

GENERAL RULES AND CIRCULAR ORDERS (CIVIL) VOL.- I

Preliminary

1. Court Hour – (a) “ The hours of work in Civil Courts shall ordinarily be from 10.30 A.M to 5.00 P.M. , standard time, with a recess of half an hour between 1.30 P.M. to 2.00 P.M. wherever day sittings of the Courts are held and from 7-00A.M to 1-00 P.M. with a recess of half an hour between 10.00 A.M to 10.30 A.M wherever morning sittings of the Courts are held. The judges will so arrange the business of their Courts as to supply work for those hours”.

(IX- 1/2011 , dated the 18th January- 2014)

Note: The recess facility will be available only to the Presiding Officer.

(b) Sitting and rising hour – “The Courts shall ordinarily commence the sittings not later than 11.00 A.M. and rise at 4.00 P.M. when day sittings are held . They should commence the sittings not later than 7.30 A.M. and rise at 12.30 P.M. when morning sittings are held “.

(IX -1/2011, dated the 18th January -2014)

Note 1 - The period during which morning sittings of the Courts will be held shall be fixed by the High Court by issue of general or special orders.

Note 2 - The hours of work and commencement of sittings of Civil Courts shall be regulated from time to time by issue of general or special orders by the High Court as and when necessary.

¹[2. Administrative Days - The District Judges will devote all working Saturdays ²[and the preceding working day of the Second Saturday] in a month for administrative work at the headquarters subject to adjustment of hearing of part-heard Sessions Cases. They shall maintain separate diary for this purpose.]

3.³[Days of sitting of Courts - (a) Subject to other provisions of this rule, no suit, case or appeal shall be heard on Sundays or holidays gazetted under Sec.11(1) of the Orissa Civil Courts Act, 1984 (Orissa Act No. 18 of 1984).

(b) In respect of vacation as provided in Section 11(2) of the Orissa Civil Courts Act, arrangement for disposal of urgent matters arising during vacation shall be made in the following manner :

1.Substituted by C.S. No. 40, (XLIX-D-45/93, dated 19.12.1996).

2. Inserted by C.S.No. 48, (XLIX-D-4/98, dt. 30.4.1999).

3.Substituted by C.S.No. 24, dt. 3.8.1994 (OG. No. 35 dated 2.9.1994).

(i) Urgent matters to be heard ordinarily in a Court of District Judge shall be taken up by the Officer in the cadre of Orissa Superior Judicial Service (Senior Branch) who would be in charge of the Sessions Division during that period.

(ii) Urgent matters to be heard ordinarily in a Court of Civil Judge (Senior Division) shall be taken up by the Presiding Officer of a Civil Court of the station who is placed in charge of discharging powers of the Court during vacation.

(iii) Urgent matters ordinarily to be heard in Courts of Civil Judge (Junior Division) shall be taken up by Officer of Orissa Judicial Service, Class-11 authorised by the District Judge who shall be deemed to be the Presiding Officer of the Court where the matter is to be ordinarily heard as if he has been posted by the High Court :

Provided that a Civil Court of higher pecuniary jurisdiction except Court of District Judge can take up the matters if there is no officer available to be entrusted to remain in charge of the vacation Court by the District Judge. However, such Officer shall not be entitled to hear the appeal or revision against the order passed during the vacation.

Note - Matters which could have been moved before the vacation commenced or matters which can wait till re-opening of Courts after vacation shall not be treated as urgent.

(c) An application shall be filed supported by affidavit specifying the urgency for moving a matter during vacation in the Court, and the Court exercising the power during vacation shall record clear reasons of his satisfaction that the matter is urgent.]

4. Suspension of Court hour - The Presiding Officers of Courts are authorised to suspend the work for about half an hour or to stand in silence for a minute or two after a suitable reference has been made with a prominent local lawyer (or a person of repute) passes away and when request either oral or in writing for suspension of work is made to the Court. Facility should be given to the litigants and members of the Bar who wish to attend funeral ceremony of such dead person.

5. Court to be closed in case of danger to Court's property -Should any occasion arise when there is disturbance exposing Court's property to danger the Presiding Officer may close the Court when no other course is available. Such instances shall be immediately reported to the High Court explaining in detail the circumstances leading to the closure.

6. Diary - (a) Every Civil Court shall maintain a Diary in the prescribed Form. Each case for any day shall be entered in advance immediately upon a date or adjourned date being fixed, and the entry as to each case shall show the purpose for which it is set down on each particular, date, such as for final disposal, first hearing, or' for settlement of issues, or for trial after adjournment. The diary will show briefly the progress

made in each case, and when witnesses are examined in any case, the number of such witnesses examined on contest and without contest separately shall be stated. A running total in red ink should be inserted from day to day, in order to show the total number of witnesses examined during each quarter of the year. A new serial number should be started at the commencement of each quarter.

(b) The top-most heading should be "For peremptory hearing" and under each heading should be grouped separately each class of cases in their chronological order according to the dates of their institution. The part-heard case adjourned on the previous day should be shown as the top case under the heading "peremptory hearing".

(c) Appeals and Miscellaneous cases should also be shown in the diary in the above manner. Execution cases should be noted last of all .

(d) The reason for adjournment shall be briefly stated in the Diary.

(e) The Presiding Judge shall insert with his own hand in the appropriate place (i) the hours of his arrival in the office, (ii) the hour at which he takes his seat for judicial work, (iii) the time of rising, and (iv) the time of departure. In the case of any unusually short sitting on any day, a short note explaining the reason shall be given in the Diary.

Note 1 - When an officer has to perform criminal duties in addition to his work as a Civil Judicial Officer, he will maintain two separate diaries in the prescribed form, one for civil and the other for criminal work. He shall note the hours of sitting and rising in the civil diary alone and the actual time devoted to criminal work in the criminal diary only. On days when he is engaged solely in civil work or criminal work, he shall note hours of sitting and rising in the civil diary or criminal diary only, as the case may be.

Note 2 - The Diary shall be signed each day by the President Judge after careful scrutiny on completion of all the entries therein.

Note 3 - A separate diary should be maintained for the cases fixed for [all places] of circuit.

7. Routine duties -The Judicial Officers are allowed to perform current and routine duties in the chamber in the event of indisposition for a maximum period of three days during any calendar year.

8. Daily cause lists - A daily list of cases shall be posted in some conspicuous place in every Court house for the information of the parties and their pleaders. The cases should as far as possible, be arranged in the order in which they are likely to be taken up. Execution and Miscellaneous cases may be shown either in the same list or in a separate list. The said list shall be prepared and posted on the preceding

working day at 4.30 P.M. or in the case of morning sittings before 12 A.M. In the list, the cases will be sufficiently described by their number, year and class. At the close of each day, the Peshkar shall prepare four copies of advance daily cause lists in prescribed forms in a bound book of printed lined perforated pages with the help of carbon papers showing therein the cases fixed for the next day. One copy of the list shall be posted in the Court's notice board and another sent to the Secretary or ministerial employee or any other person authorised by the local Bar Association for being posted in the notice board of the Bar Association. The remaining two copies should be kept by the Peshkar for his next day's use. At the close of the following day; he shall fill up the adjourned dates in the two copies of advance daily cause lists retained by him. He will then post one of these advance daily cause list in the Court's notice board and take down the copy which was posted on the preceding day and will take down the copy which was posted on the preceding day and will send the other copy to the Secretary or ministerial employee of the Bar Association for publication in the notice board of the Association. He will further prepare four copies of advance daily cause lists shall be sent to the Secretary, Bar Association through the Despatch Register in which the dated signatures of the recipient will be obtained.

Note 1 - The maximum number of cases to be fixed for hearing on any day may be half more than could be done on that day and preference be given to undone work of that day on the next day.

Note 2 - The lists shall be prepared in the language of the Court and shall remain posted for one week after which they shall be filed in office for future reference, if necessary. At the end of every quarter the lists for the previous quarter will be destroyed.

Note 3 -The lists shall be signed by the Presiding Judge and exhibited before he leaves the Court.

9. Court language -The State Government of Orissa have declared the following as Court languages in the different districts in the State of Orissa in supersession of all previous notifications and orders on the subject :

- (1) In the district of Ganjam except
Oriya, Telugu &
Ghumsur and the Balliguda
Sub-,divisions and the ¹[Civil Judge
(Junior Division's) Courts Aska
English
- (2) In Gunupur, Rayagada, Bissam Cuttack,
Pattangi and Malkangiri taluks in Koraput district

Oriya, Telugu, & English

1. Substituted by C.S. No. 33 (IX-1/95, dt. 31.10.1995).

- (3) In all districts of the State except Nos. 1 and 2 above
Oriya and English

10. Time for presentation of plaints and appeal memos - Plaints and memoranda of appeal may be presented at any time during the Courts hours.

11. Place of presentation of written statements, petitions etc. and time of disposal of them - Petitions, applications, written statements, etc. should always be taken in open Court and usually at the commencement of the daily sittings of the Court except the papers the occasion for filing of which arises during the trial. The majority of petitions can be disposed of by an order passed in Court as soon as they are filed. Where a reference to the record or to the other papers is necessary before an order can be made, petitions should be brought up with such record or papers in the course of the day and order should then be passed in Court.

Note 1 - Application for compromise or withdrawal of suits and cases and memos of satisfaction of claims may be filed at any time during the Court hours.

Note 2 - The District Judge shall fix for his Court and- or all Courts subordinate to him a time for presentation of such applications, petitions, etc. as can be presented to the Presiding Officer only.

12. Manner of disposal of documents received by post or telegraph - No action shall be taken on document or proceeding which are required or authorised by law to be presented to or filed in Court, but are sent by post or telegraph.

13. Seals - (a) The regular seal of every District Court shall be a circular seal, two inches in diametre and shall bear thereon the lion head on Ashok Chakra base with the following inscription in English and Oriya language "District Court of....."

(b) The seal of Court-of every ¹[Civil Judge (Sr. Division)] shall be a circular seal, two inches in diametre bearing the lion head the inscriptions "Court of unlimited pecuniary jurisdiction of" in English and in the outer circle of" on the Oriya Language in the inner circle.

(c) The seal of the Court of every ¹[Civil Judge (Jr. Division)] shall be a circular seal, one inch and a half in diametre bearing the lion head with the following inscription in English and the Oriya language "Court of the ¹[Civil Judge, (Jr. Division)] of"

(d) **Use of custody of seals** - The regular seal of the Court shall be placed in custody of a responsible officer of the Court and documents required to be sealed with it should be sealed under his superintendence. Similar precautions shall be taken with respect to the Date seal, which is affixed to all documents and papers on their presentation to Court.

1. Substituted by C.S. No. 33 (IX-1/95, dt. 31.10.1995).

The regular seal is to be used for sealing all judgments and decrees (including those S.C.C. suits embodied in cause sheets), writs, processes, sale certificates, copies or other documents used. The date seal shall be affixed to all documents and papers presented in Court in such a way as to show clearly the date on which they were presented. If any Court fees labels appear on them, the date seal shall be affixed a second time in such a way as to deface the Court fee labels.

Note 1 - The order making the officers responsible for the custody and use of the seals should be recorded in writing.

Note 2 - The use of name seals whether of Judicial or of ministerial officer is prohibited.

Note 3 - The worn out and useless Court seals, when replace by new ones, should be destroyed in the presence of the Presiding Officers concerned and note of such destruction should be made in the order book under the dated signature of the Presiding Officer.

Note 4 - So long as new seals are not supplied to the Court, the Courts shall continue to use the existing seals.

Note 5 - The seal of Additional Courts when such Courts cease to function shall be kept in the safe custody of the Sheristadar of the respective principal Courts.

PART – I

General Rules relating to practice and procedure

CHAPTER – I Pleadings, Petitions and Affidavits

14. Pleadings and petitions to be in English, if practicable - Parties should where practicable file pleadings, petitions, applications and affidavits in English and type-written.

15. Manner of preparation of pleadings, etc. - Every pleading, petition, affidavit or application filed in Court shall be -

(1) type-written or written on foolscap water marked plain demipaper, one side of the paper only being used and the quarter margin together with at least one inch of space at the top and bottom of each sheet being allowed :

Note - The paper indicated is that generally known as "pie" or ¹["Bond"] paper and is sold by the stamp vendors.

(2) couched in proper language;

(3) dated and signed by the person presenting it, and also, where necessary, by such other person as may by law be required to sign such pleading, petition, affidavit or application;

(4) signed by the scribe or typist, who shall state the capacity in which he writes it.

1. Substituted by C.S. No. 55 (IX-2/2008, Dt. 8.10.2009).

Note 1- This rule shall apply as far as possible to Vakalatnamas, Mukhtarnamas, process-fee sheets and similar other papers.

Note 2- A mukhtar is not permitted to sign pleadings, When a plaint or written statement is presented or tendered by a Mukhtar an endorsement shall be made therein by the officers of the Court receiving it in the following terms :

"Presented by A.B. Mukhtar" The endorsement shall be signed by such officer and the Mukhtar.

16. Identification of Parties - When the person presenting a pleading, affidavit, petition or application is not an advocate, a pleader or a Mukhtar, he shall, if so required by the Court, be identified. In the case of an illiterate person his thumb impression shall be affixed in place of the signature required in this connection.

17. Contents of pleadings, etc. - Every petition or pleading shall state consciously and clearly -

- (1) the facts, matters and circumstances, upon which the application relies;
- (2) the matter of complaint, if any, and the relief sought or prayer made.

18. Authentication of corrections - Every page in a petition or pleading and every interlineation, alteration or erasure therein shall be authenticated by the initials of the Advocate, pleader or Mukhtar as the case may be or the recognised agent of the party by whom it is presented. In the case of an affidavit such authentication shall be made by the initials of the Commissioner.

19. Noting valuation on petitions - On every interlocutory application or petition filed in a suit valued at less than Rs. 50 the parties shall note the valuation to enable a proper check to be made on the Court-fee paid.

20. Separate petitions for separate matters - Applications in regard to distinct subject-matters shall be made in separate petitions.

21. Verification of petition - Petitions requiring verification shall be verified in the manner prescribed in Order VI, Rule 15, Civil Procedure Code.

22. Service of copies on parties - In contested original suits no written statement, application or list of documents shall be filed unless copies thereof have been previously served on the advocate or pleader for each set of parties whose interests are not joint. Provided that if, for any reason, copies cannot be so served, they may be filed in Court together with the original written statement, list or application. Advocates or pleaders served with such copies shall give receipt on the original written statements, applications or lists. The copies shall be authenticated by the signatures of the Advocates or pleaders of the parties on each page on the bottom left hand margin.

Note - The above rule shall apply mutatis mutandis to all contested execution proceedings and miscellaneous judicial cases.

23. Carrying out amendments consequent to substitution of parties -

Substitution of legal representatives of the deceased parties and consequential amendments in plaints, written statements petitions, objections '[petition for final decree] and memoranda of appeals should be carried out immediately after orders thereof are passed.

Note - If any of the parties dies, the numbers assigned to their names are to be continued and the names of their legal representatives are to be numbered as A, B, C etc., under the original number of the deceased party.

24. Order for receiving plaints -An order appointing an officer to receive plaints under Order IV, Rule 1 of the Code of Civil Procedure must be recorded in the order book of the Court.

25. Registration of plaints and petitions - All plaints and petitions required to be entered in any register must be registered on presentation irrespective of any question as to their possible rejection or of their having to be returned for amendment.

26. Registration of plaint to be within 24 hours - No plaint shall ordinarily remain unregistered for more than one day, but should it be found impossible for any reason to register a plaint within 24 hours of its receipt, the fact shall be reported to the Presiding Officer of the Court concerned.

27. Plaint list - A list of the plaints filed each day shall be posted the same day in the prescribed form in the language of the Court at some conspicuous place in the Court house for the information of the parties and their pleaders. It shall be signed by the Presiding Officer and exhibited as early as possible and in all circumstances before he leaves the Court. The lists shall be affixed one above the other in the form of a guard file. They shall remain posted for one week and thereafter shall be preserved in the office. The lists for a quarter shall be destroyed at the end of the succeeding quarter.

Note - The above procedure will apply mutatis mutandis to memoranda of appeals, but the District Judge shall decide whether the list of memoranda of appeals shall be in the Vernacular or in English.

28. Ex- officio Commissioner of affidavits - All the Registrars, Civil and Sessions Court, shall be ex-officio Commissioner of affidavits in respect of matters and cases arising within and subject to the jurisdiction of all the Civil Courts of the headquarters stations of the District Judge; and at the outlying stations all the Sheristadars shall be ex-officio Commissioners of affidavits in respect of matters and cases arising within and subject to the jurisdiction of the respective Courts in which they are employed.

1. Inserted by C.S. No. 32, (IX-6/93, Dt. 6.10.1995)

29. Nazir to be Commissioner of affidavits relating to service of processes - All Nazirs shall be Commissioners of affidavits when such affidavits relate to service of processes and are sworn to by process-servers under them.

30. Cause title "of affidavits" - (a) Every affidavit to be used in a Court of Justice shall be entitled "In the Court of (Naming such Court) at"

(b) If there be a cause in Court, the affidavit in support of, or in opposition to, an application respecting it must also be entitled in the cause.

(c) If there be no cause in Courts the affidavit shall be entitled "In the matter of the petition of"

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

32. Description of deponent - Every person, other than plaintiff or defendant in a suit in which the application is made, making any affidavit, shall be described in such a manner as will serve to identify him clearly, that is to say, by the statement of his full name, the name of his father, his age, his profession or trade, and the place of his residence.

33. Manner of swearing - When the deponent in any affidavit speaks to any fact within his own knowledge, he must do so directly and positively, using the words "I affirm" (or "make oath") and "say".

34. How to be entitled - When any particular fact is not within the deponent's own knowledge but is stated from information obtained from others the deponent must use the expression-"I am informed" (and if such be the case, should add) "and verify believe it to be true" or he may state the source from which he received such information. When the statement rests on facts disclosed in documents or copies of documents, procured from any Court of Justice or other sources, the deponent shall state the source from which they were procured, and his information, or belief, as to the truth of the facts disclosed in such documents.

35. Identification of deponent - Every person making an affidavit, if not personally known to the Commissioner, shall be identified to the Commissioner shall specify at the foot of the petition, or of the affidavit (as the case may be), the name and description of him by whom the identification is made, as well as the time and place of identification and of the making of the affidavit.

36. Reading over and explaining the contents to the deponent - If any person making an affidavit is ignorant of the language in which it is written or shall appear to the Commissioner to be illiterate, or not fully to understand the contents of the affidavit the Commissioner shall cause the affidavit to be read and explained to him in a language which-

both he and the Commissioner understand, either doing so himself, or causing another person to do so in his presence. When any affidavit is read and explained as herein provided, the Commissioner shall certify in writing at the foot of the affidavit that it has been so read or explained, and that the deponent seemed perfectly to understand the same at the time of making the affidavit.

37. Indian Oaths Act - In administering oaths and affirmations to deponents, the Commissioner shall be guided by the provisions of the Indian Oaths Act (Act 44 of 1969), Christian deponents shall be sworn on the New Testament.

The following form given in the Scheme of the said Act is to be used - In English.

FORM No. 4 (Affidavits)

Swear in the name of God

I do solemnly affirm that this is my name and signature (or mark) and that the contents of this my affidavit are true.

38. Proof of facts by affidavit - In all suits and appeals, evidence should, as a general rule, "be taken orally in open Court in the presence, and under the personal direction and superintendence of the Judge" (Order XVIII, Rule 4). The power to order that any particular fact or facts may be proved by affidavit, or that the affidavit of any witness may be read at the hearing, should be exercised only under special circumstances or as Order XIX declares, "for sufficient reason", which should always be specified in the order. General orders cannot, therefore, be given for the admission of affidavits in suits or appeals.

39. Proof of facts by use of affidavits based on knowledge -

The Court should be careful to enforce Order XIX, Rule 3 and except in interlocutory applications (*see* Order XIX, Rule 2), to confine the use of affidavits to such facts as the deponent is able to prove from his own knowledge and to refuse statements founded on mere belief.

40. When filing of affidavit it compulsory - Every application under Rule 3, 4, 9 and 11 of Order XXII of the First Schedule to the Code of Civil Procedure shall be supported.

CHAPTER – II

Processes and Process –servers

I. PROCESSES

A. General

41. Description of the officer issuing process - In every process and order (of whatever description) issued by a Judicial Officer, for whatever purpose it may be issued or made, the name of the district and of the Court from which the same is issued and also the name

and powers of the officer issuing or making it shall be clearly set out in such a manner that they may be easily read.

[41-A. whenever notices/sumons/warrants are to be issued by the Court, the following shall be mentioned on the bottom of form for information about free Legal Services.

"You are hereby informed that free legal services from the State Legal .Services Authorities, High Court Legal Services Committee, District Legal services Authorities and Taluka Legal Services Committees, as per eligibility criteria, are available to you and in case you are eligible and desire to avail of the free legal services, you may contact any of the above Legal Services Authorities / Committees." "You are further informed that alternative Dispute Resolution (A.D.R.)/ Mediation facilities are also available in case you desire to avail the said facilities."

42. Process to be in the language of the Court - (a) Processes should ordinarily issue in the language of the Court, but processes sent for service at any place where the language is different from that of the. Court issuing them should be accompanied by a translation in the language of such place or in English.

(b) **Process to Europeans and Anglo-Indians in English -** Processes to Europeans and Anglo-Indians should be issued in English.

43. Description of the person to whom process is issued -

Every person on whom a process is to be executed shall be described therein in such a manner as to identify him clearly, that is to say, by a statement of his correct name and address and such further description as will serve to identify him.

Note - In the case of service, or execution of processes to be effected in large towns, the name of the street or section and the number of the house where possible, should be given. Where addresses for service were filed by the opposite parties in the lower Court, notices and processes shall issue from the appellate Court to such addresses.

44. Forms to be filed in by parties - (1) With every application for the issue of process, the parties shall file the necessary number of printed forms duly filled up in ink, in clear and easily legible writing leaving the date of appearance and the date of the process blank. On application, such forms will be supplied free of charge.

(2) Parties responsible for accuracy - The parties or their pleaders shall sign the forms in the left bottom corner and will be held responsible for the accuracy of the information entered therein.

1. Inserted by C.S. No. 56 (XLIX-D-3/2009, Dt. 3.4.2010).

(3) *Date fixed to be inserted by Office* - When order for the issue of process are passed by the Court; the date fixed for appearance will be inserted in the form and the process will be dated by an officer of the Court before the processes are signed.

(4) *Forms when may be filled in by office* - The Presiding Officer may in his discretion direct in any particular case that the forms or processes be entirely filled up in the office of the Court.

(5) *Fixing fresh date* - If service in sufficient time before the date fixed is impracticable, the process is to be returned to the issuing : Court with reasons and thereupon a fresh date may be fixed.

(6) *Process for substituted service - How dealt with* - A summon issued under Order V, Rule 21, shall ordinarily be sent to the Court of the ¹[Civil Judge (Jr. Division)] within whose jurisdiction the defendant or the witness, as the case may be, resides, with a covering letter or an endorsement signed by the Presiding Officer.

Note - Supreme Court and High Court Process - Summons and notices issued by Supreme Court and High Courts for service with the jurisdiction of outlying ¹[Civil Judge (Jr. Division)] of the same district shall be forwarded to the Court of the ¹[Civil Judge (Jr. Division)] concerned and not ordinarily served by a peon from Sadar.

45. Processes to public servants - Every summon intended for service on a public servant through his Head of the office in which he is employed should be forwarded with an order under the signature of the Presiding Officer in the prescribed Form No. (M) 8.

B - Method and Proof of service

46. Service to be personal - Service should be personal wherever practicable and the Courts ought not in *ex parte* cases to act upon anything short of personal service until they are satisfied that personal service could not reasonably be effected.

47. Proof, of personal service - When a summon or notice is served personally, the service and the signature or thumb impression of the person served on the back of the summons, or notice should be proved and, in the case of a defendant or judgment-debtor, his identify should also be proved.

48. Proof of service on agent - If the service is made under Order V, Rule 12, of the Code, on an agent, it should be proved that such agent was empowered to accept service, either by reason of his being one of the class of recognised agents described in Order III, Rule 2, Order XXVII, Rule 2, or Sec. 85 (1) or by virtue of the appointment for that purpose in writing. The party causing the service to be effected must in both last mentioned cases, furnish the necessary proof to this effect.

1. Substituted by C.S. No. 33 (IX-1/95, dt. 31.10.1995

49. Proof of service under order 5, Rule 14, 15, 17 or 20 - Where service is made under V, Rules 14, 15, 17 or 20 the necessary particulars must be strictly proved. In the case of such service it must also be proved that a reasonable attempt was made to find out the person to be served. Where service is made under Order V, Rule 20 it should, in addition to the particulars required by law, be proved how long and until what time the defendant or respondent resided in the house and what has become of him.

50. Proof of service, under Order 29, Rule 2 - If the service is made under Order XXIX, Rule 2 it should be proved that the summons or notice was left at the registered office of the Company, or was delivered to any Director, Secretary, or other principal officer.

51. Service of summons on Railway Administration or Companies - In the case of Railway Administrations or Companies in addition to service in the usual way, a copy of the summons should be sent by post under Order XXIX, Rule 2(b) provided that if the summons is sent by registered post, service in the usual way may be dispensed with.

52. Proof of service, under Order 30, Rule 3(b) - If the service is made under Order XXX, Rule 3 clause (b) it should be proved that the person on whom the summons was served had at the time of service, the control or management of the partnership business.

53. Refusal service how to be proved - If the summons or notice, when tendered is declined by the defendant or his agent, or an adult member of his family, besides the proof required as to identify, etc., as stated above, it should be proved that the party was informed that the document tendered was a summons or notice, and that he was made acquainted with the nature and contents thereof.

54. Additional proof of service -The proof required under the preceding Rules 47, 49 and 53 shall in the following cases ordinarily be-

- (1) in the case of a respondent, the affidavit of the person by whom the service was effected;
- (2) in the case of a defendant or judgment debtor, the affidavit of the person by whom the service was effected, and in addition at least one of following :
 - (a) the affidavit of an identifier provided by the plaintiff or decree-holder and present at the service;
 - (b) verification in the form printed upon the back of the process and made, at the scene of the service, by a local villager or gramrakhi present thereat;
 - (c) the *prima facie* proof referred to in the proviso to Order V, Rule 10, C.P.C. :

Provided that if deemed necessary the Court may require the examination upon oath or affirmation of such person or persons as it may think fit.

55. Duty of process-server and Nazir - As there is no legal obligation upon a plaintiff, decree-holder or appellant to supply an identifier for service of process or notice, process-server must not return unserved any notice, process or summons made over, to them for service by reason only of the fact that no identifier has been supplied by the party. They must make every possible endeavour to find out the person to be served and to secure the verification referred to in Rule 54 (2)(b) above, making for that purpose careful enquiries in the locality. The Nazir should personally deal with all cases in which should personally deal with all cases in which the process-server reports that he could not find the person upon whom service was to be made, and when necessary he should bring the matter to the notice that that he could not find the person upon whom service was to be made, and when necessary he should bring the matter to the notice of the Judge in-charge of the department.

56. Duty of Court to whom process is sent for service - When the summons which has been served is the summons of another Court transmitted to the serving Court for the purpose of service only, then, upon service being effected, the latter Court should retransmit the summons to the Court by which it was issued together with - (1) the Nazir's return and the affidavits, verified statements, or depositions of the serving officer and the witnesses relating to the facts of the service, (2) the record of such Court's proceedings with regard thereto (Order V, Rule 23) and (3) in case where any of these documents is in a language different from that of the district from which the process issued, an English translation of such document.

When the summons is not served, the report from the receiving Court to the originating Court should be accompanied by an authorised English translation.

57. Complaints of resistance - The Presiding Officer should himself initiate and control the investigation relating to complaints of resistance to the execution of processes of the Court and should not allow a proceeding to drop for want of prosecution by the complainant party. If necessary, he should summon the witnesses and make a complete investigation.

C. Additional Rules relating to the service of Notice of

Appeal issued by High Court

58. High Court process - On receipt of the proceeding of the High Court transmitting notice of appeals, the Lower Court, shall cause service of the notice without the payment of any further fee and without any further action by the appellant.

Proviso 1 – Any addition of fees for a boat-hire or ferry-toll eligible under Rule 8 or rules framed under Clause (i) of Section 20 of the Court Fees Act VII of 1870, shall be deposited by the appellant in the Court serving the notice.

Proviso 2 - The appellant or someone employed by him may accompany the serving officer for the purposes of pointing out the residence of the respondent.

59. Process to be issued immediately -The Lower Court shall issue all notices received for service immediately on receipt thereof.

60. Certificate of lower Court regarding Service of Process - In every case the Lower Court shall satisfy itself that a valid service has been made or that there has been a failure of service and shall certify such opinion to the High Court with the reason in case of failure. The certificate may be endorsed on the process and to serve it shall be accompanied by the return of service or of failure to serve the notice and the affidavit or solemn declaration of the serving officer.

Note - The service reports of Process-servers shall be thoroughly scrutinized by the Judge-in-charge of the Nazari at before endorsing the certificate.

61. Duty of the Court to which the Court receiving processes sends for service - Where a notice is sent for service by the Lower Court to another Court whether within the same district or in a different district such latter Court shall make its return of service or of the failure of service (as the case may be) direct to the High Court and shall be guided by Rule 58, 59 and 60 above.

D. Summons on persons in civil and military employ of Government, etc.

62. Summons on persons in civil or military employment -When a summon is issued to person who is in Civil or Military employ of Government or is a servant of a Railway Administration or Company or Local Authority a reasonable time should be allowed for the making of arrangements of the relief of the person summoned.

E. Production of public documents and records

63. Courts to avoid orders for production of public documents which are not necessary - All Subordinate Courts should take special care to prevent the unnecessary production in Court of Public documents as defined in Section 74 of the Evidence Act. When an officer objects to the production of any document stating the grounds of such objection it will be the duty of the Court to consider and decide if it should compel the production of such documents.

64. Post Office records - A summon for the production of any of the records of a Post Office or a certified extract form or copy of such records shall be addressed to the Postmaster.

Note - For instructions issued by the Director-General of Post Office Rules 739 to 742 at pages 317 - 318 of the Posts and Telegraphs Manual, Volume II.

65. Letter of request to Secretary of Parliament or State Legislature- A letter of request instead of summons should be issued to the Secretary of the House of Parliament or of the State Legislature for examination of any Officer of the Secretariat as a witness in the Court or for production of any document in the contest of the Houses of the Parliament or of the State Legislature.

66. Dispensing with the original documents of Parliament or State Legislature - Original documents in the custody of the Houses of Parliament or of the State Legislature should not be called for if certified copies thereof would serve the purpose. It is only in case where the party insists on strict proof that the Court should call for the originals. In this connection attention of the Judges is also invited to Section 78(2) of the Indian Evidence Act relating to production of records from the custody of the Parliament or of the State Legislature which specifies the way in which the proceedings of the Legislature can be proved.

II. PROCESS - SERVERS AND NAZARAT

A. Process-serving Establishment

67. Process-serving Establishment - There shall be a joint process serving establishment for all the Civil Court, Sessions Courts and Courts of Judicial Magistrate at the same station under the direct control of the Nazir who will be responsible for the proper service of processes made over to him for the purpose. The process-serving peons recruited on the civil and criminal side shall be entrusted to execute processes, both on the civil and criminal sides. The Nazir and the staff shall also be subordinate to any such Court issuing process for the purpose of execution of that particular process and shall place themselves under the orders of the Presiding Officer in that regard. The Register of Process-serving peons shall be maintained in the prescribed Form (R) 9-B.

68. Strength of Process servers to be determined in every five years - The Judges of every district shall ascertain after every five years the average number of original processes issued from his own Court and from each of the Courts subordinate thereto during the immediately preceding five years and fixed the number of process-servers to be employed, each peon being for this purpose considered capable of executing during the year the number of original processes given in the following table:

District of ¹ [Civil Judge (Junior Division)]	Summons and Notices issued by all Courts and other processer issued by Munsifs except in case valued at over Rs. 1, 000/-	Processes other than those mentioned in Column 2
(1)	(2)	(3)
Bhadrak and Kendrapara	500	225
.Sambalpur , Bargarh, Nawapara, Cuttack, Jajpur, Balasore and Angul	450	200
Ganjam	400	300

¹.Substituted by C.S. No. 33 (IX-1/95, dt. 31.10.1995).

Puri	450	200
Dhenkanal	450	200
Bolangir	450	200
Koraput	400	200
Kalahandi	400	200
Pulbani	400	200
Mayurbhanj	400	200
Keonjhar	400	200
Sundargarh	400	200

Note - (1) For the purpose of this rule all copies of processes served in one village in one case by a process-server at one and the same visit shall be reckoned as one original process, while copies served in the same village for separate visits or in different villages shall be reckoned as separate visits to the same village.

Note - (2) Where a summons or notice is served by a peon at Sadar within the jurisdiction of any outlying [Civil Judge (Jr. Division)] under the special orders of the Court, it will be treated as belonging to the class mentioned in Column 3.

Note - (3) Processes served by special peons as in the cases of warrants or arrest, should be reckoned as service of three original processes only in case of due execution and not when returned unexecuted.

Note - (4) Each day on which a peon is occupied in keeping custody of attached moveable property, standing crops or of a person under arrest in attending on Commissioners deputed to deliver possession or in taking records, letters etc. from one station to another or in guard duty at the residential office of Judicial Officers should be reckoned as service of 3 original processes.

69. Distribution of process servers - The District Judge may authorise the appointment of such total number of peons for the whole district as may suffice for the execution of all the processes issued for service within it and may from time to time apportion such peons among different stations in such manners as may appear necessary.

70. Increase or decrease of strength of process-servers -On the examination of the figures in the manner as in Rule 68, the District Judge shall increase or reduce the number of peons according as the number of processes has increased or decreased by 10 per cent, the surplus permanent hands in case of diminution being gradually absorbed against permanent vacancies by stopping fresh recruitment until the permissible limit has reached.

B. Method of recruitment and appointment of process-servers

71. Candidate Peons - The Nazir shall keep a register of candidates for filling up leave and permanent vacancies. These candidates will be enrolled under orders of the Judge-in-charge of Nazarat and their-

-number shall not exceed 15 per cent of the total strength of permanent peons employed at any station subject to the minimum of one candidate.

72. Qualification - No candidate shall be enrolled who cannot read and write the vernacular of the district satisfactorily.

73. Appointment of process-servers - No process-server shall be appointed except from these candidates.

Note - Orderlies, office peons and night watchmen will be eligible for appointment as process-servers without being enrolled as candidates.

74. Fitness for appointment - No process-server shall be permanently appointed unless he is found fit by the Judge-in-charge of the Nazarat.

Note - In order to ascertain fitness, the Judge-in-charge of the Nazarat shall hold periodical examination and strike off unfit or undesirable candidates.

75. Vacancies have to be filled in - Vacancies occurring at any Judgeship shall ordinarily be filled up by ¹[* * *] appointment ¹[* * *] respectively of peons and enrolled candidates attached to that Judgeship.

Note - The appointment of peons lies with the District Judge.

76. Security of process-servers - The attention of Judicial officers is drawn to Rule 217 of the Bihar and Orissa Board's Miscellaneous Rules, 1928 which should be followed in the case of process-serving peons. In future no process-serving peon should be appointed who cannot give a security bond of Rs. 50 (executed by some person of known respectability and solvency) for his good and honest conduct.

Note – One process-serving peon cannot stand security for another peon.

C. Arrangement of work

77. Register of service of processes - The Nazir shall maintain for the jurisdiction, for which he is the proper officer for service of processes (1) a list of villages within 8 kilo metres radius of his office, (2) a list of villages outside such 8 kilo metres radius.

78. Town Processes - Process for service at places within 8 kilo metres radius shall be sent out every working day and should ordinarily be returned either next day or on the day following.

79. Arrangement of seats - The Nazir shall divide the area outside 8 kilo metres radius into beats and shall make the best arrangement possible for the prompt service of processes of each beat.

80. Processes to be made over according to beats - The Nazir is responsible that processes to be served in the same beat are as far as practicable made over for the service to one peon; provided that number of processes so made over must not be unusually large.

81. Delay in issue of processes – The Judge- in –Charge , Nazarat should in his general supervision and inspections pay particular attention to any delay in the issue of processes for service.

1.Deleted by C.S.No. 45 (IX- 4/98)

82. Returnable date to be fixed by Nazir - In making over any process for service in Nazir will fix a returnable date within which it must be returned to office by the process-server after execution.

83. Service of processes by special peons - The following processes may be executed by special peons -

- (1) Warrant of arrest
- (2) Warrant for attachment of moveables.
- (3) Any process respecting which there is a direction by the Court.

Note - More than one peon may be deputed for the execution of any process where there is special direction of the Court to that effect.

84. Processes to reach Nazir before 10 days - Processes should except in urgent cases be made over for service to the Nazir at least ten days before the date fixed.

85. Return of process to Court - Processes made over to the Nazir for service be returned to the Issuing Court as soon as possible after return and at least one day before the date fixed.

86. Guard duty - When not employed in serving processes, process-server should be employed in miscellaneous office work of the Courts or in the residence of the Judicial Officers.

Note - No process-server shall be employed for doing clerical work for the office.

87. Register of attendance and deputation of peons - The attendance and deputation of peons should be maintained regularly by the Nazir in the register in Form No. (R) 13.

88. Tour programme - Every process serving peon shall submit advance tour programme, in duplicate, in respect of service of process to the Nazir who shall invariably send one copy of the same to the local Bar Association.

Note - Such tour programmes shall be unreserved for one year.

89. Receipt of money from parties under process -

(i) **Procedure to be followed by Nazir and process server** - Whenever a process-server is entrusted with the service of a process under which he is authorised to receive money, he shall be given by the Nazir a loose form of cheque with counterfoil in Form No. (A) 12-C. The cheque made over to the peon shall be entered by the Nazir in the register of cheque in Form No. (R) 30-A and the peon's signature shall be taken in Column 7 of the register in taken of receipt. The peon on receiving any payment under the process shall give a receipt in the cheque form supplied to him by the Nazir for the amount paid to him and shall obtain the signature of -

thumb impression of the prayer on the counterfoil and shall in his service-report invariably mention the number and year of the receipt granted. In the case of illiterate payers the peon shall make every endeavor to obtain the signature of a literate witness on the back of the counterfoil. The Nazir on the return of the peon shall scrutinise the counterfoil with the service report and countersign the counterfoil. The Nazir shall record the return of the counterfoil (or of the unused form, as the case may be) in the register of cheques. If the cheque has been used, the Nazir shall send the counterfoil with the service-report to the Court concerned to be filed with the record of the case.

(ii) **Cheque forms to bear consecutive number-** The cheque forms issued by the Nazir during each calendar year shall bear consecutive serial numbers for the year.

