application for the renewal of a certificate is made after the 15th day of December District Judge shall forward it to the High Court and the certificate shall not be renewed except under the special order of that court.

580. Forms of original and renewed certificates.

Certificates of practice and the renewed certificate shall be in the forms given in Appendixes 20 and written on stamp paper of the appropriate value.

581. Returns.

Every District Judge shall submit to the High Court in the month of January each year a return in the form given below of the certificates renewed by him for that year.

FORM

No. in the High Court register and year of admission	Name and academic qualifications	Father's name	Place where practising	Value of stamp on certificate	Date of last renewal	Remarks
1	2	3	4	5	6	7

Where a pleader or Mukhtar obtains a renewal of his certificate in a district other than the one in which he was originally enrolled the name of the district in which he was originally enrolled shall be indicated in the column of remarks. The name shall be arranged in the order in which they stand in High Court register.

The District Judge shall at the time submit to the High Court a list of such pleaders and Mukhtars as have not applied for the renewal of their certificate or to whom renewal has been refused. Copies of such return and list shall also be forwarded to the District Magistrate concerned.

A copy of the list containing the names of all pleaders and Mukhtars whose certificates have not been renewed shall also be affixed to the court house of the District Judge bearing an intimation that such persons are liable to the penalties provided under Section 32 of the Legal Practitioner Act, 1879, if found practicing without having renewed their certificates.

Section C

Fees of Legal Practitioners.

582. Taxation in decree of Legal Practitioner's fees and the certificate for such fees.

- (1) In drawing up a decree or order no fee to any legal practitioner not appearing for the Government or a Local Authority or any statutory body or any Government Company¹⁰⁶ as a party shall be allowed on taxation between party and party or shall be included in any decree or order, except in the case of an order under rule 79 of Chapter III, unless the Munsarim or, on application to the Judge, the Judge is satisfied that the fee was

¹⁰⁶ Added by notification no. 303/VIIIb-186 Admn.G dated November, 30, 1992, (Correction Slip no. 113) published in U.P. Gazette II on 23.1.1993

paid to such legal practitioner before the commencement of the argument, at the conclusion of the evidence, if any, in the suit, appeal or case followed by the delivery of the judgment or by the making of the order by which costs become payable and unless at or before such time there shall have to be delivered to the Munsarim a certificate signed by the legal practitioner certifying the amount of fee or fees actually paid to him for his own exclusive use and benefit by or on behalf of his client.

Provided that in any case the Presiding Officer may, for valid reasons to be recorded by him, accept a certificate for fees filed after the time mentioned above.

- (2) The certificate abovementioned shall be, so far as is possible, in the following form-

In the Court of theofBetween.....and

For the purpose of having my fee allowed on taxation as against, I hereby certify that in the above case the following fees were paid to me on the dates and by the person or persons specified below, and that such fees were paid to me before the commencement of the argument at the conclusion of the evidence, if any, in the suit or application; and that the entire amount so paid was actually paid to me for my own exclusive use and benefit, and that no portion thereof has been or has been agreed to be returned or remitted or appropriated to the use of any other person by me or by any one acting on my behalf:-

Matter	Fee	Date of payment	By whom paid	Address of persons who actually made such payment

Signature.....
 Date of signature.....
 Address of legal practitioner.....
 Filed on the day ofby ... of ...

- (3) Nothing in this rule shall be deemed to authorize the allowance between party and party of any fees in excess of those allowed by rule.

583. Conditions governing taxation of lawyer's fee.

Rules 585 to 600 inclusive shall, subject to rule 582, regulate the amount of legal practitioners' fees to be taxed as costs under a decree or order of a Court in favour of any party to a suit, appeal, or other proceeding. These rules shall also regulate the amount of fees to be taxed in favour of or against the Government where costs are awarded by the Court in cases, under the Court-fees Act, 1870, and the Stamp Act, 1899, as in force in the Uttar Pradesh, in which the Government is not a party.

The party entitled under a decree or an order to be paid costs in a suit or an appeal or a proceeding, by another party shall not be entitled to any larger allowance for legal practitioners' fee in the suit, including all proceedings in the execution of the decree or order than the fee hereinafter provided for in rules 585 to 600 inclusive, which may be applicable to the case.

Provided always that no fee shall be allowed on taxation or included in any decree or order the payment of which has not previously been certified in accordance with rule 582.

Provided also that the fee received by a legal practitioner from a joint Hindu family, of which he is a member for appearance in a case shall not be certified by him, nor shall it be taxed as costs in the decree.

Provided further that this rule shall not apply to an order made under Chapter III, rule 79.

For the purpose of this rule "Legal Practitioner" includes an Advocate, Attorney, Pleader and a Mukhtar entitled to appear, plead and act in a Civil Court under the proviso to rule 558.

Illustration.

A plaintiff who has obtained a decree in a contested suit in which the claim is Rs.5,000 and who has obtained a decree or an order for costs and has filed the requisite certificates, shall not be entitled to a larger allowance on taxation in respect of legal practitioner's fees in the suit and in all proceedings therein, including the execution of the original decree, than Rs.500^Ω

Should there be contested appeal from the original decree in such suit, and the value of the appeal be Rs.5,000 the litigant in such appeal who has obtained a decree or an order for costs and has filed the requisite certificates

^Ω Substituted by Notification No. 70/VIII-b-188, dated January 31, 1989,(Correction Slip No. 108) published in U.P. Gazette on 26.8.1989

shall not be entitled to a larger allowance on taxation in respect of legal practitioner's fees in the appeal and in all proceedings therein, including proceedings in the execution of the appellate decree than Rs.500^Ω.

584. Right to hand over briefs.

A legal practitioner when unable personally to attend to a case in which he is briefed, may hand over the brief to another legal practitioner without the latter filing a vakalatnama and the fees to whomsoever paid, shall, if duly certified, be taxable as costs.

585^Ω. Fees allowable on taxation in suits and appeals from decrees.

In all suits or appeals from decrees, heard and decided on contest, the fee allowable on taxation shall be as follows:

- (i) if the valuation does not exceed Rs. 50; Rs. 10;
- (ii) if the valuation exceeds Rs. 50, but does not exceed Rs. 150; Rs. 20;
- (iii) if the valuation exceeds Rs. 150, but does not exceed Rs. 250; Rs. 30;
- (iv) if the valuation exceeds Rs. 250, but does not exceed Rs. 350; Rs. 40;
- (v) if the valuation exceeds Rs. 350, but does not exceed Rs. 500; Rs. 50;
- (vi) if the valuation exceeds Rs. 500, but does not exceed Rs. 750; Rs. 70;
- (vii) if the valuation exceeds Rs. 750, but does not exceed Rs. 1,000;Rs. 100.
- (viii) if the valuation exceeds Rs. 1,000, but does not exceed Rs. 5,000;Rs. 100 plus 10 % of the valuation above Rs. 1,000;
- (ix) if the valuation exceeds Rs. 5,000, but does not exceed Rs. 20,000; Rs. 500 plus 5 % of the valuation above Rs. 5,000;
- (x) if the valuation exceeds Rs. 20,000, but does not exceed Rs. 50,000; Rs. 1,250 plus 2.5 % of the valuation above Rs. 20,000;
- (xi) if the valuation exceeds Rs. 50,000 but does not exceed Rs. 1,00,000; Rs. 2,000 plus 1 % of the valuation above Rs. 50,000;
- (xii) if the valuation exceeds Rs. 1,00,000; Rs. 2,500 plus 0.5 % of the valuation above Rs. 1,00,000.

Note. I—In calculating the fees allowable on taxation on percentage basis on valuation above Rs. 1,000 amounts upto Rs. 5 shall be ignored and amounts above Rs. 5 but below Rs. 15 shall be taken as Rs. 10 so that the fees allowable on taxation shall in all cases be calculated in multiples of Rs. 10.

Note. II—References under the Land Acquisition Act, 1894, or any other law relating to acquisition of property for determination of the compensation payable, and contested matters for the grant of probate and/or letters of administration under the Indian Succession Act, 1925 *and contested motor accident compensation claims* under the Motor Vehicles Act, 1939," shall be regarded to be suits and appeals therefrom as appeals from decree and the fees allowable on taxation therein shall be those prescribed by this rule.

Note. III—The valuation for the purpose of calculating the fees allowable on taxation shall be the valuation for the purpose of jurisdiction, but in case Court fee is payable *ad valorem* on the market value of the property, which is the subject-matter of/or involved in the suit or the appeal the valuation shall be that on which Court fee has been paid *ad valorem* provided that suits or appeals in matrimonial matters, that is, for decrees of restitution of conjugal rights, judicial separation, divorce or nullity of marriage, shall be deemed incapable of valuation, although a valuation for the purpose of jurisdiction has been set forth in the case.

All matters arising under the Arbitration Act, shall be treated as miscellaneous cases and appeals therefrom as miscellaneous appeals and not appeals from decree.

In references under the Land Acquisition Act, 1894 and any other law relating to acquisition of property, the valuation for the purpose of the rule shall be the amount of compensation claimed in addition to that already allowed or in cases of references or appeals by the Government, the amount by which the compensation already allowed is sought to be reduced :

Provided that in such references the Court shall in every case pass an order determining the proper fee (not exceeding the fee allowable on valuation on percentage basis as above) after taking into account the following matters:

- (a) Whether the claim was unduly inflated?
- (b) Whether similar questions arose in several references arising out of a common notification?

Note. IV—In cases of requisition of property the valuation shall be determined on the basis of the annual compensation claimed, less the amount of the annual compensation offered by Government and the fee shall be calculated accordingly as in a suit on an appeal therefrom.

Note. V—In suits and appeals by indigent persons for compensation and in motor accident compensation claims the Court shall pass an order in each case determining the proper fee (not exceeding the fee allowable on valuation on percentage basis as above) after taking into account whether the claim was unduly inflated.

Note. VI—In suit and appeals where the main relief claimed is that of injunction and or declaration the minimum fee shall be Rs. 100.