(iii) **Blank cheque-** All blank cheque shall be kept by the Nazir under lock and key. The total number of the cheque forms received on indent inside of the cover of Register (R) 30-A, under the signature of the Judge-in-charge of the Nazarat.

(iv) **Unused cheque forms - How to be dealt with** - Cheque forms returned unused shall not be re-issued. Such forms shall be kept by the Nazir in yearly bundles in the Nazir's Office almirah and not in the iron safe where blank cheques are kept. These returned unused cheque forms shall be destroyed one year after the end of the year in which they are returned, e.g. the forms returned unused in 1973 should be destroyed in January, 1975.

CHAPTER -III

Adjournments

90. Time for filing written statement - Every defendant should be allowed a reasonable time within which he should file his written statement. The period, so granted, will be shorter or longer according to the simplicity or complexities of the case. Once the defendant has granted reasonable time for filing his written statement, he should not ordinarily be granted further time for the purpose unless he can establish a genuine cause. The Courts should adopt a strict attitude in the matter of granting adjournments for filing written statements.

91. Date for fixing date of hearing - When it is not possible to fix a date for the hearing within a reasonable time, the case may be adjourned for a certain time for the attendance of the pleaders without witnesses, by which date the Court will be in a position to judge possibilities of the case being tried at some further date.

92. Time for interlocutory matters - Sufficient time should be given to litigants to enable them to take necessary steps towards getting their cases ready for hearing, but more than one adjournment for the same step ought not to be generally granted and, if it is allowed, the question of compensating the other party by means of adjournments, costs, should be considered. Expert in difficult cases, issues should be framed on the day on which the written statement is filed or on the next day. Lengthy adjournments should not be granted for interlocutory matter, such as calling for records, serving of interrogatories, issue of commissions, filling of lists of witnesses and payment of costs for issuing summons.

93. Considerations for fixing date of hearing - Date for the hearing of cases ought not to be fixed at random or automatically as a matter of form. It is a matter that should be controlled by the Presiding Officer himself and not left to the discretion of subordinates. While it is desirable that a case should be disposed of as early as possible it is no less important that care should be taken to see that the parties are not put to the expense and inconvenience of having to attend on a date when it is manifest that the case cannot be taken up. The date for hearing should, therefore, be fixed with due regard to the state of the file, the nature of the case and the time it is likely to occupy. If the file is congested, it is better to fix a distant date than to require the parties to appear, even without their witnesses, from month to month, on dates on which there is no reasonable expectation that the case will be heard. In contested suits, the pleaders of the parties should be consulted whenever it is practicable to do so. It may well be that in some instances it is less hardship to detain the witnesses from day to day than to discharge them, requiring them to return after a considerable interval. In every case, however, the adjournment must be to a day certain and no judicial proceeding of whatever nature shall be postponed *sine die*.

94. Adjournment when stay is granted - ¹[The hearing of a suit should not be adjourned on the representation that an appeal or revision or stay application has been filed or about to be filed in superior Court. The hearing of a suit or appeal should proceed unless a stay order from an appellate Court has been actually received. The Presiding Officer of Subordinate Civil Courts if moved for grant of time by the parties on the ground that they seek to move the Superior Courts to obtain stay order, the hearing of the Suit/appeal shall proceed, yet the Judgment shall not be pronounced for a period of ten days. The certified copy of the order desired to be challenged in appeal or revision should be forthwith made available to the party concerned on filing an urgent application for the same before the Presiding Officer of the Court and-

on such application being made, the Presiding Officer shall pass orders for grant of copy in course of the day. If no order of stay has been received or filed by the tenth day of the adjournment, the judgment should be delivered irrespective of the intimation, if any, given to the Court of filing of any appeal or revision. When cases are stayed under, the orders of a Superior Court, a fairly long date, depending upon the circumstances should be fixed, leaving it open to either party to move for the case being taken up either when the stay order is vacated or has lapsed otherwise.]

95. Time of adjournment order - Adjournment order in cases fixed for hearing and also cases in which stay orders have been passed by superior Courts should be passed as early during the day as possible.

96. Avoiding short or frequent adjournment - It is of the utmost importance that frequent and unnecessary postponements and attendance of witnesses should be consistently discouraged and the District Judge should call for and scrutinise some of the records of the cases before any of his subordinate who appear from their explanations regarding long pending cases or otherwise, to be wanting in firmness in the matter. The grounds for asking adjournments and the reason for allowing the same should be set out in the order-sheet.

97. Noting of attendance of witnesses on adjourned date in the order sheet - When witnesses are in attendance for any party the fact should be noted in the order-sheet. In every case adjourned for hearing or for further hearing, there shall be recorded as part of the order of adjournment, a specific order to the witnesses who have attended but have not been examined, to attend on the day to which the case stands adjourned. It shall also be recorded that the said order has been communicated to the witnesses in attendance.

98. Continuing trial from day to day - On the day finally fixed for the hearing of a suit after adjournment, the parties shall be directed to have their witnesses in attendance; and the trial, when once commenced shall, except for good and sufficient cause (to be noted in the order-sheet), proceed, throughout the day in which it has been opened, and from day-to-day, throughout each day following until it is completed.

Note 1 - This rule is not intended to prohibit the taking up of other cases for the purpose of passing such necessary routine orders as will occupy a short time only, or the taking up of miscellaneous and Small Cause Court cases on days regularly set apart for them

Note 2 - The above rule also applies to Small Cause Court and Miscellaneous cases.

Note 3 - Devoting a small portion of each day to the hearing of a case is not hearing it from day to day.

Note 4 - Trial includes the hearing of arguments

1. Substituted by C.S. No. 22, (XLIX-u-7/91, dt. 27.6.1992).

99. Plan for disposal of old suits and cases - At beginning of each quarter, all officers should carefully draw up a plan for disposal of old suits and cases chronologically and send a copy thereof to the District Judge. These cases should be disposed of by giving top priority over other cases. The District Judge at the time of scrutinizing the returns should see whether the programme was adhered to, and if not, whether reasons for departure were sufficient.

100. All officers must try to dispose of old cases first and take up new cases only after the old cases have been disposed of unless they are prevented from doing so for unavoidable reasons to be recorded in writing in the order-sheet of the case.

101. Adjournments in old and explanatory cases should not be granted as a matter of routine. A prayer for adjournment in such cases should be properly examined on merits before it is allowed.

102. In old and explanatory cases the Court should inform the lawyers of the parties in advance that it is going to take up those cases on a particular date when they must come prepared.

103. While submitting their monthly returns to the respective District Judges, the officers should append a certificate that no preference was given by them to new cases over the old ones and if new cases are taken up, there should be given an explanation as to why the old cases were ignored.

104. Adjournment must not be diverted to other purposes- Costs of adjournments ordered to be paid by a party under Order XVII, Rule 1(2), must not be diverted to purposes other than that for which they are intended, that is, the recoupment to the other party of the costs which the adjournment may entail on him. Such payments must invariably be made direct by one party to the other unless the Court otherwise directs, and the receipt of the party or his pleader should be taken on the order-sheet against the order allowing such costs.

Note 1 - While the Courts have full liberty to exercise their discretion in each individual case, the High Court considers that in the absence of special circumstances and when the costs allowed do not exceed a few rupees, it is reasonable that the party desiring the adjournment should be prepared to compensate his opponent for the inconvenience to which he is put, and that the Court will be justified in making the adjournment conditional on the money being paid then and there.

CHAPTER - IV

Hearing of suits and examination of witnesses

105. Time for filing of list of witnesses - Parties shall file in Court their lists of witnesses who are in attendance to give evidence on their behalf before 11.00 A.M. or in the case of morning sittings before 7.30 A.M. The omission to file such a list within the time fixed shall be no bar to witnesses for any party being examined if presented -

for examination, but nothing should be allowed to any witness on account of his expenses for the day's attendance if he is neither entered in the list nor actually examined.

Note - This rule in no way affects the obligation on the part of witnesses to attend punctually at the time for which they are summoned.

106. Use of affidavit evidence - The Courts should encourage a large use of affidavit evidence to prove simple and incontrovertible facts, both in contested and uncontested matters. In contested suits, simple and incontrovertible facts may be proved by affidavit evidence at the first instance, and if seriously disputed later, steps for cross-examination under Order XIX, C.P. Code may be taken.

107. Treatment of parties and witnesses during evidence -While taking evidence, the witnesses should be treated with courtesy and all the Courts should maintain proper decorum and ensure proper treatment of parties and witnesses, at the time of recording evidence.

108. Time for deciding admissibility and relevancy of documents - The Presiding Officers should decide the questions as to the admissibility and relevancy of documents sought to be tendered in evidence, as and when they arise. They must insist that documents filed in suits and cases should be entered in the list and admitted in evidence in chronological or methodical order so as to present the party's case in a clear, logical and connected sequence.

109. Forms of oaths and affirmations - The following forms of oaths and affirmations prescribed in the Schedule of Act 44 of 1969, are to be used :

In English :

Form No. 1 (Witnesses)

Swear in the name of God.

I do solemnly affirm that what I shall state, shall be truth, the whole truth and nothing but the truth.

Form No. 3 (Interpreters)

Swear in the name of God.

I do solemnly affirm that I will well and truly interpret and explain all questions put to and evidence given by witnesses and translate correctly and accurately all documents given to me for translation.

110. Manner of swearing - Christian witnesses and interpreters shall be sworn upon the New Testament. In other cases the oaths are to be administered upon such symbol, or accompanied by such act as may be usual, or as such witness or interpreter may acknowledge to be binding on his conscience.

111. Use of typewriting machine - A type writing machine may be used for the purpose of recording depositions and memoranda of-

evidence. The typewriting machine must be used by the Presiding Judge himself except in the case provided for in Order XVIII, Rule 14. A certificate must be given that this has been done. Each page of the record so made must be attested by the Judge's signature.

112. Name and designation of witnesses to be in the Presiding Officer's handwriting - Every Presiding Judge, shall, in the examination of witnesses, record in his own handwriting in each deposition, the name of the person examined, the name of his or her father, and if married woman, the name of her husband, profession and age of the witness and the village, thana and district, in which the witness resides. The entry of age shall be the Presiding Officer's own estimate and in his own handwriting.

113. Deposition to be paragraphed - The deposition of each witness should be separately paragraphed and consecutive numbers be assigned to them.

114. Disallowing questions on irrelevant matters - The Presiding Officer should be careful to disallow examination or cross-examination on irrelevant matters. The suggestions made in questions without any evidence to support the suggestions, should be prevented. Every endeavour should be made to put a stop to lengthy and irrelevant cross-examination.

115. Appointment of interpreters - The District Judges shall draw up a panel of interpreters for their respective judgements. Interpreters should be appointed ordinarily from the panel. The cost of the interpreters shall be met from the contingency of the Civil Courts to a limit not exceeding Rs. 40 in each suit or case. The District Judge will report to the High Court expenditure incurred under, this rule, as it is incurred.

116. No adjournment in filing application for examining witnesses on commission after first hearing - If an application for issue of a commission to examine a witness is made subsequently to the first hearing, and an adjournment of the final hearing is prayed, the adjournment shall not be allowed, unless it is made to appear to the Court that the application could not, or ought not to have been made at the first hearing.

117. Priority to cases holding up other cases - Hearing of suits and cases should be given priority when they are holding back the decisions of other suits or cases.

118. Hearing of arguments - Arguments should be heard immediately after the evidence closes and should be continued from day to day till it is concluded. Every instance of failure in hearing arguments continuously from the day they are opened till they are concluded soon after the judgment is pronounced be demi-officially reported by the Presiding Officer concerned direct to the Registrar of the High Court with copy to the District Judge. The report shall contain full description of the case, dates of adjournments for arguments, and reason therefor.

CHAPTER – V

Judgment and Decree

I. Judgment

119. Judgments to be legibly written - Judgments should be written legibly and on one side of the paper with a left hand margin of $\frac{1}{4}$ th of each sheet being left blank.

120. Procedure when judgment is transcribed by stenographer- Shorthand typists may be employed to record judgments in civil cases, provided the Presiding Judge attaches a certificate to the effect that the judgments have been recorded at his dictation and attests each page thereof by his signature.

Note - When a Presiding Judge used a typewriting machine himself a certificate must be given that this has been done and each page of the record so made shall be attested by his signature.

121. Page marking and signing shorthand note-book - Every shorthand note-book used by a stenographer for taking down dictations of judgments and orders shall be page marked consecutively according to the sequence in which the papers of the note-book are made use of and signed by him in each page. He shall put his signature with date at the end of the record of every dictation.

122. Non-recording of long Judgment in order-sheet -

- (1) Long judgments must not be recorded on the Order-sheet.
- (2) Judgments in *ex parte* cases should state what reliefs in the plaint are granted.
- (3) Judgment should state specifically whether any interest or what interest (including interest *pendente lite*) is allowed.

123. List of witnesses and documents to be appended to judgment- A list of witnesses examined and the documents admitted in evidence in the suit should be appended to the judgment of every suit in chronological order. For copying purpose, however, such list will not be treated as a part of the judgment unless the copy applied for is for the purpose of an appeal or revision.

Note - This rule shall apply to the judgments and orders in revision suits and miscellaneous judicial cases.

124. Time for delivery of judgment – Ordinarily, Judgments in all civil suits and cases should be delivered soon after the hearing . But where it is not possible to do so either on account of the length of the case or other sufficient reasons, the delivery of judgment should not be postponed sine die. A definite date should be fixed not more than 2 weeks after the conclusion of arguments on which date the Judgment should be delivered. But in any case, the judgment must be delivered within 30 days from the date of conclusion of arguments.

Note - The period of 30 days and two weeks may be reckoned from and exclusive of the date on which arguments are concluded.

125. Delivery of all pending judgments when judicial officer proceeds on leave or transfer - Judicial Officers shall, before making over charge either on transfer or while proceeding on leave, deliver all pending judgments and intimate the fact of clearance to the concerned District Judges and in case of District Judges to the High Court, unless exempted by the concerned District Judge or the High Court, as the case may be.

126. Forwarding copy of judgment to the I.G. of Registration- District and ¹[Civil Judge (Sr. Division)] and ¹[Civil Judge (Jr. Division)] should forward to the Inspector-General of Registration, a copy of judgment in which the official character and conduct of a registering officer is impugned.

127. Judgments to be paragraphed - Judgments should be written out in separate paragraphs by assigning consecutive numbers to them.

II. Decree

128. Language of decrees - Decrees of District and ¹[Civil Judge (Sr. Division)] should ordinarily be drawn up in English. Decrees of ¹[Civil Judge (Jr. Division)], should also drawn up in English wherever possible.

129. Manner of drawing up decrees - Decrees should be drawn up in such a manner that in order to the understanding and execution of them, it may not be necessary to refer to any other document or paper whatever.

Note 1 - Petitions of compromise, maps prepared by the direction of or accepted by the Court and other similar papers necessary to illustrate the terms of the order passed shall be embodied in the decree. In drafting compromise decrees all the terms of the compromise of including matters extraneous to the subject-matter of the suit should be recited by introducing a schedule to the decree. But the operational portion of the decree shall deal only with the subject-matter of the suit by fully describing the same.

2. The particulars of the claims and the date of institution of the suit shall appear in the decree.

3. Where different valuations are put for purposes of jurisdiction and for payment of Court fees, both values should be stated in the decree. The amount claimed as mesne profits should be separately shown. In case of an appellate decree valuations as given in the decrees of the first Court should also be embodied.

4. In drawing up decrees interest, if any, allowed by the Court should clearly shown and also the period for which and the rate at which interest has been allowed.

1. Substituted by C.S. No. 33 (IX-1/95, dt. 31.10.1995).

130. Mode of noting address of the parties in the decree - Whenever an address has been filed for service by a party under Order VI, Rule 14-A of the First Schedule to the Code of Civil Procedure, such address shall be entered in the decree of formal order instead of the address given in the plaint or petition. The following note shall be made in the decree or formal order below the names and addresses of the parties and the note shall be signed by the clerk by whom the decree or formal order is drawn up.

The address given above are the addresses for service filed by the parties with the exception of..... who did not appear or omitted to file their addressees.

131. Manner of calculating costs in the decree - In drawing up decrees costs are to be very carefully calculated. Where "proportionate costs" are allowed such costs shall bear the same proportion to the total costs as the successful part of the claim bears to the total claim. When "corresponding costs" or "costs according to success" are decreed, the assessment is to be made as if the suit had been originally brought at an amount representing the value of the successful part of the claim. The inclusion or exclusion of the cost of stamp paper in the final decree for partition is within the discretion of the Court.

132. Charging costs of affidavits - In determining how the cost of affidavits should be borne by the parties to the suit, Court should have special regard to the circumstances under which they were admitted. When an affidavit has been allowed for the convenience of one of the parties, or of one of his witnesses the costs so incurred not form costs in the suit and be charged against the opposite party.

133. Exclusion of stamps on adjournment petitions from costs - In absence of a specific direction by the Court to the contrary, the stamps on adjournment petitions should not form part of the taxed costs of the suit or proceeding.

134. When adjournment costs to be included in the decree - Where adjournment costs have been paid into Court under Head (h) of Account Rule 595 the fact of such payment should be noted on the order-sheet by the Sheristadar. It will thus be possible to see from the order-sheet what sum, if any, still remains unpaid. All costs of which payment has not been noted under the foregoing orders must be entered in the decree as costs of the suit.

135. Order in suits instituted by indigent person - In suits instituted by indigent persons the Civil Courts should always keep in mind the provisions of Rule 10 to 11-A of Order XXXIII of the C.P. Code and made the appropriate order in conformity with the same.

136. Time for preparing the decrees - Decrees shall be prepared within 15 days from the date of pronouncement of the judgment. The preparation of decrees shall be under the supervision of the Sheristadar of the Court who shall initial the same after proper scrutiny.

137. Notifying decrees prepared - As soon as a decree has been drawn up the Court shall cause a notice to be exhibited on the notice-board stating that such decree has been drawn up and that it may be perused by the parties or their pleaders within three days from the date of posting the notice.

138. Exhibition and destruction of decree notice - The notice shall be exhibited for one week and thereafter shall be preserved in the office. The notices for the quarter shall be destroyed at the end of the succeeding quarter.

139. Signing or objecting to the decrees by the party - When such notice has been posted any party or his pleader may before the expiry of the time prescribed in the last preceding rule peruse the decree and either sign it or if it is incorrectly prepared bring the matter to the notice of the Court.

140. Signing the decree by the Judge - If no such objection is made on or before the date specified in the notice the Judge shall sign the decree giving the date of his signature.

141. Cases when no decree or formal order to be drawn up - Decrees or formal orders need not be drawn up in the case of -

- (i) Interlocutory orders made during the course of a suit or execution proceeding;
- (ii) Final orders such as those under Order IX, Rules 9 and 13, Order XXI, Rules 2, 58, 91, 92, 99, 100, 101. Order XXIII, Rule 1, Order XLI, Rules 19, 21, 23, Order XLVII, Rule 1 and an order rejecting a plaint; provided where any such order is capable of execution or affects execution by reason of adjustment of cost to be paid by one party to the other such costs may be shown in the order-sheet with a short note showing the result of the case and the name of the party by whom, such costs are to be paid as well as that of the party who is to receive the same so that the latter if desirous of executing the order, may not be compelled to take a copy of the judgment.

142. When decree need not be drawn up - In suits for money including suits upon mortgages, in suits for specific moveables, in suits for account and in suits for arrears of rent, no decrees need be drawn up if -

- (i) Neither party to recover anything and when the Presiding Officer orders for the drawing up the decree;
- (ii) The claim is satisfied after judgment but before the decree is drawn up.

143. Exhibiting cases in which succession certificate, probates or letters of administration are prepared - A list of cases in which succession certificates, probates or letters of administration have been prepared shall be exhibited on the notice-board in the language of the Court. The certificates, probates or letters of administration shall be

delivered to the parties or the pleaders concerned in open Court on the third day after the publication of the list. Such list shall be exhibited for one week and thereafter shall be preserved in the office. These lists for the quarter shall be destroyed at the end of the succeeding quarter.

Chapter – VI

Execution of Decrees

1. General

144. Attention to execution cases - Execution cases should receive as much attention as original suits and appeals. The Presiding Officer should see that the processes of the Court are not abused. All cases of fraud, negligence, suppression of processes and resistance to execution should be carefully scrutinised by him with a view to his taking such steps as may be necessary to prevent their recurrence.

145. Time for putting up execution application before the Presiding Officer - The application for execution shall ordinarily be put up before the Presiding Officer for orders on the day following the day of its presentation with all defects, if there are any noted thereon and if a searching fee of 25 paise has been paid by means of a Court fee stamp affixed to the application. Information available in the office which will enable the defects to be remedied shall also be noted on the back of the application.

146. Manner of service of notice by judgment-debtor – The attention of Courts is drawn to the provisions contained in Order XXI, Rule 1, Code of Civil Procedure as amended. It has now been made optional for the judgment-debtor to serve notice through Court or by registered post direct. No challan tendering the money should, therefore, be rejected by reason only of not being accompanied by forms of notice and process-fees.

147. Manner of sending decretal dues by post - Judgment-debtor desirous of sending decretal dues to the Court by post may send the same by money-order or through a Bank.

The names of the parties to the suit or case, the number and year of the suit or case, the name of the Court and the purpose of remittance should invariably be noted in the money-order coupons-

(a) On receipt from the Treasury or the Sub-Treasury concerned advice list with the corresponding coupons or strips of coupons and acknowledgments relating to money-orders of decretal dues, the chief ministerial officer of the Court will, after the scrutiny specified below, sign the acknowledgements and send them immediately to the post-office for despatch to the remitter,

(b) The scrutiny laid down-Part IX, Chapter I, Rule 601 shall be completed by the chief ministerial officer as soon as possible, If he finds that the tender is not in order, a note should be made on the acknowledgment mentioned in Clause (a) to the

effect that the money remitted is being retained by him, or in favour of the remitter and may be claimed by him, or will be credited to the decree holder on proper information on the necessary points, which should be mentioned, being supplied;

(c) When the tender is found to be correct, entries in the prescribed registers should be made and other action should be taken by the Court as if the decretal money had been deposited by challan, the manner laid down in part IX, Chapter I mentioned above.

Note - The date of receipt of the treasury intimation in accordance with Clause (a) should be treated as the date of receipt of the money by the Court.

148. Court executing decree when the Presiding Officer is on temporary deputation - The temporary deputation of the Presiding Officer of a Court to some other station does not necessarily mean abolition of the Court and the Judicial Officer placed in charge thereof during such absence becomes, subject to the question of pecuniary jurisdiction and special powers, if any, the Presiding Officer also of that Court in addition to his being the Presiding Officer of his own Court.' Thus all decrees passed by the latter in the cases belonging to the file of the first named Court may be executed by that Court presided over by the officer sent on deputation when he returns.

II. Attachment

149. Advance payment of further fees for retaining attached moveable property for a longer period - An officer deputed to attach moveable property should be furnished with a certificate stating the period for which the fee required under Part IV, Chapter I, Rule 370 has been paid, and he shall give notice thereof to the judgment-debtor or other person at whose instance he remains in possession at the place of attachment and if such person shall desire that the property shall remain at that place for a longer period, he shall be bound to pay into Court in advance the further fee as required by the second paragraph of Note 1 to that Rule.

III. Sale

150. Additional particulars in application for order for sale - Every application for an order for sale shall, in addition to the particulars required by Order XXI, Rule 66, Clause (3), state everything known or believed by the person verifying the same to exist which relates to the nature or affects the value of the property and shall further state that he is not possessed of any further information regarding it.

151. Additional particulars in application for sale of immovable Property- Every application for sale of immovable property shall, in addition to other particulars required, state the area of the land involved, and the amount of revenue payable.

152. Materials regarding property to be sold to be read out at the time of sale - If, after the sale proclamation under Order XXI, Rule 66, has been published any written communication regarding the property to be sold which it considers material for purchasers to know is received by the Court, the Court shall cause the same to be read out when property is put up for sale.

153. (a) If the property to be sold is mortgaged with any land mortgaged bank, the proclamation of sale shall be published in the official Gazette.

(b) The rule shall not interfere with the direction of the Court under Order XXI, Rule 67(2), in directing, whenever it thinks fit, a similar publication of the intended sale of any other property or properties attached in execution of a decree.

(c) The selection of local newspapers in which sale proclamation may be published under Order XXI, Rule 67 rests with the District Judge. The name or names of the papers selected shall be notified to the public.

154. Date of commencement of sales to be fixed by the District Judge - Subject to the provision in Order XXI, Rule 43, sale of property in execution of decrees in the several Courts of each district (not being Courts of Small Causes) shall be held and commenced at a certain day each month to be fixed by the District Judge.

155. Manner of preparation and exhibiting sale lists - All property, except property of the nature specified in the provision to Order XXI, Rule 43 of the Code or Rule 159 of this Chapter to be sold at each place of sale shall be entered in lists for each place, the lists of movables and immovable properties being distinct. The lists shall be so prepared as to contain in regular order each item of property to be sold in execution of the decrees of each Court severally. Such lists shall be struck up in the Court where sales are to be held in the case of moveable's not less than seven days and in the case of immoveables not less than 15 days before the date fixed for the commencement of each set of sales. Such lists shall be prepared in the language of the Court and shall be preserved in the office. These lists for the quarter shall be destroyed at the end of the succeeding, quarter.

156. Manner of conducting sales - At the stated hour upon each fixed date, the sale shall be commenced, and shall be carried on in the order stated in the lists above-mentioned. No sale shall continue after sunset, but the sale shall be held from day to day, except when the Court is closed and until the lists are finished. Provided that this rule shall not interfere with the adjournment of any particular sale according to law [See Order XXI, Rule 69]

157. Separate days for sale of movable and immovable property- The same day shall not ordinarily be fixed for the sale of movable and immovable property.

158. Place of conducting sales by Nazir or other officer - Except as regards property of the kind mentioned in the next succeeding rule, sales in execution of decrees of any Court shall be conducted in that Court by the Nazir or other officer of the Court in the immediate presence of the Presiding Officer. Where this is not possible the sales may be held in another place within the Court premises to be selected by the Presiding Officer.

159. Sales of articles at the market - All sales of live-stock, agricultural produce, articles of local manufacture, and of other things commonly sold at country markets shall, unless the Court otherwise directs, be held at such market in the neighborhood of the place where the goods were attached, as may appear likely to for the greatest advantage of the judgment-debtor, regard being had to be prospect of good prices and to the saving of expenses in conveyance and carriage.

160. Notice to the D.M. regarding names and addresses of purchasers of guns etc. and time and place of intended delivery of such arms to the purchasers - whenever guns or other arms in respect of which licenses have to be taken by purchasers under the Indian Arms Act XI of 1878, are sold by public auction in execution of decrees, the Court directing the sale shall give due notice to the Magistrate of the district of the names and addresses of the purchasers and of the time and place of the intended delivery to the purchasers of such arms, so that proper steps may be taken to enforce the requirement for the Indian Arms Act.

161. Forwarding copy of sale certificate to the commanding officer - Whenever the Civil Courts have occasion to sell, in execution or a decree or other order any house or other building situated within the limits of a military cantonment or station, they shall in confirming the sale, forward a copy of the sale certificate to the commanding officer of such cantonment or station, for his information and for record in the Brigade or other proper office.

162. Time and manner of preparing sale certificate and noting the same in order-sheet - As soon as a sale is made absolute, and the auction purchaser has filed the necessary sale certificate stamp under Order XXI, Rule 94, of the Civil Procedure Code, a sale certificate shall be prepared in the prescribed form and the fact shall be noted in the order-sheet. The sale certificate shall be made ready within 21 days of the date of the filing of the sale certificate stamp. In addition to the original certificate, two more copies thereof shall be prepared, one of which shall be kept with the record and the other despatched to the Registration office as soon as the certificate is prepared. On each copy the amount of stamp duty paid on the original certificate under Act 18 of Schedule I of the Indian Stamp Act, 1899, shall be noted. Under Art. 24(a) of the same Schedule such copies do not themselves require to be stamped. The original certificate, if undelivered should-

be kept with others in bundles of a convenient size in the custody of the Sheristadar and destroyed after one year from the date of confirmation of the sale.

Note – When a sale certificate is ready, notice thereof should be exhibited on the notice-board for a period of one week and thereafter preserved in the office for one quarter like plaints and cause lists.

163. Particulars of sale certificates – The following particulars should be inserted in the sale certificates :

(1) The “addition “ (as defined in Section 2 of the Indian Registration Act, 1908) of person who is declared to be purchaser;

(2) Particulars sufficient to identify the property, as required by Section 22(2) of the same Act.

(3) The name of each registration Sub-district in which any part of the property is situate;

(4) The date on which the sale becomes absolute.

164. Stay of sale of immovable property- The attention of Courts is drawn to the provisions of Sub-section (2) of Rule 6 of Order XLI of the Code of Civil Procedure to the effect that stay of sales of immovable property in execution of the decree is mandatory when an appeal is pending from the decree, provided the judgment- bettor is able to give such security as the executing Court may think necessary.

IV. Arrest, Imprisonment and Release

165. Notice regarding arrest of Railway servants- As inconvenience and danger are likely to arise from the arrest under civil process of Railway servants unless such previous notice be given as may enable measures to be taken to provide for the proper performance for their duties, all warrants issued by any Civil Court for the arrest of Railway servants should be entrusted for execution to a selected peon, who if he finds on proceeding to execute the warrant that the immediate arrest of the Railway servant would occasion risk or inconvenience , shall make all arrangements necessary to prevent escape and defer removing the person arrested from his post for at least twenty-four hours, giving immediate notice of the arrest to the nearest Station Master.

166. Exemption of army personnel from arrest for debt-Attention is invited to Sections 28 to 30 of the Army Act, 1950 (Act No.46 of 1950) which provide immunity from arrest and attachment of certain properties of persons belonging to the Army.

167. Time for dispatching warrants for release- Warrants for release should not be dispatched by a Court after sunset, or , if so dispatched, should be endorsed with instructions for release as early as possible next morning.

Note - The above provisions apply to witnesses arrested under a warrant and detained in the Civil prison.

V. Execution by another Court

168. The attention of Courts is drawn to the provisions of Section 41, Civil Procedure Code. There should be no unnecessary delay in carrying out the directions contained in that section.

169. Time of applying for execution of transferred decrees and intimating the fact of application to the transferee Court - If after a decree has been sent to another Court for execution, the decree-holder does not, within six months from the date of the receipt of the decree on transfer, apply for the execution thereof, the Court to which the decree has been sent shall certify the fact that no application for execution has been made to the Court which passed the decree and shall return the decree to that Court. If within 6 months from the date of receipt of the decree on transfer, the decree-holder applies for execution of the same, the transferee Court shall intimate this fact together with the number of execution case and the date of filing the application for execution to the Court which passed the decree.

CHAPTER - VII

Commissions

I. General

170. Promptissive of commissions- Courts must issue commissions with promptitude and District Judges should at the time of their periodical inspections satisfy themselves, that this is done.

171. Supply of materials and estimating the duration before issue of commission - Before issuing a commission the Court shall-

- (a) call on the party at whose instance the commission is issued to supply an abstract of pleadings and issue for the use of the commissioner;
- (b) after consulting the parties make an estimate of the probable duration of the examination of each witness. When the estimate is exceeded the Court should enquire into the cause of delay and disallow any charges of the commissioner which it finds to be unreasonable.

172. Fixing date of return of commission - In issuing a commission the Court shall fix a date allowing sufficient time for its return after execution. It must be clearly understood that the commission is to be returned by the date fixed.

173. Extension of time for return of commission - If for any reason the commissioner finds that the date fixed is likely to be exceeded, he should obtain an extension of time before proceeding with the execution of the commission or its further execution, as the case may be.

174. List of commissions for recording evidence - All the Subordinate Courts should maintain a list of comparatively junior lawyers for recording the evidence on commission.

II. Commissions for examination of witnesses

175. Manner of transmitting commissions to lawyers - If a commission is to issue to a lawyer the commission shall be transmitted together with the fee, to the Court in which the commissioner is practising as a lawyer and, when such Court is the High Court, to the Registrar.

Note 1 - Fees transmitted to the Registrar shall be remitted by money-order payable to the Accountant of the Registrar's office.

176. Prompt delivery of commission to lawyer - The Court or officer receiving a commission issued to a lawyer shall immediately deliver it to him unless he refused to act.

177. Distant dates for return of certain commission - Distant dates should be fixed for the return of commissions sent to distant places.

178. Manner of sending and executing commission in England - When a Court in India issues a commission or a letter of request under Sec. 77, Code of Civil Procedure, for the examination of witnesses in England, the High Court in England will itself appoint an examiner to take the evidence, if application be made to it for the purpose. But the High Court in England cannot act in any way unless put in motion by a proper application; therefore, in every case in which it is desired to obtain the appointment of an examiner by the High Court in England, the parties interested must instruct as solicitor to apply to the High Court in England to make the necessary orders.

The Courts in India shall for this purpose make over the commission or letter of request in Form No. 8. Appendix II to the First Schedule of the Code of Civil Procedure, which should be addressed, to "The Supreme Court of Judicature" to the interested party, whose duty it is to take all further necessary steps under Sec. 1 of the Evidence by Commission Act, 1859 (22 Vict. cap. 20) and the rules framed under Section 6 of that statute (vide Order 37, Rules 54 to 58 of the Rules of the Supreme Court 1883-Annual practice, 1935, pages 681-684).

179. Manner of preparing and forwarding letters of request to foreign Country - (a) Letters of request issued by a Court in India for the examination of witnesses in foreign countries should be forwarded to Government for transmission through the regular channel. Such letters of request must be issued in England, and must be accompanied by a list of interrogatories, in English, to be put to the witness -and also by a translation, in the language of the Court in which it will be executed, of the Letter of Request itself, of the interrogatories and of any other documents which accompany the letter. In cases in which the parties on both sides agree to be represented at the examination of the witness in the Foreign Court, the Court issuing the Letter of Request may, if it thinks fit, ask that the agent of the parties be permitted to put such further questions to the witness in examination and cross-examination as they may be advised.

(b) When issuing such Letter of Request Courts in India should observe the law in force in difference countries affecting the execution of commissions for the examination of witnesses abroad.

180. Notice of time and place of examination of witnesses on commission - A commissioner for the examination of a witness shall ordinarily give previous notice of the time and place of such examination to the witnesses and to the parties or their lawyers, and it shall be their duty to attend at such time and place. In fixing the time and place the commissioner shall have due regard for the convenience of the witnesses particularly in the case of those whose attendance is ordinarily excused, such as, pardanashin ladies, persons unable to be removed from their house owing to old age, sickness or other bodily infirmity or persons of rank exempted by an order under Section 133, Civil Procedure Code, from personal attendance in Court.

III. Commissions for local investigations and to examine accounts

181. Considerations for issue of commissions for local investigation and to examine accounts - The responsibility of ordering an inquiry under Order XXVI, Rule 9 of the Code of Civil Procedure, rests entirely with the Court before which the suit is pending. Such Court may order such inquiry when it deems a local investigation to be necessary or proper for the purpose of elucidating the matters in dispute or of ascertaining the amount of any mesne-profits or damages or annual net profits. The Court is therefore, to consider, when it is moved to order any such inquiry, whether the nature of the case calls for that particular mode of inquiry, whether application has been made at a proper stage of the proceedings, whether the importance of the case warrants that expenses should be imposed upon the parties, and whether such inquiry may not be attended with a delay which will counterbalance the advantage to be derived from it.

182. Preparation of proceeding for commission for local inquiry- When the commission is for a local inquiry proceeding in Form No. (J) 27 or, where it is more suitable in Form No. (J) 28 shall be drawn up giving the points which require elucidation or ascertainment in that particular way, leaving to be substantiated by the parties by evidence at the trial those points which conveniently can and ought to be so substantiated. A copy of such proceeding shall be forwarded to the commissioner.

183. Nomination by District Judge of Commissioner for local investigation - When in any suit or proceeding a local investigation for any of purposes specified in Order XXVI, Rules 9 and 13, Civil Procedure Code or any other local investigation under the said Code, requiring knowledge of survey for the purpose of effecting a delivery of possession, or for any other purpose is deemed necessary, the Court shall before issuing a commission apply to the District Judge for his –

instructions regarding the particular person whose services are available for that duty and shall issue a commission in accordance with his nomination. The application shall contain a statement of the nature of the work, the value of the suit or subject-matter, the time which is estimated the commission will take to execute and the cost including proposed fee (which should be inclusive where ever possible) and travelling allowance, if any.

184. Commissioner requiring survey knowledge to be issued to persons entered in the list maintained by District Judge - When a commission, order or writ, issued by a Civil Court under the Code of Civil Procedure, 1908, is of such a nature as to require that the person executing it should have some know/edge of survey, it should so far as possible be issued only to a person whose name is entered in a list to be maintained by each District Judge of persons qualified to execute such commissions. The qualifications for entry in the list be as follows:

(i)The holding of certificate of proficiency in surveying granted in accordance with the rules framed by Government.

(ii)Bachelor of Civil Engineering; the examination for Overseers of Public Works Department (But not that for Sub- Overseers); Subordinate Engineer's Certificate Examination.

(iii)The satisfactory execution of survey commissions for the Civil Courts in the Judgeship during a period of not less than ten years.

As between person included in the aforesaid list, preference should ordinarily be given to those who are lawyers except in those special cases in which an expert knowledge of survey may be more important than a knowledge of law.

185. Transmitting commission by registered post - Wherever transmission by post is necessary for the issue of a commission whether to a Court or to lawyer, the papers, are to be sent and returned by registered post and the cost of doing this should be realized from the parties.

186. Control of the District Judge over the commission - The District Judge should keep a careful watch upon the work of each commission included in the list maintained under Rule 184 and a record of the work of each should be kept by him in a form similar to that of service book. When issuing his nomination under Rule 183 the District Judge should invariably direct the Court concerned to submit a report indicating the fee paid and stating whether the commission in questions was executed satisfactorily and punctually. If, after considering such reports and making such enquiries as he may deem necessary, the District Judge is satisfied that any commissioner is incompetent or is doing unsatisfactory work, he shall strike off the name of the commissioner from the list. Ordinarily, payment should be made to the Commissioner after the hearing of objections to his report, or if no objection is filled to his report, after

the expiry of the period fixed filling the objection. The District Judge should see that only reasonable remuneration is paid.

¹**186-A. Duties and responsibilities of salaried Amins** -Salaried Amins as far as possible should be utilised for the purpose of the works for which they have been appointed, *i.e.* for spot inspections, survey and measurement works and effecting partition in final decree proceeding, etc. If there is derth of such work during the period, there services may be utilised for other suitable purposes in the office as ordered by the Controlling Officer. Regarding the-outturn, the Controlling Officer taking into consideration the nature of the work entrusted while issuing writ should specify the period of its execution. The Salaried Amins should be required to maintain a daily diary of the work done by them during the period of absence from the headquarter Station when they discharge other duties. The yardstick applicable to regular employees discharging such duties will also be applicable to Salaried Amins.