586^Ω. Fee allowable on taxation in uncontested cases.

In suits or appeals from decrees, when decided ex parte or without contest or dismissed for default or non-prosecution the fees allowable on taxation shall be half of those prescribed by Rule 585.

587^Ω. Fees allowable on taxation in miscellaneous cases and miscellaneous appeals.

In all proceedings or appeals registered as miscellaneous cases and revisions, the fees allowable on taxation shall be half of those prescribed by Rule 585, if the matter is decided on contest, but it shall be one-fourth if it is decided ex parte or without contest or dismissed for default or non-prosecution .

Provided that in all such matters decided ex parte or without contest or dismissed for default or non-prosecution, the Court may, having regard to the stage at which the matter is decided allow on taxation a higher or lower fee than that prescribed by this rule,

Provided further that notwithstanding that they are registered as a miscellaneous case or are treated to be a separate case no fees shall be allowable on taxation on any petition or application.

- (i) for leave to file a suit or appeal, subject, however, to the fees allowable on taxation to the Government pleader under Rule 588 in proceedings for leave to sue or an appeal as an indigent

^Ω Substituted by Notification No. 70/VIII-b-188, dated January 31, 1989, published in U.P. Gazette on 26.8.1989

^Ω Substituted by Notification No. 70/VIII-b-188, dated January 31, 1989, published in U.P. Gazette on 26.8.1989

- person, or for an order that the plaintiff or the appellant is not an indigent person;
- (ii) under or of the nature of section 5 of Limitation Act, 1963;
 - (iii) for an interlocutory order or a stay order or for modification or discharge of an interlocutory order or stay order already granted;
 - (iv) for review of a decree or an order;
 - (v) for setting aside an ex parte decree or order in a suit, appeal or other proceeding or for restoration of a suit, appeal or other proceeding dismissed for default in appearance or for want of prosecution or any such cause;
 - (vi) for substitution of heirs of a deceased party in a suit or appeal or other proceeding or for setting aside an abatement thereof.
 - (vii) for execution of a decree or order subject to the provisions of Rule 589, that is to say if an objection or an application of the nature prescribed by that rule is filed, the fees allowable on taxation shall be those prescribed by Rule 589, otherwise no fees shall be allowable on taxation in proceedings for execution of decrees or orders.

588^Ω. Fees allowable on taxation where application to sue an indigent person is rejected.

In any application for leave to sue or to appeal as an indigent person or for an order that the plaintiff or the appellant is not an indigent person, the Government shall be entitled on taxation to fees for the Government pleader at the rate of 10 per cent of the amount of Court-fees payable, in case the application for leave to sue or appeal as an indigent person is refused, or an order is passed that the plaintiff or the appellant, as the case may be, is not an indigent person, provided that the fees allowable on taxation under this rule shall in no case be less than Rs. 10 or more than Rs. 250.

589^Ω. Fees allowable on taxation in proceedings for execution of decrees and orders or objections therein.

No fees shall be allowable on taxation in proceedings for execution of decrees or orders, unless an objection of the nature of that under section 47, or under Order XXI, Rule 58 of the Code of Civil Procedure, or an application for setting aside a sale under Order XXI, Rule 90 or complaining of resistance or obstruction by any person in obtaining possession of property under Order XXI, Rule 97 of the Code of Civil Procedure, is made, or any appeal or revision preferred from orders on any such objection or application, and in all

such objections, applications and appeals from orders thereon, the fees allowable on taxation shall be one-fourth of those specified in Rule 585 on the valuation of the property affected by or involved in the objection, application or appeal.

590. More fees taxable in special cases.

In addition to the fee awarded under preceding rules the Court may in any case in which it considers that the employment of more than one legal practitioner was necessary and in which both a senior and a junior practitioner have been employed, award to the junior a fee not exceeding one-third of the amount allowable under the preceding rule.

591^Ω. Determination of the valuation for the purpose of computing the amount of fees allowable on taxation.

Valuation of a suit, proceeding or appeal, in Rules 585, 586, 587 and 589, means the valuation of the suit, proceeding or appeal for the purposes of jurisdiction, provided that in cases where Court-fee is payable advalorem on the market value of the property involved in the suit proceeding or appeal, the valuation for the purposes of the said rules shall be the market value of the property on which Court-fee is payable advalorem.

592^Ω. Rounding of the fees of legal practitioners allowable on taxation.

The fee allowable on taxation shall be calculated in multiple of Rs. 10 and all sums below Rs. 10 shall be ignored.

593. Court's discretion in taxing fees.

Notwithstanding the provisions of rules 585 to 589, a Court may in any case, for special reason to be recorded in the judgment, award a higher or a lower fee than that therein prescribed.

594^Ω. Fees allowable on taxation in cases not admitting of valuation in terms of money.

In all suits, proceedings, appeals and revisions arising therefrom where the subject-matter of the suit, proceeding, appeal or revision, is incapable of valuation, the fees allowable on taxation shall be:

- (i) Rs. 100 in the Court of a Munsif¹⁰⁷;
- (ii) Rs. 200 in the Court of a Civil Judge¹⁰⁸;

^Ω Substituted by Notification No. 70/VIII-b-188, dated January 31, 1989, published in U.P. Gazette on 26.8.1989

¹⁰⁷ The word 'Munsif' shall now be read as 'Civil Judge (Junior Division)' - Ed

¹⁰⁸ The word 'Civil Judge' shall now be read as 'Civil Judge (Senior Division)' - Ed

(iii) Rs. 300 in the Court of a District Judge :

Provided that in case any such matter is decided ex parte or without contest or dismissed for default or non-prosecution or for any such reason, the fees allowable on taxation shall be half of those prescribed for each such Court.

595. Fees in cases of common defence

If several defendants who have a joint or common interest succeed upon a joint defence, or upon separate defences substantially the same, more than one fee shall not be allowed, unless the Court shall otherwise order for a reason which shall be recorded in the judgment. If only one fee be allowed the amount shall direct to which of the defendants it shall be paid, or shall apportion it among the several defendants in such manner as the Court shall think fit.

596. Fees in case of separate defence.

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

597. Costs of stamp on Vakalatnama in above cases.

For each fee allowed under the two last preceding rules the value of the stamp on one vakalatnama only shall be awarded as costs.

598^Ω. Fees allowable on taxation for clerks of legal practitioners and taxation of typing charges and other costs.

- (1) The fees allowable on taxation of clerks of legal practitioners shall be 10 per cent of those allowable on taxation for legal practitioners under the preceding rules, provided that no fees shall be allowable under this rule, except in the case of clerk employed by a Government pleader, unless a certificate in the following form is filed alongwith the certificate filed by the legal practitioner under Rule 582.]

^Ω Substituted by Notification No. 70/VIII-b-188, dated January 31, 1989, published in U.P. Gazette on 26.8.1989

Certificate of fees

In the Court of the..... of.....

Case no.of.....

Between and

For the purpose of having fee allowed on taxation as against.....

I hereby, certify that in the above case the following fees were paid to me on the date and by the person specified below for my own exclusive use and benefit:

Matter	Fees	Date of Payment	By whom paid	Address of person who actually made such payment
1	2	3	4	5

Signature.....

Date of Signature.....

Address of Legal Practitioner's clerk

Signature of legal practitioner with date.....

Filed on the day of.....by.....of.....

- (2) No scribing charges or costs of drawing up summonses and notices shall be taxed in the decree where costs are awarded to a party, but typing expenses at the rate of 50 paise per page or part thereof of all typewritten applications, petitions, pleadings and affidavits made by the party to whom costs are allowed, shall be allowable on taxation of cost in addition to the fees allowable on taxation to the clerks of the legal practitioners.
- (3) In addition to the Court fees and process-fees, diet money of witnesses etc., taxable as costs, the price of the printed and saleable forms and in case type written forms are used in their place on account of nonavailability of the printed forms typewriting charges for the same at the rate of 50 paise per page or part thereof shall also be taxed as costs of the party concerned in all decrees and orders.

599. Pleader's clerk to issue memo of account.

The clerk of a lawyer shall, when required by the client issue to him a memorandum of account showing the details of expenditure of the money of such client, what sums have been paid by the client, what sums have been realized on his behalf and the balance due to him. A clerk who fails to furnish a proper account under this rule shall be liable to removal by order of the District Judge.

600. Mukhtar's fees not to be taxed.

Not printed as no longer required.Ed.

Section E

Disabilities of Lawyers

601. Authority for withdrawing client's money.

Vakils, pleaders and mukhtars shall not receive refunds or repayments of Court fees, moneys or securities for money, except when they be by their *vakalatnamas* or *mukhtarnamas* distinctly authorized to receive the same.

N.B. *District Government Counsels who do not file any vakalatnama may, however, receive refunds or repayments when the application for refund or repayment has been signed by the Collector (or any other officer entrusted with the conduct of a suit under paragraph 175 of the Legal Remembrancer's Manual) and the District Government Counsel.*

602. Conditions on bidding at auction sales.

Except in the case permitted by clause 13 of rule 558, no legal practitioner shall, at a sale in execution of a decree in a suit in which he has been professionally engaged, bid for or purchase, whether in his own or in any other name, for his own benefit or for the benefit of any other person any property sold in execution of such decree.

Section F

Procedure regarding Inquiries against Pleaders and Mukhtars

602A. Preliminary.

These rules are framed under the Legal Practitioners' Act, 1879.

602B. Procedure for inquiries.

In the event of an inquiry being held against any pleader or Mukhtar, the officer conducting the inquiry shall-

- (a) open an index of the case together with an order sheet wherein entries relating to action taken at each stage of the inquiry till its conclusion shall be made;
- (b) summon all such necessary documents and records relating to the case as have not been received; and
- (c) supply a copy of the complaint to the counsel appearing for the person or authority making the complaint (hereinafter referred to as the complainant) and to the pleader or Mukhtar whose conduct is the subject of the complaint (hereinafter referred to as the pleader or the Mukhtar).

602C. Framing of charges and issue of notice.

The Inquiring Officer shall –

- (i) frame a charge against the pleader or the mukhtar;
- (ii) fix the date, hour and place of the inquiry and issue notice for service upon the pleader or the Mukhtar at least fifteen days before the date so fixed;
- (iii) hand over to or cause a copy of the charge to be served upon, the complainant and the pleader or the Mukhtar;
- (iv) require the pleader or the Mukhtar to deliver his written reply to the charge within fourteen days of the receipt of the copy of the complaint or such further time as the Inquiring Officer may grant;
- (v) require the complainant and the pleader or the Mukhtar within a further period of fourteen days or such further time at the Inquiring Officer may grant to apply for the summoning of any evidence they may desire to produce, depositing with the application the necessary expenses, or to bring their evidence before the Inquiring Officer on the date fixed without involving the assistance of the Inquiring Officer.

Provided that where the case has been referred by the District Judge, the District Magistrate or the High Court suo moto or at the instance of any court subordinate to such District Judge, District Magistrate or High Court or where the Inquiring Officer considers, and record in writing, that the complainant is so poor as to be unable to defray the expenses but the

allegation being of serious nature, it would be in the interest or proper administration of justice to enquire into them, the cost of summoning evidence or issuing commission shall be borne by the Government and debited to the head “Allowances to witnesses and Jurors”;

Provided further that if the complainant becomes disinterested in the case or he does not want to proceed further with it, the Court, if they consider it proper in the interest of administration of justice, may treat the case their own and go ahead with it.

602D. Issue of summons.

Summons under these rules shall be prepared, issued and served in accordance with the provisions of the Code of Civil Procedure and those rules. The scale of fee chargeable shall be the same as prescribed under Rule 366 of these rules.

602E. Summoning of records.

If the inquiring Officer needs any record shall be requisitioned. The counsel appearing in the case may on payment of the requisite fee, obtain copies of all document on the record;

Provided that in cases covered by the Proviso to Rule 602-C the counsel appearing for the complaint may obtain copies free of charge.

602F. Power to reject application to summon witnesses, etc.

The Inquiring Officer may in his discretion reject an application for summoning of a witness or document or record or issue of a commission if in his opinion the application is vexatious or has been made with a view to cause delay, or the summoning of such witness, document or record or issue of commission is not necessary for purposes of the inquiry or for any sufficient reason to be recorded on the order sheet.

602G. Commission.

Rule 15 of Order XXVI of the Code of Civil Procedure and Rule 70 Chapter III of these rules shall apply mutatis mutandis to commissions issued under the preceding rule:

Provided that where the case is covered by the proviso to Rule 602-C, the expenses shall be borne by the Government and debited to the head “Allowances to witnesses and Jurors”.

602H. Representation of parties.

(1) In an inquiry covered by the proviso to Rule 602-C the complainant shall be represented before the Inquiring Officer by the District Government Counsel or by any other counsel nominated by the District Judge. In other inquiries i.e., where the Inquiring Officer considers and records in writing, that the complainant is so poor as to be unable to defray the expenses but the allegations being of serious nature, it would be in the interest of proper administration of justice to inquire into them, the District Judge may nominate a legal practitioner to represent the complainant. The pleader or Mukhtar charged may either appear in person or by the legal practitioner:

Provided that if the complainant becomes disinterested in the case or he does not want to proceed further with it, the Court, if they consider it proper in the interest of administration of justice, may treat the case on their own and go ahead with it.

(2) The Counsel so nominated by the District Judge shall get the same remuneration which the special counsel to represent the complainant in an inquiry before the Bar Council Tribunal gets under the provisions of the Manual of Rules and Orders relating to the Department of the Legal Remembrancer to Government.

(3) Counsel appearing on behalf of the complainant or for the pleader or the Mukhtar shall file a properly stamped Vakalatnama if they wish to appear and act, and a memorandum of appearance where they wish only to plead before the Inquiring Officer.

602 I. Absence of parties.

(1) In case in which the complain has been made by a person other than a subordinate court of the District Magistrate, if the complainant or his counsel does not appear the Inquiring Officer shall have discretion either to adjourn the case or to proceed with it.

(2) If neither the pleader nor the Mukhtar nor the counsel representing him appears on the date fixed and the complainant appears, the Inquiring Officer may proceed with the inquiry ex parties:

Provided that the Inquiring Officer, if satisfied that there was sufficient cause for the non-appearance of the pleader or Mukhtar, allow him to take part in the proceedings and may recall witnesses already examined.

(3) If the complainant withdraws or expresses a desire to withdraw his complaint the Inquiring Officer shall adjourn the proceedings and make a

report to that effect to the High Court and the High Court may pass such orders thereon as it deems fit.

(4) If both the parties and their counsel are absent, the Inquiring Officer may adjourn the case and make a report to the High Court and the High Court may pass orders as it deems fit.

602J. Record of evidence.

The evidence of the witnesses examined before the Inquiring Officer shall be recorded in the language of the Court either by the Inquiring Officer himself or to his dictation. The record of the evidence if recorded by the Inquiring Officer himself or the transcript of the short-hand notes, if the evidence is recorded to dictation, shall be read over and explained to the witness and corrected by him if necessary with the permission of the Inquiring Officer: thereafter it shall be signed by the Inquiring Officer..

602K. Commencement of inquiry.

At the commencement of the inquiry the charge shall be read over to the pleader or the Mukhtar. His written reply shall then be read out and he shall be called upon to supplement his written reply and to plead orally to the charge, if he so desires.

The Inquiring Officer at any stage of the inquiry may put such question to the complainant, the pleader or the mukhtar, or any witness as he may deem necessary and proper. It shall be open to the Inquiring Officer at any stage of the inquiry to amend the charge on his own motion or an application by a part or to allow an amendment of the written reply. An amendment of the complaint, unless if be of a formal nature, shall be made only with eh approval of the District Judge.

602L. Prosecution.

If after considering the reply to the charge the Inquiring Officer deem proper to proceed with the inquiry, the case shall be opened on behalf of the complainant and the examination, cross-examination and re-examination of the witnesses produced in support of the charge shall follow.

602M. Defence

The pleader or the Mukhtar shall then be called on his behalf and the examination, cross-examination and re-examination of the witness produced by him shall follow.

The pleader or the Mukhtar may also offer himself for examination on oath and in that case he shall be allowed to be examined, cross-examined and re-examined.

602N. Finding

(1) At the conclusion of the inquiry the Inquiring Officer shall record his finding on each charge giving reasons for the same. The finding shall be signed by the Inquiring Officer;

Provided that the Inquiring Officer may at any stage of the inquiry close the inquiry and record his finding if he is satisfied that no case is made out against the pleader or the Mukhtar or that no case is made out against the pleader or the Mukhtar or that no useful purpose would be served by proceeding with the inquiry any further.

(2) The Inquiring Officer shall forward his finding to the High Court through the District Judge as soon as practicable, but not later than six months from the date of receipt of the reference. If for special reasons he is unable to do so he shall record his reasons and communicate them to the High Court before the expiry of period specified above.

602O. Application of the Code.

In all matters not provided for by these rules the Inquiring Officer shall, so far as may be, follow the procedure prescribed by the Code of Civil Procedure.

CHAPTER XXV

CLERKS OF LEGAL PRACTITIONERS

603. Registration.

No clerk of an advocate, pleader or mukhtar, shall be allowed to do any work in any Court unless his name has been registered in the office of the District Judge under these rules. Not more than three clerks shall be registered at one time for any such advocate, pleader or mukhtar.

604. Qualifications.

No person shall be registered as a legal practitioner's clerk unless he-

- (a) has passed the Vernacular Final, Junior High School Examination or an examination equivalent to the standard of class VIII of a Higher Secondary School in the State;
- (b) has worked for two years in the office of an advocate, pleader or mukhtar under a registered clerk; and
- (c) has obtained-
 - (i) a certificate from the registered clerk under whom he has worked countersigned by the legal practitioner concerned, that he has a working knowledge of the rules and practice of the Courts, can read and write Hindi well and can maintain accounts; and
 - (ii) a certificate of honesty and good character from the legal practitioner in whose office he has worked.

Provided that a person who was registered as a clerk of a legal practitioner before the commencement of these rules and was acting as such on the date of commencement of these rules may, notwithstanding the fact that he does not possess the qualifications mentioned in clauses (a), (b) and (c)(i) above, be registered as such clerk.

605. Disqualifications.

A person suffering from any contagious or infectious disease or who has been convicted of any offence involving moral turpitude or is an undischarged insolvent or has ever been declared a tout shall not be registered as a legal practitioner's clerk.

606. Application for registration.

An application for the registration of a clerk accompanied by necessary certificate shall be made by an advocate, pleader or mukhtar to the District Judge or where there is no District Judge, the seniormost judicial officer in the station by means of a letter in the following form –

“I beg that (name) son of aged resident of may be registered as my clerk.

I have made due enquiries with regard to the character and qualifications of the candidate and certify that in my opinion he is a fit and proper person to be registered as a legal practitioner’s clerk under the rules contained in Chapter XXV of General Rules (Civil), Volume I.

His remuneration while in my service shall not be less than Rs. 25/- per mensem.”

When such application is presented to an officer other than the District Judge it shall be forwarded by him to the District Judge with his recommendation thereon and the District Judge shall pass such orders as he may deem fit.

607. Act which a registered clerk may perform.

A registered clerk shall not make any motion or advance an argument in Court. He may act in matters of a routine nature which do not require the personal attendance of his master and may do the following acts, namely-

- (1) receiving notice on behalf of his master;
- (2) presenting a plaint, appeal or application before the reader of the Court or munsarim;
- (3) taking back plaint, appeal or application found to be defective or returned for presentation to the proper Court;
- (4) presenting application signed by his master for-
 - (a) copy of document,
 - (b) inspection of record,
 - (c) return of document,
 - (d) repayment of deposit, and
 - (e) any other application of a routine nature,
- (5) taking delivery of a copy;

- (6) tendering money and depositing Court fees or process- fees;
- (7) identifying person verifying affidavit or inspecting record;
- (8) taking notes from the memorandum book of dates;
- (9) filing vakalatnama or certificate of fees; and
- (10) signing the order sheet in the absence of his master by way of information.