187. Submission of report, field-book and diary by the commissioner- When the work of commissioner is complete he shall submit, with his report the field-book and his diary showing how it was occupied during the inquiry.

CHAPTER – VIII

Suits by or against Government or public officers

188. Priority of hearing of certain suits -All suits in Civil Courts, for the prosecution or defence of which persons in the service of Government, officers in the army, or soldiers have obtained leave of absence shall, be disposed of by such Courts as soon as they are ripe for hearing, irrespective of the order in which they may stand in the register and as speedily as may be consistent with the due administration of justice.

189. Priority of hearing of suits in which Army Reserves personnels are parties - The above orders, under which officers and soldiers of the active army can claim priority of hearing in civil suits are extended to the Army Reserves.

190. Government pleader to file memo instead of Vakalatnama in certain cases - In every case in which the Government pleader appears for the Government, whether for the Government as a party on its own account, or for the Government as undertaking under the provisions of Order XXVII, Rule 8 of the Code of Civil Procedure, the defence of a suit against an officer of the Government 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:

Cause, title of the suit, etc.

1. C.S. No. 38 (IX- 10/93, dated the 30.8.1996)

I, A. B., Government Pleader, appear on behalf of the Union of India or the State of Orissa, or (as the case may be) or defendant (or etc.) in the suit, or on behalf of the State which, under Order XXVII, Rule 8 of the Code of Civil Procedure, has undertaken the defence of the suit, respondent (or etc.) in the suit.

Note - In other cases the Government pleader shall file a Vakalatnama in the same manner as any other pleader.

191. Prohibition of paying money to Government pleader without production of written authority from Collector - No Civil Judicial Authority shall pay out money to Government pleaders or persons acting on behalf of Government in any suit, unless they produce an authority in writing from the Collector or other officer representing Government, directing them to apply to the Court for such money.

CHAPTER - IX

Appointment of Receivers

192. Prompt intimation to Collector about receivership regarding land paying revenue - When any Civil Court commits land paying revenue to Government to the management of a Receiver appointed under Order XL, Rule 1 of the Code of Civil Procedure, information about it should always be given to the Collector without delay.

193. Prohibition of appointing Civil Court Officer as Receiver- No Civil Court Officer should be appointed as Receiver except with the sanction of the District Judge, which should only be given in petty cases where the duties of the receivership cannot interfere with the officer's ordinary work and in no case shall remuneration be given to an officer so appointed.

CHAPTER - X

Ex parte injunctions

The following rules though they do not profess to be exhaustive or fetter the Court's discretion are recommended for use by the subordinate Courts.

194. Cautions in cases of *ex parte* injunction - The power under Order XXXIX, Rule 3 of the Code of Civil Procedure, to issue an *ex pane* injunction should be exercised with the greatest care. The issue of an injunction on the application of one party and without previously giving to the person affected by it an opportunity of contesting the propriety of its issuing, is a diviation from the ordinary course of justice which nothing but the existence of imminent danger to property if it be not granted, can justify. The Court should, if possible, always require notice, however short, to be given to the opposite party.

195. Not to grant *ex parte* injunction unless application is prompt - An application for an *ex parte* injunction should not ordinarily be granted unless it is made promptly.

196. Particulars in the application for injunction to be supported by affidavit - Every application for an injunction must be supported by affidavit. All material facts must be fully and fairly stated to the Court; and there must be no concealment or misrepresentation of any material fact.

197. Particulars in affidavit in support of *ex parte* injunction- An affidavit in support of an *ex parte* injunction Should always state the precise time at which the plaintiff or the person acting for him became aware of the threatened injury. It must also show either that notice to the defendant would be mischievous or that the matter is so urgent that the injury threatened would, if notice were served on the defendant, be experienced before the injunction could be obtained. The case of irreparable mischief impending must be made out. Mere allegation of irreparable injury will not be sufficient. The facts on which the allegations are founded must be set forth clearly and specifically in the affidavit.

198. Short notice of application for injunction - The notice to be given should be for the shortest possible time. The Presiding Judge must make particular care to arrange for prompt service of copy of the plaint and affidavit upon the opposite party and to bring the matter to hearing as early as possible.

199. Order of injunction and vacating the same in certain circumstances - If the opposite-party evades service of notice or makes unreasonable delay in showing cause, the Court may find it necessary to make an appropriate order of injunction. On the other hand an interim injunction should be dissolved if the plaintiff makes willful default in depositing the process fee, causing the service of notice on the opposite-party or otherwise prosecuting the matter with diligence.

200. Duration of *ex parte* injunction - An *ex parte* injunction should generally be until a certain day and that for the shortest duration which a defendant can come effectively before the Court.

201. Term for interlocutory injunction or withholding the same - When an interlocutory injunction or an interim restraining order is applied for, the Court may require the plaintiff as a condition of the interference in his favour, to enter into an undertaking to abide by any order the Court may make as to damages, or in some cases it may require the defendant to enter into terms as a condition or withholding an interlocutory injunction.

202. Specification in the order of injunction - When an injunction is granted greatest care should be taken to state exactly and very clearly what it permits and what it prohibits. When a series of acts of different kinds are sought to be restrained the order granting an *ex parte* injunction should embrace only the acts regarding which such an order is really needed.

203. No ban for fresh application for injunction after dissolution of *ex parte* injunction on common ground - Dissolution of an *ex parte* injunction on the ground of mis-statement or concealment of material facts will not operate as bar to a fresh application for another injunction on the merits.

CHAPTER – XI

Appeals

204. Language of appeal memo - All memoranda of appeal should, when practicable be in English and type-written.

205. Relief and value of appeal - Every memorandum of appeal shall clearly specify the relief sought and state the value of the appeal.

Note - Valuations for purposes of jurisdiction and for payment of Court-fee, shall be separately shown.

206. Statement of the pleader presenting appeal memo or retained after filing of the same - Every memorandum of appeal when signed and presented by a pleader shall, as its foot or when presented by the party in person or by his recognised agent and a pleader is afterwards retained by such party, on a separate sheet of paper which shall be annexed to such memorandum of appeal, contain the following statement to be subscribed by the pleader before he is allowed to present it or to appear to support the appeal :

"I certify that I have examined the record and that in my opinion the grounds of appeal are good and I undertake to appear and support them before the Appellate Court".

207. Registration of appeal memo -All memoranda of appeal must be registered on presentation irrespective of any question as to their possible rejection.

208. Fixing date for hearing of appeal - The date for hearing an appeal shall be fixed so as to allow sufficient time to the respondent to file a cross objection, if any, under Order XLI, Rule 22, Civil Procedure Code.

209. Stay of trial of suit - The trial of a suit should not be held up by reason of an appeal or an application for revision having been filed against an interlocutory order unless there has been a stay order by the Superior Court.

210. Care to be taken in admitting appeals and revisions and granting stay - The Appellate Court should be very careful in dealing with admission of appeals and revisions against interlocutory orders and should grant a stay only when a very strong case is made out and in any case no stay should be granted without imposing terms. The reasons for granting the stay should be incorporated in the order.

211. Submission of only material papers in cases of appeals and revisions against interlocutory orders – The entire record, unless specifically called for should not be forwarded to the Appellate Court in connection with a miscellaneous appeal or an application for revision -

arising from an interlocutory order passed in the suit or proceeding. Only the material papers connected with the order appealed against or sought to be revised should be sent and when it is not practicable to send the relevant portion of the order sheet, an attested copy thereof should be submitted :

Provided that in appeals against order under Order IX, C.P.C. the entire records shall be forwarded.

212. Manner of forwarding records for appeals and revisions - The papers in file C-I and also in file D of records under Class-III-A should not be forwarded for reference in appeals and revisions unless they are specifically called for. While forwarding such records the Presiding Officer of the subordinate Court shall furnish a certificate to the effect that he has forwarded all the relevant lower Court records or part thereof after personally examining the same.

213. Priority of hearing of appeals and revisions in which stay orders are passed - The appeals and revisions in which stay orders have been issued be disposed of expeditiously by giving them priority.

214. Priority of hearing of cases in which findings are called for by Appellate Court - Cases in which findings are called for by the Appellate Court they should be given precedence over all other civil work other than that of a specially urgent nature. In such cases, no adjournment of the date of hearing be granted beyond the date fixed by the Appellate Court for return of finding without previous sanction of the Appellate Court. The findings must be submitted by the day named in the order of the Appellate Court. Extension of time should not be applied for to the Appellate Court, unless good cause can be shown in support of the application.

215. Certifying costs to the Appellate Court - In every case in which the Appellate Court refers issues for trial under Order XLI, Rule 25 of the Code of Civil Procedure, the Court to which the reference is made shall, on returning its finding, certify at the foot thereof the amount of costs (showing the items in detail) incurred by each of the parties to the case at the retrial before the Court, in view of such costs being provided for in the decree that may be finally passed by the Appellate Court.

216. Communicating result of second appeal - The result of a second appeal should invariably be forthwith communicated by the lower Appellate Court to the original Court.

217. Rules as to cross-objection - The provisions of Rules 204, 205 and 206 shall, as far as they may be applicable, apply to the memorandum of cross-objection.

¹[**217-A.** The provisions in Rules supra in this chapter shall also be applicable mutatis and mutandis to Civil Revisions.]

Inserted vide C.S.No. 50

CHAPTER - XII**Rules for the guidance of guardians of minor defendants
and minor respondents****I. Original suits****218. Manner of communication by the Court, guardian and his duties**

(1) Where there are both major and minor defendants and there is no appearance, the guardian with a view to obtain instructions in the case should communicate with the natural guardian of the minor and ordinarily with the major defendants in the case by registered reply postcard in which the subject-matter of the suit should be briefly stated.

(2) Where the sole defendant is a minor, the aforesaid communication should be addressed to his natural guardian, and in any case where the interest of the minor requires, may be addressed to persons other than those actually parties in the suit.

(3) If no response is received to the communication mentioned in Sub-Rules (1) and (2) or if the response is not helpful and the guardian is unable to have a personal interview with the defendants or their agents, he should report the fact to the Court with a statement of the circumstances and apply for leave to go to the locality for necessary enquiry.

(4) The guardian's report on any local enquiry made with the permission of the Court should contain in the following particulars :

- (a) Date and hour of departure for the locality;
- (b) Mode of journey, viz. whether by rail, steamer or boat or road;
- (c) Date and hour of reaching the locality;
- (d) The names of persons who identify the minor;
- (e) Age of the minor as stated by the minor's people and as estimated by the guardian;
- (f) The names and residence of persons in whose presence the enquiry is held;
- (g) Whether the minor has any defence;
- (h) If there is defence what is the nature of it and what benefit is expected to the minor out of the defence;
- (i) Whether the minor or his people are able and prepared to meet the costs of the defence, and if not, what is the probable amount of such costs;
- (j) If no defence is filed, the reasons thereof together with the statements of the persons on whose report the decision is arrived at.

(5) In case the Court refuses to grant leave for local enquiry, the guardian will proceed according to the instructions of the Court given in each case.

(6) Where in response to communication mentioned in Sub-Rule (2) or otherwise, the minor or his natural guardian, or any other persons on his behalf, come and see the guardian, his subsequent proceedings and report should conform as far as applicable to Sub-rule (4) (g to j).

(7) The guardian's report mentioned in Sub-Rules (4) and (6) may contain such other facts as he may think necessary to bring to the notice of the Court.

(8) In petty money suits the Court shall not ordinarily grant leave to the guardian - *ad litem* to go to the locality for enquiry.

II. Appeals

(9) The foregoing will apply *mutatis mutandis* to the appointment of guardians of minor respondents subject to the following rules:

(10) If no response is made to the registered post-card mentioned in Sub-rule (1), the guardian, should, before applying for leave to go to the locality similarly communicate with the pleader who conducted the case in the lower Court on behalf of the minor or his predecessor-in-interest and ascertain from him, if possible, the probable cause of the non-appearance of the minor, reporting the result to the Court.

(11) If the step taken under the last preceding Sub-rule does not elicit any satisfactory results, the guardian should consult the record and submit a report to the Court in which should state whether in his opinion the judgment and decree of the lower Court can be supported and if such opinion is in the affirmative, why he should not argue the case himself before the Court. A written note on the merits of the case should accompany the report.

(12) An amount estimated to cover the actual travelling and halting expenses of the guardian, not exceeding the scale laid down by Rule 219 will be required by Court to be deposited by the party at whose instance the guardian is appointed before an order is passed for a local enquiry mentioned in Sub-Rule (3). The amount so deposited or so much of it as may be found due will be paid out to the guardian when he has submitted his report mentioned in Sub-rule (4).

(13) The actual postal charges for communication mentioned in Sub-rules (1), (2), (10) will be deposited and paid to the guardian along with the fee prescribed by the High Court.

219. Rate of allowance to Court guardians - The rate of travelling allowance to be allowed to the guardian *ad litem* both in the case of an original suit and of an appeal, shall be admissible to officers of the second grade under the Orissa Travelling Allowance Rules with a daily allowance of Rs. 10 for the days for which he may be away from headquarters.

PART - II**Records****CHAPTER - 1****The Classification of records of judicial proceedings**

220. Classification of records for preservation or destruction - The records of judicial proceedings whether suits or cases, are divided into four classes. This classification relates only to the preparation and the preservation or destruction of the record, and does not affect any other classification of suits or cases for the purpose of returns or statements.

221. Class I Records - Class I includes records of –

(a) Suits for affecting immoveable property other than suits under Order XXXIV, Civil Procedure Code, 1908;

Note - Suits under Section 6 of the Specific Relief Act, 1963 should be included not in this Class but in Class III;

(b) Suit in respect of the succession to an office, or to establish or set aside an adoption, or otherwise determine the status of an individual;

(c) Suits relating to public trusts, charities or endowments;

(d) Proceedings under the India Divorce Act and suits for dissolution of marriage by exercise of the option of puberty under the Mohammedan Law;

(e) Suits for perpetual injunctions and declarations of right in matters other than those specified in Clauses (a), (b) and (c) above;

(f) Cases under Sec. 201 of the Orissa Tenancy Act, 1913, to determine the incidents of a tenancy;

(g) Cases under Sec. 135(2) of the Orissa Tenancy Act;

(h) Cases under the Musalman Wakf Act, 1954 (Act No. 29 of 1954), and application for the sanction required by the Mohammedan Law for the transfer of Wakf property;

(i) Objection petitions under Section 6 of the Puri Sri Jagannath Temple (Administration) Act, 1952 (Orissa Act XIV of 1952);

¹[(j) Application under Section 34 of the Arbitration and Conciliation Act, 1996 (Act No. 26 of 1996)]

(k) Applications under Sub-section (2) of Sec. 4 of the Orissa Communal Forest and Private Lands (Prohibition of Alienation) Act, 1948;

(l) Suits arising under the Hindu Marriage Act, 1955;

1. Substituted by C.S. No. 54(IX-4/2005, Dt. 8.10.2009)

(m) Proceedings under the Special Marriage Act, 1954 (XLIII of 1954) and the Indian Christian Marriage Act, 1872 (Act No. XV of 1872).

222. Class II Records - Class II includes records of -

- (a) Suits under Order XXXIV of the Code of Civil Procedure;
- (b) Suits for a declaration of a right to maintenance with or without a charge on immovable property or to determine the rate thereof;
- (c) Contested and uncontested suits and cases, of Probate and Letters of Administration, and for the revocation for the same;

Note 1 - The custody and the preservation of a will itself is provided for in a separate volume and consequently a will is not a part of the record within the meaning of this rule unless Probate or Letters of Administration have been refused;

Note 2 - Orders in an enquiry made at the instance of the Collector under Clause (5) of Section 19 - H of the Court-fees Act VII of 1870, should be written on the order-sheet of original cases to which they relate; and the papers of -the proceeding will form part of the records of the original case;

- (d) Cases under the Guardian and Wards Act, 1890 relating to the guardianship of minors and the administration of their property;
- (e) Cases under Section 8 of the Hindu Minority and Guardianship Act, 1956 (No. 32 of 1956);
- (f) Cases under the Indian Lunacy Act, 1912 relating to the guardianship of lunatics and the care of their estates;

Note - An application by an executor or administrator or by the guardian of a minor lunatic, to sell, mortgage or otherwise dispose of property belonging to the estate, is an application in the case, and together with all the proceedings connected with it must form part of the record of the case;

- (g) Cases for succession certificate under the Indian succession Act, 1925;
- (h) Application under Section 83 of the Transfer of Property Act, 1882.

223. Class III Records - Class III includes records of -

- (a) All suit which do not come under Class I or II, excluding suits of the Small Cause Courts which are tried in the Regular Civil Courts under the procedure prescribed for Small Cause Courts;
- (b) Suits for the recovery of arrears of maintenance;
- (c) Cases under Part VII of the Indian Succession Act (XXXIX of 1925);
- (d) Cases under the Land Acquisition Act, 1894, Parts III, IV, and V.

- (e) Cases under the Orissa Development of Industries, Irrigation, Agriculture, Capital Construction and Resettlement of Displaced Persons (Land Acquisition) Act, 1948 (XVIII of 1948);
- (f) Cases under Sec. 59 of the Land Registration Act, 1876;
- (g) Cases under Section 83 of the Transfer of Property Act, 1882 regarding the redemption and foreclosure of mortgages;
- (h) Cases under the Legal Practitioners Act (Act XVIII of 1879);
- (i) Cases under the Civil Procedure Code for a declaration of insolvency, under the Provincial Insolvency Act, 1920.
- (j) Applications under Sections 75 and 87 of the Orissa Grama Panchayat Act, 1948 (XV of 1948) and Section 31 of the Orissa Grama Panchayat Act, 1965 (I of 1965);
- (k) Cases under Sections 15 and 17 of the Payment of Wages Act, 1936 (IV of 1936);
- (l) Cases arising out of Section 23 of the Orissa Money Lenders Act, 1939 (Orissa Act III of 1939);
- (m) Cases under Sections 104, 109 (8) and 110 of the Orissa Tenancy Act, 1913;
- (n) Applications under Sections 7, 8, 9, 11, 12, 28, and 33 of the Arbitration Act, 1940 (Act X of 1940);
- (o) Applications under Section 22(2) of the Hindu Succession Act, 1956 (Act XXX of 1956);
- (p) Applications for compensation under Section 110-A of the Motor Vehicles Act, 1939 (Act IV of 1939);
- (q) Applications under Section 6 of the Orissa Scheduled Areas Transfer of Immoveable Property (by Scheduled Tribes) Regulations, 1956;
- (r) Applications under Sections 75, 89, 113, 118, 141, 144, 163, 196, 219, 234, 240, 304, 307, 375 and 614 of the Companies Act, 1956 (Act I of 1956);
- (s) Cases under Section 6 of the Industrial employment (Standing Order) Act, 1946;
- (t) Cases under Section 31 of the State Financial Corporation Act, 1951 (XLIII of 1951);
- (u) Proceedings under the Orissa House Rent Control act, 1967;
- (v) Cases under Section 33(b) of Shri Jagannath Temple Act, 1954 (Orissa Act No. II of 1955);
- (w) Election petitions under the Orissa Municipal Act, 1950 (Orissa Act XXIII of 1950);
- (x) Election petitions under the provisions of Orissa Panchayat Samiti (Conduct of Election) Rules, 1970;

- (y) Application to sue or appeal as an indigent person, if rejected, notwithstanding their registration as a suit or appeal and rejection for non-payment of Court Fees;
- (z) Applications under Section 57-A of the Orissa Land Reform Act, 1960 (Orissa Act 16 of 1960).

Note - Proceedings under the Civil Procedure Code for the transfer or for the restoration of a suit or appeal or for a review of judgment are proceedings in the suit or appeal, and must form part of the record relating thereto.

224. Class IV records - (1) Class IV includes- Proceedings in execution of decrees in suits belonging to Classes I, II and III.

Note 1 - Under the law, all such proceedings are proceedings in the suit and they must be entitled as such; but for the purpose of the arrangement and ultimate disposal of the record, each application for execution shall be treated as a separate case, the record of which shall include the papers on all matters connected with execution from the date on which the application was presented until it is finally disposed of.

Note 2 - Proceedings by which decrees are sent or transferred for execution are included under the general heading.

225. Small Cause Court Records - Records of suits of Small Cause Court Class tried under the Small Cause Court procedure by Judicial Officers empowered under Section 25, Act XII of 1887 shall be disposed of in accordance with the rules hereinafter provided for records of Courts of Small Causes.

226. Separate record in proceeding under Cr. P.C. and period of preservation - A separate record having its own order-sheet and containing appropriate paper of extracts from the original record should be started in proceedings under the Criminal Procedure Code arising out of a suit, appeal or execution case. A reference to the initiation and termination of the proceedings will be made in the order-sheet of the original suit, appeal or case and the record of the proceedings will be kept in the record-room with that of the original suit, appeal or case, annexed to that file thereof which under the rules is to be preserved for the shortest period.

CHAPTER –II

The arrangement, preparation and inspection of records in the trial Court

I. Arrangement and preparation of records

A. The division of the records into files

227. Period of preservation of files - Even records shall as hereinafter provided consist of one or the more of the following files to be ordinarily preserved for periods noted against each :

File A – for ever

File B – for 25 years

¹[File C – for 12 years

File C – I for 6 years]

Note - C-I file needs not be destroyed if the same is called for by the Appellate or Revisional Court. The Record Keeper should however verify as to whether any appeal or revision is pending before taking up the destruction of C-I files and should make an endorsement about such verification in the concerned registers before taking of the destruction.

File D for 6 years

228. Files of Class I Records - Every record under Class I shall consist of three files to be styled and marked, respectively File A, File C and File C-I.

229. Contents of File-A - File A shall contain –

- (a) Table of contents;
- (b) Order-sheets;
- (c) The plaint or application, together with any Schedule annexed thereto;
- (d) The written statement of the defendant or the counter-petition;
- (e) Memorandum of the Issues;
- (f) Award of arbitrators or petitions of compromise, if given effect to in the decree; also the return or report and the map and the filed- book (if any) of a commissioner in matters relating to immovable property, if referred to or given effect to in decree, but not any portion of the evidence taken by such commissioner also in the case of Minors or Lunatics, any order of the Court sanctioning compromise as beneficial to the Minor or Lunatic;
- (g) The preliminary decree (if any), with the further direction (if any) given and the judgment upon which preliminary decree is found;
- (h) The Judgment ;
- (i) The final decree;

Note - When the ex parte decree is set aside, the same will be transferred to File C – I .

- (j) The copy of the judgment and decree of the Appellate Court or Courts (if any) ;

²[(k) Petition for final decree]

³(l) The order / judgment of the records of Civil Revision .

230. Contents of file C - File C shall contain –

- (a) Table of contents;

(b) All the evidence, oral and documentary including examination of the parties or their agents under Order 10, C.P.S, upon which the subject-matter of the suit is decided.

Note - When an ex parte decree is set aside, the ex parte evidence will-be transferred to file C-I;

(c) List of documents admitted in evidence.

¹[(d) All other documents of records of Civil Revisions;

231. Contents of File C-I - File C-I shall contain -

(a) Table of contents (b) All other papers

Note - When applications for inspection of records and vakalatnama are filed after Class C-I papers are destroyed, the same will be kept in a separate file and destroyed after a quarter after obtaining orders to that effect from the Judge in-charge. But a note should be made in the order-sheet about the filing of the application, the date of the inspection and the name of the lawyer appearing for the concerned.

232. Files of Class II records - Every record under Class II, shall consist of two files to be styled marked File B and File C-I;

(a) File B shall contain the papers specified and included in Files A and C and Class I records :

Note - Security bonds filed in cases mentioned in Clauses (c) and (d) and applications referred to in Note under Clause (f) of Rule 222, Chapter I of this Part, as also other papers the preservation of which has been directed by the Judge, will form part of File B.

(b) Contents of file C-I, File C-I shall contain all other papers.

Note - The papers of the proceedings of an inquiry made at the instance of the Collector under Clause (5) of Section'19 - H of the Court Fees Act, VII of 1870, should be kept in this file.

233. Files of Class III records - Every record under Class III shall consists of two files to be styled and marked Files C and C-I.

File C shall contain the papers specified and included in Files A and C of Class I and File C-I shall contain all other papers.

234. Files of Class IV records - (a) Every record under Class IV shall except as provided in Sub-rules (b) and (d), consists of one file which shall contain all the papers relating to the case, and shall be styled and marked as File D.

(b) If the proceedings comprised in a Class IV record arose out of an application to execute a decree in a suit included in Class I, and a question is determined as to the construction of the decree, or its effect as regards all or any of parties thereto, the record shall be divided into two files to be styled and marked respectively Files A and Files C.

1. Inserted by C.S. No. 35, (IX – 5/94,Dt. 6.2.1996)

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- (c) In cases falling under Sub-rule (b), File A shall contain-
- (i) Table of contents;
 - (ii) The order-sheet;
 - (iii) The application for execution when a question as to the construction, effect or scope of the decree is raised and determined;
 - (iv) The petition raising by question as to the construction or effect of the decree, and any counter petition;
 - (v) The judgment of the Court on such question;
 - (vi) The copy of the judgment of the Appellate Court or Courts (if any).

The File C shall contain all other papers.

(d) Where delivery of possession of immovable property has been made in execution of a decree for recovery of possession or where immovable property has been sold in execution of a decree and the sale has been confirmed the record shall be divided into two files to be styled and marked respectively, File B and C, the essential papers, namely, the order-sheet, the application for execution, the copy of the sale certificate and that writ of delivery of possession with Nazir's report being placed in File B and other papers in File C.

235. Arrangement of appellate record - (a) Every record of an Appellate Court shall be arranged in the same ways as that of the Court of original jurisdiction except that there shall be no C file in respect of Class I records the papers which would belong to that file where additional evidence is taken being attached to the C-I file.

(b) The file must be marked A, B or C as in the Court of first instance according to the nature of the case.

Note 1 - The copy of the judgment and decree which accompany a memorandum of appeal should be placed with File C-I.

Note 2 - In the case of Civil Appeals, except miscellaneous appeals, the certified copies of judgment and decree filed with the memoranda of appeal should be returned to the appellants on their applying for them after disposal of the appeals, since the original record is kept with the appellate records in the district record room. In the case of civil miscellaneous appeals, these documents should not be returned but should be retained with the appellate records until the 'C' file with which they are placed is due for destruction.

236. Time of distribution of papers into files - The distribution of papers into the proper files must be made immediately after the first hearing and shall be continued from day to day as the case proceeds.

237. Special rule of preservation for certain records - Notwithstanding anything contained in the foregoing rules, the record in the following cases shall be preserved for one year and shall consist of one file only unless such distribution has already taken place before disposal.

(i).Where the plaint or memorandum of appeal has been rejected except those cases which are covered by Rule 223 (y), Chapter I of the Part;

(ii).Where the case has been dismissed under Order IX, Rule 2 in consequence of the plaintiff's failure to pay cost of summons to the defendant or Rule 3, where neither party appears;

(iii). Where the case has been dismissed on satisfaction before decree;

(iv).Where the plaint or memorandum of appeal has been returned for presentation to proper Court;

(v)Where an appeal is dismissed as barred by time, abated or not pressed before the appeal is admitted for hearing.

¹[(vi).Where the Execution Proceeding dismissed under Order XXI, Rule 105(2) of the Code of Civil Procedure.]

²[(vii) Where Execution Proceeding is rejected under Order 21, Rule 17 (1-A) of the Code of Civil Procedure.]

Note 1 - In case (ii) the file will be split up when an application for restoration is filed.

Note 2 - In cases where costs have been awarded by the final order, the record, should be classed as File C.

Note 3 - Where in suits filed by indigent persons, Court-fee are required to be realised by final order, records should be classified as 'Class C' and consigned to the District Record Room for preservation.

On the records of every such case the clerk-in-charge of the records shall stamp or write conspicuously the words 'Rejected; 'Dismissed for default' 'Satisfaction' or 'Plaint returned' as the case may be;

B. THE TITLE PAGE

238. Title page - To each file of every record shall be prefixed a title page in the prescribed form showing the period of its preservation.

Note - No title page need be attached to records of cases referred to in Rule 237 until these are called for by some superior Court. Then the title page of the first file, according to classification, shall be attached.

239. Colours of title pages -The title pages shall be of different colours.

File A-White

File B-Red

Files C and C-I Yellow

File D-Blue

1. Inserted by C.S. No. 26, Dt. 9.2.1995

2. Inserted by C.S. No. 36, XLIX- D-27/95, Dt. 6.4.1996

C. THE TABLE OF CONTENTS

240. Table of contents - The Table of Contents shall be written in English day by day as the case proceeds and except as otherwise provided shall show all the papers in the file in the order they are filed. A separate serial number will be assigned to the order-sheet (e.g. i, ii, iii, iv. etc.) and it will not be taken into account giving page marks to the other papers in the file.

241. Noting transfer of paper in Table of Contents - The transfer of any paper from one file to another shall be noted in the table of contents of both the files.

242. Only lists of documents are to be shown in Table of Contents - Documents filed in any case and the exhibits are not to be entered in the table of contents; but their lists are to be shown in their proper places in the table of contents.

D. THE ORDER SHEET

243. Order-sheet - The order-sheet shall be written in English and shall contain all orders passed by the Court.

Note - Order shall not be written on petitions, reports and other similar documents. The serial number and the date of the order passed on any petition, shall be noted on such petition.

244. Noting cause title in order-sheet - The full cause title shall be noted in the first order-sheet or the suit of case. Amendment of cause title, if any, should be incorporated immediately in the first order-sheet.

245. What are to be noted in order-sheet - The Order-sheet being intended to show the course of a suit or case from first to last, shall also contain a note of every order made in the suit or case, and shall show the date of and the proceedings at every hearing. It shall show among other matters, the dates on which the plaint and written statement were filed, issues were settled or amended, witnesses examined and the names of such witnesses, the date of the delivery of judgment, the signing of the decree and of any application for review of judgment or amendment of the decree. It shall also contain a note of proceedings such as reading out of the deposition or a witness examined by commission, the reading of a commissioner's report, and of the fact of any objection being made thereto, and if witnesses are in attendance when a case is adjourned, the fact shall be noted.

Note - Orders in proceedings under the Code of Civil Procedure for the transfer, or for the restoration of a suit or appeal, or for a review of judgment, [See Note to Rule 223, Chapter I of this Part] should be entered in the order-sheet of the main suit or appeal. A separate order-sheet should not be prepared. In all cases the order of the Appellate Court calling for the record of a suit or appeal should be recorded on separate paper and reproduced on the order-sheet of the suit or appeal, when the records have been received from the lower Court. When such -

proceedings are disposed of without the main record being called for by the Appellate Court the order on the application should, in the same way be recorded on a separate paper and directions given to the subordinate Court to reproduce the same on the order-sheet of the main record.

246. What not to be noted in order-sheet - Orders, the reasons for which require to be recorded at length, shall not be written on the order-sheet but a note of the order and of the date on which it was made, shall be entered in it.

247. What order to be signed by parties - Orders directing anything to be done by the parties or their pleaders, shall be signed then and there by the parties or their pleaders.

248. Writing and signing order sheet - The order-sheet may be written by an officer of the Court at the dictation of the Presiding Judge, who, however, shall sign and be responsible for the correctness of the entries in it.

E. THE RECORD

249. Time and manner of attaching papers to the files -The pleadings, applications, proceeding and other papers in every suit or case shall be attached as the case proceeds to the files to which they belong, and shall be arranged in the order in which they are brought before the Court.

250. Manner of arrangement of depositions and examination of parties - The depositions of witnesses of each party shall be arranged in the order in which they are given. The examination of the parties recorded by the Court under Order X, Civil Procedure Code shall precede such depositions. The depositions of witnesses examined by the Court shall be placed after the depositions of witnesses for the parties.

F. DOCUMENTS

251. Statement of erasure, addition and interlineations in documents - Whenever a private document other than a registered document or a certified copy containing erasure, addition or inter lineations is produced, it shall be accompanied by a statement clearly describing each such erasure, addition or inter lineations and signed by the person producing the same, reference to such statement shall be made in the list of documents produced [Form No. (j) 10].

252. Manner of filing small documents -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 shall be stitched to the file so that no part of the document is concealed by 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 leading the main document untouched.

253. Marking documents admitted in evidence and making lists thereof - Documents admitted in evidence shall be marked with figures 1, 2, 3 etc. and capital letters A, B, C, etc., according as they are admitted on behalf of the plaintiff's or defendants and separate

lists of such documents in Form No. (j) 11 shall be prepared by the Bench Clerk which will be signed by the Presiding Judge. The entries in these columns shall be made day to day.

Note - When a document is marked as exhibit, the same shall be noted against the relevant entry in the list in Form No. (j) 10.

254. Marking documents for two or more sets of defendants - When documents are marked for two or more parties or defendants, - the document of the first party may be marked A-1, B-1, C-1, etc. and those of the second, A-2, B-2, C-2, etc.

(a) *Planning slip of exhibit mark to exhibit forming part of voluminous document* - Where an exhibit forms part of a voluminous document, such as account book, khata and counterfoil receipt book etc. it should be clearly indicated by means of a slip of paper pinned to the sheet or page on which it occurs the exhibit mark being noted on the slip.

(b) *Indicating entry in account book admitted in evidence*- When an entry in an account book is admitted in evidence, the portion so admitted shall be clearly indicated by enclosing the same in red ink.

255. Marking documents admitted at the instance of Court- When documents are admitted at the instance of the Court and neither party is willing to accept them as evidence on his behalf, they shall be marked as I, II, III etc.

256. Marking documents of the same nature admitted in evidence - When a number of documents of the same nature are admitted as for example a series of rent receipts, the whole series should bear one number or capital letter, a small letter or small number being added beneath the number or letter, and separated from it by a line to distinguish each paper of the series.

257. Giving exhibit seals - Exhibit seals in the specimen forms given below should be used and complete information filled in while marking the document.

Suit No. / Misc. Case

Exhibit of 20.

(Produced byon)

District Judge/¹[Civil Judge(Sr. Division)]/¹[Civil Judge(Jr. Division)]

258. Exhibits not to be defaced - Exhibits must not be defaced in any way except in so far as the law permits, that is to say, by marking them as exhibits filed in a case.

259. It is unnecessary to put separate exhibit mark against the name of each attesting witness once the Will has been marked as an exhibit.

1. Substituted by C.S. No. 33 (IX-1/95, dt. 31.10.1995).

260. Manner of exhibit marking of documents of historical interest

- When a document of historical or antiquarian interest is in question the Court should make every possible endeavour to prevent it being defaced by endorsement of exhibit marks or by having the seal of the Court impressed upon it. If the parties do not agree to a photograph copy being substituted for the original, the document may be enclosed in a sealed cover or in a locked or sealed box, the necessary particulars being enclosed outside such box or cover. If every other means fails, measures should be taken for the safe custody of the documents pending instructions from higher authorities.

261. Noting return of original exhibit for identification on its substitution by copy - When an original document after being marked for the purpose of identification is returned, and a copy thereof substituted under the provisions of Order VII, Rule 17, or Order XIII, Rule 5 Code of Civil Procedure, a note of the return of the original shall be made in the lists referred to in the preceding rules.

262. Time of return of public document - When, any public document (not being the record of a suit or of a judicial proceeding) or a document in public custody has been produced in Court in compliance with a summons the Court shall after the document has been inspected or put in evidence, as the case may be, cause it to be returned with the least possible delay to the officer from whose custody it has been produced after the preparation of such copies the Court may require under Order XIII, Rule 5, Clause (2), Civil Procedure Code unless its detention is considered to be necessary till the delivery of the judgment.

263. Time and manner of return of unexhibited document -When the Court do not make any direction to the contrary unexhibited documents, if not returned earlier, shall at the conclusion of the trial, be returned to the person producing them or his pleader after he has signed the receipt for the same in the proper column of the list. A pleader when required to do so, is bound to take back any document produced by his client and to sign the receipt referred to above.

264. Statement of address for returning document produced by stranger and time and manner of returning - (1) A private person, not a party to the suit, producing a document in Court in compliance with a summons, should be required to state in writing the address to which the document is to be returned, if not returned to him personally. If it is desired that the document should be returned to a pleader, a Vakalatnama shall be filed along with the document.

(2) Where the document is not tendered or admitted in evidence, it shall be returned at once to the person producing it either personally or by registered post.

(3) Where the document is admitted in evidence, a certified copy thereof shall be prepared and placed on record, if not already there. The original shall then be returned to the person producing it personally-

or by registered post, or his pleader” If the genuineness of the document is in controversy, the original shall, unless the Court otherwise directs” be returned after the trial concluded or cases where an appeal lies, after sufficient time has been allowed for appealing or, if an appeal is preferred after the determination thereof. The word ‘appeal’ includes a second appeal where a second appeal lies.

(4) (a) In the case of voluminous documents, such as account books or collection of Zamindari papers, which cannot conveniently be returned by registered post, the person producing them shall, if they are not returned to him at once, be informed in due course by registered letter that he is at liberty to take them back, and that his reasonable travelling expenses will be furnished.

(b) This procedure shall also be adopted when the person producing the document states in writing at the time of production that the document is of value to him and that he will take it back personally.

(5) In case where the person producing a document has any pleader or mukhtar authorised to take back document on his behalf the document may be returned under the foregoing rules to such pleader or mukhtar, unless at the time of production the person producing it states in writing that it should be returned to him personally or by registered post.

(6)(a) Before a document such as is referred to in Sub-rule (1) is called for at the instance of a party to the suit such party shall deposit a sum sufficient to meet such expenses as likely to be incurred, including the cost of returning the document by registered post, the cost of preparing certified copy under Sub-rule (3) and in cases under Sub-rule (4) the travelling expenses both ways of the person producing the document.

(b) In cases under Sub-rule (4) the travelling expenses shall be transmitted to the person producing the document along with the registered letter therein referred to.

265. Time for return of exhibits - A period of one year from the date of the decree should ordinarily elapse before the documents exhibited in a case except in cases which are disposed of *ex parte* are returned to the party who produced them.

II. Inspection of Records

266. Permission for inspection of records deposited in the record room - No record deposited in the record room shall be inspected without the permission of the Presiding Officer of the Court to whose file it appertains:

Provided that at the headquarter stations, the permission of the Registrar, Civil and Sessions Courts, shall be sufficient for the purpose.

267. Conditions for inspection of records at outlying stations- The Presiding Officer at the outlying stations may in presence and control of his Sheristadar allow inspection of any such record to public officers and pleaders in the case subject to the general conditions laid down for inspection of records in the Record Room.

Note 1 - Permission of the Presiding Officer may be obtained on a written application in Form (M) 41 which will be supplied free of cost.