608. Cancellation of registration.

The District Judge may himself, or on the report of any other Presiding Officer in his Judgeship, cancel the registration of any clerk-

- (a) if he has been convicted of any criminal offence involving moral turpitude or implying a defect of character; or
- (b) if he has been guilty of fraudulent or grossly improper conduct in the discharge of his professional duties; or
- (bb) if he is found offering tips or bribes to Court officials, or
- (c) if he has been declared a tout under the provisions of the Legal Practitioners' Act, 1879; or
- (d) if he has contracted any contagious or infectious disease; or
- (e) if he has not paid the annual registration fee; or
- (f) for any other sufficient cause:

Provided that where the registration has been cancelled under clause (d) or (e) above, the District Judge may register him again on being satisfied that he has been cured of the disease or that the necessary fee has been paid.

The orders passed by the District Judge under these rules shall be final.

609. Fees for registration.

A registration fee of ten rupees¹⁰⁹, payable by January 31 each year, shall be paid for each registered clerk, failing which his name shall be removed from the Register.

Where the name of a clerk has been removed from the register under the preceding paragraph, his name shall not be registered again unless he pays

¹⁰⁹ Substituted by Noti. No. 337/Xb-88, dated 26.7.1996 (Correction Slip No. 117), published in U.P.Gazette II, on 28.9.1996

the registration fee of ten rupees¹¹⁰ along with the arrears and an extra sum of rupees five¹¹¹ per year (or fraction of a year) by way of penalty:

Provided that the District Judge may, if satisfied by affidavit or otherwise excuse the penalty for the period or part of the period during which he ceased to work as a clerk in the Court.

¹¹⁰ Substituted by Noti. No. 337/Xb-88, dated 26.7.1996 (Correction Slip No. 117), published in U.P.Gazette II, on 28.9.1996

¹¹¹ Substituted by Noti. No. 337/Xb-88, dated 26.7.1996 (Correction Slip No. 117), published in U.P.Gazette II, on 28.9.1996

CHAPTER XXVI

INSPECTION OF COURT AND OFFICES

610. Inspection of subordinate Courts by District Judges.

Every District Judge shall inspect his subordinate Courts and offices and also his own office at least once a year.

N.B.¹ *Instructions for such inspections are given in G.L. 355/H of 31.1.1924 for the help of District Judges who may supplement them with other information appearing to them necessary and proper.*

N.B.² *The High Court looks to the District Judges for correct information about subordinate Judicial Officers' ability, control over judicial work, and control over their offices.*

A report of such inspections shall be sent to the High Court.

611. Inspection by judicial officers of their offices.

Every Judicial Officer shall inspect his office effectively in every branch at least four times a year, about once in every quarter.

N.B.: *The High Court desires to impress on Judicial Officers that work in the offices of Courts is as important as judicial work in Court. Unless an officer can keep proper control over one office he can hardly be expected to keep in proper control several offices as a District Judge.*

Report of such inspections shall be sent to the District Judge.

612. Inspection of common offices.

Every Judicial Officer appointed as officer in charge of a department under the District Judge shall make surprise inspection of such department at least once a quarter and shall send the report of such inspection to the District Judge.

613. Munsarim's authority to inspect his office.

Every Munsarim of a Court shall inspect the work of the staff attached to the Court at least once every six months. He shall report the result of his inspection to the Presiding Officer as soon after the inspection as possible.

CHAPTER XXVII

MISCELLANEOUS

614. Dress of Military Officers and Soldiers appearing in Courts.

Courts shall see that the following instructions for the dress of Officers and men of Army, Navy and Air Force appearing before a Civil Court are observed:-

- (1) Any such person required to attend a Court in his official capacity should appear in uniform with sword or side arms. Attendance in an official capacity includes attendance –
 - (a) as witness, when evidence has to be given of matters which come under his cognizance in his official capacity;
 - (b) by an officer for the purpose of watching a case on behalf of a person under his command.
- (2) Any such person required to attend a Court otherwise than in his official capacity may appear either in plain clothes or uniform.
- (3) Any such person shall not wear his sword or side arms if he appears in the character of an accused person, or under military arrest or if the Presiding Officer of the Court thinks it necessary to require the surrender of his arms, in which case a statement of the reasons for making the order shall be recorded by the Presiding Officer and, if so requested, forwarded for the information of the Chief of the Army Staff.
- (4) Firearms shall under no circumstances be taken into Court.
- (3) An Officer wearing an European head-dress shall remove the same while the Judge is present, except when he is on duty under arms with a party or escort inside the Court.

614A¹¹². Restriction on carrying of arms.

Save as provided in Rule 614, no person, not belonging to the police force on duty, shall carry or have in his possession any arm as defined in clause (c) of sub section (1) of section 2 of the Arms Act, 1959 within the Court premises.

EXPLANATION-I:

The expression ‘police force on duty’ includes such members of the police force who escort under trials or are posted at Hawalat guard or are otherwise posted within the Court premises for purposes of security and maintenance of law and order, or come to Court for evidence or pairvi of Government cases or other Government work.

EXPLANATION-II:

The expression ‘Court premises’ includes all lands, buildings and structures there-in, but does not include residential quarters, if any, of the officers and the staff, situate within its limits.

615. Court dress for officers and lawyers.

All Presiding Officers of Sessions and Civil Courts and pleaders appearing before them shall wear a buttoned up coat, *achkan or sherwani* of a black colour. They may wear an open neck coat of the same colour instead, but if they are not entitled to use bands, they shall wear a black tie with it. During the summer, the colour need not be black and a coat, *achkan or sherwani* of a light colour may be worn. With the coat, trousers and with the *achkan or sherwani chooridar pyjama* or trousers shall be worn. Ladies appearing before the Civil Courts as pleaders shall wear a black or a white sari and blouse.

They shall also wear distinctive costumes as indicated below : -

- (i) Presiding Officers : a gown made after the pattern of Queen's Counsel's gown of black silk or stuff, with bands;
- (ii) Advocates : a gown similar to a barrister's gown with bands; and
- (iii) Pleaders and Vakils: a gown similar to the gown worn by Presiding Officers, but without sleeves and bands.

If it is desired to wear a headdress, a turban may be worn.

¹¹² Inserted by notification no. 592/VIIIb-1, dated 2.12.1985 (Correction Slip No. 104) published in U.P. Gazette on 29.June,1991.

616. Government servants prohibited from participation in political movement.

The following instructions issued by the Government regarding the attitude to be maintained by officers in the service of Government towards political or quasi-political movements shall be observed:-

- (i) As a general rule, no officer of Government should take part in any political movement or attend a political meeting, except when it is necessary for him to do so in the legitimate discharge of his official duties.
- (ii) No officer of Government may take part in the proceedings of a political meeting, or in organizing or promoting a political meeting or agitation.
- (iii) If in any case an officer is in doubt whether any action which he proposes to take would contravene the terms of this order the matter shall be referred to the head of the department or district, and, if necessary to the Government of the Uttar Pradesh.

617. Compliance with certain instruction in M.G.Os.

The presiding Judge of Civil Courts shall be guided by the instructions contained in the Manual of Orders of the Government, Uttar Pradesh, in dealing with the following matters:-

- (1) The entertainment of subordinate officials who have quitted or been dismissed from other departments.
- (2) The giving of certificates.
- (3) The maintenance of character books.
- (4) Relationship amongst Indian Government Officials.
- (5) The transfer of subordinates.
- (6) The-re-employment of pensioners.
- (7) The record of age of employees.
- (8) The employment of officials belonging to other establishments.
- (9) Proposals for changes in establishment.
- (10) Vaccination of candidates for Government employment.
- (11) Periodical returns of Government Stores.

618. Report of casualty among Judicial Officers.

All Judicial Officers shall report to the High Court, without delay, any casualty that may occur among gazetted judicial officers subordinate to them.

619. Prohibition against becoming arbitrator

No Judge or ministerial official of a Civil Court shall accept the office of arbitrator in any civil action without the permission of the High Court in the case of a Judge, and of the District Judge in the case of a ministerial official being first obtained. In any application for such permission the circumstances of the case and the names of the parties shall be stated, and the special reasons which may have led the officer to entertain a request for his services as an arbitrator shall be specified.

620. Obligations of public officers.

Every District Judge shall, so far as possible, check any departure by any subordinate Judicial Officer from the rules as to public officers contained in the Manual of Orders of the Government, Uttar Pradesh and from such other rules as may be issued by the Government from time to time.

621. Permission to District Judge to leave the district.

Subject to the general instructions by the High Court no District Judge shall leave the district whether during closed holidays or at any other times, previously having obtained permission from the High Court.

622. Permission to other officers to leave the district.

No Judicial Officer under the Administrative Control of the District Judge, including the Additional District and Sessions Judge and Additional Sessions Judge shall leave the district to which he is attached, either during closed holidays or at any other time, without having previously obtained permission from the District Judge, with whom he shall leave his address in order to enable the District Judge to communicate with him at once in his absence, should this be necessary. Any breach of this rule shall be reported to the High Court by or through the District Judge.

The District Judge shall pass orders on such applications and communicate the same to the Judicial Officers, within a reasonable time.

623. Channel of correspondence for Judicial Officers.

Every communication made to the High Court by a Judicial Officer under the administrative control of the District Judge, whether it be an application regarding leave, transfer, promotion, or any other matter, shall be made through the District Judge and not otherwise.

624. Application for leave.

On forwarding to the High Court an application by himself or by a Judge under his administrative control for leave of absence for a period exceeding one month, the District Judge shall submit a statement in the following form, of the business pending in the Court of the officer applying for leave and shall expressly state whether or not he considers that an acting appointment should be made:-

Commitments	..	..	..	..	..	..
Criminal appeals		..	..	..	..	..
Other Criminal cases	..	..	..	..	..	..
Civil appeals		..	..	..	..	..
Original suits	..	..	..	..	..	..
Execution cases		..	..	..	..	..
Other Civil cases		..	..	..	..	..
Total						

625. Contents of application for leave.

Judicial Officers, when applying for leave other than casual or special casual leave shall state in their applications whether or not they were prevented from availing themselves of any, and if so, of what, portion of the three previous vacations, by reason of having to remain at their post on duty.

626. Information about casual leave of transferred officer.

When a Judge of the Court of Small Causes, a Civil Judge¹¹³, or a Munsif¹¹⁴ is transferred from one district to another, the District Judge or the Additional District Judge, as the case may be, authorized to grant him casual leave, shall transmit to the District Judge or the Additional District Judge, as the case may be, of the District to which he is transferred a copy of the relevant extract from the register of casual leave relating to the casual leave taken by him during the calendar year and the District Judge or the Additional District Judge, as the case may be, of the district to which he is transferred shall cause such extract to be copied in his register.

627. Security Bonds requiring registration.

Whenever a security bond is filed under the provisions of section

¹¹³ The word 'Civil Judge' shall now be read as 'Civil Judge (Senior Division)' - Ed

¹¹⁴ The word 'Munsif' shall now be read as 'Civil Judge (Junior Division)' - Ed

55(4), O. XXV, r. 1, O. XXXVIII, r. 2, or 5, Civil Procedure Code, or otherwise in pursuance of any order of the Court requiring the hypothecation of immoveable property, the search fee required to be paid under Article VI of Appendix V of the Registration Manual, Uttar Pradesh, Volume 2, in respect of each property hypothecated thereunder, must be paid in with the bond to avoid delay in obtaining the report regarding any previous encumbrances on the hypothecated properties.

When such fee is received the amount shall be sent to the Registration Department.

628. Paid apprentices.

An apprentice is meant to be a reserve, and a substitute must not be engaged for him so long as he is temporarily employed in short vacancies in permanent appointments, or when he is on leave for not more than three months.

NOTE- "Short vacancy" is one for a period not exceeding three months (G.O No.5951-C/VII-525, dated 28th August, 1926).

628A. Appointment of paid apprentices.

All appointments of paid apprentices shall be made in order of merit from amongst the candidates, who have been successful at the competitive examination for ministerial staff.

629. Claims of apprentice to posts.

Apprentices shall have a claim *ceteris paribus* to all vacancies in the lower grades of appointments in the office of the Court in which they are employed at the time in preference to all other candidates, except those who have been discharged on reduction of establishment.

630. Work for apprentices.

Each apprentice shall have his place and duty* distinctly assigned to him in the office and shall work under some recognized superior official; and his name shall be liable to removal from the list if he fails to attend at office punctually.

NOTE: It shall be clearly understood that the employment of apprentice in no way affects the responsibility of the paid officials under whom he works.

631. Register of apprentices.

A register of apprentices shall be maintained showing:-

1. Date of entertainment.
2. Work on which employed.
3. Remarks (to be recorded annually) as to character and work.

632. Posts prohibited for apprentices.

No apprentice shall be employed in any post, the duty of which is such that, if it be not properly performed, embezzlement is thereby rendered possible, e.g. the making up, check and comparison of accounts and other similar duties.

633. Prohibition against employment of public servants in making purchases.

The employment by public officers of public servants in making purchases, or in any private matter in which the receipt or expenditure of money is concerned, is most strictly prohibited. This prohibition is not intended to preclude officers from employing public servants to procure for them conveyance or necessary supplies while they are traveling upon duty, though in all such transactions constant vigilance is needed to prevent cheating and extortion.

634. Annual Examination of safes.

Every District Judge shall examine annually all safes kept in his office and offices subordinate to him.

Where duplicate keys of a safe exist he shall note whether one of such duplicate keys is made over to the Treasury Officer for custody. He shall also note whether the safes are in good and sound condition.

635. Custody of duplicate keys of safes.

Where duplicate keys of a safe exist, the duplicate key or keys shall be sent to the nearest treasury office for safe custody. The key before being sent to the treasury should have a strong cloth label and be inscribed with particulars showing of which safe it is the key. When the key of a particular safe is missing the District Judge will send for the duplicate kept in the treasury and make immediate report of loss to the Registrar¹¹⁵, High Court, with particulars available regarding the loss.

636. Disposal of weeded papers.

All weeded documents and papers shall be disposed of as follows:

¹¹⁵ The word 'Registrar' shall now be read as 'Registrar General'-Ed

- (1) Confidential papers including notes and orders on administrative matters shall be torn into very small pieces, thoroughly mixed to prevent the possibility of re-assembling under the personal supervision of a responsible officer, and thereafter sold as waste paper. Stamps and Court-fee labels should, however, be torn to pieces and burnt in the presence of the Record Keeper.
- (2) All the original documents and papers forming parts of records as also certified copies of such documents and papers shall be torn across and then sold as waste paper to the best advantage.
- (3) Papers not covered by clause (1) and (2) and the accumulation of waste paper baskets shall be sold as waste paper without being torn at all.

The sale-proceeds of the sale of waste-paper shall be credited to Government account under head⁺ “XXI - Administration of Justice – General Fees, Fines and Forfeiture – Sale proceeds of old furniture, condemned typewriters and waste papers, etc. ” To ensure that the best price is being obtained for the paper, inquiries should be made as to the prices obtainable in neighbouring districts.

⁺**NOTE** – *Now 0070. – Ed.*

637. Rules relating to fire in buildings.

Rules for providing against the occurrence of fire in Court building reproduced in Appendix No. 21 shall be strictly complied with.

638. Applications for buildings or additions or alterations to buildings.

Applications for new buildings and for additions or alterations to existing buildings shall not be made to the Department of Public Works, except through the Registrar¹¹⁶ of The High Court. When petty repairs have become necessary in any Court-house by reason of heavy rain or other cause, the Presiding Judge shall send immediate intimation of such necessity to the District Judge.

639. Gratifications prohibited (Notice).

A notice in English and Hindi in the annexed form prohibiting the practice of soliciting, giving or receiving gratifications in connection with

¹¹⁶ The word ‘Registrar’ shall now be read as ‘Registrar General’-Ed

cases shall under the signature of the Presiding Judge of each Court be hung up on a board conspicuously in every Court and office room, and the Munsarim, or other chief ministerial officer shall be held responsible that the notices are preserved and kept at their proper places: -

PUBLIC NOTICE

Any peon, process-server, or other public servant employed in this Court, who solicits or receives any gratification from, or on behalf of any suitor or legal practitioner, will be summarily dismissed, and may also be criminally prosecuted. And any person giving such gratification renders himself liable to prosecution under the Indian Penal Code.

Station

Officer's Signature

Dated

Court's designation.

640. Application by ministerial staff for leave.

An application for leave by a ministerial officer shall be submitted to the District Judge, through the Presiding Officer of the Court to which he is attached and shall be presented to the Munsarim of such Court. The Munsarim shall lay it with such report as may be necessary as to the applicant's title to the leave and the arrangements to be made, if any, during his absence, before the Presiding Officer who shall then forward it with such remarks as he may consider necessary to the District Judge for orders.

641. Casual Leave.

Applications for casual leave or special casual leave by a District Judge shall be submitted to the High Court direct.

Applications for similar leave by an Additional District Judge or other Judicial Officers posted in the district shall be submitted to the District Judge and casual leave up to fourteen days and special casual leave up to four days in a calendar year may be allowed by the District Judge. The special casual leave may be allowed only for urgent and special reasons.

Ordinarily the casual leave or special casual leave will not be permitted to be converted into earned leave.

Presiding Officers may allow to their staff casual leave up to fourteen days in a calendar year, and may for urgent and special reasons also grant special casual leave up to four days in a calendar year. Ordinarily the casual leave and special casual leave will not be permitted to be converted into earned leave.

642. Service Books and Character rolls.

Service Books and Service Rolls shall be maintained in accordance with the provisions contained in subsidiary rules 135 to 141 framed by the State Government under Fundamental Rule 74(a)(iv). Whenever an official applies for leave of absence other than casual leave, his Service Book and Service Roll shall be called for and examined by the head of the office.

643. Publications necessary for Judicial Officers.

On his first appointment a probationary Munsif¹¹⁷ shall be required to undergo a training for 6 weeks in the Administrative Training Institute, Nainital and shall also be required to undergo a practical training for 2 weeks under the District Judge of the place of his posting to acquaint himself with the actual working of the Courts of the District, and to maintain a diary of the daily work during his training. The District Judge or the Civil Judge¹¹⁸ should peruse the diary and comment on it for the instruction of the Munsif¹¹⁹. The Munsif¹¹⁹ should also read General Rules (Civil) and (Criminal) and General and Circular Letters issued by the High Court. Besides, he is expected within four months of his taking over charge on first appointment, to complete a course of reading the following books.

- (1) Financial Handbooks, Volume II (Parts I to IV, Volume III and Volume V (Parts I and II).
- (2) The Government Securities Manual, and
- (3) Civil Service Regulations, Part IV, Chapters 15 to 21 relating to pensions and G.O. No.G-II-26 /X-912-1949, dated March 15, 1950 containing general instructions about preparation of pension papers.

On the expiry of four months the District Judge should satisfy himself whether the Munsif¹²¹ has acquired a sufficient knowledge of the above rules and regulations and send a report to the High Court.

The Munsif¹¹⁹ should also be given an opportunity to inspect the various offices and familiarize himself with the office routine.

Other officers who have not undergone such training are also expected to make themselves familiar with all the rules, circulars and books mentioned above.