Note 2 -The Presiding Officer may, in his discretion, permit the pleader concerned to inspect in open Court the record of a pending case fixed for the day without any application in Form No. (M) 41.

CHAPTER - III

THE TRANSMISSION OF RECORDS TO THE DISTRICT

RECORD ROOM

268. Time of consignment of disposal to the district record room - The records of decided, contested and uncontested suits and cases of Classes I, II, III and other than those referred to in the preceding Rule 237 and the records of miscellaneous non-judicial cases and of cases belonging to Class IV shall be forwarded to the District Record Room by Judicial Officers at headquarters in the course of the second month and by Judicial Officers at out stations in the course of the fourth month next succeeding that in which they are decided or disposed of.

Note 1 - For the purpose of this rule in which preliminary decrees are made should be regarded as finally disposed of only when the final decree has been passed but when in suits for partition the final decree cannot be drawn up owing to the failure of the party concerned, to pay stamp duty of the requisite value, the record shall be forwarded to the District Record Room by the Court at headquarters on the expiry of six months and by the Courts at out stations on the expiry of one year after the date on which final decree was passed.

Note 2 - In suits relating to mortgage, if no final decree is passed, the record shall be retained in the Trial Court for three years from the date fixed for the payment of the sum declared in the preliminary decree to be due.

Note 3 - Where the decree directs a partition or under XX, Rule 12 of the Code of Civil Procedure, an enquiry as to rent or mesne profits and no final decree is passed, the record shall be retained in the Trial Court for three years from the date of the preliminary decree.

Note 4 - A register showing the number of suits in which preliminary decree have passed but which are pending for final decree (namely, suits for partition, taking of accounts, ascertainment of mesne profit, etc.) shall be maintained in Form No. (R) 1-B.

269. Dates of consignment of records to the district record room to be fixed by the District Judge - The District Judge shall fix the dates on which in the course of the month the records from each Court at headquarters and out stations, respectively, shall be despatched to the District Record Room, the dates being so arranged as to secure an even distribution of work in the record room.

Note 1 - The orders passed by the District Judge under this rule fixing the date for the transmission of records shall be copied and posted to the record room and the offices of the Court to which they relate.

Note 2- A list in Form No. (R) 20-A should be kept posted each year in the record room showing clearly for each Court the dates on which the records are due for deposit and the dates on which they are actually received .

Note 3 - If the date fixed by the District Judge falls on holidays ,consignment should be made on the succeeding working day.

270. Lists in duplicate of records of each class of records consigned to District Record Room - (a) A separate list in Form No. (R) 20 written in English shall accompany the records of each class. These lists should be of uniform size to enable their being bound up in separate annual volumes for each class of records of the same Court so as to constitute a catalogue of records in the record room to be preserved for the same period as the records to which they relate.

(b) The list required by this rule shall be prepared in duplicate and shall contain an enquiry of every suit or other than those referred to in the preceding Rule 237 disposed of during the period. The duplicate ' copy shall be forwarded to the District Judge under a separate cover and will be returned to the issuing Court duly signed by the record keeper who shall acknowledge that the records have been received. The duplicate copies shall be preserved for three years unless the period is extended by the District Judge.

Note -Zanetic, that is, true carbon paper should be used in making duplicate copies if a typewriter is not available.

(c) If any record included in the list is kept back for any reason the fact should be noted in the remarks column clearly distinguishing between those kept back though due for despatch and those referred to in Notes 1-3 to Rule 268 which though entered in the list are not due for despatch. The "kept back" records of both classes should be entered also in a separate list to accompany the despatch list.

271. Separate list of certain disposed of records - The records of cases referred to in Rule 237 shall be entered in a separate list and kept in the respective Courts to which they belong and will be destroyed after one year from the final disposal unless there has been an order for restoration to file. When such destruction takes place the fact be noted in such list and in the Court's Register against the entry for the particular case. The list referred to above shall be preserved for three years.

272. Triangular punching each Court-fee label - When preparing the list [in Form No (R) 20] referred to in the preceding rule, a second hole shall be punched with a triangular punch, on each Court-fee label distinct from the first in the records mentioned in the said rule, and a note shall at the same time be made upon the title page of each record of the date on which the stamps on documents contained in it have been so punched.

Note - Before signing the order to destruction of such records, the Presiding Officer shall satisfy himself that Court-fee labels have been repunched with a triangular punch.

273. Consignment of permanent registers to the District Record Room - All registers which have to be permanently preserved shall after 12 years from the date of the last entry therein, be sent to the District Record Room with a list in Form (R) 21.

Note - Permanent Account Register need not be consigned but kept by the Accountant.

CHAPTER - V

District Record Room

I. Record Room arrangement and the general duties of the Record-keeper

274. Record Room and Record-keeper - "The Record Room" is a room set apart for the storage of decided cases and the "Record Keeper" is the ministerial officer in immediate charge of such records.

275. Combined Entrance and exit, and placing of record keeper's table - It is desirable and whenever possible it should be arranged, that each record room shall have only one combined entrance and exit, and that the record-keeper's table be so placed that no one can enter or pass papers out the Records Room unseen by him.

Note - Repunching peons should work near the record-keeper's table.

276. Iron gratings and wire netting of windows, doors and openings - All the windows, doors or openings in the walls of the record room, and all inner and outer windows, doors or openings giving access from the record room to any office or verandah which is not part of the record room shall be protected by iron gratings and wire netting in such manner as to render it impossible that papers should be passed through them, and the record keeper shall by periodical inspection, satisfy himself that the railings and netting are in good order.

277. Guard file of instructions by Government for protection of buildings and records - The record-keeper must obtain and keep in his guard file a copy of the instructions issued by Government for the protection of buildings and records against fire, and he will be held responsible for ensuring that these instructions are carefully observed.

278. Distribution of work among the clerks - The distribution of work among the clerks should so far as possible be arranged on the basis of the various Courts in the district, each clerk dealing with the records of the Court or Courts of which he is in charge and all matters connected with them.

279. Submission of fortnightly progress report by record-keeper - The record-keeper shall submit to the Registrar, Civil and Sessions Court a fortnightly progress report in Form No. (M.) 30 .

280. Hanging up plan and index of record room - A plan and index of the record room shall be prepared by the record- keeper on the lines of the specimen plan and form of index reproduced as Appendix C, and as Form No. (M) 31, respectively in Volume II, and should be hung up in a conspicuous place in his office. The plan should indicate the position and serial number of the several racks and almirahs in each room and the entrance to, and number of each room. It should also include an end section of the racks, showing the serial number of the several shelves in each. The information required for the "Index" should be set out below the plan by Courts.

281. Plan and index to be corrected and kept up-to date- The plan and index must be kept up – to –date, and should be corrected yearly after the periodical destruction of records has been carried out.

282. Numbering rooms, racks and shelves – The rooms, racks and shelves in the record room should be numbered conspicuously. The rack number should be fixed at the end of each rack nearest to the passage way, and at a height where it can be easily read; the letters A and B should be marked to denote the left and right hand shelves of the rack.

283. Hanging up index – board – An index –board, typed or printed in foolscap size in Form No. (M) 32, should be hung up in a conspicuous place at the end of each rack.

284. Marking almirah and shelves therein - Every almirah in the record room should be clearly marked outside with a letter or figure and the shelves therein should be numbered. A list in English showing its contents should be kept in each almirah.

285. Guard file of inspection notes - The record-keeper shall keep in a guard file all inspection notes (or copies thereof) made by the District Judge or by any other officer on inspecting the record room, and shall note on the margin of such notes the action taken upon them.

286. Arrangement of registers not in current use - Registers not in current use and kept in the record room, should be arranged on shelves vertically and should be labelled on the back of the volume.

II. Receipts of records in the District Record Room

287. Duty of record-keeper on receipt of records - On the arrival of a batch of records in the District Record Room, the record-keeper shall see –

(a) that each record is stamped with a rubber stamp, bearing the words "District Judge's Record Room", the name of the district and date;

(b) that the records correspond in number and description with the entries in the dispatch lists;

(c) that a second hole is punched with a triangular punch on each Court-fee label distinct from the first, and a note is at the same time made upon the title page of each record of the date on which the stamp on documents contained in it have been so punched;

(d) that the classification and arrangement under Chapters I and II of this Part have been carried out, that the contents of each file correspond with the table of contents, that the paper bear the Court-fee stamps shown in such table; that the stamps have been duly cancelled and that the papers requiring Court-fee stamps have been properly stamped;

(e) that all records kept back in the Trial Court after the due date for despatch under Rule 270 (c), Chapter III, Part IN are entered in Register (R) 19 so that they may be dealt with under Rule 316 post.

Note -The second or triangular punching of Court-fee stamps prescribed in this rule should be made on the day the records are received in the District Record Room and should not await the inspection or examination of records.

288. Report of record-keeper suspecting tampering, deficiency and irregularity in cancellation of stamps - If in the course of carrying out the duties enumerated in these rules, the record-keeper finds that any stamp shows signs of having been tampered with or discovers any deficiency, irregularity in cancellation or other circumstances, exciting suspicion, he must at once submit a report to the Judge in-charge of the record room.

Note - The reports should be submitted separately on each record and should not be delayed until the examination of a complete batch of records is concluded. In the absence of such circumstances, a consolidated defect report should be sent ¹[in Form No. (M) 33 along with the connected records to the concerned Court and the same be returned back to the Record Room without one month from the date of receipt.]

289. Noting by record-keeper in the despatch list -The record-keeper shall enter the date of the receipt of the records, the date on which they were actually due and the number of records received, in the space provided in the despatch list. If there is material delay in despatching the records, the fact should be brought to the notice of the Judge-in-charge.

290. Filing of disposal of reports or explanations - Reports under Rule 288 and 289, if forwarded under the orders of District Judge for explanation to the Court concerned should be submitted to the Judge-in-charge on return and when finally disposed of should be filed by the record-keeper in chronological order and in separate file for each Court.

1. Added by C.S. No. 47, (XLIX-D-20/96, Dt. 20.2.1999)

III. Arrangement of records in the record room

291. Arrangement of records - The records in the District Judge's records room should be arranged by Courts, different racks being allotted for the records of each Court, whenever the number and disposition of racks permit of this arrangement.

292. Manner of bundling records - The records of each Court for each year should be made into bundles, each bundles containing records of only one of the classes referred to in Rules 221-225, Chapter I of this Part, according to their dates of disposal shown on the title pages.

Note 1- The date of final decree is the date of disposal in cases in which final decree has been passed.

293. Arrangement for removal of bundles of records – The bundles will be arranged on the Tacks, class by class, and in each class year by year in sequence. As the time for destruction of records of Classes, II, III and IV (other than those comprising files) of a particular year arrives, the bundle or bundles for what year will be removed from the rack or section of a rack which they occupy and the rack will then become available for the records of the incoming year.

294. Numbering bundles of records - If the records of a single Court for one year cannot be contained in one bundle, the bundles should be serially numbered so as to show the total number of bundles for that year. Thus, if there are three bundles, they should be numbered 1-3, 2-3 and 3-3, respectively. The bundle numbers should be shown in Column 7 of the bound lists and should be altered as the bundles are amalgamated on destruction of records.

295. Size of bundle of records - The bundle shall be of foolscap size. To the back and front of each bundle a flat-board or a piece of stout mill board of the same width as the record, should be tied. Each bundle should be of sufficient depth to occupy fully the depth of the shelf.

296. Manner of exhibiting each bundle of record - Against each bundle will be exhibited a label in Form No. (M) 34 showing in bold figures the dates on which different files therein contained are liable for destruction. Those labels should be of a uniform size and should have paste-board backs.

297. Re-arrangement of bundles of records - As the bundles decrease in size, owing to the removal or destruction of records, the record-keeper will re-arrange the bundles so as to fill up the depth of the shelf on which they stand, and should re-write, if necessary, the index referred to in the previous rule.

298. Manner of hanging index board in shelf or rack - A wooden board, or tin-sheet index 8-13, setting out in English, the Court, and the class of records kept on each shelf of the record rack should be-

so hung on the shelf that it can be removed when the position of the records is for any reason altered.

IV. Custody, removal and transmission of records and of documents contained therein

299. Non-retention of record not entered in register - No record should be retained in a District Record Room which does not find an entry in one of the prescribed Record Room registers.

300. When record shall be removed from the Record Room -No record deposited in the record room shall be removed or allowed to be removed by the Record-keeper except for the use of the officers of the Court or with the sanction of the judge-in-charge of the record room.

301. Stating circumstances for producing records when calling for the same except by superior Judicial authority or Civil Court -When a record is called for, except by Superior Judicial Authority or by a Civil Court acting under Order XIII, Rule 10 of the Code of Civil Procedure, the Court or officer calling for it shall state the circumstances which render its production necessary. The Judge may decline to forward it if in his opinion no sufficient grounds are shown. It is improper and inconvenient that records of the Courts of Justice should be sent to other public officers or functionaries. If a reference to their contents is required, the proper procedure is ordinarily to obtain copies of the requisite papers.

Note -Civil Judges in every grade should exercise a careful discretion in acting under the provisions of Order XIII, Rule 10, Code of Civil Procedure.

302. Requisitions of Courts subordinate to High Court other than High Court, Orissa whom to be complied - No requisition made under the provisions of Order XIII, Rule 10 of the Code of Civil Procedure, by a Court subordinate to any of the High Court other than High Court, Orissa for production of the record of a case appertaining to and in the custody of a Court subordinate to the High Court, Orissa should be complied with unless such requisition is transmitted through the High Court of Orissa and is accompanied by copy of the affidavit referred to in the rule above quoted together with a duly certified translation into English, if such affidavit be in the vernacular.

Note - The above procedure will apply when a Civil Court subordinate to the High Court of Orissa calls for a record appertaining to and in the custody of any other High Courts or Court subordinate thereto.

303. Complying with requisitions of Criminal Courts - When in the course of proceedings in a Criminal Court, it becomes necessary to refer to the contents of records deposited in another Court, the ordinary procedure is to require copies of the necessary papers to be filed.

304. Manner of complying with requisitions - All requisitions for documents or records, other than those received from the copying department shall on receipt be entered by the record-keeper (or by a clerk under the record keeper's personal direction) in a Register in

Form No. (R) 18, and then handed for compliance to the clerk in charge of the required document or record. The latter shall immediately enter the application in a Register in Form No. (R) 19, and bring the required document or record to the record-keeper, who shall then despatch it to the requiring Court after noting compliance in Column 4 of Register (R) 18.

When a requisition is so defective that the record room staff cannot comply with it, it shall be returned to the requiring Court or officer and the record-keeper shall note the return in Column 4 of Register (R) 18.

In record rooms where the records have been divided into several separate charges for administrative convenience, each clerk in charge of a separate batch of records shall maintain a copy of Register (R) 19 in respect of the records in his charge. On the return of the documents or records, he shall note in this Register the date of such return.

Note 1- Appeal intimations for submission of lower Court records for reference in appeal or revision shall be treated as requisitions and entered in Register (R) 19 concerned.

Note 2 -A separate requisition shall be sent for every record or for any number of documents out of the same record called for by any Court.

Note 3 - A memorandum of removal with the date should also be made in the remarks column of the despatch list against the entry relating to a record removed.

Note 4 - Requisitions for records should at the time of registration under this rule, be stamped with a date stamp and numbered serially.

Note 5 - All actions necessary, to comply with a requisition for a record including the preparation of the letters to accompany the record and advising the despatch in *Form* Nos. (M) 3 and (M) 2, and packing and despatch of the record, shall be taken by the record-keeper or a clerk in his office deputed for the purpose.

Note 6- All requisitions for records should be dispatched without delay.

Note 7 - Such records on receipt should be forthwith placed and carefully kept with the records of the cases in connection with which they have been requisitioned.

Note 8 - After disposal of the cases in question such records must be returned to the record room at the latest at the time of the next periodical despatch of records.

At the time of each periodical despatch of records a certificate under the signature of the Court and counter signed by the Sheristadar, to the effect that all outstanding records, called for reference in cases disposed of up-to-date have been returned and records retained or kept back under the notes to preceding Rule 268 or Rule 270 (c) and which have subsequently become due for despatch or which are no longer required have been despatched, shall be forwarded with the record despatched.

Note 9 - Requisitions received and issued for records and replies thereto shall be treated as correspondence and shall be entered in Registers (R) 19-A or (R) 19-B, as the case may be, to be kept by or under the supervision of the Sheristadar of the Court.

305. Entire record not to be removed to the Copying Department- In complying with a requisition for copies of papers contained in a record the record-keeper should not permit the entire record to be removed to the Copying Department but only such documents as are specified in the application unless the documents specified in the application constitute the entire record. All such requisitions shall on receipt in the record room be entered by the record-keeper or a clerk receipt in the record room be entered by the record-keeper or a clerk to be specially deputed for the purpose in Register No. (R) 17.

Note 1 - Applications for information should be noted in this register in red ink.

Note 2 - Clerk of the record room establishment should bring to the notice of the record-keeper any delay on the part of Copying Department in returning documents to the record-room and the record-keeper should take such steps as will secure their return.

306. Time for preservation and manner of disposal of application for return of documents –

(a) Application for the return of documents from records in the District Record Room shall be made in Form No. (M) 42 to the Judge-in-charge of the record room during the time to be fixed by the District Judge. The Judge-in-charge will initial the printed order "Return if no objection" and transmit the applications to the record-keeper immediately on the expiry of the time so fixed. The record-keeper or a clerk deputed specially for the purpose shall then enter the applications in register in Form No. (R) 22.

(b) If the application has been made by the proper person and there is no objection to its being allowed, the record-keeper or any other clerk specially deputed for the purpose shall return the documents ordinarily on the next open day of the Court under the supervision of the Judge-in-charge or any other Gazetted Officer specially appointed by the District-Judge for the purpose, during the time to be fixed by the District Judge. The dated signature of the person to whom the document is returned shall be obtained on the application in acknowledgement of the receipt of the document as well as in Column 8 of the register. The application when complied with shall be attached to the file containing the documents. If the applicant does not appear to take back the document within three days from the date of filing the application, his application shall be rejected.

(c) If the application has not been filed by the proper person, or is defective in respect of material particulars and the information furnished is not sufficient to enable the document to be traced by any other means or there is any objection to the return of the document, the application-

with a report of the defects noted on it shall be submitted ordinarily on the next open day of the Court to the Judge-in-charge who on perusing the report will pass appropriate orders. Such applications as cannot be complied with for any of the reasons mentioned above shall be returned to the applicant by the record-keeper in the presence of the Judge-in-charge during the time to be fixed by the District Judge to be refiled after removing the defects. If the application is refiled it shall be entered in red ink in Column 2 of the register in Form No. (R) 22 under its original serial number. Information required to cure defects in the application may be supplied without a separate application in accordance with Rule 380, if a searching fee is paid on the application and the application for the return of documents in that case may not be returned for being refiled.

(d) If the record is not in the District Record Room and the Court to which the record relates is at Sardar, the record-keeper should send the application at once to that Court and inform the party accordingly. If the Court is in an outlying station, a note should be made by the record-keeper to the effect that the record in question is not in the record room and the party should be directed to file an application in the said Court.

Note 1 - Such application for the return of documents other than voluminous documents relating to records of outlying Courts may be made to such outlying Court with a transmission fee of Re. 1 in Court-fee stamp affixed thereto. Such outlying Court shall forward the same to the Judge-in-charge of District Record Room for necessary orders and transmission of documents by registered post. The Judge-in-charge, if he considers that the nature and importance of the documents require that they should be delivered personally may disallow the prayer and insist on an application being made direct to him. On receipt of the document from the record room, the outlying Court shall return the same to the party concerned, after realising the excess transmission costs, if any. The applications shall be sent back to the record room along with monthly consignment of records for being attached to the file, containing the documents.

Note 2 - The rejected applications shall be collected in monthly bundles in chronological order and preserved for three months.

307. Presenting removal slip for removing record or document from record-room - Whenever a record or a document from a record is removed from the record room there shall be inserted in its place of removal slip in Form (M) 36 in which a full description of the record or document and the purpose and the date will be entered. Such slip shall be intialled by the Record Keeper. Where, however, a document or record is removed in compliance with a requisition from any Court such requisition shall be used as a removal slip. When a record is removed for any purpose which would have the effect of transferring it to some other collection in the Record Room by reason of an alteration in the date of disposal for purposes of destruction (e.g. in connection

-with appeal, remand, petitions or rehearing, restoration, review, etc. respecting the same case) no such removal slip will be necessary.

308. If the record removed is to be sent to another Court the word "Removed" shall be stamped on its title page in bold type.

309. The records of cases called for by the High Court on appeal from the judgment and orders passed thereon should be despatched within seven days from receipt of the requisition. In the event of any delay occurring in their despatch, a reply should be sent explaining the case of delay, and the probable date of their despatch.

Note - Whenever voluminous documents such as account books, Khata and counterfoil receipt books, etc. are sent to the High Court in connection with an appeal or reference, care should be taken to see that the instructions contained in Clause (a) of Rule 254, Chapter II of this Part have been complied with.

310. All papers of execution cases to be sent up in appeal to the High Court - Records of execution cases set up in appeal to the High Court should invariably be accompanied by all the papers connected with them in the Lower Courts, whether original or appellate.

311. Procedure of transmitting records from one Court to another - The following instructions should be observed in transmitting records from one Court to another :

- (a) If the two Courts are situated in the same station, the record should be despatched by hand, properly packed with a peon book, in which a serial number and date should be entered, and the signature of the recipient should be taken. The serial number and date appearing in the peon-book should be reproduced in the remarks columns of the register of records removed. If the requisitioning Court is situated in a different station, records should ordinarily be sent by parcel post, the postage being paid by means of service stamps. But if the transmitting Court, whether Civil, Criminal or Revenue, thinks fit, the record may be sent through a special messenger, in which case, on intimation thereof being given (and such intimation should be given forthwith) the cost of sending the special messenger including his pay and travelling allowance, if any, shall be realised in advance by the requisitioning Court from the party calling for the record and shall be paid under an order of the requisitioning Court. Civil Courts should ordinarily refrain from issuing summons for production of record through a clerk or special messenger leaving it to the transmitting Court to decide by what method the record shall be sent.
- (b) Records relating to different cases may, if not inconvenient be packed in the same parcel provided such records are separately tied up.

- (c) In the parcel containing a record should be enclosed a forwarding letter, and the cover of the parcel should bear the distinguishing number and date of the letter.
- (d) A letter of advice should be forwarded simultaneously with dispatch of the parcel by post but separately and by ordinary letter post and in it the number and date of the forwarding letter referred to in the preceding clause should be quoted.
- (e) An acknowledgment should invariably be 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 enquiry should be made to ascertain the cause.

Note -1All letters advising the dispatch of civil records to the High Court and parcel containing such records as also all returns of Civil process issued by the High Court should be addressed to the Deputy Registrar of the High Court.

Note -2-The procedure in Clause (a) of this rule is to be followed also where the District Judge sends of r a record from his own record room.

312. Procedure when record is received back in the record-room-When a record is received back in the record-room, the following procedure should be followed :

- (a) The record should be carefully examined by the record-keeper to see that it is complete and in order. If the record-keeper notices that any document is missing or that the record disclose any other defect, he should at once report the matter to the judge-in-charge who should if necessary draw the attention of the District Judge.
- (b) An entry should be made in Col. 8 of the Register of Records removed and initialled by the Muharrir making it.
- (c) The entry in the despatch list should be cancelled.
- (d) The removal slip should be removed from the bundle, the entry upon it cancelled and the record restored to its place.
- (e) If the record is not restored to its original bundle for any reason, a note should be made in the despatch list that it is kept with record No. of the Court.
- (f) An acknowledgment in the prescribed form is to be sent.

Note - The above procedure as far as applicable, is to be followed when documents sent to the Copying Department are received back. The entry referred to in Clause (b) is to be made In the appropriate Register (Form R. 17).

313. Keeping original records with the appeal records - When an original record which has been called for in appeal is received back in the record room, together with the judgment and other papers relating to the disposal of the appeal in the Appellate Court, the original and -

the appellate records should be kept together. These records should be arranged according to the date of the appellate judgment.

314. Depositing appeal records in the record room of the district in which appeal had been instituted - The record of an appeal transferred to another district for hearing shall after disposal of the appeal be deposited in the record room of the district in which the appeal had been instituted.

Note - The Court hearing the appeal will send the record to district of its origin after the expiry of the period of appeal to the High Court. If there is such an appeal the record will be sent after it is received back from the High Court.

315. Manner of keeping record received back from the High Court after appeal - Original records received back from the High Court together with the High Court's judgment on appeal should be arranged and indexed "High Court Appeals". These records should be arranged according to the date of the High Court's final judgment. A note should also be made against the various entries relating to the records in the remarks, column of the despatch list; showing where the respective records may be found and giving the date of the final judgment of the High Court.

316. Duty of record-keeper regarding return of records and dispatch of kept – back records - It is the duty of the record-keeper to see that the record sent out are returned and that records kept back though mentioned in the list are dispatched without undue delay. With this object he shall cause the serial number with full particulars of records not returned or kept back after the due date of dispatch to be brought forward and entered in red ink in the register of records removed before any entries are made relating to a new year. He should also cause to be prepared from this register a Reminder list consisting of entries of all records which have been out of or kept back from the Record-Room after their due date for more than three months. On the return of receipt of any such record the entry relating to it prescribed by this rule should be struck out, and in the case of a record kept back the entries in the remarks column of the dispatch list and in the separate list prescribed by preceding Rule 270 (c) should also be cancelled. If the record is not restored to its original bundle for any reason, a note should be made in the dispatch list that it is kept with record number of the Court.

Note - In the case of records referred to in Notes 1, 2 and 3 of the preceding Rule 268 this rule comes into operation only after the expiry of the periods mentioned therein.

317. Issue of reminders by record-keeper - From time to time reminders should be issued by the record-keeper in respect of such records and if they do not result in the return of the record, he should take the orders of the Judge-in-charge.

Note - A note of all reminders should be made in the Reminder list and in the remarks column of the Register of Records removed.

318. Issue of reminders to the High Court - Reminders relating to records sent to the High Court should not be issued in the first instance until the expiry of 12 months and thereafter at intervals of not less than six or more than twelve months.

319. Rules for complying with requisitions for record in pending cases - The above rules so far as they are applicable shall be followed in sending and in complying with requisitions for records in pending cases.

V. Inspection of records

320. Inspection of records by public officers for public purpose-The record-rooms of Civil Courts are not open to the public, but public officers of the district including Sheristadars, may, with the permission of the Judge-in-charge, be allowed to enter the record room to examine the record of any specified case free of charge; provided that entry is made in pursuance of a public purpose.

321. Procedure for inspection of records by pleaders - On a written application in Form No. (M) 41 with the prescribed fee affixed to it, pleaders, duly authorised by any person in that behalf, may, under similar conditions, at a place to be provided for the purpose in the Registrar's office, examine any specified record but in doing so, shall make only brief notes (to be written in pencil on slips to be provided by the Registrar). If any extract from the record is required, it shall be obtained through the Copying Department in the usual way.

At the headquarters stations all applications for inspection should be filed before the Registrar, Civil and Sessions Courts and the same will be sent to the offices concerned through the Despatch Register. The offices concerned should send the required records along with the applications to the Registrar after making entries in Columns 1 to 5 of the Register in Form No. (R) 23. After the records have been inspected, the endorsements relating to such inspections should be made on the applications by the Inspecting Lawyers and the applications along with the records should then be returned to the record room or to the officers concerned, as the case may be. In cases where the application for inspection is rejected, the word "Rejected" with date of rejection below it should be entered in Column 6. In other cases only the date on which the inspection is actually done should be entered.

Applications for inspection of records shall be kept pending for three days, during which period, the relevant records shall remain available for inspection. If the pleader does not appear to inspect the records within this period the application shall be rejected and no inspection shall be allowed on such application.

Note - A notice in the sense of this rule should be exhibited in English in the office in which records are inspected. No legal practitioner shall be allowed access to the offices appertaining thereto; otherwise than in accordance with this rule.

322. Inspection of registers by pleaders - Pleadings duly authorized by any person in that behalf may be allowed to inspect Registers of Suits and Appeals maintained under the rules of the High Court at a time and place to be fixed by the Presiding Officer or the Judge-in charge as the case may be.

Note - Applications for inspection of Register of Suits and Appeals shall be preserved till the end of the quarter and thereafter destroyed.

323. Days and time of inspection of records by pleaders -The inspection of records by pleaders shall be allowed only on days of which the Court is open and during such office hours as Judge-in-charge may prescribe.

324. Separate table for inspection of records - For the inspection of documents or records a separate table should be set apart, which should be kept clear and be so placed as to be in full view of the Registrar. All inspections must be carried out at this table under supervision and control of the Registrar or of a clerk, deputed by him for the purpose.

VI. The destruction of records

325. Calculation of periods of preservation of files of Classes I, II and III records -. The periods of preservation of different files laid down in the preceding Rule shall be calculated as regards suits, cases or appeals of Classes I, II and III from the date of the final decree or order:-

Provided that the period of preservation of the record of a suit or case where the decree or the order directs payment by installment shall commence from the date of last installment allowed by the Court except in the case of File C-I of such records which may be destroyed in accordance with the above rule :

Provided further that the writ of delivery of possession with the Nazir's report along with other papers kept in File B should be preserved for 25 years from the date of disposal of the Auction Purchaser's petition for delivery of possession.

Note - Where in a suit for partition, the necessary steps for obtaining a final decree are not taken within twelve years from the date of the preliminary decree Files C and C-I of the record of the suit shall be destroyed on the expiry of that period.

326. Reckoning period of preservation of files of Class IV records- In cases of Class IV, such period shall be reckoned from the date on which the application for execution was finally disposed of by the Court executing the decree or by a Court of Appeal, whichever is the later date. For the purpose of this rule, each execution record shall be dealt with separately, irrespective of any other application to execute the same decree or order.

327. Miscellaneous non-judicial cases and classification and preservation of records thereof - Cases arising out of applications for the refund of lapsed deposits shall be treated as miscellaneous non-judicial cases and the records thereof shall be classed as C files-

and preserved for 12 years. The records of all other miscellaneous non-judicial cases shall be destroyed at the end of three years from the date of disposal.

328. Preservation and destruction of exhibits - Exhibits which can be conveniently preserved with the records of the trials in which they have been used shall not be destroyed, but shall be kept in their proper files and shall be preserved with such files until the period for destruction of the B, C, and D Files, viz. 25, 12 and 6 years, respectively shall have arrived, when they shall be destroyed along with their files.

329. Separate preservation and destruction of bulky exhibits - Cumbersome and bulky exhibits, e.g., account books, khatas, zamindari papers and the like, which cannot be conveniently put up with the records of the trial in which they have been used but which have to be preserved separately, e.g., in almirahs, boxes and bundles, may be destroyed earlier, under the orders of the District Judge, after the expiry of the period of one year from the date of the decree in each case becoming final; and of one month from the date of service of a final notice in Form No. (P.) 41.

Note 1-This notice should be served upon the parties or their pleaders concerned at their last known address. The original notice is to be attached to the file and when destruction takes place the fact should be noted on the list of exhibits.

Note 2- A register of bulky documents shall be maintained in Form No. (R) 20-C.

330. Making of entries in the bound lists and on Index Board after destruction of records - Destruction of records should be carried out quarterly and the record-keeper shall, in the first month of each quarter cause the B, C and D Files which are due for destruction to be removed from their shelves for the purpose. As each record is destroyed, the necessary entries should be made in Column 8 of the bound lists and on the Index Board.

331. Destruction of requisition acknowledgment etc. - Requisitions acknowledgments, Reminder Lists, Removal Slips and Defect Reports for which there is no further use shall be destroyed at such intervals as the Judge-in-charge may direct.

332. Destruction of papers in presence of record-keeper -The destruction of all papers shall be carried into effect burning in the presence of the record-keeper or one of his assistants.

(Provisions contained in this Chapter shall be applicable to the records of the Criminal Courts for which no separate provisions have been made in the G.R. & C.O. Criminal Vol. I).

CHAPTER - V

Records of the Court of Small Causes

333. Orders and order-sheet in Small Cause Courts cases – In Small Cause Court cases no order-sheet is necessary, the orders –

being recorded on the back of the plaint. When, however, a case becomes contested and the hearing extends for more than one day, an order-sheet will be attached and orders continued on it.

334. File of Small Cause Court record - The record shall be prefixed by a Table of Contents and shall consist of only one file including proceedings in execution taken in a Small Cause Court. Papers connected with any proceedings will be shown in the Table of Contents under a separate heading giving the number of the case :

Provided that where a Small Cause Court decree has been transferred to the Court of ordinary civil jurisdiction for execution, the record should be treated and dealt with at an ordinary execution record of Class IV.

335. Rules applicable to Small Cause Court records - The preceding rule in Chapters II, III and IV should, as far as they may be applicable, be followed in the cases of Records of Courts of Small Causes.

336. Preservation of records of suits decided by Judges of Small Cause Courts in the Trial Courts -The records of suits decided by Judges of Small Cause Courts shall remain in the Trial Court until the period for their destruction shall arrive.

337. Consignment of records of suits decided by officers vested with Small Cause Court Powers -The records of suits decided by officers vested with the powers of a Small Cause Court Judge shall, in the succeeding month, be deposited in the District Record Room at headquarters stations and ¹[Civil Judge (Jr. Division)] or Sub-Judge's Record Room at outlying stations and preserved there until such time as they are destroyed under these rules.

338. Classification of records sent to the record room -The records shall be divided into two groups and sent in separate bundles to the Record Room with separate lists in Form No. (R) 20, each record being prominently marked A or B in accordance with the following classification :

Group A - Records of cases in which any one has to recover anything.

Group B - Records of cases in which no one is entitled to recover anything, e.g., cases dismissed for default or on satisfaction in which the decretal amount has been paid up before the arrival of record, etc.

Note- The record-keeper shall note in the lists the date of removal and return whenever a record is taken back by the Trial Court at outlying stations in connection with execution and other proceedings or is called for under Order XIII, Rule 10 of the Code of Civil Procedure. The lists shall be preserved for the same period as the records to which they relate.

1. Substituted by C.S. No. 33 (IX-1/95, dt. 31.10.1995).

339. Manner of arranging records in shelves - (a) The record-keeper shall arrange the records of each Court by group and place them on the shelves in monthly bundles.

(b) The records will be kept in the bundles in order of their dates of disposal.

(c) The names of the groups will be prominently shown on the shelves and the space allotted to Group A should be sufficient for the accommodation of records for three years and that to Group B for one year.

(d) Besides Groups A and B there will be following two subsidiary groups formed out of records transferred from Group A by reason of steps taken in execution or of subsequent satisfaction .

Group A-1 - Records of cases in which execution has been applied for within three years either to enforce the decree or any unpaid instalment.

Group B-1 - Records of cases in which the decree has been fully satisfied.

The records of these two groups will be made up into separate monthly bundles A-1 bundles will be kept on the shelves with A bundles and B-1 bundles with B bundles of the corresponding month.

(e) The transfer of a record from A to A-1 or B-1 Group or from one bundle in A-1 Group to another bundle will be affected as occasion arises, regard being had to the provisions in Clause (d) of this rule. When an execution is applied for there will be no difficulty in finding out the proper record from Group A or Group A-1 as the case may be.

(f) A conspicuous note should be made of the date of disposal, and of the results of the suit and of every subsequent proceedings which lies the effect or postponing the date of destruction of the record on the outer sheet of each record.

340. Period of destruction - Records of Groups A and A-1 left over after transfer in pursuance of the above rules by reason of execution or other proceedings shall be destroyed at the end of 12 years from the date of decree and those belonging to Groups B and B-1 at the end of one year from their dates of disposal. Records of execution cases which remain pending even beyond the period of the date of the decree shall be destroyed after one year from the date of the disposal of the execution cases whether there has been a satisfaction or not.

341. Manner of destruction - Destruction shall be carried out quarterly. The record-keeper shall in the first month of each quarter remove the bundles due for destruction and note number of the cases in a bound book to be kept for the purpose. He shall take the orders thereon of the Judge-in-charge and then destroy the records making a note in the lists where necessary.

Note - Lists destroyed should also be entered in this book which is to be preserved for six years.

(The rules contained in this Chapter shall apply to the records of cases tried under summary procedure, as provided in Order 37 of the Civil Procedure Code with necessary variations.)

CHAPTER- VI

Rules relating to the custody of valuable moveables

342. Safe custody of valuable moveables and periodical check of those by Presiding Officer - All valuable moveables such as gold, silver, jewellery etc., shall, as soon as they are produced in Court, be made over in the presence of the Presiding Officer to the care of Nazir who shall be responsible for their safe custody. In case of value of these articles produced in excess of the security furnished by the Nazir, they should be kept by him in an iron safe and the same should be checked by the Presiding Officer of the Court concerned every fortnight and an entry to that effect being made in the remarks column of the rest of valuable moveables under the dated initial of the Checking Officer. In case, however, it is felt absolutely necessary to deposit the same in the Treasury or Sub-Treasury, as the case may be, the Presiding Officer should sent the requisition to the Collector in that regard for, taking action under Rule-88 (b) at page 45 of the Orissa Treasury Code, Volume I and the action taken in this regard be entered in the remarks column of the Register of valuable moveables.

343. Written acknowledgment and production of valuable moveables by the Nazir - The Nazir shall, on receipt of the moveables filed in each suit or case, give a written acknowledgment for the same and personally produce them before the Court on the date of trial.

344. Written acknowledgment by Bench Clerk - In case the moveables are retained in Court during the course of the trial of the suit of case, the Nazir shall take a written acknowledgment from the Bench Clerk who shall be responsible for their safe custody so long as they remain in Court. Immediately after the suit or case is disposed of, the moveables shall be recommitted to the care of the Nazir :

Provided that where the trial of the suit or case lasts for more than one day the Bench Clerk shall return the moveables in the evening to the Nazir on proper receipt and take them again on the next trial date.

345. Manner of production of valuable moveables in the Appellate Court - In the event of the Appellate Court requiring the production of such moveable, they shall be personally produced by the Nazir or if possible, be despatched in registered insured cover.

346. Manner of return of moveables by the Appellate Court -The Appellate Court shall cause the return of the moveable to the original Court through one of its responsible Officers, or in registered insured cover.

347. Register of valuable moveables - A register of valuable moveables shall be maintained in Form No. (R) 13- A .

Part – III

RULES RELATING TO INFORMATION, COPIES AND COPYING DEPARTMENT

CHAPTER – I

Information and Copies

1- General

(It should be noted that rules contained in this part are in addition to the rules contained in Part-III of G.R. & C.O, Criminal, Vol. I to be followed by the Sub- ordinate Civil and Criminal Courts in the matter of supply of information and copies to the parties. Separate forms have been prescribed for the use of both the Civil and Criminal Courts and the number of the forms referred to in the various rules contains in G.R. & C.O. Vol I, may be substituted by the relevant number of Forms prescribed for the purpose in the G.R.,& C.O Civil , Vol. II)

II. INFORMATION

348. Defects to be entered in the remarks column of the application -The defects found in the application for information should invariably be notified in the remarks column of the application which may then be returned to the applicant. If the application is so defective that the information cannot be supplied , it may be rejected.