¹¹⁷ The word 'Munsif' shall now be read as 'Civil Judge (Junior Division)' - Ed

¹¹⁸ ¹¹⁸ The word 'Civil Judge' shall now be read as 'Civil Judge (Senior Division)' - Ed

¹¹⁹ The word 'Munsif' shall now be read as 'Civil Judge (Junior Division)' - Ed

644. Report regarding absence of Judicial Officers.

Whenever a District Judge, an Additional District Judge or Additional Sessions Judge without leave previously obtained absents himself from his Court, such absence and the cause thereof shall be reported to the High Court by the next day. Such absence shall not be for more than two working days in any one month and shall count as casual leave.

A Judge of a Court of Small Causes, Civil Judge¹²⁰ or Munsif¹²¹ shall, in similar circumstances, make a report to the District Judge or the Additional District Judge, as the case may be. Such absence shall also be subject to the above conditions and shall count as casual leave.

NOTE - *See also R.12, ante. - Ed.*

645. Communication of adverse remarks to Judicial Officers.

(1) Communication to the Judicial Officers for adverse remarks made against them in their confidential report shall be regulated as follows:

(1) (a) Remarks whether commendatory or critical made on the work and conduct of Judicial Officers, should be communicated as a whole to the officers concerned by the District Judges in writing and acknowledgment obtained, soon after the dispatch to the High Court.

(b) Adverse remarks should invariably be communicated to the officer concerned so that they may not be ignorant of the short-comings pointed out therein, but only those defects need be pointed out which can be remedied. A note that the adverse remarks have been communicated should be made at the end of the remarks and this should be done before despatching the same to the High Court.

(c) Where a report is built upon the individual opinion as noted of different superiors in gradation, it is only the opinion as accepted by the highest authority which need be considered from the point of view of communication.

¹²⁰ The word 'Civil Judge' shall now be read as 'Civil Judge (Senior Division)' - Ed

(d) Where the criticism is to be withheld the final authority to consider the report should record instructions, with reasons, according to the nature of the defect discussed, as to the period for which communication is to be kept back.

(e) The reporting Officer should specifically state whether the defect reported has already been brought in any other connection to the notice of the officer concerned.

(f) Remarks in cases in which the State Government or head of a department or other officer suspends judgment should not be communicated.

(g) Great attention should be paid to the manner and method of communication in order to ensure that the advice given and the warning or censure administered, whether orally or in writing shall, having regard to the temperament of the officer concerned, be most beneficial to him.

Provided that when an officer, particularly a junior one, is deficient in his work it is not always enough to make an entry to that effect in his character roll and to communicate it to him. Efforts should rather be made to give such officer an opportunity of learning and for effective improvement in his work. A District Judge should therefore, take more personal interest in the work of Judicial officers subordinate to him and in case the work of any such officer is not up to mark he should point out to him his failings and defects at a personal interview and help him with personal advice or put him in touch with one of the more experienced officer in the station.

(2) The above procedure should govern reports of a periodical nature. There are others which may either be:-

(i) reports of particular incidents or acts, which, if disciplinary action is taken, require either regular proceedings or definite censure after the defence of the officer concerned has been taken;

(ii) reports in reply to inquiries whether an officer who has not been well reported on in the past has improved and is fit for promotion; or

(iii) reports in answer to requests for opinions as to the fitness of an officer for a particular appointment etc.

No special instructions are necessary in respect of item (i). As to items (ii) and (iii) the remarks should not be communicated unless they disclose facts or allegations which in the opinion of the State Government should be conveyed to the officer concerned. If such remarks were invariably communicated there is little doubt that reporting officers would be discouraged from giving unreserved advice, and opinions of value would thereby be lost.

646. Proceedings under the Indian Companies Act in subordinate Courts.

When any proceedings in the form of a suit or application under the Indian Companies Act (No. VII of 1913),¹²¹ are started in a Court subordinate to the High Court, in relation to any company proceedings in the High Court, a copy of the plaint or application shall be sent at once to the Registrar¹²² of the High Court,

647. Petition Writer.

The rules given in Appendix No. 22 shall apply to the admission of petition writers and for regulating the conduct of business by them.

GOVERNMENT PROPERTY AND SEALS

648. Furniture Register.

Stock registers shall be maintained in accordance with the directions contained in paragraph 801 of the Manual of Government Orders (1954 edition).

649. Court seals.

A Court seal is supplied to the Court of each District and Sessions Judge, Additional District and Sessions Judge, Additional Sessions Judge, Assistant Sessions Judge, Judge Small Cause Court, Additional Judge Small Cause Court, Civil Judge, Additional Civil Judge, Munsif and Additional

¹²¹ NOTE : *Now Companies Act 1956. Ed.*

¹²² The word 'Registrar' shall now be read as 'Registrar General'-Ed

Munsif; (the seals for the District and Sessions Judges, Additional District and Sessions Judges, Additional Sessions Judge, Assistant Sessions Judges, Munsifs and Additional Munsifs are round and those for the Judges Small Cause Courts, Additional Judges Small Cause Courts, Civil Judges and Additional Civil Judges are oval). The approved dimensions of seals are given in Appendix 23.

(NOTE - So long as new seals are not supplied to them, the Courts shall continue to use the existing seals).

650. Use and custody of seals.

Each Court shall use its own seal which shall remain in the custody of the Munsarim or under his supervision with an official appointed for this purpose by the Presiding Officer. The seals of additional Courts when such Courts cease to exist shall be kept in safe custody by the Munsarim of the District Court.

651. Responsibility for custody of seals.

The Munsarim of every Court shall be responsible for the safe custody and proper use of endorsement and other seals used in the various departments.

652. Officer's certificate of reading G.R.(Civil).

Every Judicial Officer on his first appointment shall within 3 months next of his posting certify to the District Judge that he has read the General Rules (Civil).

653. Upkeep of the book of G.R. (Civil).

The Munsarim of every Court shall see that the copy of General Rules (Civil) in that Court is kept up-to-date with all amendments noted in the appropriate place and all amendment slips correctly posted and noted in the Table of Amendments at the end of the Volume.

CHAPTER XXVIII¹²³

PROCEDURE UNDER THE GUARDIANS AND WARDS ACT 1890

653A. Definitions

Definitions : In this Chapter :-

- (a) Act - means the Guardians and Wards Act, 1890,
- (b) Form - means a form given in appendix 17F to these rules printed in the second Volume;

654. Application for appointment of guardian.

- (1) An application by any person other than the Collector for the appointment of a guardian for minor or for a declaration that he or any other person is a guardian of a minor, shall be made as an original petition in Form No. G.W.I. An order for the protection of the person and property of a minor pending the appointment of a guardian may be as in Form No. GW6.

Particulars.

- (2) In addition to the particulars required by section 10 of the Act, it shall be stated in the application whether the minor is entitled to any property absolutely or subject to the rights and interests of any other person and whether any property is subject to any, and if so what encumbrances and all persons of the same degree of relationship, or of nearer degree than, the proposed guardian, and where a female is proposed guardian, the nearest male relation of the minor shall also be specified.

655. Statement as to unfitness of father.

Where the father of the minor is living, and is not proposed as guardian, the application shall also state any facts and reasons relied on to show that he is unfit to act as guardian of the minor, or that he consents to the application.

656. When property proposed to be dealt with.

Where it is proposed to deal with any property of the minor in the manner specified in section 29 of the Act, the grounds in support of the application and the relief prayed for shall be stated briefly and precisely in the

¹²³ Inserted by notification no. 359/VIIIb-284, dated 29.8.1987 (Correction Slip No. 106) published in U.P. Gazette II on 11.1.1992

said petition and it shall not be necessary to present a separate petition for the purpose.

657. Declaration of willingness to act.

A clear declaration of the willingness of the proposed guardian to act as such shall be made in Form No. GW 2 and may be written at the foot of, or annexed to the petition.

658. Application to be laid before Judge.

Every application for guardianship should be laid at once before the Judge for appropriate orders being passed under section 11 of the Act regarding issue of notice.

659. Notice of application.

Notice of application shall be in Form No. GW.3 and shall be served on all the persons mentioned in rule 654(2) besides those required to be served with notice by section-11 of the Act. The petitioner shall within seven days from the admission of the petition, file in the Court the stamped application for service of the notice. The Court may also direct the petitioner to publish the notice in such newspaper or newspapers as it thinks fit and shall direct such publication in any case in which the petitioner is the Collector, or the petitioner is not a relation of the minor.

An order appointing a guardian or declaring person to be guardian of the person may be as in Form Nos. GW4 and GW5.

Whenever a foreign national is declared or appointed as guardian of an Indian child with permission to take such child out of India, copies of the Guardianship certificate granted to the applicant shall be forwarded to the Government of India, Ministry of Education and Social Welfare (Department of Social Welfare).

660. Notice to Collector.

Whenever the application made under section 10 of the Act states that the property of the minor consists of land or any interest in land, a copy of the petition shall be sent to the Collector of the district in which such property or any part of it is situate.

661. Proof by affidavit.

In uncontested proceedings under the Act it shall be competent to the Court exercising jurisdiction therein to permit or direct except when otherwise provided by any law or rule for the time being in force, that any particular fact or facts may be proved, or evidence upon any application may be given by

affidavit. Except for reasons to be recorded, the Court shall examine the applicant and the proposed guardian, (if the latter is not the applicant) as to the age of the minor and the competency and the fitness of the proposed guardian and as to the necessity of the proposed appointment.

662. Ministerial officer of Judicial Department not to be appointed guardian.

No ministerial official employed in the district Civil Court shall be appointed or declared as such official to be guardian of the person or 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.

663. Security of guardian.

- (1) Unless the Court for reasons to be recorded otherwise orders, a person appointed, or declared, as guardian of the property of a minor shall be required to give adequate security which shall ordinarily be in the form of a bond of himself and two or more sureties for twice the amount or value of the movable property in question and for the amount of the annual rents, profits or other income of the movable and immovable property to be received or accounted for by the guardian and the bond shall be provided to be effective, and be not cancelled until after the expiry of three years after the attainment of majority by the minor.
- (2) A guardian shall inform the Court immediately on the death of any of his sureties and shall furnish security of another surety within one month of the death or within such further time as the Court may grant.

664. Determination of amount of Security.

When security is to be given, the Court shall determine the actual amount thereof and may examine the proposed sureties as to their own property and liabilities and for this purpose may direct notice to issue to the proposed sureties, and adjourn the further hearing of the application to a fixed day as in Form No. GW7.

665. Security bond.

The proposed guardian and his sureties when approved by the Court, shall execute a security bond, in Form No. GW8, before the Judge or an

Officer authorized to administer oath on affidavits. The bond shall be filed in Court, not less than three days before the date fixed for the purpose and if approved by the Judge, shall be signed by him in the margin. At the adjourned hearing the Judge shall determine the amount to be allowed for the maintenance and education of the minor and the amount if any, to be allowed to the guardian under rule 682. He may also give any special directions as to the powers to be exercised by the guardian and shall pass an order in Form No. GW 9 or GW 10 and require the guardian to furnish the statement and account therein mentioned.

666. Inventory of property of minor.

At the time of the appointment or declaration of a guardian, the Court shall, in all cases, require an inventory of all the property of the minor or minors and of all debts due from the estate to be furnished to the Court within six months under section 34 (b) of the Act unless for reasons to be recorded it dispenses with the same, and shall fix a date for the inventory to be brought up for such further orders as may thereon be necessary. Such inventory shall be in Form No. GW18.

667. Diminution or increment to property of ward to be reported to Court.

Any appreciable increment to or diminution of the property of the ward shall be reported immediately by the guardian to the Court and the Court shall cause the same to be noted in the inventory produced under the preceding rule.

668. Accounts to be kept by guardian.

The Court shall direct the guardian to keep such accounts as may be deemed necessary having regard to the extent and circumstances of the estate, unless the Court, for reasons to be recorded, dispenses with the accounts.

669. Submission of accounts.

- (1) The accounts to be maintained and kept by the guardian shall be for the year beginning with 1st April and ending with 31st March.
- (2) True copies of the accounts maintained by the guardian every half year shall be filed into Court; the accounts for the half year ending 30th September before the end of immediately succeeding October and those for half year ending 31st March before the end of immediately succeeding April. If any account for the year is not filed within the time stipulated therefore by

this sub-rule, the matter shall be posted before the Court for orders.

- (3) Every copy of statement of account filed into Court shall be verified by an affidavit of the guardian declaring the same to be true and full account of all transaction during the period to which the account in question relates.
- (4) In addition to the filing of the accounts required by sub-rule (2), the Court may call upon the guardian to produce into Court his accounts before the date stipulated in the said sub-rule or for shorter periods or in respect of specified transactions.

670. Inspection of accounts.

Any person to whom notice of the original petition for the appointment or declaration of guardian was issued, may, at any time during the minority of the minor, on obtaining an order of the Court for this purpose, inspect and take notes of the statement of accounts filed by the guardian; and any person interested in the person or property of the minor may, at any time, apply to the Court by interlocutory application supported by an affidavit showing the nature of his interest and the purpose for which the same is required for leave to inspect and take notes of the said statement of accounts.

671. Audit of accounts.

In cases where accounts are exhibited by a guardian of the property of a ward in pursuance of a requisition made under clause (c) of section. 34 of the Act or otherwise, the Court shall observe the following rules; as to class of persons who should be appointed to examine the accounts and the scales of remuneration to be granted to them:-

- (i) Where the net annual income of the Ward's property does not exceed rupees ten thousand, the Court may appoint either (a) an officer of the Court or (b) a chartered accountant or (c) a legal practitioner who in the opinion of the Court is qualified to examine accounts.
- (ii) Where the net annual income exceeds rupees ten thousand the Court shall appoint a chartered accountant.
- (iii) Where the audit is done by a chartered accountant or legal practitioner he may be paid a remuneration not exceeding 2 percent of the net annual income of the ward's property. This will be payable out of the funds of the Ward's estate.

672. Report of auditor to be placed before Court.

The audit or examination of accounts of the guardian by the person appointed under the last preceding rule shall be ordered by the Court at least once every year. The report of the auditor shall be placed before the Court and the Court after receiving such explanations as may be necessary from the guardian shall pass such orders as appear to it to be just and necessary in the circumstances.

673. Subsequent applications to be interlocutory.

- (1) Every application under the Act, subsequent to the determination of the original petition in which a guardian of the minor was appointed or declared, by the Court shall be, by interlocutory application as in Form No. GW11 supported by an affidavit setting out relevant facts.
- (2) Unless the Court, for reasons to be recorded otherwise orders, or unless the written consent of the parties is filed in Court, notice of the application shall be given to every party to the original petition, and to such other persons interested in the person or property of the minor as the Court directs. The notice shall state the substance of the order prayed for, as in Form No. GW12.

674. Application to deal with immovable property.

An application for leave to deal with transfer any immovable property of a minor by way of sale, mortgage, lease or otherwise, shall state concisely the substance of the order prayed for as in Form No. GW 11 and shall be supported by the affidavit of some disinterested and independent persons, stating what in his opinion is the value of the property proposed to be dealt with transfer and the best manner of disposing of the same in the interest of the minor and also by the affidavit of some person acquainted with the circumstances of the minor, showing the necessity or advantage of the said disposition.

675. Sale of property.

- (1) While granting permission for sale of property under section 28 or 29 of the Act, the Court may direct that the sale shall be conducted in the manner provided for the sale of property under Order XXI of the Code of Civil Procedure, 1908, with such adaptations and modifications as may be found necessary in the circumstances of the case.

- (2) If leave to sell is granted the sale shall, unless the Court for reasons to be recorded otherwise orders be made by public auction with the sanction of the Court and order shall be made as in Form No. GW13. The proclamation of the sale and the order approving the proclamation of sale may be as in Form Nos. GW14 and GW15, respectively and the sale shall be conducted in the manner prescribed by the succeeding sub-rules.
- (3) The guardian shall bring into Court : (i) affidavit or affidavits by himself or some other persons acquainted with the property, giving the particulars prescribed by order XXI, Rule 66 of the Code of Civil Procedure, 1908 (Central Act V of 1908), and also stating what, in his opinion, is the best time and place for sale and method of advertising the same, and the lots, if any, into which the property should be divided; (ii) if an officer of the Court is not to be appointed, an affidavit as to the fitness of the proposed auctioneer; (iii) an affidavit showing the municipal tax, if any, due on the property sought to be sold and the affidavit shall be accompanied by a certificate from the local authority showing the particulars of such tax; and (iv) a certificate from the Sub-Registrar of the District or sub-district in which the property is situate of the result of the search made for a period of not less than twelve years prior to the application for leave to sell the property.
- (4) The Court shall determine the lots, if any, in which the property shall be sold; the manner of advertising the sale; and the probable expenses thereof, and shall, fix the date and place of sale and settle the proclamation of sale as in Form No. GW 14.
- (5) The Court may, in order to secure a more advantageous sale or for any other sufficient reason, appoint a fit person other than an officer of the Court or a pleader, to sell the property and may fix as his remuneration either a sum certain or a percentage on the net sale proceeds.

676. Payment into Court of proceeds of sale.

If a particular sale or other disposition of any property is authorized, unless the Court for reasons to be recorded otherwise orders, the proceeds thereof shall be paid into Court, and the instrument of transfer shall be

proposed and placed before the Court for the approval of the judge as in Form No. GW 16.

677. Order as to application of proceeds.

If the instrument of transfer is approved by the Court, an order shall be passed directing in what manner the proceeds thereof are to be applied and how the costs of the application to the Court are to be paid, as in Form No. GW 17.

678. Payment into Court by guardian.

Unless the Court, for reasons to be recorded, otherwise orders, and excepting any moneys or securities directed by the Court to be paid or retained by a guardian for specific purposes, all moneys and securities for money belonging to the minor received by, or in the possession or control of, a guardian, shall after deducting any costs, charges and expenses of the guardian properly incurred, in the opinion of the Court be paid into the Court to the credit of the original petition under which the guardian was appointed or declared.

679. Investment.

As much of the minor's money as is not likely to be used for appreciable time shall, with the approval of the Court, be invested in National Savings Certificates or other (Government) securities specified in section 20 of the Indian Trust Act, 1882 to be purchased by the guardian in the name of the minor. Such certificates or securities shall be deposited in the Court and the guardian shall give an undertaking that they will not be encashed without the permission of the Court.

The rest of the minor's money shall, where the guardian is illiterate or a pardanashin lady, be deposited in the Court to be paid in the public account, and in other cases, be deposited with an approved bank by the guardian who shall give an undertaking that he will not withdraw any portion of it without the permission of the Court, a certified copy of the undertaking being sent to the bank concerned. On application being made the Court shall consider the same immediately so that the investment is not delayed to the detriment of the minor.

680. Discharge or removal of a guardian.

An application for the discharge or removal of a guardian shall be made by an interlocutory application as in Form No. GW 19 and except where the minor has attained majority, shall also pray for appointment of a guardian in place of the guardian to be discharged or removed. Notice of the application

shall be given to all the parties on whom notice was issued on the original petition, and to such other persons as the judge may think fit. An interim order of discharge or removal may be as in Form No. GW. 20.

681. Guardian not to be discharged till accounts passed.

Unless the Court, for reasons to be recorded, otherwise orders, a guardian shall not be discharged from his liabilities until he has filed and passed his accounts, and has paid into Court any balance shown in his accounts as due from him, and except where the minor attained majority notice of the application shall be given to all parties to the original petition and all persons interested in the property of the minor. An order for taking accounts and the final order of discharge may be as in Form Nos. GW 21 and GW 22 respectively.

682. Allowances to guardians.

An allowance may be granted to a guardian in respect of any special work or service to be performed by him other than the work or service in connection with the custody or care of the person or the general control and management of the property of the minor, and shall not exceed in amount the remuneration usually paid for the paid work or service and except as aforesaid, or for special reasons to be recorded, no remuneration shall be allowed to a guardian.