349. Procedure to be followed when the record is not in the District Record Room :- If the record is not in the District Record Room and the Court to which the record relates is at Sadar, the record- keeper should send the application for information at once to that Court. If the Court is in an outlying station , the note should be made by the record- keeper to the effect that the record is not in the record-room.

III. COPIES

350. Rights of parties to obtain copies of records of the case- A plaintiff or a defendant who has appeared in the suits is entitled at any stage before or after decree, to obtain copies of the record of the suit including exhibits ¹[except printed or lithographed maps and plans] which have been put in and finally accepted by the Court in evidence.

Note- 1- A party who has been ordered to file a written statement is not entitled to inspect or take a copy of a written statement filed by another party until he has filed his own.

Note-2- This rules does not prohibit the grant to parties at any stage of copies of documents produced along with the plaint or written statement or under Order XIII, Civil Procedure Code, in case where they do not wish to take copies themselves under the provisions of Order XI, Rule 15.

1. Substituted by C.S. No. 37(IX- 12/93,dated the 30th August, 1996)

Note-3- Suits in this rule and in preceding rules include execution and miscellaneous cases.

351. Grant of copies of pleadings etc. to strangers- A stranger to the suit may after decree obtain as of course copies of complaints, written statements, affidavits and petitions filed in the suit and may for sufficient reason to be shown to the satisfaction of the Court obtain copies of any such documents before decree.

352. Grant of copies of Judgments, decrees or orders to strangers- A stranger to the suit may also obtain as of course copies of judgments, decrees or orders at any time after they have been passed or made.

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

354. Person applying for copy to state whether he is a party to the case and if not the object for which copy is required - Every application for copy shall state whether or not the person applying is a party to the case from the record of which copy is wanted. If such person is not a party or his pleader the application shall state the object for which a copy is required.

355. Only one application for copies from the same record - Only one application is necessary when a copy is applied for any number of documents of the same record.

Note- For the purpose of this rule records called for in connection with an original case or appeal will be treated as a part of the record of such case or appeal.

356. Forwarding application for copy to the requisitioning Court-An application for copy of a paper or record transmitted to another Court in compliance with the requisition shall be forwarded to the requisitioning Court for compliance, if there is no objection to the copy being granted.

357. Periodical inspection by the Sheristadar and the Judge – in – Charge- The sheristadar and the Judge- in- charge should at the time of the periodical inspection examine, if there is any delay in making the document available for the estimate and shall submit specific report regarding the instances of such delay to the District Judge for necessary action.

358. Noting date and hour when copy will be ready - When the stamps and folios are filed, the date shall be entered in the place provided in the form for the purpose. The applicant shall at the same time, present the counterfoil of his application, which has been returned to him and a Memorandum shall be made thereon stating the date and hour when the copy will be ready. A corresponding note shall be-

made on the body or main portion of the form. The Head Typist or the Head Comparing Clerk where there is no post of Head Typist will at the same time take the applicant's signature with date on the middle portion of the application below the entries as to the date of filing folios and stamps on the date when the copy will be ready for delivery. The application shall retain the counterfoil and it shall be his duty to attend on the date fixed for the purpose of receiving the copy.

359. Duty of Comparing Clerk – The Comparing Clerk deputed by The Head Typist or the Head Comparing Clerk where there is no post of Head Typist shall take the application for copy on the same day to the proper officer with an endorsement requiring him to send the necessary document. Such officer shall immediately hand over the document with the application to the Comparing Clerk and note on the application of the fact of compliance with the requisition. The comparing clerk shall make the necessary entry in Column 6 of the Register No. (R) 17. The comparing clerk deputed to make estimates of folios and Court-fee stamps shall take with him original documents of which copies are ready and return them to the proper officer who will make necessary entries in Column 7 or Register No. (R) 17. The comparing clerk will at the same time receive from the officer the documents for copies of which the requisite folios and stamps have been filled by the applicant.

360. Cause title in the copies of orders and documents – Full cause title should invariably be given in the copies of all order and decrees.

361. Examination of copy by Head Comparing Clerk – The Head Typist or the Head Comparing Clerk where there is no post of Head Typist should examine the copy with reference to the original to see that the amount of court-fee stamps required under the law has been realized.

Note- Every date on which extra folios are called for shall be shown after the copies are prepared in the proper space at the back of the folio.

362. Application for judgment and decree for appeal how to be dealt with – Notwithstanding anything contained in other Rules of this Chapter, where the judgment is type-written, copies of the type-written judgment where it is practicable so to do, be made available to the parties immediately after the pronouncement of the judgment on payment, by the party applying for such copie [Vide Rule6-B or Order 20, C.P.C].

Note 1-The party making the application shall note in red ink on the left upper age of the Form No.(M) 40, the purpose as ' for Appeal' or ' for Revision' for which the copies are required.

Note 2- Application for copies of judgment and decree for the purpose of filing appeal and revision shall be entered in the Register (R) 14 –A.

363. When the decree is not drawn up within 15 days from the date on which the judgment is pronounced the Court shall, if requested so to do by a party desirous of appealing against the decree ,certify that the decree has not been drawn up and indicated in the certificate the reasons for the delay and thereupon an appeal may be preferred against the decree without filing a copy of the decree and in such a -

case the last paragraph of the judgment shall for the purposes of Rule 1 of Order 41, C.P.S. be treated as the decree.

364. So long as the decree has not been drawn up the last paragraph of the judgment shall be deemed to be the decree for the purpose of execution and the party interested shall be entitled to apply for a copy of that paragraph only without being required to apply for a copy of the whole judgment but as soon as the decree is drawn up the last paragraph of the judgment shall cease to have the effect of the decree for the purpose of execution or for any other purpose. Provided that where an application is made for obtaining a copy of only the last paragraph of the judgment, such copy shall indicate the names and address of all the parties to the suit [*Vide* Order, 20, Rule 6-A].

365. Copies to be prepared by copyist appointed - No one but a copyist appointed by the District Judge shall be employed in the preparation of copies.

366. Typing by English copyists and making English copies by vernacular copyist - English copies shall be typed by English copyists, provided that where there is not enough work for both an English and a Vernacular copyist, a Vernacular copyist may be employed in making copies of English documents.

367. Action to be taken against typist and copyist for delay and inaccuracy in the preparation of copies -The Judge-in-charge shall take necessary action against the typists or copyists who are responsible for the delay in preparing copies and whose work are inaccurate or in other respects unsatisfactory.

368. Submission of half-yearly statements -A half-yearly statement comprising the names of all the typists and copyists who do not maintain the target and the action, if any, taken against them, may be submitted to the High Court by the 15th of January and 15th of July each year.

369. Distribution of work among the copyists - The Head Typist or the Head Comparing Clerk where there is no post of Head Typist ¹[in the outlying stations and Head Typist in the district headquarters stations] will make a proper distribution of work among the Copyists ¹[and Typists] subject to such directions as may be given by the Judge-in-charge.

370. Precautions to be taken to protect the interest of the Government and unnecessary taxation on the parties - To protect the interest of Government, care must be taken to see that all the copies from the Court are prepared on the prescribed stamp paper, they must be written or typed on any side of the sheet only and must not contain more than the authorised number of words. On the other hand, care must be taken to see that applicants are not imposed upon by the copyists or typists spreading their writing or typing over a larger

1. Added by C.S. No. 44, (IX- 3/96, dt. 28-05-1998)

number of sheets than is necessary . By insisting on the number of the lines in each sheet or space being uniform , Control may easily be exercised in the matter , the number of words in a few of the lines in each folio being checked.

¹[Provided that where the facility of taking out copy by means of a photocopier machine is available and the applicant intends to avail of the benefit, the copy may be prepared on photo-copy- paper instead of being prepared on the prescribed impressed stamp papers, but adhesive stamps of the value of the required stamp papers shall be affixed to the value of the required stamp papers shall be affixed to the photo-copy-papers utilized for the purpose and the same shall be defaced.]

371. Quarterly inspection by Judge- in- charge – The Judge- in- charge shall make a through inspection of the Copying Department once in a quarter and shall submit his report to the District Judge.

PART- IV

Fees and Costs including Rules and Orders

Under the Court Fees Act

CHAPTER – I

Fees and Costs

1. Process Fees

Rules framed by High Court under Clause (1) of Section 20 of the Court Fees Act, 1870, declaring the fees chargeable for the service and execution of process issued by the Civil Court.

372. Rate of process fees- The fees in the following tables shall be charged for service and executing the several processes against which they are respectively ranged :

1. Added by C.S. No. 5, XLIXD-29/86, Dt.12.12.1986

Nature of Process	Table of fees		
	1. In Courts of District Judge 2. In Courts of Subordinate Judge 3. In Courts of Munsifs where the suit is valued at over Rs. 1000	In Courts of Munsifs and of small causes where the suit in which process is valued at over Rs. 1000	In Courts of Munsifs and of small causes where the suits do not exceed Rs.50 in value.
(1)	(2)	(3)	(4)
<p>Article 1- In every case in which personal or substituted service of any Process on parties to the cause is required, where not more than four persons are be served with the same documents, one fee.</p> <p>Where such persons are more than four in number , then the fee above mentioned and an additional fee as mentioned in the table for every such person in excess of four.</p> <p>Article 2- In every case falling within columns 2 and 3 in which personal or substituted service of any process on any persons who are not parties is required where the number of such persons is not more than four, one fee</p> <p>Where there are more than four such persons, then the fees above mentioned for the first four, and an additional fee as mentioned in the table for every one in excess of that number.</p>	<p>Rs.P. 3.00</p> <p>0.75</p> <p>3.00</p> <p>0.75</p>	<p>Rs. P.</p> <p>2.00</p> <p>0.50</p> <p>2.00</p> <p>0.50</p>	<p>Rs. P.</p> <p>1.00</p> <p>0.40</p> <p>.....</p> <p>----</p> <p>--</p>

Nature of Process	Table of fees		
	1. In Courts of District Judge 2. In Courts of Subordinate Judge 3. In Courts of Munsifs where the suit in which is issued is valued	In Courts of Munsifs and of small causes where the suit in which process is issued does not exceed Rs.1,000 and exceeds Rs.50 in values.	In Courts of Munsifs and of small causes where the suits do not exceed Rs.50 in value.
(1)	(2)	(3)	(4)
In every case falling with column 4 in respect of a similar process for each person	Rs. P.	Rs. P.	Rs. P.
Article-3- Where process of attachment of property by actual seizure is issued-	-----	-----	0.40
(a) For the seizure under the order of attachment ;	3.00	2.00	1.00
(b) For each man necessary to ensure safe custody of property so attached where such man is actually in procession, per diem.	0.75	0.50	0.50
Article-4 For the proclamation and publication of any order of prohibition under Order XXI, Rule 54 of the Code of Civil Procedure, irrespective of the number of such proclamations or publications.	3.00	2.00	2.00
Article-5- For the publication by posting up of a copy or copies of the notification of any proceeding or process not specifically mentioned in any article irrespective of the number of such publications.	3.00	2.00	2.00

Nature of Process	Table of fees		
	1. In Courts of District Judge 2. In Courts of Subordinate Judge 3. In Courts of Munsifs where the suit in which is issued is valued at over Rs. 1,000	In Courts of Munsifs and of small causes where the suit in which process is issued does not exceed Rs.1,000 and exceeds Rs.50 in values.	In Courts of Munsifs and of small causes where the suits do not exceed Rs.50 in value.
(1)	(2)	(3)	(4)
Article-6- For executing a decree by the arrest of the person or for executing a warrant of arrest before judgment.	Rs. P. 15.00	Rs. P. 6.00	Rs. P. 2.00
Article-7- Where an order for the sale of property is issued –	3.00	2.00	2.00
(a) For proclaiming the order of sale under Order XXI, Rule 66 of Code of Civil procedure a fee of –	5.00 percent	5.00 percent	5.00 percent
(b) For selling the property a percentage or poundage on the gross amount realized by the sale up to Rs-1,000 at the rate of –	3.00 percent 3.00	3.00 percent 2.00	3.00 percent 2.00
together with a further fee on all excess of gross proceeds beyond Rs1,000 at the rate of	The fee will be the ordinary fee and half as much again	The fee will be the ordinary fee and half as much again	The fee will be the ordinary fee and half as much again
Article -8 For service of any process not specified in any preceding articles.			
Article-9- For process applied for and ordered to be executed as emergent			

Note 1- (1) If for any reason any suit or case in which process issued does not exceed Rs. 1,000 in value is either instituted in or transferred to the Court of a ¹[Civil Judge (Sr. Division)], the process fee chargeable shall be as in Columns 3 and 4 of the table.

(2) Where process of attachment mentioned in Article 3 is issued in a number of cases relating to the same or neighboring villages the fee (a) must be paid in each case the daily fee, (b) only for the men actually employed.

(3) The daily fee (b) is to be deposited with the cashier as peremptory receipt at the time of obtaining the process for so many days as the Court shall order not being ordinarily less than fifteen days and the number of days required for the coming and going of the officer; but where the officer is not to be left in possession, then the daily fee is to be deposited only for the time to be occupied by the officer going, effecting the attachment and returning. Where the inventory filed by the judgment creditor shows the property to be of such small value that the expense of keeping it in custody may probably exceed the value, the Court shall fix the daily fee with reference to the provisions of Order XXI, Rule 43 of the Code of Civil Procedure :

Provided that, if it appears that for any reasons the number of days fixed by the Court under this note, and in respect of which fees have been paid, is likely to be exceeded and the decree-holder desires to maintain the attachment, the decree-holder shall apply to the Court to fix such further number of days as may be necessary and the additional fees in respect thereof shall be deposited in advance. If such additional fees be not paid within the period originally fixed and in respect of which fees have been paid, the attachment shall cease on the expiry of that period. The Nazir will purchase a Court-fee stamp of the amount actually incurred in deputing a peon and affix it to the process under the signature of the presiding officer on payment of fees, The balance of deposits, if any will be available for refund to the party.

Note 2 - (1) Where a sale of immoveable property mentioned in Article 7 is set aside, under Section 47 or under Order XXI, Rule 58, or under Order XXI, Rule 92 of the Code of Civil Procedure, any poundage or other fee charged for selling the property shall, on application, be refunded. (2) The fee under Clause (a) must be paid where the process is obtained. The percentage or poundage under Clause (b) must be paid (1) in a case where the purchaser is a person other than the decree-holder, at the time of making the application for payment of the proceeds of sale out of Court, as provided in Rule 375, and (2) in a case where the purchaser is the decree-holder at the time of the presentation of his application for permission to set off the purchase money against the amount of his decree as provided in Rule 376

1. Substituted by C.S. No. 33(IX-1/95, dt. 31.10,1995)

(3) The percentage Leviable under this article shall be calculated on multiples of Rs. 20 (*i.e.* poundage fee of one rupee should be levied for every Rs. 20 or part of Rs. 20 realised by the sale up to Rs.1,000 and in case of the proceeds of the sale exceeding Rs. 1,000 an additional fee of 60 paise for every Rs. 20 or part thereof should be levied.)

(4) In cases in which several properties are sold in satisfaction of one decree only poundage fee, calculated on the gross sale proceeds should be levied Rs. 5 per cent, being charged on the gross sale proceeds up to Rs. 1,000 and 3 per cent on such proceeds exceeds Rs. 1,000.

373. No process fee for processes issued by Government on its own motion - Notwithstanding the provisions of Rule 372 no fee shall be chargeable for serving and executing any process such as a notice, rule, summons, or warrant of arrest, which may be issued by any Court of its own motion, solely for the purpose of taking cognizance of and punishing any act done, on words spoken in contempt of its authority.

374. Time of paying process fees - The fees hereinbefore provided, except those mentioned in the next rule, shall be payable in advance at the time when the petition for service or execution is presented and shall, except shall where otherwise provided, be paid by means of stamps affixed to the petition in addition to the stamps necessary for its own validity.

The parties in suits and cases relating to the Courts of ¹[Civil Judge (Jr. Division)] and of Small Causes shall note the valuation on the petition to enable a proper check to be made of the process fee paid.

Note - The provisions of this rule shall also apply to appeals.

375. Application for payment of sale proceeds and payment of poundage fees by stamps - The proceeds of a sale effected in execution of any decree will only be paid out of Court on an application made for the purpose in writing and the poundage fee for selling the property provided in Clause (b) of Article 7 must be paid by stamps affixed to, or impressed upon, the first of such applications, whether it be or be not made by the person who obtained the order for sale or whether it does or does not extend to the whole of the proceeds. No fee will be chargeable upon any such application subsequent to the first.

376. Time of payment of poundage fees by decree-holder auction purchaser - When a decree-holder happens to be the auction Purchaser his application of an order to set off the purchaser money shall in addition to the stamp necessary for its own validity, be stamped with stamps of the value of the poundage-fee due for selling the property under Clause (b) Article 7 :

Provided that, in exceptional cases, the Court may grant a short time not exceeding one week to the decree-holder auction-purchaser -

to obtain stamps of the value of the poundage fee from the treasury and file the same.

377. Noting Payments of poundage fee - The Sheristadar or the Clerk concerned should note on the application for payment of sale-proceeds or on this application for an order to set off the purchase money, as the case may be, that poundage fee have been paid.

378. Time of payment of 25 per cent of the balance purchase money after deducting the decretal due and costs by decree-holder auction purchaser - Upon the hearing of such petition, the costs of execution, including the amount of the stamps attached to the petition, shall be ascertained and shall be added to the decree and in cases in which the amount of the purchase money exceeds the amount of the decree and of such costs the decree-holder who has so purchased the property, shall pay into Court 25 per cent of the balance of the purchase-money after deducting the amount of the decree and of such costs, and shall pay the balance at the expiration of fifteen days in accordance with Order XXI Rule 85 of the Code of Civil Procedure.

379. Boat hire and ferry toll fees and advance payment of Government charges to the process-server - (1) In such part of the district, where the destination cannot be reached by a process-server during the rainy season without hiring a boat or without payment of ferry toll the area and duration of the year should be declared by the District Judge for the purpose of levy of additional fees towards boat hire and ferry toll, which shall be realised from the party in the shape of Court-fee stamps, in addition to ordinary fees chargeable for the service of process as follows:

- | | | |
|------|-----------------------------------|----------|
| (i) | Boat hire charge per day per boat | Rs. 2.25 |
| (ii) | Ferry toll charge | Rs. 0.18 |

(2) The boat hire and ferry toll charges shall be paid by the Court executing process from its special permanent advance to the process-server entrusted with the service of process.

380. Mode of payment of fees when process is to be served in jurisdiction of another Court - In cases in which the process is to be served in the jurisdiction of another Court the proper fee chargeable under Rule 372, read with Rule 379 shall be levied, in the manner above directed, on the application for the transmission of the process to that Court and a note shall be made on the process stating that this has been done. A Court which receives from another Court whether in the same state or not a process bearing a certificate that the proper fee has been levied shall cause it to be served without further charge:

Provided that in case of any process of summons required to be served outside the State except those sent through post, the parties shall, in addition to the fees prescribed in the preceding rules, deposit into the Court the cost of the transport to the place where the process-

has to be executed. Such cost shall be calculated at the rate of six paise, per mile inclusive of the return journey, subject to a minimum of 25 paise and shall be deposited in the shape of Court fee stamps.

Note 1 - The fees paid in pursuance of these rules must in all proceedings be deemed and treated as part of the necessary and proper costs of the party who pays them.

Note 2 - Processes issued by Courts in India for service by Colonial Court must be accompanied by a remittance sufficient to meet the costs of service.

In Mauritius, the cost of service is Rs. 3 per person in town, and to this must be added 75 per cent per mile travelling allowance for service in the country. For processes not accompanied by an English translation and requiring translation in Mauritius, an additional fee of Rs.10 should be remitted.

II. Reduction and remission of Court-fees

381. Reduction and remission of fees - In exercise of the powers conferred by Section 35 of the Court-fees Act, 1870 (VII of 1870), as amended by the Orissa Court Fees (Amendment) Act, 1939 (Orissa Act V of 1939), and in supersession of all previous notifications on the subject, hereto fore in force any part of the State the Governor of Orissa is pleased to make in the State of Orissa the reduction and remission hereinafter set forth in the fees leviable under Schedules I and II to the said Act, namely:

- (1) to direct that when a plaint disclosing a reasonable case on the merits is presented to any Civil or Revenue Court in such a form that the Presiding Judge or Officer, without summoning the defendant, rejects it not for any substantial defect but on account of an entirely technical error in form only and so as to leave the plaintiff free to prosecute precisely the same case in another form against the same defendant or defendants, the value of the stamp on the plaint shall be refunded on presentation of an application to the Collector of the district in which the Court is situated, together with a certificate from the Judge or Officer who rejected the plaint that it was rejected under the circumstances above described and that the value of the stamp should, in his opinion be refunded;
- (2) to remit the fees chargeable on –
 - (a) copies of village settlement records furnished to land holders and cultivators during the currency of or of the termination of settlement operations;
 - (b) lists of fields extracted from village settlement records for the purpose of being filed with petitions of plaint in Settlement Courts
:

Provided that nothing in this clause shall apply to copies of judicial proceedings or to copies of village settlement records (other than lists of fields) extracted as aforesaid which may be filed in any Court or office);

- (3) to direct that the fees chargeable on appeals from orders under Section 47 of the Code of Civil Procedure, 1908 (V of 1908), shall be limited to the amounts chargeable under Article 11 of Schedule II;
- (4) to remit the fees chargeable under Arts. 6, 7 and 9 of Schedule I on copies furnished by Civil or Criminal Courts or Revenue Courts or offices for the private use of persons applying for them:

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

- (5) to remit the fees chargeable, under Paragraph 4 of Clause (a) and Paragraph (2) of Clause (b) of Art. 1 of Schedule II, on applications for orders for the payment of deposits in cases in which the deposit does not exceed Rs. 25 in amount;

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

- (6) to remit the fees chargeable on the following documents, namely-
 - (a) copies of all documents furnished under the orders of any Court of Magistrate to any Government Advocate or Pleader or other persons specially empowered in that behalf for the purpose of conducting any trial or investigation on the part of the Government before any Criminal Court;
 - (b) copies or all documents which any such Advocate, Pleader or other person is required to take in connection with any such trial of investigation, for the use of any Court or Magistrate or may consider necessary for the purpose of advising the Government in connection with any Criminal Proceedings;
 - (c) copies of judgments or depositions required by officers of the Police Department in the course of their duties;
- (7) to remit the fee chargeable on an application presented by any person for the return of a document filed by him, in any Court or public office;
- (8) to direct that no court-fee shall be charged on an application for the repayment of a fine or any portion of a fine the refund or which has been ordered by competent authority;

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- (9) to remit the fees chargeable on applications for copies of documents detailed in Clauses (4) and (12) supra;
- (10) to remit the fees chargeable in respect of Indian Probates, Letters of Administration or succession certificates on the share or other interest of a deceased member of a company formed under the Indian Companies Act, 1913 (VII of 1913) : Provided that the said share or interest was registered in a Branch Register in the United Kingdom under the Indian Companies (Branch Register) Act, 1900 (IV of 1900), and that such member was at the date of his decease domiciled elsewhere than in India;
- (11) to remit in respect of the property of (i) any person subject to military law under the Naval Discipline Act (29 of 30 vict. c. 109), the Army Act (44 and 45, Vict. c.58), the Air Force Act (7 and 8 Geo., c.51), the Indian Army Act, 1911 (VII of 1911) the Indian Air Force Act, 1932 (XIV of 1932) or the Indian Navy (Discipline) Act, 1934 (XXXIV of 1934) or the Naval Discipline Act (29 and 30 Vict.,c. 109) as modified by the Indian Navy (Discipline) Act, 1934 (XXXIV of 1934), who is killed while on active service or on service which is of a war-like nature or which in the opinion of the State Government involves the same risk as active or dies from wounds inflicted, accidents occurring or disease contracted while on such service, and
- (11) any person in the service of the Crown, Civil or Military, who dies from wounds or injuries intentionally inflicted while in actual performance of his official duties or in consequence of these duties-
- (a) where the amount or value of the property, in respect of which the grant of Probate or Letters of Administration is made, or which is specified in the certificate under Part X of the Indian Succession Act, 1925 (XXXIX of 1925), does not exceed Rs. 50,000 the whole of the fees leviable in respect of that property;
- (b) where the said amount or value exceeds Rs. 50,000 the whole of the said fees in respect of the first Rs. 50,000;
- (c) where any property passes more than once in consequence of the death of any such persons - the whole of the fees leviable in the case of the second and subsequent successions;
- (d) the whole of the fees leviable on applications for mutations of names in respect of the property of any such person;
- (12) to declare that the proper fee to be charged upon an application to deposit in any Court rent not exceeding the sum of fifteen rupees shall be as follows ;

Proper fee

- If the amount deposited does not exceed Rs. 2.50 PaiseFive paise
- If the amount deposited exceeds Rs. 2.50 paise but does not exceed Rs. 5. Ten paise
- If the amount deposited exceeds Rs. 5 but does not exceed Rs. 10.Twenty-five paise
- If the amount deposited exceeds Rs. 10 but does not exceed Rs. 15Thirty –five paise

Provided that no fee shall be remitted on an application to deposit rent in respect of which a fee is chargeable under any other law rent in respect of which a fee is chargeable under any other law.

- (13) to reduce the fees chargeable in suits by Government raiyats, for the recovery of land sold for arrears of revenue, to the amount which would be chargeable if the value of the subject-matter were only then rent of the land payable for the year next before the date of presentation of the plaint;
- (14) to remit the fees chargeable on applications, petitions and copies which are filed, exhibited or recorded in, or recorded or furnished by village Courts and plaints and complaints filed in Panchayat Courts constituted under the Madras Village Courts Act, 1889 (Madras Act I of 1889) as amended by Madras Act II of 1920, and plaints filed in Panchayat Courts;
- (15) to remit the fees chargeable under Act, 1 (b) of Schedule II to the Court Fees Act, 1870 (VI of 1870) as amended by the Orissa Court Fees (Amendment) Act, 1939 in respect of applications in writing to which the said articles, made under Sub-section (2) of Section 4 of the Agency interest and Land Transfer Act, 1917 (Madras Act I of 1917);

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- (16) to remit the fees chargeable under Article 6 of the Schedule II, on security bonds executed in pursuance of orders of Courts under any Section of the Code of Civil Procedure 1908.

To remit the fees chargeable under Arts. 11 and 12 of Schedule I, on the Probate of a Will or Letters of Administration or Succession Certificate granted in respect of amounts exceeding Rs. 3,000 but not exceeding Rs. 5,000 in deposit in a Government Savings Bank belonging to the estate of a deceased depositor.

III. Other fees

382. Fees for affidavits, inspection and copies - The following are the charges, (1) for affidavits and, (2) in connection with inspection, information and copies.

Nature of the fee or charge	Cases in which to be paid	Amount	How to be paid
(1)	(2)	(3)	(4)
1. Affidavits under the Code Procedure	<p>(a) Where the oath is to be administered to the deponent by a special commissioner deputed for the purpose by the District Judge under the powers vested in him by State Government.</p> <p>(b) In any other case (Exceptions)</p> <p>No charge shall be made in respect of –</p> <p>i. Affidavits made by process-servers deposing as to the manner of service of a process.</p> <p>ii. Affidavits in proof of service or as to avoidance of service made by person who accompany such process-servers.</p>	<p>Rs. P.</p> <p>5.00</p> <p>1.00</p>	<p>By means of a Court-fee stamp to be affixed to the affidavit.</p> <p>Note:-This fee of Rs. 5 does not include the travelling expenses of the commissioner which must be paid in cash.</p> <p>Ditto</p>
2. Searching fee.....	<p>ii. Affidavits made by public officers in virtue of their office.</p> <p>On all applications-</p> <p>1) For information whether the record is deposited in the record room or not.</p> <p>Note :- This is the only fee to be paid on such application.</p>	0.50	By a Court-Fee stamp to be affixed to the application.

Nature of the fee or charge	Cases in which to be paid	Amount	How to be paid
(1)	(2)	(3)	(4)
	(2) For inspection of the record of a decided case	Rs. P. 0.50	By a Court-Fee stamp to be affixed to the application.
	(2-a) For inspection of each volume of Registers of Suits and Appeals.	1.00	Ditto
	Note1 -No searching fee is to be charged to pleaders for looking at records of pending cases.		
	Note 2 -For fees for inspection of Wills, see Chapter VI, Part III.		
	Note 3 - For fee for inspection of accounts filed by grardians, see Rule 3(10), Chapter I, Part II,	0.50	Ditto
	(3) For copy (in addition to the prescribed fee of ten paise under the Court Fees Act) where record relates to a decided case.		
	Note 1 - One searching fee shall be charged for any number of copies taken from the same record and included in the same application.		
	Note 2 -Record called for in connection with original case or appeal will be treated as a part of the record of such case or appeal.		

Nature of the fee or charge	Cases in which to be paid	Amount	How to be paid
(1)	(2)	(3)	(4)
3. Copying (a) Typed charges copies. (b) Manuscript copies	(4) For sending for documents involving a search in the Collector's Office.	Rs. P. 0.25	By means of a Court fee stamp affixed to a separate sheet of paper which will be forwarded to the Collector.
	(5) For information in order to remedy defects that may be found in an application where the application where the supply of such information without a separate application for it has been authorized by the High Court.	0.25 0.50	By a Court-Fee stamp to be affixed to the application.
	For every 180 words English or any fraction thereof in case of typed copies, or 180 words partly English and partly in an Indian Language or 240 words in an Indian Language or any fraction thereof in case of manuscript copies four figures or less each abbreviation or initial counting as one word.	0.50	By means of folio of 75 paise to be provided by the applicant for copy. Note- If a folio of 75 paise value contains more than 180 words English in case of typed copies , or 180 words partly, English and partly , in an Indian Language, or 240 words in an Indian Language in case of manuscript copies , a copying charge of 75 paise shall be paid in shape of adhesive Court fee stamps to be affixed across the perforated line on the top of the impressed stamp of the folio. Note-2 Impressed stamp sheets should never be received and cancelled in lieu of adhesive stamps.

Nature of the fee or charge	Cases in which to be paid	Amount	How to be paid
(1)	(2)	(3)	(4)
	(c) Copies of Registgers and sale proclamation supplied on forms – (i) Cost of form (ii) For the number of words actually copied (d) Expedition fee for urgent application (i) For inspection and information Note :- When any Public Officer files any application for inspection of records for public purposes the application needs not be accompanied with the prescribed fees. (ii) For Copies - (1) Not exceeding 720 words English or 960 words in an Indian language. (2) Exceeding 720 words English or 960 words in an Indian Language.	Rs. P. 0.10 Ordinary charges 1.50 3.00 0.75 for every 180 words English or 240 words in an Indian language or part thereof .	By means of a Court fee stamp to be affixed to the application . By means of an adhesive stamp of the required value to be affixed across the top of the copy to the part thereof containing the figure head which may be torn off to serve as the copyist's voucher. By means of a Court fee stamp to be affixed to the application By means of a Court fee stamp to be affixed to the application

Nature of the fee or charge	Cases in which to be paid	Amount	How to be paid
(1)	(2)	(3)	(4)
	(iii)	Rs. P. 1.00	Note- This calculation is to be made on the aggregate number of folios covered by the same application . By means of a Court fee stamp to be affixed to the application.

383 (1) In the case of document such as Jamanbandis measurement papers order sheets, accounts and others which are not written continuously like a deposition, or which are not written right across the page every endeavour should be made to write as many as 180 English words or 240 words in an Indian language on each folio.

(2) If it is found impossible to do this on each folio without distorting the form of the original document, as-many additional sheets of plain cartridge paper as may be necessary (to be provided by the-applicant for the copy) should be pasted below, or at the side of the first sheet.

(3) In consideration of the additional time and trouble involved in copying documents of the nature described above, an additional charge may be levied from the applicants according to the following scale :

In all cases requiring more than three folios, one additional folio may be taken for every four folios, that is to say, one additional folio may be taken in cases requiring four to seven folios, two additional-folios in cases requiring twelve to fifteen folios, and so on. No additional charge should be levied in cases which require from one to three folios.

384. No fee for copies required by public offices - No fees are to be required or paid for searching for or copying papers wanted by public officers for public purposes. In these cases copies are to be made on plain papers.

Note- (1) Local bodies and Managers under the Court of Wards are not to be treated as Public Officers of the purpose of this rule.

(2) Remissions and reductions of Court Fees for grant of copies ordered by the Government under Section 35 of the Court Fees Act, 1870 (VII of 1870) are detailed in rule ante.

385 Fees and charges for copies of maps and plans - In the case of maps and plans, no general rule can be laid down. In each case the charge will have to be fixed with reference to the difficulty or intricacy of work to be done. The charge will be levied by means of adhesive stamps to be affixed to the map or plan . In the case of urgent copies -

the expedition fee will also be fixed by the Judge-in-charge to be paid by means of a Court fee stamp affixed to the application for copy.

386. Fees for examination of finger prints - Finger prints are only sent for examination to the Finger Print Bureau at the instance of a private party on receipt of the consultation fee and the fee for three photographic enlargements of each of the finger prints to be examined as prescribed under Rule 391 (c) (v) post. If more than three photographic enlargements of any finger print are required, and additional charge of Rs. 5 for each additional enlargement shall be realised from the party concerned in the manner laid down in Note 4 to Rule 595.

Note - For procedure as to deposit and credit see Rule,595 (h).

IV. Postage

387. Postage by service stamps - The Governor-General in Council has been pleased to direct that the postage charges on all processes, notices and such other documents as are issued from any Judicial or Revenue Courts, and are required to be transmitted by post, shall be paid by means of service postage stamps, without any additional charge being levied from the parties at whose instance the processes are issued.

Note - It is to be understood that processes thus issued should not be registered, the postage must be prepaid by stamp by the party concerned.

388. When postage need not be paid by parties - Postage need not be paid by the parties (1) for the transmission and retransmission of requisitions upon the District Court at the Sadar Station for the payment of money in deposit to decree-holders or other persons, (2) when transmitting copies of decree and certificate under Sees. 39 and 41 (Order XXI, Rules 4 to 6) of the Code of Civil Procedure from one district to another for execution. Such documents should be forwarded with service labels no additional charge for postage being levied from the persons at whose instance they are sent.

V. Witnesses' expenses

389 Cash deposit of witnesses' expenses - The Civil Court shall not receive postage stamps in payment of the travelling and other expenses of witnesses. A party applying for a summons on a witness shall deposit for the latter's expenses a sum in cash, sufficient to cover (when necessary) the transmission of the amount to another Court by Money Order.

390. Money order for witnesses' expenses to be payable to cashier and particulars to be noted in the coupon - (a) Money order for the payment of witnesses' expenses shall be made payable to the Cashier of the Court to which the money is remitted. The cashier will receive the money as provided in Rule 598 and will deal with it as directed in Rule 604.

(b) In the case of Money Orders the number of suit and other necessary particulars shall be entered in the coupon which is now attached to all Money Orders.

391. Amount of witnesses' expenses - (a) The expenses which a party applying for a summons shall be required to deposit in Court shall ordinarily be (a) diet allowance, and (b) in the case of a witness residing at a distance from the Court, if the journey cannot be performed on foot or the age and habits of life of the witness render it impossible for him to walk, also his travelling allowances according to the following scale :

SCHEDULE

¹ [Class of Witnesses	Maximum diet allowance per diem	Travelling allowance		For coming on foot where no conveyance is available	Remarks
		By road or boat	By rail or steamer		
(1)	(2)	(3)	(4)	(5)	(6)
(a) Wage earning type	Rs. 10.00	Actual conveyance charges of BUS Ricks-haw Bull-ock Cart Off Boat.	Second Class fare with conveyance charges from station to Court.	Not exceeding Rs.1.50 every 16 kms of distance travelled as the Court may fix.	
(b) Skilled type	15	Ditto	Ditto	Ditto	
(c) Superior Class	20.00	Ditto	First class fare with conveyance charges from station to Court.	Ditto	

Explanation - The above rates are maximum. The Court may direct a reduced allowance to be deposited or paid according to circumstances. (b) In addition to the above, the authorised charges for tolls at ferries shall be deposited by the party applying for the summons to the extent to which such charges will be incurred.

(c) Notwithstanding anything in Clauses (a) and (b) of this rule -

1. Substituted by C.S.No. 16, (IX-7/88, Dt. 16.10.1989)

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- (i) In the case of officers serving under Government the word 'expenses' in this rule means the travelling and halting allowances admissible under the Fundamental Rules or the Orissa Travelling Allowance Rules;
- (ii) When a Government servant is summoned to give evidence of facts which have come to the knowledge, or of matters with which he has had to deal, in his public capacity, he shall, if - (1) the case is one to which Government is party, and (2) his salary exceeds Rs. 10 *per mensem*, be granted a certificate of attendance in Form No. (M) 19 and the sum deposited on account of his expenses shall be credited to Government;
- (iii) In all other cases the expenses of the witnesses shall be paid to him by the Court and a certificate in the form above prescribed shall be granted to him. In order to enable the Court to assess the amount admissible to him, the Government servant shall produce a certificate duly signed by his Controlling Officer showing the rate of travelling and daily allowance admissible to him for a journey on tour. If the Government servant is his own Controlling Officer, the certificate required will be signed by him;
- (iv) When a Government servant is summoned to give evidence at a Court situated not more than 8 kilometres from his headquarters and is not entitled to travelling allowance under the ordinary rules the Court may direct payment to him of the travelling expenses actually incurred;

Note -No expenses shall be deposited when a Government servant is summoned on behalf of Government. When a Government servant is summoned to give evidence at a Court which is situated not more than 8 kilometers from his headquarters, the expenses admissible under the rule shall be advanced, by Court and recouped by drawing a regular contingent bill upon the treasury;

(iv-a) When Government servants are summoned by private parties to give evidence in a Civil Court, their salaries for the period they are absent from their duties, in addition to the expenses in accordance with the above rule, must be paid by the parties summoning them. The amount paid into Court as salary should be credited to Government;

Note 1 - For procedure as to recovery and credit, see Note 4 to Rule 595 (h).

Note 2 - Salaries in this rule has the same meaning as subsistence allowance or compensation in Rule 122 of the Orissa Travelling Allowance Rules.

Note 3 - The word 'Government' in this rule means the Central Government, the State Government or a State Railway according as the Government servant is an employee of the Central Government, the State Government or a State Railway.

(v) Whenever it is considered necessary to obtain the opinion of a Finger Print Expert, the documents bearing the finger prints shall first be sent to the Superintendent of Police, Criminal Investigation Department, Crime Branch, by name for examination, in a sealed cover properly attested, together with specimen finger prints with which a comparison is desired, the specimen being prepared by an officer accustomed to the work. In private cases a consultation fee of Rs. 30 per case and a fee at the rate of Rs. 15 for each finger print sent for examination to cover the cost of three photographic enlargements of each such finger print shall be realised from the party concerned and paid into the treasury by the Court. A copy of the challan supporting the deposit shall accompany the request for examination. If subsequently a finger print expert of the Criminal Investigation Department is summoned to give evidence, a fee of Rs. 30 a day in each case shall be realised from the party concerned in addition to the expert's salary and travelling expenses. The fee and salary (calculated at Rs. 900 per month) so realised shall be credited into treasury by the Court and a copy of the challan shall be sent to the Superintendent of Police, Criminal Investigation Department, Crime Branch by name with the letter summoning the expert. The travelling expenses should be made over to the expert on arrival in Court.

Note 1 - For procedure as to recovery of the experts fee etc., see Note 4 to Rule 595 (h) post.

Note 2 - The cost of transmission and retransmission of the documents bearing the finger prints, specimen finger prints, etc., in the sealed cover by registered post shall be realised from the parties.

- (vi) When it is found necessary to obtain the opinion of a private Handwriting Expert, the said expert shall be required to examine or take photographs of the documents bearing the disputed writings in the Court in the immediate presence of the Sheristadar of the Court.
- (vii) For witness following any profession, such as Medicine or law, special allowance shall be given according to circumstances.

VI. Expenses of Commission

(Order XXVI, Rule 15, Code of Civil Procedure)

392. Remuneration of commissioners -¹[(1) (i) The remuneration of Commissioner besides the incidental expenses of Commissioner which the High Court consider reasonable is not intended to fetter the Court's discretion in any way particularly in case where superior expert knowledge is required and available.

1. Substituted by C.S.No. 43, (IX-2/97, dated 21st April, 1999).

(ii) The maximum fee per day for the Commissioner shall be Rs. 150 and the maximum period would be three days which may be increased/ enhanced by the presiding officer depending upon the volume of work.

(iii) It is for the respective District Judges to draw up a panel of survey knowing Commissioners/Amins and distribute work to them for expeditious disposal of the case. In appropriate cases at dereliction the District Judge shall use his discretion to strike off the name of the concerned survey knowing Commissioners/Amins from the panel.

(2) A diary showing the work-done on each day must be kept by the Commissioner and submitted to the Court with his report.

(3) Fees payable to the Civil Court's Amins should be realised in cash and deposited under the head Miscellaneous Receipts [Clause (b) of Rule 595] to the credit of the Government.

(4) The cost of sending and returning the papers relating to a Commission by Registered Post should also be realised in cash from the parties.]

393. Remuneration for commission to effect partition – No general rule can be laid down for commission to make partition, except in the case of Civil Court Amins who should be paid at the rate given in the next preceding rule. In other cases the Court should fix a sum to commensurate with the difficulty and importance of the work to be done.

394. Incidental expenses of the commissioner - As a general rule, the amount to be allowed as incidental expenses should be regulated by the scale of travelling and halting allowances prescribed for officers of Government of the class to which the commissioner belongs; but in exceptional circumstances and if the commissioner is not a Judicial Officer, should the Court be of opinion that his actual expenses cannot be covered by allowances calculated on this scale, it may order such further sum to be paid as it thinks reasonable.

395. No remuneration to commissioners who are Judicial Officers - Commissioners who are Judicial Officers are not entitled to fees, nor to any further remuneration than is permissible under the Government travelling allowance rules. Nothing should therefore be demanded of the parties for the expenses of a commission issued to such an officer in excess of the sum so permissible. The sum paid will be credited to Government and the commissioner will recoup himself by drawing travelling allowance under the Fundamental Rules or the Orissa Travelling Allowance Rules.

Note - The above rule also applies where a Judicial Officer proceeds to make a local investigation or to examine a witness in a case pending before him.

396. Refusal to execute commission when sufficient cash towards remuneration and incidental expenses not deposited - Judicial Officers should bear in mind that a commissioner would be

justified in refusing to execute a commission if the party has not deposited cash sufficient to pay his fee as well as all his necessary incidental expenses. A commissioner's remuneration should be paid in cash, unless he is a Judicial Officer or a Civil Court Amin.

397. Charging process fee and witness expenses in case of issue of commission for examination of witness to a Court - If a commission for the examination of witnesses be issued to a Court, the expenses to be charged should include only the necessary process fees for summoning the witnesses, to be paid in Court-fee stamps and the usual allowance to witnesses, for their attendance to be paid in cash. In the event of non-attendance of witness or witnesses, any surplus payment should be refunded.

398. Payment of remuneration to pleader commissioner of another Court - Where a commission for examination of witnesses has been executed by a pleader of another Court the fee in respect of the witnesses actually examined shall, on his returning the commission, be paid over to him and the surplus should be sent back together with the commission to the Court which issued it and shall be refunded to the party who paid it.

399. Timely notice to the party and report to the Court about insufficient time for execution of commission - In any case to which the sum fixed for the expenses of the commission and paid into Court shall have been calculated with regard to the time likely to be occupied in the execution of such commission, the commissioner shall in the event of his finding that the time is insufficient, give timely notice to the Party at whose instance the commission was issued and report the fact to the Court. The sum necessary to cover the expenses for such further period as may be required to complete the execution of the commission should then be deposited in Court by the party and the commissioner unless, certified of such deposit should suspend the investigation at the close of the period originally fixed, pending further instructions of the Court. If the additional deposit required be not made within a reasonable time, the trial shall proceed.

¹[VII.Fees of Advocate

400. Scale of Advocate's fee – (i) The following scale of Advocate's fee shall ordinarily be allowed to the successful party :

(a) Not exceeding Rs. 10,000	10 percent of the value of the claim in suit.
(b) Exceeding Rs. 10,000 but not exceeding Rs. 30,000	Rs. 1, 000 plus 7 ½ % of the amount exceeding Rs. 10,000

1. Substituted by C.S. No. 41, (IX – 2/93, Dt. 19.1.1998), Circular Order No. 1 of 1998 (Civil) Dt. 9.2.1998 .

(c) Exceeding Rs. 30,000 but not exceeding Rs.50,000.	Rs.2,500 plus 5% of the amount exceeding Rs. 30,000
(d) Exceeding Rs. 50,000 but not exceeding Rs. 1,00,000	Rs. 3,500 plus 3% of the amount exceeding Rs. 50,000
(e) Exceeding Rs. 1, 00, 000	Rs. 5,000 plus 2% of the amount exceeding Rs. 1, 00,000.

Provided that in no case shall the amount of fee exceed Rs. 10,000 . Provided that the minimum fee is to be allowed shall be Rs. 100 in contested cases and Rs. 507- in uncontested cases. For the purpose of this proviso, suits tried together may be regarded as one suit, unless the Court otherwise directs. In suits for partition fees should be calculated and assessed not on the jurisdictional value of the whole property but on the value of the claim decreed or dismissed :

Provided further that in uncontested cases the fees shall not exceed half the fees calculated as above unless the Court otherwise directs :

Provided further that in suits which are tried on the small cause side of the Court, the fees shall be 10 per cent of the total claim in contested suits and 5 per cent in uncontested suits.

Note 1 - When several defendants having a joint common interest succeed upon a joint defence or upon separate defences substantially the same, not more than one Advocate's fee shall be allowed unless the Court otherwise directs for a reason which shall be recorded. If several defendants having separate interest set up separate and distinct defence and succeed thereon, a fee for one Advocate for each of the defendants who shall appear by a separate Advocate may be allowed in respect of his separate interest.

Note 2 - A probate case which the Court certified to have been seriously contested shall be treated as an original suit for assessment of Advocate's or Pleader's fee.

(ii) In appeals from original decrees or orders having force of a decree-

The fees shall be 7 per cent of the valuation of the appeal subject to minimum of fee of Rs. 100 and maximum fee of Rs. 400.

(iii) In execution cases, miscellaneous proceedings and interlocutory matters and in appeals arising therefrom.

In the Court of the District or Civil Judge (Senior Division)	Not less than Rs. 75 and not exceeding Rs. 500.
In the Court of the Civil Judge (Junior Division)	Not less than Rs. 50 and not exceeding Rs. 200.

Provided in uncontested execution cases, miscellaneous proceedings and interlocutory matters and appeals arising therefrom the fees for Advocates will be assessed as minimum Rs. 45 in the Court of the Civil Judge (Junior Division) and Rs. 60 in the Court of District or Civil Judge (Senior Division).

Provided further that if the Court does not expressly fix the fee in the judgment, the minimum fees should be assessed :

Provided further that in execution cases the fee as specified above shall be allowed only for the first execution case and for subsequent execution case the fee shall be at the discretion of the Court.

(iv) In miscellaneous proceedings arising out of original petitions-

In the Court of a District Judge or Civil Judge (Senior Divn.)	3% of the valuation of the subject matter involved in the proceedings up to Rs.10,000 and 2% for the excess over Rs. 10,000 subject to a minimum of Rs. 50 and maximum Rs. 500/-
In the Court of Civil Judge (Junior Division)	Not less than Rs.20/- not exceeding Rs. 100/-

Provided that in uncontested matter the fees shall be half of the above.

Note - In cases under Part III of the Land Acquisition Act, I of 1894 the fees of the Advocate appearing on behalf of the party at whose instance the reference is made by the Collector to the Court under Section 19 of the said Act, will be calculated on the amount decreed in excess of the sum tendered by the Collector. When such proceeding is dismissed wholly or partly the Court may allow pleader's fee to the Government in the scale laid down in Sub-rule (iv) :

Provided that in uncontested cases the Court may allow Advocate's fee at a sum ranging from Rs. 75/- to half the amount of fees admissible in contested cases.

(v) In review matters - Same as in the case of Miscellaneous proceedings.

In Remand cases - If the remand is made to the trial Court, the proceedings should be considered as hearing of the suit, but the fees of the Advocates should be assessed at half rate. But if the remand is to the appellate Court and proceedings should be considered as appeal and the Advocate's fee should be assessed as per the rate as in the case of appeals and assessed at the full rate.

(vi) The Court will have discretion in any particular case covered by Clauses (i) to (v) above to allow either more or less than the fees prescribed above for stated reason.]

401. Scale of remuneration of guardians *ad litem*-¹[The following table shows the scale of remuneration besides incidental expenses of guardian *ad litem* which the High Court consider reasonable though it is not intended to fetter the Court's discretion in any way particularly in cases where the final hearing is prolonged to more than one day.

I. In the Court of Muncifs-

(a) In money suits under ordinary procedure and Title suits and Rent Suits where the value does not exceed Rs. 1000 Rs. 75
Where the value exceeds Rs. 1,000 Rs. 100

(b) In Small Cause Court suits, and Miscellaneous proceedings and execution matters Rs. 75

II. In the Courts of Subordinate Judges and District Judges-

(a) In Suits tried in ordinary procedure Rs. 150

(b) In Small Cause Court suits and Miscellaneous proceedings and execution matters Rs. 150

(c) In appeals under the ordinary procedure. Rs. 200

The Court in all cases in fixing the remuneration of guardian *ad litem* shall have regard to the valuation of the subject matter of the suit or appeal in assessing the fees in between the minimum and maximum amount. Where the Court does not expressly fix the fee, the minimum fee should be assessed.

III. A pleader appointed by a Court to be a guardian *ad litem* shall not incur any expenses on account of travelling without the leave of the Court.]

VIII. Mukhtar's Fees

402. Mukhtar's and pleader's fees - When Mukhtar is employed, 15 per cent of the sum allowed as pleader's fee shall be allowed as such Mukhtar's fee and the remaining 85 per cent only shall be allowed as the pleader's fee.

IX. Fees of Revenue Agents

403. Fees for Revenue Agents - Revenue Agents should be allowed half pleader's fees. If a pleader and Revenue Agent be retained and act on the same side in the same suit, one pleader's fee should be allowed.

404. Cost of charges ordinarily to be allowed to successful party - In addition to the fee hereinbefore prescribed the successful party shall ordinarily be allowed to recover the following charges :

1. Substituted by C.S. No. 42(IX-5/92, dated 19.3.1998)
Orissa High Court ,Cuttack

(i) The party or his agent according to the circumstances of each individual case may be allowed subsistence allowance according to the scale prescribed for witness expenses in Rule 391 ante for such days of attendance in Court as the Court may direct.

(ii) The entire costs of obtaining copies of documents (including searching fees) which are admitted to evidence shall be entered in the table of costs. Such costs shall be allowed in respect of such copies of documents only as are obtained for the purpose of the suit or application.

(iii) Copying or typing or printing charges of a plaint, memorandum of appeal and written statement, or of an application which is filed in Court and served upon the opposite party shall, in addition to the price or paper be ordinarily allowed at the following rates :

Copying	→ Rs. 0.10 P. each page to copy size
Typing	→ Rs. 0.25 P. each page of copy size
Printing	→Rs. 0.50 P. each page of copy size

(iv) Expenditure incurred for giving of any notice required to be given by law before the institution of the suit and on any notice though not required to be given by law has been given any party before the institution of the suit : Provided that no such cost shall be allowed unless the party giving the notice has filed in the Court a list of expenditure incurred by him supported by documents.

(v) Charges paid by a party for inspection of the records of the Court for the purpose of the suit.

(vi) Expenditure incurred by a party for the producing witnesses, whether summoned through Court or not according to the scale prescribed for payment of batta and allowance to witnesses.

(vii) In case of appeals, charges incurred by a party for obtaining any copies of judgments and decrees which are required to be filed along with the memorandum of appeal.

Note - Charges on this account would include the authentication fee paid on the copy of the judgment and decree.

CHAPTER - II

Rules and Instructions relating to Court fee stamps I. Use of adhesive and impressed stamps

405. Use of adhesive and impressed stamps - The directions issued by the Governor in Council under Section 26 of the Court Fees Act, 1870 are as follows :

(i) When, in any case, the fee chargeable under the said Act is less than Rs. 25 such fee shall be denoted by a single adhesive stamp of the denomination nearest to the amount of such fee, additional adhesive stamps being employed only to make up the difference, if any, between such amount and such single stamp.

- (ii) When in any case, the fee chargeable under the said Act amounts to or exceeds Rs. 25, such fee shall be denoted by a single impressed stamp or by both impressed and adhesive stamps, adhesive stamps being employed only to make up fractions of less than Rs. 25.

406. Rules regarding use of adhesive and impressed stamps- The following rules to regulate the use of adhesive and impressed stamps have been framed by Government.

When, in any case, the fee chargeable under the Act is less than Rs. 25 and the amount can be denoted by a single adhesive stamp, it shall be denoted by a single adhesive stamps of the required value. If a single adhesive stamp of the required value is not available or if the amount cannot be denoted by a single adhesive stamp, a stamp of the next lower value available shall be used, and deficiency shall be made up by the use of one more additional adhesive stamp of the next lower values which may be required to make up the exact amount of the fee.

When in any case, the fee chargeable under the Act amounts to or exceeds Rs. 25 and the amount can be denoted by a single impressed stamp of the required value. If a single impressed stamp of the required value is not available, or if the amount cannot be denoted by a single impressed stamp, an impressed stamp of the next lower value available shall be used, and the deficiency shall be made up by the use of one or more additional impressed stamp of the next lower values available, which may be required to make of the exact amount of the fee in combination with adhesive stamps to make up fractions of less than Rs. 25. Any adhesive stamp so used shall be affixed to the impressed stamp of the highest value employed in denoting the fee, or to the first sheet of the document to be inscribed in such manner as not to conceal the value of the stamp thereon.

When the application for the required stamp is made to a licensed vendor of Court fee stamps and such vendor is unable to furnish a single stamp of the required value, he shall give a certificate to that effect in the form below, which must be affixed to the document and filed with it :

FORM OF CERTIFICATE

"Certified that a single stamp of the value of Rs..... required

for this document is not available but that, in lieu thereof, I have furnished a stamp of the next lower value available, and made up the deficiency by the use of one or more adhesive/impressed stamps of the next lower values available required to make up the exact amount of the fee".

"Certificates are not required in similar circumstances from official vendors, but they shall as far as practicable follow the above instructions."

"A document stamped otherwise than in accordance with the preceeding rules is not properly stamped within the meaning of Section 28 of the Court Fees Act, 1870."

"When two or more impressed stamps are used to make up the amount of the fee chargeable under the Court Fees Act, a portion of the subject matter shall ordinarily be written on each stamped sheet. Where this is impracticable or seriously inconvenient, the document shall be written on one or more sheets bearing impressed stamps of the highest value, and the remaining stamps shall be punched and cancelled by the Court and filed with the record, a certificate being recorded by the Court on the face of the first sheet of the document to the effect that the full Court Fee has been paid in stamps. The writing on each stamped sheet shall be attested by the signature of the person or persons executing the document."

"When one or more impressed stamps used to denote a fee are found insufficient to admit the entire document being written on the side of the paper which bears the stamps, so much plain paper may be joined thereto as may be necessary for the complete writing of the document, and the writing on the impressed stamps and on the plain paper shall be attested by the signature of the person or persons executing the document."

II. Cancellation of Court-fee stamps

407. Appointment of officer for cancelling stamps- Each Judicial Officer, should under Section 30 of the Court Fees Act, 1870, formally appoint an officer for the purpose of cancelling stamps and should see that the officer and no other is allowed to do the work.

408. Duty of the record-keeper making triangular punching in each adhesive label - The record-keeper of every Court or office shall when a case is decided and the record consigned to his custody punch a second hole with a triangular punch in each label distinct from the first, and at the same time note upon the fly-leaf the date of his doing so. The second punching should not be removed so much of the stamp as to render it impossible or difficult to ascertain its value or nature.

These directions apply only to adhesive labels used under the Court-Fees Act. Impressed stamps used for denoting Court fees need not be cancelled or punched otherwise than as required by Section 30 of the Court Fees Act.

409. Cancelling Court Fee labels by punching with round punch and making dated signature across the label and upon paper in either side - The Court or office receiving copies, certificates or other similar documents liable to stamp duty shall, on receipt cancel the labels affixed to them by punching out the figure-head with a round punch. As an additional precaution, the clerk-in-charge of the Register of Petitions and Court-Fees shall when entering the value of the Court-Fee stamps in the said Register, put his signature with date across the label and upon the paper on either side of it, as is frequently done by persons signing stamped receipts.

Note - Stamps affixed to affidavits presented to a commissioner for the purpose of administering an oath or affirmation to the deponent shall be cancelled by punching out with a square punch, a portion of the stamp in such a manner as to remove neither the figure-head nor the part of the stamp upon which the value is expressed.

410. Quarterly inspection for checking proper punching of stamps and improper removal of them - Each Judicial Officer should cause an occasional inspection to be made of documents that have been filed in order to ascertain that the stamps have been properly punched and defaced, and have not been subsequently removed from the document on which they have been used. The inspection should be made at least once a quarter. The check herein prescribed applies equally to all papers which require adhesive labels and they should be subjected to similar scrutiny.

III. Inspection of Records by Registration officers

411 .Inspection of records by Registration Officers - Government having directed the Inspector-General and Inspectors of Registration to examine Record-Rooms of the various Courts in the mufassal in order to see how far the rules and instructions on the subject of the punching, custody and sale of stamps carried out, every assistance should be afforded by Judicial Officers to such officers in the discharge of their duty.

412. Duty of the Inspecting Registration Officer on discovery of irregularity in punching or defacing of stamps - Government having ordered that on the discovery of any irregularity in respect of punching or otherwise defacing Court Fee stamps, the Inspecting Registration Officer shall at once bring the matter of the Presiding Officer of the Court, such latter officer should inquire into the matter at once and thus trace the person who is responsible for omission pointed out by the Inspecting Officer.

PART - V

Rules relating to registers, periodical returns, Statements and annual reports

CHAPTER - I

I. Registers

A - GENERAL

413. Classes of prescribed registers – The Registers prescribed to be maintained in the subordinate Courts will be found in Volume II and comprise four classes-

- (a) Accounts Registers;
- (b) Primary Registers;
- (c) Subsidiary Registers;
- (d) Statistical Registers.

414. Primary, Subsidiary, and Statistical Registers - The Primary Registers are those which have to do directly with cases filed in Court and which form a quasi record of the progress and disposal of such cases. The Subsidiary Registers are for administrative purposes, and the Statistical Registers for the purpose of preparing statistical returns.

415. Periods of preservation and destruction of registers -The period for which different Registers have to be preserved are shown in the list given of them in Volume II. The periods stated therein are to be reckoned from the date of the last entry in the Register and at the expiration of those periods, the Registers shall be destroyed.

Note – It is not necessary to open new registers in every instance each year.

416. Maintenance of registers other than Subsidiary or Statistical Registers - While the Court do not positively forbid the maintenance of other Subsidiary or Statistical Registers in the various Courts subordinate to it, the list referred to specified all the Registers, which it is believed are absolutely necessary for judicial, administrative or statistical purposes.

417. Language of the registers - All registers shall be kept in English except the registers of information in Form Nos. (R) 15, (R) 16, (R) 27 and (R) 28 which shall be kept in the language of the Court.

418. By whom entry in the particular register to be made -No one except the clerk-in-charge of writing a particular register shall, unless otherwise provided, make any entry therein without orders of the Presiding Officer.

419. Forms are self-explanatory - The forms in most cases sufficiently explain themselves. The following additional instructions, are however, issued for general guidance.

B. PRIMARY REGISTERS

420. General register of suits and manner of entries therein - Register No. (R) 1 - General Register of Suits - Separate registers should be maintained for the following classes of suits :

- (i) Suits for money and moveables;
- (ii) Title and other suits –
 - (a) In the Register of suits for money and moveables, Column 2 shall contain the consecutive number of suits in Register and Column 3 of subordinate serial number for all suits dealt with under small cause Court powers which are to be entered in red ink.
 - (b) It will be sufficient if the nature of the claim is briefly indicated in Column 10.
 - (c) In Column 17 shall be entered not only the particulars of the order on First Appeal but also the particulars of the order on Second Appeal or in revision, if any.

Note- The High Court desires to impress upon all subordinate Courts the necessity of duly and regularly filling in the particulars regarding proceedings in execution of decrees (Column 20 to 26). The proceedings upon each application for execution shall find a place in this register which is intended to show a complete history of the suit from institution to final satisfaction of decrees.

(d) When money payable under a decree is paid into the Court or a petition of adjustment or satisfaction is filed without there being any execution proceeding pending, such payment or satisfaction shall be noted in Columns 18 and 19 under countersignature of the Sheristadar. The fact that this has been done shall at the same time be noted on the petition and on the order-sheet of the suit.

Note - (1) If the record of the suit has been deposited in the District Record Room, the petition together with connected papers shall be sent to the record-keeper, who shall enter in red ink a note of payment or satisfaction (as the case may be) in the order-sheet of the record of the suit and the entry shall be signed by the Judge-in-charge of the record-room.

(2) If the record of the suit is before the Court of appeal, the petition together with the concerned papers shall be sent to that Court where a note of the payment or satisfaction (as the case may be) shall be made in red ink in the order-sheet of the suit record and signed by the presiding officer of the Court of appeal.

(3) In cases of payment into Court, the provisions of Rule 146 should be carefully observed.

(4) Petition certifying payment or adjustment filed in the Court by the decree-holder need not be stamped.

(5) An execution petition containing certification of payment or adjustment outside Court may be treated as a composite application for execution of the balance decretal dues and a memo for certification of payment or adjustment and such payments or adjustment, if any, certified for the first time in the execution petition may also be noted in Columns 18 and 19 of the Register No. (R) 1, of course, after notice to the judgment-ck'btor and if admitted after disposal of the execution petition and if disputed but upheld –

(e) This register shall be maintained only in the principal courts as well as the Courts to whom Civil Revisions of any local jurisdiction cognizable by them is assigned under Section 13(2) of Bengal, Agra and Assam Civil Courts Act, 1887;

(f) A supplementary register of suits in Form (R) 1-A shall be maintained in additional Courts. Complete notes from start to finish including the execution proceeding suit transferred to the additional Court for disposal should be entered in Register (R) 1 of the Court where the suits were instituted.

421. Register of Miscellaneous Judicial cases and entries therein -

Register No. (R) 2 - Register of Miscellaneous Judicial Cases - In this Register all miscellaneous judicial cases including references under the Land Acquisition Act, Probate, Letters of Administration, applications in respect of minors and lunatics, applications to sue as an Indigent persons should be entered.

Applications to appeal as an indigent person shall also be entered in this Register :

Provided that the cases under the Indian Succession Act, 1925 should be entered in a separate volume of miscellaneous judicial cases in Form No. (R) 2.

Notes - (1)In this register, should be entered all miscellaneous judicial cases mentioned in Rule 431 except insolvency petitions which shall be entered in a separate register in form No. (R) 2-A.

(2) The names of the principal applicant and opposite-party only need be entered in column 4 and of the principal objector, if any, in Column 6. When there are more parties than one to a case, the fact may be indicated by the addition of the words "and another" or "and others", after the first name.

(3) The following information should also be noted in the column for remarks.

- (i) In the case of applications for probate and letters of administration- (a) the action taken by the Court in cases in which an estate 'has been found to have been under-valued in the first instance;
- (b) the date of filing of the inventory mentioned in Section 317 of the Indian Succession Act, 1925 (XXXIX of 1925);
- (c) the date or dates of submission of the accounts referred to in the same section;
- (d) value of estates and value of Court Fee paid thereon;
- (ii) In the case of application in respect of minors and lunatics;
- (a) the date of filing of the inventory mentioned in Section 34 of the Guardians and Wards Act (Act No. VIII of 1890) and in Section 76 of the Indian Lunacy Act, 1912 (Act IV of 1912);
- (b) the date or dates of submission of accounts referred to in the Section;
- (c) in regard to Guardians and Wards Act VIII of 1890 if no inventory or accounts have been required by the Court, the fact should be stated;
- (d) the order requiring proof to be furnished within a certain time of the manner of disposal of the sale proceeds of a minor's or lunatic's property should be quoted and a note made when it has been complied with;
- (e) value of the estate.

422. Register of appeals and entries therein - Register No.

(R) 5 - Register of Appeals - (a) The particulars of any order passed on Second Appeal or Revision shall be entered in the column headed "Remarks".

- (b) This Register shall be maintained in the Courts of District Judge as well as in the Courts of Additional District Judge and District Judge who are assigned and directed respectively to receive the appeals. Additional Judges and ¹[Civil Judge (Sr. Division)] shall maintain a supplementary register in Form No. (R) 6 for appeals transferred to their Courts for disposal. When appeals so transferred have been disposed of by those Courts, necessary information shall be sent to the Court of District Judge for Columns 13 and 15 of the latter register being filed in his office.
- (c) When an appeal has been transferred to another district columns 13 to 15 shall be written up when the record is returned after disposal of the original Court of Appeals.
- (d) The date of sending copies of judgment or decree to lower Court shall be entered in remarks column of this register and supplementary register, in Form No. (R) 6.

C - SUBSIDIARY REGISTERS

423. Subsidiary Registers and forms thereof - Register of Ministerial Officers - Registers of attendance and of casual leave, acquittance rolls, register of permanently preserved, registers of issue of forms, registers of issue of stationery, registers of letters received, registers of letter despatched, register of account of service postage stamps, peon-books, the forms prescribed by the State Government or the Board of Revenue may be used.

Note - Register of accounts or service postage stamps should be preserved for a period of twelve years from the date of the last entry therein and thereafter-destroyed.

424. Statistical registers and the entries therein - Register Nos. (R) 31 to (R) 36)- The registers are intended to be written up from day to day, Columns 1 to 6 in Register No. (R) 32, which should contain monthly totals only, so that, with the above exception, the entries in different columns should consist of consecutive series of numbers the last of which should, at the end of the month, quarter or year, at once supply the information for inclusion in the monthly, quarterly or annual statement concerned.

425. Manner of noting value of suits and amount realised in execution case -The value of suits and the amount realised in execution case should be expressed in rupees only. Fractions of a rupee less than fifty paise will be disregarded and fifty paise and above will be reckoned as one rupee.

¹.Substituted by C.S. No. 33(IX-1/95, Dt. 31.10.1995)

II. Periodical returns and statements A-FORMS

426. Forms of statement -The forms of the periodical statements entered in the list at the beginning of Volume II are prescribed for adoption and submission by the Civil Courts shown against each.

B - CLASSIFICATION OF CASES

I. Suits and appeal from decrees

427. Classes of suits and appeals from decrees - (a) For the purpose of the periodical statements suits and appeals from decrees are divided into two classes :

- (i) Suits for money and moveables and appeals in the same;
 - (ii) Title and other suits and appeals in the same.
- (b) The details of this classification, which must be strictly adhered to throughout the returns, will be found in annual Statement No. 2 [Form No. (S) 10].
- (c) As all plaints are to be registered on presentation in the General Register of Suits (Rule 25, Chapter I, Part I) orders rejecting plaints must be treated for the purposes of the rules in this Chapter as suits, and shown in annual statement Nos. 2, 3 and 4, Part I.

Note - The appeals against the decrees in suits arising under the Hindu Marriage Act shall not be registered as regular appeals.

428. Sub-division of suit for money and moveable - Suit for money etc., are again sub-divided according as they are dealt with under the Small Cause Court procedure or under the ordinary procedure. Where an officer has the powers of a Small Cause Court Judge, the work done by him in the exercise of these powers should be shown bracketed with that done under his ordinary powers.

429. Certain cases to be registered as suits and entered in the return - Cases under Section 14 of Act X of 1940 and under Sections 88 and 92, Order XXXVI, Rule 3, of the Code of Civil Procedure, are to be registered as suits and must be entered as such in the returns.

430. Treating application for probate and for letters of administration as Miscellaneous judicial case till contest and then as suit - An application for Probate or for Letters of Administration should, for the purposes of the returns, be-treated as a miscellaneous (Judicial) case until the date upon which it is contested and as a suit from that date. In order to explain the discrepancies which will result in the total number of miscellaneous (Judicial) cases for disposal, disposed of, and pending, it should be stated on the face of each return of miscellaneous (Judicial) cases how many applications for Probate and for Letters of Administration were transferred, during the period to which the returns relate, to the head of suits, and treated as suits from the dates upon which the applications were contested.

Note - Applications for the revocation of probate and letters of administration should be treated in the same manner as applications for probate or letters of administration.

II. Miscellaneous Judicial Cases

431. List of miscellaneous judicial cases - Separate statements being provided to show application for the execution of decrees, these will not be included under the Head "Miscellaneous (Judicial) cases", and it is intended that such other cases only as require a judicial enquiry or order should be included. The following list shows the case which are to be entered under this head, and without the special orders of the High Court, no addition may be made thereto.

(a) Cases under the Code of Civil Procedure

(i) Applications under Sections 22 and 24 to an Appellate Court to transfer suits, appeals or other proceedings pending in a Subordinate Court;

(ii) Applications under Order IX, Rules 4, 9 and 13 and Order XLI, Rules 19 and 21 for the restoration to the file of suit or appeal dismissed on default or decreed *ex parte*;

(iii) Miscellaneous Civil Proceedings under Order XVI, Rules 12 and 17;

(iv) Cases under Section 47;

(v) Applications under Section 95.

Note -Applications for the ascertainment of mesne profits should not be registered as miscellaneous judicial cases, but should be regarded as application made in the course of the trial of the suit.

(vi) Application under Order 20, Rule 11 (2) of the Code of Civil Procedure, 1908.

(vii) Inquiries under Order XXI, Rule 2 on the application of judgment debtors as to payment of adjustment alleged to have been made;

(viii) Claims to and objections to the attachment of attached property under Order XXI, Rule 58 and Order XXXVIII, Rule 8;

(ix) Applications under Order XXI, Rule 90 and 91 to set aside a sale in execution of a decree;

(x) Complaints by decree-holders or purchasers under Section 74 and Order XXI, Rules 97 and 98 of resistance to possession being given;

(xi) Application under Order XXI, Rule 99(I);

¹[(xi-A) Applications under Order XXI, Rule 106 of the Code of Civil Procedure;]

- (xii) Objections to applications under Order 23, Rule 3 of the Code of Civil Procedure;
- (xiii) Commissions under Section 76 (2) for the examination of witnesses, received from other Courts and executed by the Court;
- (xiv) Applications under Order XXXIII, Rule 1 and Order XLIV, Rule 1 for permission to sue or appeal as an indigent person;
- (xv) Proceedings under Order XXXIX, Rule 1, Rule 2-A and under Order XL, Rule 1;
- (xvi) Applications under Order XLVII, Rule 1 for review of judgment;
- (xvii) Applications for a reference to the High Court under Order XLVI, Rule 7;
- (xviii) Applications under Section 144 of the Code of Civil Procedure;
- (xix) Applications under Sections 151 and 153 of the Code of Civil Procedure;
- (xx) Applications for Garnishee Proceeding under Rule 63-A to 63-H, Order-XXI, Civil Procedure Code;
- (xxi) Applications under Section 60, Order XXI, Rule 40 and Order XXXVIII, Rule 5 of the Code of Civil Procedure, which become contentions when objections are-filed,

(b) Cases under other acts

- (xxii) Applications under Part VII of the Indian Succession Act (XXXIX of 1925).
- (xxiii) Applications regarding the care of Lunatics Estates and the guardianship of their persons under the Indian Lunacy Act, 1912.
- (xxiv) Applications under Section 47 or Section 75 of the Indian Lunacy Act, 1912 for sanction to the sale, etc. of the lunatics;
- (xxv) Applications for Probates and Letters of Administration under the Indian Succession Act, 1925, except contested cases which must be transferred to the head of suits [See Rule 430 ante];
- (xxvi) Inquiries made at the instance of the Collector under Clause (5) of Section 19-H of the Court Fee Act, 1870, as to true value of the property of deceased persons;
- (xxvii) Cases under Section 14 of the Legal Practitioners Act, 1879;
- (xxviii) Cases regarding redemption and foreclosure of mortgages under Section 83 of the Transfer of Property Act 1882;
- (xxix) Cases under Sections 104, 109(8), 110 and 210 of the Orissa Tenancy Act, 1913;
- (xxx) Applications for succession certificate under the Indian Succession Act 1925;

(xxxix) Applications under Sections 7, 8, 9, 11, 12, 28 and 33 of the Arbitration Act, 1940 (Act X of 1940);

(xxxvii) Applications under the Guardians and Wards Act, 1890, for certificates of guardianship of minors or of administration of their property, or where no previous appointment of a guardian has been made by the Court or applied for, for their return to the custody of their guardians;

Note -Subsequent proceedings in connection with a guardianship case are to be treated as part of the original case and should not be registered as separate Miscellaneous cases;

(xxxviii) Petitions under Section 8 of the Hindu Minority and Guardianship Act, 1956 (Act No. 32 of 1956);

(xxxix) Cases under Parts III, IV and V of the Land Acquisition Act, 1894, and under the Orissa Development of Industries, Irrigation, Agriculture, Capital Construction and Resettlement of Displaced Persons (Land Acquisition) Act, 1948 (XVIII of 1948);

(xl) Miscellaneous criminal cases under Sections 195 (1)(a), 345 of the Criminal Procedure Code, 1973; (xli) Insolvency petitions and petitions under Sections 4, 41, 53 and 54 arising out of such proceedings under the Provincial Insolvency Act, 1920;

(xlii) Objection petitions under Section 6 of the Puri Sri Jagannath Temple (Administration) Act, 1952 (Orissa Act XIV of 1952);

(xliiii) Applications under Sections 75 and 87 of the Orissa Grama Panchayats Act, 1948 (XV of 1948) and under Section 31 of the Orissa Grama Panchayat Act, 1965 (Orissa Act XV 1948) (Orissa Act 1 of 1965);

Note - A separate account of these applications should be kept in the register in Form No. (R) 39.

(xliiii) Cases under the Mussalman Wakf Act, 1954 (Act 29 of 1954), and applications for the sanction required by the Mohammedan law for the transfer of wakf property;

(xliv) Proceedings arising out of applications under Sections 11 (2), 13, 14 and 23 of the Orissa Money Lenders Act, 1939 (Orissa Act III of 1939) and under Section 12 of the Orissa (Scheduled Areas) Money Lender's Regulations, 1967 (Orissa Regulation 2 of 1968);

(xlv) Election petitions under the Orissa Municipal Act, 1950 (Orissa Act XXIII of 1950);

(xlvi) Applications under Section 22(2) of the Hindu Succession Act, 1956 (Act XXX of 1956);

(xlvii) Applications for compensation under Section 110-A of the Motor Vehicles Act, 1939 (Act IV of 1939);

- (xlv) Applications under Section 6 of the Orissa Scheduled Areas Transfer of Immoveable Property (by Scheduled Tribes) Regulations, 1956;
- (xlvi) Applications under Sections 75, 89, 113, 118, 141, 144, 163, 196, 219, 234, 240, 304, 307, 375 and 614 of the Companies Act, 1956 (Act 1 of 1956);
- (xlvii) Election petitions under the provisions of the Orissa Panchayat Samiti (Conduct of Election) Rules, 1970;
- (xlviii) Applications filed under Section 31 of the State Financial Corporation Act, 1951 (XLIII of 1951);
- (xlix) Applications under Section 33(B) of Sri Jagannath Temple Act, 1954 (Act No. II of 1955);
- (xlix) Applications under Section 15 of the Payment of Wages Act, 1936 (IV of 1936);
- (l) Applications under Sections 24 to 26 of the Hindu Marriage Act, 1955;
- (li) Petitions under Sections 45, 46 and 48 of the Indian Christian Marriage Act, 1872 (Act No. XV of 1872);
- (lii) Applications under Section 57-A of the Orissa Land Reforms Act, 1960 (Orissa Act 16 of 1960);
- ¹[(liii) Petitions under Section 3 of the Orissa Debt Relief Act, 1980 (Orissa Act 5 of 1981);]
- ²[(liv) Applications under Section 20 of the Minimum Wages Act, 1948 (Act II of 1948);]
- ³[(lv) Petitions for compensation under Section 92(A) of the Motor Vehicles Act, 1939 (Act IV of 1939);]
- ⁴[(lvi) Applications filed under the provisions of the Employees' State Insurance Act, 1948;]

III. Miscellaneous Appeals

432. The following are classed as Miscellaneous Appeals;

- (i) Appeals from orders under Section 104 (1) and Order XLIII, Rule 1 of the Code of Civil Procedure;
- (ii) Appeals in Miscellaneous Judicial Cases;
- (iii) Appeals under Section 17 of the Payment of Wages Act, 1936 (IV of 1936);
- (iv) Appeals under Section 6 of the Industrial Employment (Standing Orders) Act, 1946;

1. Inserted by C.S. No. 10, (XLIX-D- 32/85, Dt. 17.2.1987)
2. Inserted by C.S. No. 11(XLIX-D-18/87, Dt. 26.9.1987)
3. Inserted by C.S. No. 15 , Dt. 26.3.1989
4. Inserted by C.S. No. 23m (IX-2/92, Dt. 11.5.1993)

- (v) Appeals under Sub-section (3) of Section 47-A of the Indian Stamp (Orissa Amendment) Act, 1962;
- (vi) Appeals against the decree arising out of suits under Sections 9 (1), 10 to 13 of the Hindu Marriage Act, 1955.
- ¹[(vii) Appeals under Section 56(2-e) of Orissa Forest (Amendment) Act, 1982 (Orissa Act 9 of 1983)]

C. COMPILATION OF STATEMENTS AND RETURNS

433. Suits to be considered as disposed of when preliminary decree is passed • For the purpose of periodical statements, suits in which preliminary decrees are made under provisions of Order XX of the Civil Procedure Code and suits for the foreclosure of the mortgage or the sale or redemption of mortgaged property in which a preliminary decree is made under the provisions of Chapter XXIV will be considered as disposed of when such preliminary decree is passed. Subsequent proceedings are to be treated as a continuation of the suit. A separate statement of suits in which final decree have been passed on contest, or remain to be passed (but not including those the records whereof have been sent to the record room under Notes 2 and 3 to Rule 268, Part II, Chapter III), should be furnished every quarter in Form No. (S) 7-B.