683. Costs.

- (1) The costs of any application with respect to the person or property of a minor may, if the application is for his benefit, be ordered to be paid out of the income of his property, or moneys realized by a sale or mortgages of any property of the minor authorized by the Court for this purpose.
- (2) When the Court does not allow out of the estate the costs of an application made by the Collector of the District under section 8 of the Act, the Court shall record the special circumstances in consequence of which it has not allowed such costs out of the estate.

684. Cases to be pending till discharge of guardian.

Cases are not to be considered as disposed of as soon as a guardian is appointed. They should be kept pending for the purpose of receiving the accounts of the guardian till the minor attains majority and the guardian then acting for him is discharged or ceases to act.

685. Register of guardians and accounts.

A register in Form No. GW 23 shall be maintained by all Courts in proceedings under the Act, all matters in which the guardian has not been discharged on the date of the coming into force of these rules shall also be entered in it.

686^Ω. Application for appointment as guardian.

- (1) A foreigner desiring to adopt an Indian Child can effectuate the adoption in accordance with the law of this Country and for that purpose can, subject to the procedure hereinafter laid down in these rules, can take or remove the child to his country.
- (2) No child can be taken or removed out of India unless the foreigner seeking adoption of the child is appointed guardian of the person of the child by the Court under the provisions of the Guardians and Wards Act, 1890 and is permitted by the Court to take the child to his own country.
- (3) Every application from a foreigner desiring to adopt a child must be sponsored by a Social or Child Welfare agency recognized or licensed by the Government of the country in which the foreigner is residing. No application by a foreigner for taking a child in adoption shall be entertained directly by any Social or Welfare Agency in India working in the area of inter-country adoption or by any institution or centre or home to which children are committed by the Juvenile Court.
- (4) The application shall be accompanied by a Home study report and the social or child welfare agency, sponsoring such application shall also send along with the application, a recent photograph of the family, a marriage certificate of the foreigner and his or her spouse as also a declaration concerning their health together with a certificate regarding their medical fitness duly certified by a medical Doctor, a declaration regarding their financial status along with supporting documents including employer's certificate where applicable, income tax assessment order, bank references and particulars concerning the properties owned by them and also a declaration stating that they are willing to be appointed guardian of the child, an undertaking that they would adopt the

^Ω Inserted by Notification No. 314/VIIIf-45, dated Allahabad Oct., 30, 1991, (Correction Slip no. 110) published in U.P. Gazette on 4.1.1992

child within two years from the arrival of the child in their country and give information thereof to the Court appointing them guardians as also to the Social or Child Welfare Agency in India processing the case and that they would maintain the child and provide it necessary education and upbringing according to their status and they would also send to the Court as also the Social or Child Welfare Agency in India periodically reports relating to the progress of the child along with the recent photograph.

687^Ω. Power of attorney.

The application of the foreigner shall also be accompanied by a power of attorney in favour of an officer of the Social or Child Welfare Agency in India which is requested to process the case and such power of attorney shall authorise the Attorney to handle the case on behalf of the foreigner in case the foreigner is not in a position to come to India. The Social or Child Welfare Agency sponsoring the application of the foreigner must also certify that the foreigner seeking to adopt a child is permitted to do so according to the law of his Country.

688^Ω. Biological parents.

The biological parents if known shall be properly assisted in making a decision about relinquishing the child for adoption, by the Institution or Centre or Home for Child Care or Social or Child Welfare Agency to which the child is being surrendered. Before a decision is taken by the parents, the Institution or Centre or Home for Child Care or Social or Child Welfare Agency to which child is surrendered by the biological parents, shall take from the biological parents a document of surrender duly signed by the biological parents and attested by at least two responsible persons and such document of surrender should not only contain the names of the biological parents and their address but also contain information in regard to the birth of the child and its background, health and development. The biological parents shall not be subjected to any duress in making a decision about relinquishment and even after they have taken a decision, a further period of three months shall be allowed to them to reconsider their decision. But once the decision is taken and not reconsidered within such further time as may be allowed to them, it must be regarded as irrevocable and the procedure for giving the child in adoption to a foreigner can then be initiated without any further reference to the biological parents by filing an application for appointment of the foreigner

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as guardian of the child. The biological parents shall not be induced or encouraged or even be permitted to take a decision in regard to giving of a child in adoption before the birth of the child or within a period of three months from the date of birth.

689^Ω. Process of application.

An application from a foreigner for taking a child in adoption shall be processed only through a Social or Child Welfare Agency licensed or recognized by the Government of India or the Government of State in which it is operating and is engaged in the work of Child Care and Welfare. The Social or Child Welfare Agency, so licensed or recognized by the Government of India or State; shall maintain proper accounts which shall be audited by the Chartered Accountant at the end of every year and it shall not charge to the foreigner wishing to adopt a child any amount in excess of that actually incurred by way of legal or other expenses in connection with the application for appointment of guardian including such reasonable remuneration or honorarium for the work done and trouble taken in processing, filing and pursuing the application as may be fixed by the Court. The account of such an agency shall be open to inspection the Court or the officer nominated or deputed by the Court.

690^Ω. The child study report.

The child study report prepared through a professional social worker shall contain as far as possible, information in regard to the following matters:-

- [1] Identifying information, supported where possible by documents.
- [2] Information about original parents, including their health and details of the mother's pregnancy and birth.
- [3] Physical, intellectual and emotional development.
- [4] Health report prepared by a registered medical practitioner preferably by a paediatrician.
- [5] Recent photograph.
- [6] Present environment—category of care (own home, foster home, institution etc.), relationship, routines and habits,
- [7] Social worker's assessment and reasons for suggesting inter-country adoption.

^Ω Inserted by Notification No. 314/VIII-45, dated Allahabad Oct., 30, 1991, (Correction Slip no. 110) published in U.P. Gazette on 4.1.1992

691^Ω. Age.

Normally a child below three years of age may be given in inter-country adoption. However, in case of a child about 7 years of age his wishes shall be ascertained and honoured prior to giving him in such adoption.

692^Ω. Remuneration.

Social or Child Welfare Agency having processed the application and looking after the child selected by prospective; adoptive parent will legitimately receive from such parent maintenance expenses at the rate prescribed by the Government or as directed by the Court.

693^Ω. Notice.

No notice of an application for guardianship in such inter-country adoption under Section 11 of the Guardian and Wards Act is required.

694^Ω. Hearing of case.

The proceedings on the application for the guardianship shall be held by the Court in camera and they shall be regarded as confidential and as soon as an order is made on the application for guardianship the entire proceedings including the papers and documents shall be sealed.

695^Ω.

The Court shall introduce the following conditions in the order appointing guardian:

- (1) that the foreigner who is appointed guardian shall make proper provision by way of deposit or bond or otherwise to enable the child to be repatriated to India should it become necessary for any reason.
- (2) that the foreigner shall submit to the Court as also to the Social or Child Welfare Agency processing the application for guardianship progress report of the child along with a recent photograph in every quarter for first two years and half yearly for the next three years,
- (3) the order appointing guardian shall carry, attached to it a photograph of the child duly countersigned by an officer of the Court.

^Ω Inserted by Notification No. 314/VIII-f-45, dated Allahabad Oct., 30, 1991, (Correction Slip no. 110) published in U.P. Gazette on 4.1.1992

696^Ω.

Where an order appointing a guardian is made by the Court, immediate intimation of the same shall be given to the Ministry of Social Welfare, Government of India and the Department of Social Welfare of the Government of State in which the Court is situated along with copies of the order.

697^Ω. Home study report.

The Home Study Report prepared by a professional worker shall broadly include as far as possible information in regard to the following matters:

1. Source of referral.
2. Number of single and joint interviews.
3. Personality of husband and wife.
4. Health details such as clinical tests, heart condition, past illnesses etc. (medical certificate required, sterility certificate required, if applicable).
5. Social status and family background.
6. Nature and adjustment with occupation.
7. Relationship with community.
8. Description of home.
9. Accommodation for the child.
10. Schooling facilities.
11. Amenities in the home.
12. Standard of living as it appears in the home.
13. Type of neighborhood.
14. Current relationship between husband and wife.
15. (a) Current relationship between parents and children (if any children).
(b) Development of already adopted children (if any), and their acceptance of the child to be adopted.
16. Current relationship between couple and the members of each others families.
17. If the wife is working, will she be able to give up the job?

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18. If she cannot leave the job, what arrangements will she make to look after the child?
19. Is adoption considered because of sterility of one of the marital partners?
20. If not, can they eventually have children of their own?
21. If a child is born to them, how will they treat the adopted child?
22. If the couple already has children how will these children react to an adopted child?
23. Important social and psychological experiences which have had a bearing on their desire to adopt a child.
24. Reasons for wanting to adopt an Indian child.
25. Attitude of grand-parents and relatives towards the adoption.
26. Attitude of relatives, friends, community and neighborhood towards adoption of an Indian Child.
27. Anticipated plans for the adopted child.
28. Can the child be adopted according to the adoption law in the adoptive parents country? Have they obtained the necessary permission to adopt? (Statement of permission required).
29. Do the adoptive parents know any one who adopted a child from their own country or another country? Who are they? From where did they fail to get a child from that source?
30. Did the couple apply for a child from any other source? If yes, which source?
31. What type of child is the couple interested in (sex, age, and for what reasons).
32. Worker's recommendation concerning the family and the type of child which would best fit into this home.
33. Name and address of the agency conducting the home study, name of social worker, qualification of social worker.
34. Name of agency responsible for post placement, supervision and followup.

Note.—The above Rules 686 to 697 have been incorporated in the General Rules (Civil) 1957, as directed by the Supreme Court in its decision Laxmi Kant Pandey Vs. Union of India AIR 1984S.C.469 dated 6th February, 1984., The procedure as has been followed by the Delhi, Bombay and Gujarat High Courts shall be followed in this High Court as well, in the matter of "Foreign Adoption of Indian Children."