434. Ex parte decrees - A case in which a defendant having appeared at the first hearing fails to appear at an adjourned hearing, and a decree is passed against such defendant, should be exhibited in the periodical returns as "decreed *ex parte*".

435. Uncontested cases - The following cases should be treated and shown as "Uncontested" namely all cases in which the only question or questions ultimately decided on, or with show of contest, are –

- (1) a question regarding the amount or appointment of costs;
- (2) a question regarding payment by instalments;
- (3) an unsubstantial question as to the rate of interest, or

Note - Such cases should be shown as disposed of on confession or compromise as the case may be.

436. Cases received or disposed of by transfer - A case is not said to be received or disposed of by transfer except when it is passed from one Court to another by an order. Cases which have been left by the Presiding Officer to his successor in the same Court are not to be treated as transferred. Where through mistake or otherwise, a case has to be transferred from one file to another in the same Court, the column "Pending" must be corrected, and explanation given in the next return.

437. When applications for execution should be shown as disposed of and received by transfer - Applications under Section 39 of the Code of Civil Procedure for the transfer of decrees to other

1. Inserted by C.S. No.18, (XLIX-D-13/88, Dt.13.2.1992)

Courts for execution, are not applications for execution and whether granted or refused, should not appear in the returns at all. If a decree be transferred for execution by a superior Court to a subordinate Court, or its own motion after an application for execution under Order XXI, Rule 10 has been filed and execution ordered under Order XXI, Rule 17, that application should be shown as disposed of and received by transfer. The receiving Court is not to make any entry in its returns until it receives from the creditor an application for execution under that Section, if, after proceedings have been commenced in any Court on an application for execution, the creditor makes an application for transfer to a Court not subordinate, and the Court complies with it under Clauses (a) to (d) of Section 39 (1) the case pending in the transferring Court shall be returned as disposed of by transfer when satisfaction of the decree has not been obtained at all on the application for execution and as disposed of on its merits, when part satisfaction has been obtained, but as directed above, it is not to be noticed in the receiving Court's returns as received by transfer.

438. Average duration of cases - In order to obtain the average duration of cases the aggregate number of days for which all cases were pending before the Court must be divided by the total number of such cases.

Note -The duration of the case should be counted from the date of admission of the plaint or memo of appeal after payment of the deficit Court fees and not from the date of presentation of the same.

439. Date of institution of suits and appeals -As regards suits and appeals, the date of the presentation of the plaint or memorandum of appeal, as the case may be, shall be considered as the date of institution, unless some defect or omission requires to be amended before the plaint or memorandum of appeal can be admitted, in which case the date of admission, after amendment shall be regarded as the date of institution. On the grant of permission to sue or appeals as an indigent person or on payment of the requisite Court fees before the application for permission to sue or appeal as indigent person is rejected or refused or on payment of requisite Court-fee within time allowed by the Court after rejecting or refusing the application to sue or appeal as an indigent person, the date of presentation shall be deemed to be the date of institution of the suit or appeal. With regard to application to execute decrees, the date of their presentation should alone be considered.

Note - When a plaint or memorandum of appeal is admitted, the date of admission of Miscellaneous Appeals should be shown in Column 1 of the Register of Civil Suits or Appeals. The date of admission of Miscellaneous Appeals should be shown in Column 2 of the Register of the Miscellaneous Appeals below the date of appeal.

440. When appeal to be considered as pending - When an order has been made under Order XLI, Rule 25 or 27 of the Code of Civil Procedure, the case is to be considered as pending before the Appellate Court, and the time occupied in making the return called for, or in taking the evidence, must be counted as time occupied in the appeal.

441. Suit to be treated as pending after conditions in decree are fulfilled and final order is passed -A suit in which a conditional order is passed decreeing it, but allowing time to the plaintiff to produce succession certificate required under the Indian Succession Act should be shown as pending until the final order is passed by the Court in the matter.

442. Case must be brought on the file of lower Court on order of remand - When an order of remand is made under Order XLI, Rule 23 of the Code of Civil Procedure the case must be treated as decided by the Appellate Court, and must be brought on the file of the Lower Court.

443. Procedure for calculation of duration of cases -The calculation of the duration of cases shall be made as follows :

- (1) Except for calculation of average duration, cases restored or revived under the provisions of the Code of Civil Procedure and cases received on remand, shall be treated as pending from the date of institution and not from the date of restoration or revival, or of receipt after remand;
- (2) In calculating average duration, the time that the suit has actually been pending in the Court of first instance should alone be calculated. The interval should be omitted during which an application for review which has been granted or an appeal in which an order for remand has been passed, has been pending in the superior Court;
- (3) In respect of cases transferred from one Court to another the duration should be invariably calculated from the date of institution. Advantage should be taken of the column in the returns for "remarks" to show the extent to which the particular Court immediately concerned is responsible for any delay, which under the rules, requires explanation.

Note - The date of the transfer of a case by one Court is ordinarily to be taken as the date of its receipt on transfer by another; any instances of unusual delay should be noticed in the explanation.

444. Noting long series of holidays or vacation in the remarks column - Gazetted holidays, Sundays and vacations should be included in the calculation but where a long series of holidays or a vacation is a serious factor in delay should be noted in the remarks column.

445. Separate accounts of time or different stages in suits and appeals

- Separate accounts must be kept of the time of cases whether suits or appeals, were pending (1) from the date of institution to original or first decision; (2) from date of application for review or revival to date of final disposal of the application and if the application has been granted from the date of granting to the date of final disposal of the case; (3) from the date of order of remand to the date of the new decision under such order.

D. SUBMISSION OF PERIODICAL RETURNS**446. Time for submission of statements and the certificates to be furnished**

- Monthly statements should be despatched by the Subordinate Courts to the District Judge on or before the 5th and Quarterly statements on or before the 10th the month next succeeding the period to which they relate. Annual statements on or before the 10th day of February.

Note - Along with the monthly statements the Subordinate Judicial Officers shall submit the following certificates;

- (a) That no preference was given by them to new cases over the old ones and if new cases are taken up there should be an explanation as to why old cases were ignored;
- (b) That the Court was engaged in Judicial work for more than three hours on every working day except on clearance days;
- (c) That all primary and statistical registers have been maintained up-to-date and appeal intimations have been complied with;
- (d) That no judgment in any suit, appeal or case is pending for delivery or was delivered beyond 30 days from the date of conclusion of trial;
- (e) That no decree or sale certificate is prepared beyond the prescribed time;
- (f) That no suit disposed of on nominal contest by the guardian *ad litem* is shown to have been disposed of on contest.

447. Time for submission of quarterly and annual statements and annual reports by the District Judges

- Quarterly statements should be submitted by the District Judge to the High Court on or before the 25th of the month next succeeding the period to which they relate; and the Annual Statements along with the Annual Reports on the Administration of Civil Justice on or before the 10th March, of each year.

Note - The Note below the preceding Rule 446 shall be applicable to the quarterly statements submitted by the District Judges to the High Court.

¹[447-A. Quarterly statements should be submitted by the following Tribunals to the High Court on or before the 25th of the month next succeeding the period to which they relate in the form specified below:

1. Inserted by C.S.No. 3, Dt. 25.3.1986

- (i) Industrial Tribunal;
- (ii) Sales Tax Tribunal;
- (iii) Authorities under the House Rent Control Act;
- (iv) Certificate Officers under the Orissa Public Demand Recovery Act.
- (v) Tribunals under the Orissa Estate Abolition Act.
- (vi) The Commissioner, Hindu Religious Endowments Act.
- (vii) Administrative Tribunal.
- (viii) The State Transport Appellate Tribunal.
- (ix) The Members, Second Motor Accident Claims Tribunal.
- ¹[(x) The State Education Tribunal.]

Quarterly statement showing the number of cases pending and disposed of by the Tribunal or Authority during thequarter of..... 20.....

Class of Cases	Number of class for disposal including those restored or revived but excluding those transferred	Disposed of			Pending			Remarks
		Conte- sted	Uncon- tested	Total	Total	Over six months	Over one year	
1	2	3	4	5	6	7	8	9

Note - The statements is to be submitted to the High Court by every Tribunal or authority.]

448. Accurate and prompt despatch of statement - Punctuality in the submission of statement must be insisted upon and the District Judges should be careful to take necessary steps to ensure the accurate compilation and prompt despatch of the same.

449. Returns to show work - Except where specially provided the returns are meant to show separately the work of each Court, and not the work of each officer who may have presided during the year in the same Court. Officers' names need not therefore be given. Where a Small Cause Court Judge presides over more than one Court the returns must show distinctly the work of each Court unless the figure required are mere totals for the 'class of Court'.

1. Inserted by C.S. No. 6, (IX-7/85, Dt. 16.1.1987

450. Explanation for discrepancies - Where the figures given in any return differ from those given in any returns previously submitted explanation should always be given in order to avoid the necessity for a reference in the matter.

451. Incorporating returns of all subordinate Courts in returns submitted by District Judges - In the periodical returns submitted to the Court by District Judges, the returns of all subordinate Courts including Small Cause Courts, as well as those of Additional Judges, should be incorporated.

452. Discrepancies in columns to be explained and special to particulars be used - Where in the general statement compiled for any district the total of the column "Received by transfer" differs from that of the column "Disposed of by transfer" the reason should be explained, and any cases transferred from or to other States should be noted particularly, as the information is required in the preparation of annual returns.

453. Note in respect of blank statement - When a statement is blank it should not be submitted, a note to that effect being sufficient.

454. Duty of District Judges in examining statements and records sent into the record room - District Judges are expected carefully to examine the statements submitted by the Subordinate Courts and to satisfy themselves that the business in those Courts is transacted with due despatch and that cases receive personal attention in execution as well as before decree. They should also examine at least half-yearly a certain proportion of the records sent into the Record-room for that purpose. Where a District Judge is unable to do so himself he should cause the records to be examined by the senior officer under him.

455. Noting absences in the remarks column - In all quarterly statements the number of days during which any District 6^r [Civil Judge (Senior Division)] or any [Civil Judge (Junior Division)] has been absent from Court owing to temporary indisposition or other cause should be noted in the column for remarks.

456. Half-yearly submissions of explanations of delay in disposal of suits and duty of District Judge - (a) Explanations of the delay in disposal of suits, etc., shall be submitted half-yearly to the District Judge by the Subordinate Courts. These explanations are required -(1) in cases dealt with under the Small Cause Court procedure, (2) in Miscellaneous Judicial Cases, and (3) in Miscellaneous Appeals, when a suit, case or appeal has been pending for more than 6 months, or (4) when a decree has been pending for more than 6 months under execution. In the case of all other classes of suits, and appeals from decrees, explanations are required only when such cases have been pending for more than one year.

(b) The above explanations shall be submitted to the District Judges in Form No. (S) 8.

(c) District Judges are at liberty, if they think it necessary, to call for a full explanation from any Subordinate Court in regard to any case on its file. Any case which calls for special notice should be brought to the notice of the High Court.

457. Concise statement or outturn of work of subordinate officer -

District Judges will submit with their quarterly returns, a concise statement in Form No. (S) 7 regarding the outturn of work shown by each of their subordinates and an expression of their opinion on any deficiency apparent in this respect. The statements will be taken into consideration by the Court in connection with transfers and promotions in the Orissa Judicial Service.

Note - The number of witnesses examined by Assistant Sessions Judges is not to be included in Column 11 of this statement.

458. Compilation of annual statements - Most of the annual statements can be readily compiled from the Statistical Registers. In the case of others, it is essential that the requisite information should be collected from time to time so as to be available without delay at the close of the year. In the latter case, District Judges should be careful to require the proper officers of their Courts, and of the Courts subordinate to them, to collect the information at the convenient intervals.

III. Annual Reports

459. Annual Reports - District Judges shall submit to the High Court along with the Annual Returns and Statements, a Report for the year to which they refer upon the administration of Civil Justice and tabular statements in Forms Nos. (S) 22-28, which should contain opposite remarks as to any increase or decrease of business or the like shown in each. These tables shall include the figures for all the Courts of Small Causes and the regular Civil Courts in each district, separate totals being given for each of these classes of Courts. District Judges should be careful to avoid treating their Annual Reports as matters of routine and are expected to see that the entries in the tables included in them, and those of the corresponding Annual Statements, agree, as they must do, exactly. The failure to explain discrepancies between figures given in two successive Reports, which in the absence of special reason, ought to be identical, is also a matter which leads to much unnecessary correspondence and should be avoided.

Note - The District Judges should mention in their annual reports as to whether the Registrar, Civil and Sessions Courts has made regular inspections according to rules.

460. No form of annual report but particular matters to be included-

(a) The High Court does not consider it necessary to prescribe the use of any particular form of Report, leaving it to the District Judges to put on record the main features in the administration of the year in the manner which may appear to them most suitable.

- (b) The following matters must, however receive notice;
- (i) The condition of Judicial buildings;
- (ii) The State of Judge's Record Room which must be ascertained by careful personal enquiry, and not from the mere report of the record-keeper.
- (iii) The extent to which effect has been given to the rules regarding the arrangement of the records in the course of the trial and to the rules regarding the destruction of useless records.
- (iv) The condition of the Judge's Library.
- (v) The mode in which effect is given to the rules relating to the employment of Civil Court Amins and other Commissioners.

Note - A paragraph should be inserted showing separately the number of persons of each of the three classes included in the list maintained under Rule 186, Part I, Chapter VII ante; the number of such persons, to whom commissions requiring a knowledge of surveying were issued to them. Separate figures should also be given with regard to commission, if any, issued to persons not entered in the list. Remarks on the manner in which survey commissions have been executed by the various classes of commissioners should be added.

- (vi) The working of the rules under the Court-Fees Act.

Note - District Judges are required to state under this head the number of original processes issued to process-serving peons during the year according to the classification laid down in Rule 68, Chapter II, Part I.

- (vii) The result of the examination of the records of cases decided by Subordinate Judicial Officers.
- (viii) The working of the rules regarding pleader's and Mukhtar's clerks.
- (ix) The extent to which the Subordinate Courts have applied the provisions of the Usurious Loans Act, 1918.
- (x) The effect of recent legislation on the Courts.
- (xi) The date on which each Subordinate Court in the District was last inspected by the District Judge.

461. Separate character report - The character, qualifications and official merits of the several Subordinate Judicial Officers should be made the subject of a separate report, in which the work done by, and the result of aids to forming a judgment as to their respective merits and fitness for promotion. This is not, however, to debar District Judges from recording in their Administration Reports any instance of special and distinguished merit on the part of any subordinate officer, which they consider deserving of special mention and entitling the person indicated to the favourable notice of the Court.

Notes - (1) Such reports should set out clearly and tersely sufficient particulars to enable the Court to form a correct and definite judgment on the merit of the officer reported on and to ensure this, it is necessary that they should indicate any special merits or defects which may exist in this case. In case a very bad report it is desirable if possible that the unfavourable trait should be very briefly illustrated, district Judge should form a clear and reasoned estimate of the merits and demerits of the officers under them and express their views clearly and fully. Where a District Judge has been little or nothing of the work of any officer under him, he should say so in reporting to the High Court and should take steps to ensure full reports being submitted in the following year. The use of such vague and general expressions as "Satisfactory", "Good", "Unsatisfactory", "Bad" or the like should be avoided.

(2) Reports on the merits of an officer should invariably state whether the officer exercises effective control of his office and of any department which may be in his charge.

(3) No adverse remark must be made which cannot be supported by precise data which data are liable, specially in the case of a very bad report or of an officer who had hitherto a good or average record, to be called for by the High Court.

(4) As a general rule in no case should an officer be kept in total ignorance of any length of time that his superior officers after sufficient experience of his work are dissatisfied with him. In cases where a warning might eradicate or help to eradicate a particular fault, the advantage of prompt communication are obvious.

(5) The District and Sessions Judges should record the character roll remarks of all the Additional District and Sessions Judges working within the local limits of their respective jurisdiction, without marking any comment about their judicial quality of work.

(6) Before making over charge on transfer, the District Judge or Chief Judicial Magistrate, as the case may be, who has opportunity of seeing the work of the subordinate judicial officers should enter their character roll remarks and keep them in sealed covers for reference of his successor and forwarding the same to the Court of the time of annual submission of such remarks.

(7) When any subordinate officer is transferred from one judgeship to another, the District Judge of the former judgeship shall forward the character roll remarks of that officer to the District Judge of the latter judgeship within a fortnight of such officer's making over charge.

(8) ¹[District Judge should submit to the Court the remarks in Annual Confidential Character Rolls of the Officers not later than the 31st January of the Succeeding year in Form No. (s) - 33.]

462. Confidential report on the working of Sheristadar and Nazir -
District Judges should submit before the 15th February in each

year a confidential report on the work and character of the Sheristadars of their Courts and Nazirs at District headquarters with a view to enable the High Court to decide whether it is advisable to retain them in the same district. The character and reputation should be specially reported.

PART - VI

Legal Practitioners

CHAPTER - I

Renewal of certificates granted to the pleaders and Mukhtars

463. Rules under the Practitioners Act -The following rules have been framed by the High Court under Sections 6 and 7, Act XVIII of 1879.

464. Application for renewal not liable for stamp duty - An application under the Legal Practitioners Act (XVIII of 1879) for renewal of a certificate, being made to a Court in its administrative capacity, does not fall within the provisions of the Court Fees Act (VII of 1870) and is not liable to any stamp duty. All such applications will be received by District Judges on plain papers, and where necessary forwarded to the High Court in accordance with these rules.

465. Pleders to practice in Small Cause Courts - Pleders holding certificates under Clause (e) of Schedule II of the Legal Practitioners Act (XVIII of 1879) are entitled to practice before ²[Civil Judge (Jr. Division)] when exercising Small Cause Court powers, and lower grade pleaders who formerly practiced in the Provincial Small Cause Court constituted under Act XI of 1865 or Act IX of 1887, may be allowed to practice before [Civil Judge (Sr. Division)] when exercising Small Cause' Court powers but for this purpose they must hold a certificate under Clause (d) of the Schedule.

466. Procedure of applying for renewal by legal practitioners ordinarily not practicing in the District Court - Any Pleader or Mukhtar who may apply for the renewal of his certificate under Section 7, Act XVIII of 1879, unless he has been ordinarily practicing in the Court of the District Judge, or other officer authorised to renew certificates, shall with his application file a certificate of character from the Judge presiding in the Court in which the applicant ordinarily practices. The Civil Judge (Junior Division) or Civil Judge (Senior Division) may forward the application for a renewed certificate to the District Judge.

467. Duty of the District Judge in forwarding renewal application- If the District Judge or other officer authorised to renew certificates considers that the character or conduct or any pleader or Mukhtar who has been ordinarily practising in the Court of the said Judge or officer, as the case may be, and who may apply for the renewal of his certificate under Section 7 of Act XVIII of 1879 is such that his certificate should not be renewed, he shall forward the said application with a statement-

1. Substituted by C.S. No. 33(IX-1/95, dt. 31.10.1995)

of and the grounds for his opinion to the High Court for orders, and the High Court shall pass thereon such orders as it thinks fit.

468. Contents of renewed certificate -The renewed certificate shall state only the particulars contained in the former certificate and the fact and date of its renewal.

469. Suspension of pleader or Mukhtar from practice – Any person who having been admitted, as a Pleader or Mukhtar, shall accept any appointment whether under Government or not, or shall enter into any trade or other business, shall give notice thereof to the High Court, who may thereupon suspend such pleader or Mukhtar from practice, or pass such orders as the said Court may think fit.

Note - A Pleader or Mukhtar may, without such permission, be a share holder or a director other than the Managing Director of a Joint Stock Company registered under the Indian Companies Act.

470. Procedure of re-admission to practice - Any person who having been suspended from practice at his own request, or under Rule 469 desires, on relinquishing his appointment or other occupation or for any other reason to be re-admitted to practice shall apply through the District Judge to the High Court for permission, and the High Court may before and as a condition precedent to the grant of such permission require him to furnish evidence of good conduct and character during the period of his suspension, and may impose such other or further conditions as may be thought proper.

471. Suspension or dismissal of pleader or Mukhtar – Any willful violation of any of the above rules shall subject a Pleader or Mukhtar to suspension or dismissal.

472. Duty of keeping accounts by pleaders or Mukhtars – It shall be the duty of every pleader or Mukhtar to keep regular accounts of all moneys received and disbursed by him in connection with each suit, appeal or case in which he is engaged as Pleader or Mukhtar. The failure to keep such accounts will be treated as a reasonable cause for suspension of certificate within the meaning of Section 13(f) of the Legal Practitioners Act, 1879.

CHAPTER - II

Annual Renewal of legal practitioner's certificates and returns of the same, etc.

473. All pleader's and Mukhtar's renewed certificates shall be issued by the District Judges as from the 1st January of the year in which they are taken out. District Judges shall during the first week of February in the following year, a return of the certificates renewed by them for the current calendar year, as well as the names of those Pleaders and Mukhtars who had not renewed their certificates up to the date of report, and who are not therefore entitled to practice. A list

- containing the names of these last mentioned persons shall be posted in the Court house with an intimation that they are liable to penalties if

found practicing without having renewed their certificates. If any Pleader or Mukhtar whose name appears in the list, shall subsequently take out a certificate during the year, his name shall be reported to the High Court.

Note 1 - The District Judge may without reference to the High Court renew certificate on a stamp paper of higher or lower denomination than that used in the previous certificate.

Note 2 - The renewed certificates shall be delivered direct to the recipients and their signatures shall be taken in the remarks column of the Register (R) 24.

Note 3 - The annual return is to be submitted in loose forms of the Register of Pleaders and Mukhtars [Form No. (R) 24.]

474. Informing District Magistrate of the names of the pleaders or Mukhtars enrolling or renewing their certificates - District Judges will inform the District Magistrate of the names of any Pleaders and Mukhtars who may renew their certificates.

CHAPTER - III

Rules as to the functions, etc. of Mukhtars practising in Subordinate Courts, framed under Section 11 of Act XVIII of 1879

475. Functions, powers and duties of Mukhtars - The following are the functions, powers and duties of Mukhtars practicing in the Subordinate Courts:

- (1) to take instructions from their clients and to communicate with them;
- (2) to instruct Advocates, Vakils and Pleader's;
- (3) to present plaints and to receive them back if rejected or returned and to tender written statements;
- (4) to present petitioner and file objections when such petitions and objections bear the signature of the pleader, if any, in charge of the case;
- (5) to receive service of processes;
- (6) to apply for summons to persons whose attendance is required either to give evidence or to produce documents;
- (7) to give notice requiring admission of genuineness of documents;
- (8) to pay into or deposit money in Court and receive and give receipt for payment of money out of Court;
- (9) to apply for withdrawal of money deposited in Court and to receive payment;
- (10) to apply for and receive copies;
- (11) to bid for or purchase for his principal and property which the principal may himself legally bid for or purchase;
- (12) receive back documents produced in evidence;

- (13) to apply to the Court to send for a record;
- (14) to file affidavits;
- (15) to apply to withdraw or adjust a suit producing a special power so to do;
- (16) to file a memorandum of appeal or cross objection duly signed and certified by a pleader and receive it back if it be rejected or returned;
- (17) to identify persons before a Court Officer;
- (18) to communicate with such Court Officers for information regarding any case as are permitted to give the same.

476. Addressing Civil Court by Mukhtars - A Mukhtar shall not be allowed to address any Civil Court except for the purpose of stating the nature and effect of his application or to offer any legal argument or to examine any witness without the leave of the Court specially given on stamped application.

Note - When with the leave of the Court a Mukhtar acts and pleads alone for a party in a suit or proceedings the fees assessed with the scale laid down in Rule 400 as Advocates and pleaders fees shall be deemed to be Mukhtar, fees taxable in suit or proceedings.

477. Furnishing accounts to client by Mukhtar - Every Mukhtar who has acted for a suit or in any appeal or matter shall be bound to furnish to his client within 15 days after the decree or order of the Court has been signed, an account in the form hereto annexed and in a language which the client understands, showing all receipts and disbursements which have passed through its hands in the cause; and to such account shall be annexed a receipt signed by the Advocate, Vakil or Pleader for all fees paid to him.

A, B ., in account with C.D. Mukhtar of the Subordinate Court of ..

Cr		Dr	
1	2	3	4
20	Rs.P.	20	Rs.P.
First January	To Money advanced	January	To paid for (here state particulars) To my fee for (here state the particular acts he has done in the matter) To fee paid E.F, Advocate, Vakil, or Pleaders for, etc. etc.

CHAPTER - IV

Rules regarding Vakalatnamas and Mukhtarnamas

478. Form of Vakalatnama or Mukhtarnama - (a) When a Vakalatnama or Mukhtarnama is given by a party, it should be in the following form :

FORM OF VAKALATNAMA OR MUKHTARNAMA

Cause title

Know all men by these presents, that by this/

Mukhtarnama/Vakalatnama

I /We, plaintiff/defendant/appellant-respondent/petitioner/opposite party in the aforesaid suit/appeal/case do hereby appoint and retain Advocate(s)/Pleader(s)/Mukhtar(s) to prosecute or defend the same and all proceedings that may be taken in respect of any application connected with the same, or any decree or any order passed therein including all applications for return of documents or receipt of any money that may be payable to me/us in the said case and also in applications for review and in appeals.

Dated the 20...

Signature of the Executant(s)

(b) Where the party cannot sign his or her name the Vakalatnama or Mukhtarnama must be endorsed as follows :

I, A.B., do hereby appoint C.D. Pleader/Advocate; Mukhtar, to act for me in the above named cause, in token whereof, I have affixed my left thumb impression in the presence of E.F.

(Left thumb impression)

and; E.F., do hereby attest the above thumb impression as having been affixed in my presence by A.B. who is known to me.

(Signature)

479. Responsibility of proper and correct execution of Vakalatnama and Mukhtarnama- Vakalatnamas and Mukhtarnamas whether executed by principals or their attorneys and agent, shall not be required to be verified on oath. The responsibility in regard to all such documents being properly and correctly executed shall rest entirely with the legal practitioners concerned. This rule does not apply to cases in which only agents or mukhtars not duly certificated under any law, for the time being in force, are employed. In all such cases the mukhtarnamas shall be verified on oath.

480. Separate document for appointing pleader and Mukhtar- The appointment of a Mukhtar in addition to a Pleader can't be authorised on the Vakalatnama appointing the letter but only on a separate document drawn as a Mukhtarnama and *vice versa*.

481. Prohibition of acting without accepting Vakalatnama and Mukhtarnama - (a) No Vakil or Pleader without accepting in writing a Vakalatnama and no Mukhtar without accepting in writing Mukhtarnama, shall act in any case.

(b) No Vakil or Pleader shall plead in any case unless he has (a) been engaged for that purpose by another Vakil or Pleader duly appointed to act for the party; or (b) filed a memorandum of appearance under Order III, Rule 4 of the Civil Procedure Code.

482. Responsibility of Pleader, Vakil and Mukhtars - (a) Pleaders of all grades, Vakils and Mukhtars must understand their responsibility to the Courts in which they practice in the matter of accepting Vakalatnama, or Mukhtarnamas, as the case may be, from the parties themselves or from persons processing to be authorised by special or general powers of attorney to act on behalf of other persons.

(b) The Courts accept Vakalatnamas and Mukhtarnamas on the responsibility of the legal practitioners filing them. A Pleader or Mukhtar accepting a Vakalatnama or Mukhtarnama purporting to be executed by his client is bound to satisfy himself that it was so executed. When it purports to be executed by a third party on behalf of his client he is bound to ascertain that such person has been duly empowered by the client to appoint a Pleader, Vakil or Mukhtar, as the case may be, and has himself executed the document.

(c) No Vakil or Pleader shall receive a Vakalatnama and no Mukhtar shall receive a Mukhtarnama from any person other than the party himself or his recognised agent or person duly authorised by a power of attorney to act in this behalf or his servant or relation.

Note - A Vakalatnama may be accepted from a Pleader or Vakil specially authorised in writing in that behalf.

(d) No Vakil or Pleader shall receive Vakalatnama and no Mukhtar receive a Mukhtarnama from a person who is unable to sign his or her name, unless it bears an endorsement in the form prescribed by Rule 478 (above).

(e) Where there are more parties than one and they want to file separate Vakalatnama or Mukhtarnama, the Vakalatnama or Mukhtarnama of one may be received from any other similarly authorised but if they desire to put in one and the same Vakalatnama or Mukhtarnama it may be received from any one of them or from a person duly authorised by any one of them without special authority from the others.

(f) When a Vakalatnama or Mukhtarnama is filed by a Vakil, or Pleader or Mukhtar, as the case may be, he shall endorse on the back of it the date of acceptance, the name of the person from whom it is received and if such person is neither the client himself nor a Vakil nor a Pleader shall state the precise nature of the authority with date, of that person. He shall also certify that he has satisfied himself that he does not appear nor hold brief for the opposite party.

(g) An Advocate or a Pleader proposing to file a Vakalatnama or an appearance in a suit, appeal or other proceedings, in which there is already an Advocate or a Pleader on record, shall not do so unless such Advocates or Pleader is dead or has retired from the case or unless a written consent of such Advocate or pleader is produced which consent will not be refused when his dues according to the written terms of his engagement signed by the client or his duly authorised agent, or in the absence of such terms in writing as aforesaid the minimum fees according to the prescribed scale have been paid to him subject, however, to the discretion of the Court to pass orders to the contrary in either of the case or when the consent of such Advocate or Pleader is refused, unless he obtains the permission of the Court.

Note - The consent of lawyer, who appeared in the suit is not necessary where a different Advocate or pleader files the execution application or appeal, arising out of the decree.

483. Receiving money deposited in parts only under special authority - Vakils, Pleaders and Mukhtars cannot without a special power in their Vakalatnama or Mukhtarnama, or unless distinctly authorised by a separate instrument, receive sums in deposit in Court. If the record containing the vakalatnama, Mukhtarnama or separate instrument has been sent to the district record-room, and such authority cannot be proved without reference thereto, the Vakil or Pleader or Mukhtar concerned should be required to endorse on the application for payment order or on the petition for the satisfaction of the decree, as the case may be a certificate to the effect that he has the requisite authority to file the same.

484. Pleader not to file or accept Vakalatnama for pleading only - When a Pleader engaged in a suit or case for the purpose of pleading only by another Pleader who has duly appointed to act on behalf of the party in that suit or case need not file a fresh vakalatnama or accept the Vakalatnama already filed in the suit or case.

485. Acceptance/admission of compromise or filing compromise petition by pleader only with special Vakalatnama - No Court shall accept admission of a compromise by a Pleader/Advocate or record a compromise filed by a pleader or Advocate in a pending case, unless a special Vakalatnama is filed by such Pleader or Advocate for the said purpose.

CHAPTER -V

Miscellaneous

486. Judicial Officer not to practice - No Judicial Officer shall be allowed to practice as a Pleader, Vakil or an Advocate during the term of any leave that he may obtain from the Court.

487. Prescribed robe of Advocate - All Advocates of the High Court of Judicature, Orissa shall appear in Court in one uniform robe, namely a black gown or stuff or alpaca or handspun silk cut after the-

pattern of the gown formerly prescribed for vakils worn over a black coat and waist coat, or chapkan and white collar and bands, and it shall not be optional with any Advocate after his enrolment as an Advocate of the Orissa High Court, to appear in Court in any other robe : provided always that barristers-and members of the Faculty of Advocates may wear their prescribed robes.

488. Prescribed robe of Pleaders and Mukhtars - Pleaders . including Mukhtars of the subordinate Courts, when appearing in Court, are required to wear a black gown of a alpaca or handspun silk of the cut and shape of gown formerly prescribed for vakils omitting the pipes or drawings at the back and substituting an invested box pleat over a black coat. The wearing of a Head-dress is optional.

[Provided that during summer wearing of black coat and gown shall not be insisted upon.]

Explanation - Summer means the period from 1st April till the end of Summer Vacation every year.]

CHAPTER - VI

Registration of Pleader's and Mukhtar's clerks

[See Rules on the subject in Part VI, Chapter VI of G.R. and C.O., CrI I, Vol- I]

PART-VII

Libraries, forms, stationery and furniture

CHAPTER - I

LIBRARIES

489. Librarian and his duty and responsibility - In each office an official to be nominated by the Presiding Judge in writing shall be placed in charge of the library. He will be primarily responsible for the custody and preservation of the books therein; but this will not relieve the Judge or other presiding authority from the general responsibility developing on him as Head of the office. It shall be the duty of the librarian-

- (a) to stamp the seal of the Court on the title page and several leaves of each book;
- (b) to affix on the lower portion of the back of every book received a label with a number corresponding to a number in the catalogue; ..
- (c) to keep a classified and correct catalogue of all books and to prepare a new catalogue every five years;
- (d) to check the catalogue with the books at the commencement of each year and to submit a report to the presiding Judge;
- (e) to incorporate the amendments in various Codes, Acts, Rules, Manuals etc. and keep them up-to-date;

1. Inserted *vide* C.S.No. 52, IX-1/2002, dated the 14th August, 2002)

(f) to report the loss of any book from the library as soon as discovered.

490. Register or books and catalogue - Stock register of books in the Library - A register in Form No. R (42) of all books, reports, returns, etc. received in the library shall be maintained. As soon as any book is received in the library, it must at once be entered in this register and immediately thereafter in the catalogue. Once a quarter the clerk-in-charge of the library will submit the register for inspection to the officer-in-charge.

491. Catalogue - Correct catalogue must be kept up of the books in the library according to subject wise and alphabetical order. No particular form is required but the catalogue should be of stout paper, and strongly bound to be preserved for ever. The catalogue should be of English paper and strongly bound for permanent record. Under each class where all entries relating to existing books have been made a certain number of blank pages should be left for future entries. At the end of the volume a few blank pages should be reserved for the purpose of entering therein books of any class for which the space allotted has proved insufficient. The necessary cross reference to such pages should be made.

492. Classification and arrangement 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 on Acts, text-books and general treaties;
- (iv) Law Digests and Index of cases;
- (v) Departmental Codes, Guides, Manuals and Circulars;
- (vi) Law Reports (all kinds);
- (vii) Periodicals;
- (viii) Administration Report (India, Orissa, other provinces miscellaneous department);
- (ix) Dictionaries, Glossaries, Lists, Directories;
- (x) Miscellaneous.

493. Receipt for issue of books and entry in the issue register- (1) When any officer requires a book from the library, he shall send a receipt for it on a slip of paper, which shall be returned when the book^{is} returned to the library.

(2) The librarian shall enter in a register to be kept in the following form for the purpose;

- (a) the serial number;
- (b) the name and number of each book removed from the library on that day and not returned before the close of the day;

- (c) the date when it was removed;
- (d) the name of the person to whom issued;
- (e) the borrower's initial with date;
- (f) the date of return and the librarian's initial;
- (g) the date of each reminder;
- (h) remarks.

(3) When the signature of the receiving officer cannot be conveniently obtained the requisition slip/receipt which is also necessary in the case of the Judge to whose office the library is attached, should be filed in chronological order serially numbered and the serial number entered in Column (e) of the above register.

494. Rules for library of the Sub-Judge and [Civil Judge (Jr. Division)]

- The preceding rules shall be applied as far as possible, to the Court of the ¹[Civil Judge (Sr. Division)] and [Civil Judge (Jr. Division)], and Judicial Magistrates. Catalogues must be kept by every such officer of such Regulations, Acts, *Gazettes*, etc, as may be furnished by Government for the use of his office; and on receiving charge of any judicial post, the relieving officer should satisfy himself that the library of the Court to which he is appointed is complete and in good order, and the catalogue correct. Should any book be found wanting or their condition materially damaged, he should report the fact, without delay, to the Judge to whom he is subordinate, or else he will be held answerable for the deficiency.

495. Preservation and sale of Government Gazette - The copy of the Government *Gazette supplied* to the District Judge be bound in yearly volumes and kept for 25 years. Important parts of the *Gazettes* supplied to other officers, such as containing Bills, Acts, Notifications of the Government etc., should be preserved for 12 years and other unimportant parts should be preserved for 3 years only. Parts which are to be preserved for 3 years only need not be bound. At the expiry of the said period, they should be sold.

496. Inspection of books - Presiding Judges should from time to time inspect the books and weed out duplicate copies of superseded editions and books which are of no further use. They may be sold to the best advantage.

497. Inspection by librarian - The Officer-in-charge of the library should occasionally inspect the almirahs to see that the books are not destroyed by white-ants or lost.

498. Facilities to other Judicial Officers to books of District Judges' library - Every reasonable facility should be afforded to the other Judicial Officers to consult the books in the District Judge's library.

1. Substituted by C.S. No. 33(IX-1/95, dt. 31.10.1995)

499. Every endeavour should be made to provide each Court with a minimum library containing up-to-date editions of annotated Acts, and, text-books which are constantly required for use in Court and for this purpose the annual budget allotment for book-purchase should be fairly distributed between the several Courts in a district on careful assessment of the requirements of each Court.

500. Circulation of Orissa Gazette - In outlying stations, the copy of the "Orissa Gazette" received by the senior Judicial Officer should be circulated by his Sheristadar to the other Judicial with a slip attached.

501. Transfer of books to successor office - Report, *gazettes* and other books supplied to judicial or other officers are not to be taken away by the incumbents on their promotion or transfer, but are to be transferred to their successor-in-office.

502. Personal verification of books by Judge-in-charge - The Judge-in-charge of the library shall personally make, at least once a year, a physical verification of the stock of books in the library. If he needs a ministerial officer to help him in this verification, one such officer, other than the librarian, should be deputed by the District Judge or the Presiding Officer, as the case may be. After each annual inspection which must include an annual verification the stock, the Judge-in-charge should enter in the stock book or catalogue a certificate that he has verified the stock and found it to agree with the catalogue or if there be shortage, the details should also be entered and reported to the High Court in form given below.

CERTIFICATE OF STOCK TAKING OF LIBRARIES

Stock taking for the year/years.....

Date or dates when stock taking was done

Date or dates when the stock taking was last done.....

Certified that a complete stock taking of the library attached to the Court of has been done by me with the help ofwho is not librarian, with the following results.

1. No. book is missing and the stock tallies with the catalogue which is up-to-date.
2. The books were found in good library condition.
3. The following books were found damaged.
4. The following books are missing.
5. Reasons for the loss or damage of books, if any.
6. Action taken, if any, for the replacement/repairing of the missing/damaged books.
7. The books which were found missing/damaged at the time of last stock taking have been replaced/repared.

Signature with date and designation of
the officer doing the stock taking

N.B.- Strike out those which are not required.

¹[502-A. When the Registrar, Civil and Sessions Courts at District Headquarters and Judge-in-charge of Library at outlying stations is satisfied that the District Court library or the library of the Subordinate Courts, as the case may be, contains some obsolete and useless books and proceedings of the Legislative Assembly which have spent their utility by passage of time, he should get a list of such books prepared by the librarian or the Clerk-in-charge of the Library, as the case may be, and take steps for disposal of such books or proceedings by sale or otherwise after obtaining necessary orders to that effect from the District Judge.]

503. Procedure regarding purchase and supply of books -(a) During the month of March every year, the District Judge shall call upon all Judicial Officers, both at Sadar as well as outlying stations to submit their requirements of law books by the end of April at the latest.

(b) After obtaining the lists from the subordinate Courts, consolidated list will be prepared station-wise showing their requirements. The District Judge shall make necessary purchases according to the funds available and supply those books by the end of August, every year.

504. Circulation of Law Journals - The librarian of the Principal Civil Courts of the station should be the custodian of all the Law Journals. As soon as law journal is received it would be his duty to circulate the journal to all the judicial officers beginning with the senior-most officer of the station. A circulation slip, specimen of which is given below should be attached to every journal sent out for circulation. No officer should retain the journal with him for more than seven days. In case of delay, the librarian should remind the officer. After circulation is complete, the journal should be kept in the library of the Principal Civil Court. If any particular journal is needed for reference by any Court, the concerned officer should issue a requisition to the librarian who shall comply with the same. The officer issuing the requisition should see that the journal is returned to the library within a period of three days, if not earlier.

Circulation slip of law journals

Sub : CLT/CWR/ILR/AIR/Criminal Law Journal

Officers are requested to give their initials in Column 4 and return the law journals within seven days from the date of receipt.

1. Inserted by C.S. No. 8, (XLIX-D-34/83, Dt. 17.2.1987)

Officers in order of seniority	When sent by librarian to the officer.	When returned by the officer.	Initial of the officer
1	2	3	4

Dated _____ Librarian _____

CHAPTER - II

Forms and Stationery

Forms

505. Clerk-in-charge of stock of forms - At every station at which Civil and Criminal Courts are situated, a clerk preferably the Accountant, should be specially kept in charge of the stock of forms required for all the Courts thereat and supplies.

506. Arrangement of forms - The forms shall be arranged on the racks by groups in accordance with the classification given in Volume II and the name of each form with Schedule and Serial number shall be shown against it on the shelf. A board indicating the name of each group of forms will be exhibited against such group.

507. Cashier to keep saleable forms - The cashier will keep stock of the saleable forms. These forms can only be issued to the public by the cashier.

508. Maintenance of stock book of forms - A stock book of forms, shall be correctly maintained by the clerk placed in charge of them in the prescribed Form No. (R) 30. A separate page or sufficient number of pages should be given to each form, so that under each item the transactions of several years may be recorded continuously. The balance shall be struck after each transaction and the balance on the 30th June and the 31st December of each year shall be verified by an officer, other than the clerk-in-charge of forms, to be detailed for the purpose by the Judge-in-charge by counting the forms on the racks and note of the verification made on page of the stock book.

509. Check and initial of Judge-in-charge in the register - Each entry of the receipt and of the issue of blank books of peremptory cash receipts [From No. (A) (21)] in the register of forms received,

issued and in stock [Form No. (R) (30)] shall be checked and initialled by the Judge-in-charge as soon as possible after it has been made.

510. Indent for forms - The Judge-in-charge of forms should see that proper printed stock for all forms is maintained and timely indents are submitted according to the rules in force from time to time.

Note - It should be noted that indents are sent for new or revised forms as soon as possible after they are printed and that no manuscript forms of which a printed copy is available is used on account of failure to send indent in time.

511. Procedure regarding issue of forms - Issue of forms is to be made on written requisitions containing the following particulars; (i) description of forms, (ii) purpose for which required, (iii) number required, and (iv) name of person, the requisitions with the remarks of the Chief Ministerial Officer of the office are to be put up before the Judge-in-charge of the forms who will pass necessary orders and the forms will be issued accordingly, ordinarily once a week to the staff and to parties daily at an hour to be fixed by the Judge-in-charge. The requisition slips should be retained for two years.

512. Taking charge of forms by successor - Whenever there is a change 'of the form clerk, a balance shall be struck by the outgoing officer and the officer receiving charge shall verify the balance by counting the forms on the racks. Unless he reports deficiencies, if any, it will be assumed that he received the stock shown and he will be henceforward personally responsible for shortage or defects. (For rules as to the indent and supply, etc. of forms see the rules prescribed by the State Government for the supply and custody of printed forms.)

Stationery

513. Maintenance of the register of stock of stationery articles and verification - An officer nominated by the Presiding Officer shall be in charge of stationery and maintain a stock book in Form No. (R) 43 showing accounts of receipts and issues. The recipient and issuer of stationery articles will put their respective initials in the columns provided for the purpose at the time of the receipt and issue of stationery. At the same time the issuer will cancel the blank columns. The opening and closing balances will be struck monthly by the clerk-in-charge of the stationery articles. The Presiding Officer who will report the result and make an entry of the verification in the stock book. The Presiding Officer will initial after satisfying himself about the correctness.

(For rules as to indent and supply of stationery, see Stationery Manual).

CHAPTER - III Furniture

514. Procedure for purchase and supply of furniture -
(a)The District Judge shall call for the requirements of furniture from the

-outlying Courts as well as Courts at Sadar in the month of March every year along with information whether furniture can be obtained locally and if so, the cost thereof accordingly to the lowest acceptable tender.

(b) The subordinate Courts will assess the requirements in case furniture are locally available, the subordinate Courts will call for tender? and recommend to the District Judge to accept the lowest tender indicating the total cost of the required furniture. They should intimate to the District Judge if furniture are not available in the local area. This will be done by the end of April every year.

(c) After receipt of the requirements, a consolidated list will be prepared by the District Office showing the requirements of each Court. The District Judge will then decide according to the funds available what furniture shall be supplied to each Court. With regard to the Courts at Sadar and Courts at outlying stations where furniture would not be locally available, the District Judge after calling for tenders shall make necessary arrangements for supply of furniture to those Courts by the end of August every year. If furniture are available locally, the District Judge shall place funds at the disposal of the senior Judicial Officers for making local purchase of furniture required by each Court.

(d) After purchase of furniture by the subordinate Judicial Officers, they should submit bills to the District Judge by the end of September every year.

515. Scale of furniture prescribed for the residential office of the judicial officer - The following scale of furniture is prescribed for the residential office of the judicial officer:

Sl. No.	Descr.pt.on of furniture	Sjze of furniture	Number of Furniture			
			D.J. and A.D.J	C.J.M.S.J	Munsif and Magistrate	
1	2	3	4	5	6	7
1.	Secretariat Table	63" x 34" x 29"	1	1	.....	.....
2.	Writing Table	54" x 30" x 29"	2	2	2	2
3.	Steel Almirah	78" x 36" x 19"	1	1	.....	.....
4.	Wooden Almirah	37" x 36" x 19"	2	1	1	1
5.	Easy Chair		1	1	1	1
6.	Book Case		2	1	1	1
7.	Office what not		3	2	2	1
8.	Ordinary Chair		10	6	6	6
9.	Stool		4	2	2	2
10.	Door Mat (Coir)		2	2	1	1
11.	Paper Tray		2	1	1	1

12	Waste Paper Basket	2	1	1	1
13	Durry 12' x 10'	2	1	1	----
14	Wall Clock	1	1	1	1
15	Arm Bench	2	1	1	1
16	Steno Typewriter Table	1	1	1	1
17	Steno Chari	1	1	1	1
18	Table lamp	1	1	----	----
19	Foot Stool	1	1	1	1
20	Office Chair (Godrej) with cushion	1	....	.....	.....
21	Glass Pad	1	1	1	1
22	Sofa set of three units with a center table	1	....	.....	....

<u>Sheristadar</u>	<u>Number</u>
23 Table 54" x 30" x 29"	1
24 Chair (Wooden)	2
25 Wooden Almirah	1
26 Stool	1
27 Bench	1

516. Verification of stock book - A stock book shall be maintained by the Nazir in Form No. (R) 44 of all articles of office furniture and stores. All new purchases, issues and sales, etc. of old stock must be entered in it as they occur. A verification of the stock should be made at least once a year by a responsible officer other than the Nazir under the supervision of the Judge-in-charge, Nizarat. A note of the verification shall be made in the stock book and all discrepancies noticed should be brought to account immediately.

PART-VIII

Miscellaneous Instructions

CHAPTER - I

I. Office

517. Entry to the office room - No one not being a member of the office establishment will be permitted to enter any office room without the special permission of the Presiding Officer.

518. Transaction of business with outsiders through wicket gate - At the entrances of each office room occupied by clerk or copyists, a wicket gate shall be placed which no outsider shall be allowed to pass. Outside the entrance, a board should be hung up in a conspicuous place having printed upon it both in English and vernacular "No admittance

for the public". All transactions between the public and the office shall be over this wicket gate as far as practicable and no one will have access to any member of the establishment except to such officers as the District Judge may in his discretion direct.

519. Place of sitting of clerks and copyists -Judicial Officers will see that as far as practicable these officers sit near doors or windows to be accessible to the public. Where this is not practicable, outsiders, may be allowed to come up to their tables for the transaction of any business.

520. Duty card - Each clerk will keep a duty card in the following form. It will be signed by him and by the Sheristadar of the Civil Courts or Chief Ministerial Officer of Criminal Courts, as the case may be.

Name of Clerk..... Department,.....Nature of work

Authorised registers	Unauthorised registers	Miscellaneous duties	Remarks

Note -1 " The card is to be signed by the Sheristadar of the Chief Ministerial Officer as the case may be and the clerk concerned and a duplicate of the same similarly signed is to be kept in the shape of a bound book by the ministerial head of the department to which the clerk belongs. Such ministerial head of the department will be responsible for having all changes in the nature of work of each officer under him duly entered on the cards effected .

¹[**Note – 2.** A separate duty card in the above form shall be maintained by the Sheristadars of the District Court and the Subordinate Courts which will be signed by him and by him and by the Registrar at Sadar Stations of the Judgeship any by the Sheristadar and the Presiding Officer at outlying stations where there is no Registrar]"

521. List of returns and reports due - In every office a list showing the returns and reports due, the office to which they are to be sent, and the date they are due shall be hung up near the Sheristadar's seat. A similar list shall be hung up in the presiding officer's chamber. 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 seat.

1. Inserted by C.S. No. 7 IX -16/82 dated the 17.2.1987

522. Duties and responsibilities of the Sheristadar - (i) The

Sheristadar or the Chief Ministerial Officer as the case may be of every Court will be held responsible for the due and prompt performance of all duties connected with the management and supervision of the office. He is responsible for the condition of office, the records kept there and the work done by the staff employed. The Sheristadars of the Courts of ¹[Civil Judge (Jr. Division)]/Sub-Divisional Judicial Magistrates should supervise the administrative work on the criminal side also.

(ii) It is his duty to insist on the regular and efficient discharge of all kinds of business for which any and every member of the establishment is responsible, to exercise proper personal control and supervision to make himself thoroughly acquainted with all proper instructions regarding the maintenance of registers, etc., and the performance of other duties, and to see that the rules and orders of High Court are strictly carried out.

(iii) He shall inspect once every quarter the work of each member of the staff and submit his inspection report to the Presiding Judge. At the first sign of arrears in the work of any ministerial officer, or of such a pressure of work as is likely to cause arrears, the matter must be reported at once to the Presiding Judge and all cases of unreasonable delay in the disposal of business, misconduct and neglect or improper discharge of duty should be promptly brought to his notice. Whenever a ministerial officer of the establishment is about to go on leave or transfer the Sheristadar or the Chief Ministerial Officer as, the case may be, should report to the Presiding Judge arrears in his work, if any.

(iv) The last Saturday of each month should be set aside as a "Clearance day" on which day cases will not be heard except part-heard sessions cases and other urgent criminal work. On the "Clearance day" which will not be treated as a holiday, clerks will make up their arrears, Sheristadars or Chief Ministerial Officer as the case may be will do inspections, and the Presiding Officer will finish pending judgments, consider the Sheristadar or Chief Ministerial Officer's reports and do some inspection himself when necessary. The District Judge will also make a thorough examination of the diaries of the Subordinate Courts. Plaints, complaints, urgent petitions and appeals may be filed on a "clearance day". Whenever the last Saturday of the month is a holiday, the working day next preceding that holiday will be observed as "Clearance day".

523.²[* * *]

524. Annual inspection by Presiding Officer -³[The Presiding Officers of the Subordinate Courts should make a thorough inspection of their offices once in a year and submit their notes of inspection to the District Judge by the 15th February of each year for his information.]

1. Substituted by C.S. No. 33 (IX-1/95, dt. 31.10.1995).
2. Omitted by C.S. No. 21, (IX-19/89, Dt. 11.2.1992).
3. Inserted by C.S.No. 12, (IX-5/87, Dt. 25.9.1987).

The Sub-divisional Judicial Magistrate and Judicial Magistrate will submit their annual inspection report through the Chief Judicial Magistrate. The District Judge shall pass such orders as he thinks fit on such inspection notes, but it will not be necessary to forward either a copy of the inspection note or the orders of the District Judge thereon to the High Court. The District Judge shall mention in the Annual Report on the Administration of Justice whether all the subordinate Courts have been inspected during the year by their Presiding Officers and where an office has not been so inspected the name of the officer who has failed to make the inspection should be reported along with his explanation.

525. Periodical inspection by District Judge -The District Judge should make through inspection of their own offices at regular intervals in order to secure their proper and effective working.

526. Inspection Defect Register- An Inspection Defect Register should be maintained in each Court. After an inspection only so much of the inspection note as is concerned with the actual defects found by the Inspecting Officer will be entered in the Register, and the Presiding Officer of the Court will subsequently personally verify whether the defects noted in the Register have been removed and note against each defects that it has been remedied and thereafter, compliance report should be submitted. This register is to be inspected by the Sheristadar or Chief Ministerial Officer as the case may be and the Presiding Officer from time to time in order to check whether the defects pointed out have been duly and properly rectified.

527. Periodical inspection by Registrar -At the district headquarters, the Registrars, Civil and Sessions Courts shall be made the Judge-in-charge of all departments and officers of different Courts. The Registrar, Civil and Sessions Court should make thorough personal inspection of the departments and offices of which they are Judge-in-charge in periodical cycle and place the notes of inspection before the District and Sessions Judge concerned. The District Judges should, in the month of January every year, prepare a programme of inspection of different departments and offices at the headquarter stations for inspection by the Registrars personally during the year and issue necessary directions to adhere to the programme. In case such periodic inspections are not carried out, the District Judges shall bring the same to the notice of the High Court.

528. Securities of officers - (1) Judicial officers should see that the rules in the Bihar and Orissa Board's Miscellaneous Rules, relating to securities of officers are followed *mutatis mutandis* in the case of ministerial officers of civil and criminal Courts who are required to furnish security.

Note 1- Rule 216 of the Board's Miscellaneous Rules applies generally to officers who handle money and provides a scale of security varying-

with the amount of money handled, whereas Rule 228 applies to certain named officers who do not ordinarily handle money but have to handle valuable documents. The accountant and other record clerks in Civil Courts come under the latter category and they should furnish the security '[for a sum of Rs. 1,000 (instead of the sum of Rs. 250) prescribed under Rule 228.]

Note 2 - The head comparing clerk shall furnish security for handling valuable documents and papers and the typists and copyists of the copying establishment shall not be required to furnish any security.

(2) Whenever it is found that the amount in the hands of an officer handling money is frequently in excess of the amount of his security, steps should be taken to ensure that his security is promptly raised to the proper figure.

Note - The powers to reduce the security in exceptional cases is vested in the State Government alone and the District Judge has not been empowered to exercise the function.

529. Return of security - The attention of Judicial Officers is drawn to the following rule (Rule No. 235) of the Board's Miscellaneous rules;

"Promissory notes and saving bank deposits lodged as security shall not be returned until after six months from the date of vacation of the office, but security bonds should be retained permanently, or until it is certain that there is no necessity for keeping them any longer".

530. Register of securities - Each subordinate Court shall maintain a register showing the securities furnished by the different members of the staff of that Court in the prescribed form.

531. Consolidated register of securities - A consolidated register for all subordinate Courts containing the entries in respect of officers, working in the judgeship who have furnished security should be maintained in the office of the District Judge.

532. Custody of surety bonds - The surety bonds furnished by the staff should remain in the custody of the respective subordinate Courts at the outlying stations while at the headquarters all such bonds should be kept in the office of the District Judge.

533. inspection of consolidated register -The Registrar, Civil and Sessions Courts should inspect at the end of every year, the consolidated register to find out whether the periodical tests of the bonds have been duly made.

II. Correspondence

534. Entrusting administrative functions to Additional District and Sessions Judge -The District and Sessions Judges may entrust some of their administrative functions in exercise of their own discretion

1. Inserted by C.S. No. 12, (IX-5/87, Dt. 25.9.1987)

to the Additional District and Sessions Judge, working under their administrative control.

535. Rules for maintenance, preservation and destruction of correspondence - Save as provided in the succeeding rule, the rules at present in force, framed by the Board of Revenue for the maintenance, preservation and destruction of correspondence shall be followed in Civil and Criminal Courts.

Note 1 - Correspondence includes returns and requisitions for records required for reference in other cases.

Note 2 - ¹[The Correspondence Register along with the pending list of correspondence papers should be put up before the Presiding Officer of the Court for checking once a week and to issue suitable instructions if necessary for expeditious disposal of old pending letters.]

536. Classification of English correspondence - (1) For the purposes of preservation and destruction, English correspondence and records will be divided into three classes, viz., A, B and C as detailed in the list below. All letters falling under the last two classes should be marked 'B' and 'C' by hand or rubber stamps. The 'C' letters should, when the correspondence is closed be separated from the rest and tied up in a separate packet which should be kept with the packet of 'A' and 'B' letters of the same correspondence till the time for destruction arrives.

(2) *Discretion in destruction of papers* - It will always demand the exercise of intelligence and the application of local knowledge to prevent the destruction of papers that may be required for future reference. It is not intended that the classification should be arbitrarily followed without the exercise of proper discretion. Such discretion will be more soundly exercised in the preservation and destruction of a record of doubtful importance.'

(3) *Destruction of 'A' class papers* - Although according to the list papers in Class 'A' are to be retained for ever, a revision should be made every five years and a report submitted to the District Judge under whose orders the papers of no real permanent importance of administrative interest should be destroyed.

(4) *Time of destruction of correspondence* - The destruction of English correspondence and records will be carried out every year in the month of March.

(5) *Classification of English correspondence* - The following table shows the classification of English correspondence and other English records-

- (1) The 'A' papers shall be preserved for ever.
- (2) The 'B' papers shall be destroyed at the end of 12 years.
- (3) The 'C' papers shall be destroyed at the end of 2 years.

1. Substituted by C.S.No. 49, (IX-4/99, dt. 25.9.1999).

Note - Letters which are attached to records of cases shall be destroyed when the records or the files of the records to which such letters are attached are destroyed.

CLASS A

Correspondence regarding –

Jurisdiction and powers.

Permanent addition to Judicial Staff.

Construction of new buildings.

Extension of buildings.

Official residence.

Pensions, except in connection with those who are dead in which case they become "C" papers.

Transfer and suspension of practice of legal practitioners except those who are dead in which case they become "C" papers.

Rules and General instructions.

All old correspondence already bound up in books.

Corresponding on other subjects of importance to be included at District Judge's direction.

All Annual Reports and returns.

All resolutions, on those reports and returns.

All printed reports

All circulars from Government, High Court, Accountant-General and Legal Remembrancer, etc.

Inspection notes of High Court Judges or of any Special Officer deputed by the High Court.

(Fly leaves which contain any "A" letters should be preserved permanently while those which contain only "B" or "C" letters or both should be destroyed when the letters are destroyed.) **CLASS - B**

Correspondence regarding

Embezzlement

Estates under the common management of the District Judge and under the Judiciary control of the Civil Courts.

Type writers.

Any of the subjects mentioned under Class 'A' which is of comparatively small importance and which it is obviously unnecessary to keep beyond 12 years.

Leave, appointment, transfer, charge, etc. of Gazetted Officers.

Charge report of non-Gazetted employees.

Misconduct and punishment. Opinions on Acts, Bills, Rules, Regulations, etc.

Orissa High Court, Cuttack

References on points of law and rules.

Supply of books and publications.

Furnitures, liveries and badges.

Government Pleader and Public Prosecutor.

Securities, General Provident Funds and Trust Interest Fund of Officers, except of those who are dead or no longer in service, in which case they become "C" papers, the period of retention being calculated from the date of termination of service.

Inspection of Courts and offices.

Additions and alterations to Court building under the head of "Minor Works".

Budgets

History of services of Gazetted Officers.

CLASS-C

Correspondence regarding -

Repairs to Court buildings.

Binding of books

Rubber seals

Punches.

Forms.

Stationery

Service of processes

Transfer of cases.

Renewal of certificates of Pleaders and Mukhtars

All cancelled Pleadership and Mukhtarship Certificates.

Renewal of cards of Pleaders and Mukhtar's Clerks.

Sessions (*e.g.* fixing dates of holding Sessions).

Receipt and despatch of records.

Supply of information and copies to public officers from criminal records.

All miscellaneous letters of transient interest.

Civil List.

Leave, appointment, transfer, etc. of non-Gazetted officers.

Monthly returns from subordinate officers.

¹[All quarterly returns and half-yearly statements except those submitted to the High Court. Quarterly returns and half-yearly statements submitted to the High Court should be retained for five years and three years respectively.]

All resolutions and remarks on the above returns.

1. Substituted by C.S. No. 14, (IX- 19/ 87) Dt. 23- 05- 1988

All blank reports and returns.

All reminders, memoranda and similar unimportant small letters in Class 'A' and 'B'.

Accountant-General's objection Vouchers slip received from the Treasury.
Treasury advice list.

Fortnightly progress report (spare copies of circulars, orders and letters should be destroyed after one year).

537. Destruction of correspondence registers - Register of letters received and issued shall be destroyed after the expiry of twenty years from the respective dates of the last entries made therein. A separate permanent register of A Class correspondence shall, however, be maintained in such form as may be prescribed by the District Judge. This register shall be maintained only in the district office and not in any other subordinate office. The register should be entered up each year at the time of destroying the B papers. As the B papers are sorted out for destruction the fly leaves should be brought up-to-date by drawing a line through all entries except those of A papers, and at the same time the remaining A paper should be entered in the permanent register, the description in the fly leaf being verified from the original.

Note - The Sheristadar or where so directed by the District Judge, the Head Clerk, will be responsible for seeing that the instructions given in this rule and the previous rule are properly and punctually carried out.

538. Correspondence files - In the District Courts as well as in the Courts of Chief Judicial Magistrates, subject-wise correspondence files with proper index registers shall be maintained. But in the other Courts subordinate to the District Court, it will be sufficient to keep the letters received in one file and drafts of letters issued on another, instead of opening a separate file of each subject.

Note - General letters and Circulars of the High Court shall be kept in a guard file, arranged in chronological order, with proper index. One similar guard file shall be maintained for Circulars of the Government of India and of the State Government.

The Index of the guard files shall be in the following form :

Sl. No.	No. and date of the general letter or circular.	Subject	No. of pages or sheets	Remarks
1	2	3	4	5

539. Filing of correspondence with the records - Correspondence relating to any case shall be filed with the record of that case.

540. Manner of submission of memorials to the High Court -Memorials from the Bar Association or from the public to the High Court should be submitted through the District Judge concerned and ordinarily no notice will be taken of a memorial submitted direct to the High Court.

541. Manner of making reference by the District and Sessions Judge - The District and Sessions Judge should dispose of matters arising out of their Judgeship and Sessions Division within their competence. If they entertain any doubt and find any difficulty on disposing of any matter and decide to make a reference to the High Court, they should along with the reference forward their considered views in the matter.

542. Manner of address to the High Court -All communications intended for the High Court should be addressed to the Registrar, unless they relate to case work in its Appellate or Civil or Criminal Revisional Jurisdiction in which case they should be addressed to the Deputy Registrar. For telegram sent to the Registrar the State Code address "High Court" will be sufficient.

543. Numbering pages and paragraphs - The pages and paragraphs of Annual and Inspection Reports and similar lengthy communications submitted to the High Court should invariably be numbered.

544. Manner of correspondence with the High Court - All correspondence intended to be made by the Subordinate Judicial Officers including the Additional District Judges on administrative matters with the High Court should be made through their respective District Judges. The Special Judge (Vigilance), Bhubaneswar and the Special Judge, (Vigilance), Sambalpur may directly address the High Court in matters which exclusively relate to their office.

545. Making correspondence with the High Court - On all administrative matters of the Judgeship and Sessions Division, the District and Sessions Judges should themselves make correspondence with the High Court without leaving the same to any subordinate officer.

546. Submission of petitions, appeals, memorials, etc. - Petitions, appeals, memorials, etc. by the aggrieved ministerial and Class IV staff of the District Court and Courts subordinate thereto should be submitted to the High Court and not to the State Government.

547. Direct correspondence with the State Government - The District and Sessions Judge and the Special Judge (Vigilance), Bhubaneswar and Sambalpur may make direct correspondence with the State Government in respect of the following matters :

- (1) Budget estimate and revised estimate;
- (2) Monthly expenditure statement;
- (3) Surrender statement

- (4) Enhancement of financial powers;
- (5) Enhancement of permanent advance;
- (6) Investigation of arrear claims regarding pay and T.A. of Officers and establishment;
- (7) Sanction for extension of the term of Class III and IV posts;
- (8) Purchase of typewriters;
- (9) Forecast returns;
- (10) Pension statements;
- (11) Some of the matters relating to construction of buildings;
- (12) Indent and supply of forms and stationeries;
- (13) Information or statement, if any, called for by Government direct, which does not relate to Judicial Administration and . which is of a formal and minor nature;
- (14) Establishment matters.

III. District Judges and Subordinate Judicial Officers

548. Dress of Judicial Officers - (a) When presiding on the bench, District Judge, Additional District Judge, Civil Judge (Senior Division), Chief Judicial Magistrate, shall wear over dark-coloured coat, a Judge's or King's Counsel's gown made of black alpaca or handspun silk with barrister's bands.

(b) [Civil Judge (Jr. Division)], who are not barristers at-law, Sub-divisional Judicial Magistrates and Judicial Magistrates should likewise, wear black alpaca or handspun silk gowns and of the same shape as the gown prescribed for a District Judge by Clause (a) of this rule. The gown should be worn over a dark-coloured coat or "Chapkan" with barrister's bands and with or without a Head-dress.

549. Designation of Judicial Officers - Judicial Officers are sufficiently described by their official designation; but where there are more than one officer of the same class posted at the same station they should be designated as Additional District Judge, Civil Judge [Sr. Division), 1st Civil Judge (Jr. Division), Additional Civil Judge (Jr. Division) as the case may be according to the names or numbers their Courts bear without any reference to seniority.

550. Prohibition of issue of general orders - It is not ordinarily within the province of District and Sessions Judges and Chief Judicial Magistrates to issue general orders in the form of circulars to the Judicial officers subordinate to them. If there be any matter connected with the judicial administration require the issue of general orders for the information and guidance of Courts over which they exercise control, they should submit such order for the confirmation and approval of the High Court, without which it should in no case be issued.

Note - This rule is not to be evaded or defeated by the issue of such orders under the guise of "Standing orders".

551. Entry of character notes on eve of transfer of District Judge - Before leaving a district of which he has held charge, a District and Sessions Judge should place on record, for the use of his successor, his opinion of the character and qualifications of every Subordinate Judicial Officer employed in the district.

552. Reporting transfer of charge - (a) District and Sessions Judges are required to report to the High Court any formal transfer of charge in any Civil or Criminal Court subordinate to them including the assumption by the Sheristadar of charge of the current duties of a Civil Judge (Junior Division) Court during the temporary absence of the Civil Judge (Junior Division) or pending the arrival of his successor and the handing over charge of the current duties of his office by a District Judge, proceeding on circuit.

(b) When a District Judge assumes or relinquishes charge of his office he should report the fact to the Accountant-General, the High Court and the Chief Secretary to the State Government.

553. Passing interim judicial orders in urgent matters by the Officer in charge of District Judge - Whenever an Additional District Judge or a ¹[Senior most Judicial Officer exercising civil powers] assumes charge of the office of the District Judge under [Sub-section (2) of Section 7 of the Orissa Civil Courts Act, 1984 (Act of 1984)] he may while in-charge of such office, pass interim judicial orders in any urgent civil matter arising out of or relating to the case on the file of the District Judge :

Provided that such powers shall not be exercised in matters relating to the exclusive jurisdiction of District Judge under special enactments;

Provided further that while passing such order, the Additional District Judge or the ¹[Senior most judicial officer exercising civil powers] as the case may be, shall direct that the same shall be put up for final order before the District Judge, immediately on the latter's resuming or assuming charge of the office and the District Judge may thereupon pass such orders as he may consider necessary.

554. Residing at places beyond the Headquarters - No officer of the Judicial Service shall be permitted to reside elsewhere than at the headquarters of the station to which he is for the time being posted, except with the special sanction of High Court, granted in exceptional cases and upon consideration of circumstances brought to notice by the District Judge under whom the officer whose exemption from the rule is recommended is serving at the time.

1. Substituted by C.S.No. 25, Dt. 12.1.1995.

555. Conduct rules - The attention of Judicial Officers of all grades is invited to "the Government Servants Conduct Rules" relating to the conduct of Public servants in respect to borrowing money, receipt of complimentary address and the like.

IV. Construction and repair of building for Judicial Officers

556. Authority for repair and construction of Court or office building -

(a) District Judges are empowered to give administrative sanctions for projects for the repair and construction of the Court or office building under their control, the cost of which does not exceed Rs. 2,500/-. Projects estimated to cost between Rs. 2,500/- and Rs. 50,000/- must be submitted with plans and estimates for sanction to the High Court. Projects estimated to cost more than Rs. 50,000/- must be submitted with plans and estimates for sanction to the State Government through the High Court.

(b) All projects effecting the repairs and construction of residential buildings, the cost of which exceeds Rs. 20,000/- must be submitted to the State Government for sanction through the High Court. Projects estimated to cost less than Rs. 20,000/- should be submitted to the High Court for sanction.

(c) District Judges are empowered to give administrative sanction to projects for electrical, sanitary and water-supply installation in non-residential buildings under his control, the cost of which does not exceed Rs. 1,000/-. for electrical installations in residential buildings they are empowered to give sanction to the project, the cost of which does not exceed Rs. 500/- and for sanitary and water supply installations in such buildings to the projects, the cost of which does not exceed Rs. 750/- . Administrative approval of such projects, the cost of which exceeds the above monetary limit will be given by the High Court up to the limit of Rs. 3,000/- . Such projects estimated to cost more than Rs. 3,000/- must be submitted with plans and estimates for sanction to the State Government through the High Court.

(d) In framing such applications care should be taken to satisfy the requirement of the resolution on the subject, quoted on the margin and in particular, to explain clearly the degree of urgency which attaches to each proposal. The funds at the disposal of Government for the construction of buildings are not ordinarily sufficient to meet all demands and it is, therefore, necessary to distinguish those which are of immediate urgency in order that due priority may be given to them.

V. Applications for temporary additions to the staff of Judicial Officers

557. Temporary addition to the staff of judicial officers – No application for temporary additions to the staff of Judicial Officers of a district will be considered, unless the causes which have brought about the necessity for assistance, are clearly and fully explained. It is desirable that the High Court should know how far that necessity-

arises from causes beyond the control of the officers concerned, and how far it is due to the incompetence or ineptitude of individual officers. Without such information, the High Court are unable to fix with any certainty, the number of officers required for different districts from time to time.

558. Certificate in making application for temporary addition to the staff - If a District Judge, when making such application, is of opinion that the existing staff of officers has been and is working to its full power, a certificate to this effect should be given.

559. Consultation with the C.J.M. - The District and Sessions Judges should always consult the Chief Judicial Magistrate before recommending transfer or withdrawal of a judicial Magistrate from any station.

560. Principle of transferring suits -Additional Officers appointed temporarily are, as a rule comparatively junior and inexperienced. The similar suits should, therefore, be transferred to them for trial, while cases of a more complicated character should be dealt with by the permanent staff. District Judges are directed to see that the service of an additional officer are utilised to the best advantage.

VI. Leave and extensions of service

561. Application for leave by District and Additional District Judges - Applications for casual leave, quarantine leave, and for leave of absence during gazetted holidays, should be made by District Judges and Additional District Judges through their respective District Judges to the High Court.

562. Officer to be in-charge of the District Judge - When the District Judge avails himself casual leave, quarantine leave or leave of absence during gazetted holidays or vacation, the Additional District Judge or Chief Judicial Magistrate or in his absence the Registrar, Civil and Sessions Court or in his absence, the next senior-most Judicial Officer available at the station may be kept in charge of the District Judge.

563. Applications for leave by Sub-Judge and [Civil Judge (Jr. Division)] - Application for casual leave and quarantine leave and leave of absence during gazetted holidays, presented by officers of the Orissa Judicial Service should be disposed of by District Judges without reference to the High Court. The District Judges, while communicating the order granting such leave or permission to the officer applied for, shall forward a copy of the same to the Chief Judicial Magistrate.

564. Considerations with granting leave - District Judges should exercise the powers above conferred upon them with due regard to the exigencies of the public service and they will only grant casual leave when satisfied that the application is fully justified, and the amount of leave asked for is not in excess of the minimum necessity.

565. Leave not to be combined with vacation - ¹[Casual leave or Special Casual leave combined with the vacation shall not be allowed for more than 10 days at a time. It may be allowed only either prefixing or suffixing to the vacation provided that the resulting period of absence from duty does not exceed ten days.]

566. District Judges may exercise their discretion in the matter of granting or refusing leave of absence to Judicial Officers during authorised holidays.

567. Applications for vacation leave may be disposed of by the District Judges - All applications for vacation leave from Civil Judge (Sr. Division) and Civil Judge (Jr. Division) purely working on civil side in any judgeship may be disposed of by the District judges under intimation to the High Court.

Application for vacation leave by Civil Judge (Junior Division) and Civil Judge (Sr. Division) working on the criminal side - In case of Civil Judge (Sr. Division) and Civil Judge (Jr. Division), working on criminal side exclusively or in part and where there are more than one Judicial Magistrate (other than the Chief Judicial Magistrate) the District and Sessions Judge may permit them to enjoy the vacation in full or in part keeping in view that normal criminal business is not seriously affected.

568. Report to the High Court when an officer fails to rejoin after re-opening - When an officer has failed to rejoin his appointment in time to sit on the day the Courts re-open after the vacation, he should, be reported to the Accountant-General as absent without leave and his absence brought to the notice of the High Court.

569. Forwarding applications for leave - Applications for leave from Additional District Judges, Chief Judicial Magistrates, Civil Judge (Sr. Division) and Civil Judge (Jr. Division) and Judicial Magistrates should invariably be forwarded by District Judges to the High Court through the Accountant-General, but a copy of the application should at the same time be forwarded to the High Court direct, with the District Judge's recommendation.

570. Proposed arrangement in case leave is granted - Ordinarily, no substitute is provided when leave for less than one month is allowed to any Judicial Officer. The District Judges, while forwarding such applications, should state what arrangements are proposed for carrying on the work of the officer to whom such leave is to be granted.

571. Time of application for leave or extension of leave - All applications for leave or for extension of leave should be submitted in time to allow the completion of any arrangements that may be necessitated by them being granted and District Judges should not treat an application

1. Substituted by C.S.No. 20, (IX-4/90, Dt. 11.2.1992)

for leave as urgent unless they are satisfied that such is actually the case.- No application for extension of leave will ordinarily be considered unless it is received at least 10 days prior to the date on which the leave originally granted expires.

572. No leave of absence without consulting the High Court- District Judges should not, without first consulting the High Court, permit Judicial Officers subordinate to them to leave their stations in anticipation of the grant of formal leave. In cases of urgency, reference should be made by telegraph.

573. Permission to return to duty before expiration of leave- Permission to return to duty before the expiration of leave should not be given by District Judges to any Judicial Officer without the orders of the High Court, previously obtained.

574. Application for leave on average or half average pay - Subordinate Judicial Officers when applying for leave on average pay, should state in their applications whether or not they were prevented from availing themselves of any previous vacations, and if so, what portions of the three previous vacations of having to remain at their post on duty.

Note -See Rules 150, 155, 156, 157 and 163 of the Orissa Service Code and Rule 42.

575. Timely notice of intention to apply for leave on average or half average pay - Subordinate Judicial Officers should give timely notice of their intention to apply for leave on average pay or half average pay. Unless very urgent reasons to the contrary exist, leave on average salary will not be granted to officers who fail to comply with this condition and officers who anticipates the sanction of the Court will expose themselves to the risk of being treated or absent without leave.

576. Forecasting leave on average or half average pay - Officers should forecast their requests for leave an average pay or half average pay with some approach to accuracy and must understand that applications for extensions of leave, save for urgent reasons will not be granted unless an officer can show that he was unable to foresee the necessity for longer absence at the time he originally applied for the grant of the leave.

577. Certificate by the District Judge forwarding application for leave on average or half average pay - When forwarding applications for leave on average pay or half average pay, the District Judge should invariably certify thereon whether or not such officer applied for and obtained leave during previous vacations; and if he did not apply, whether, if he had applied for such leave, then, having regard to the duties he had to perform the leave would have been granted to him and another practicable arrangements made for the work, or would have been refused.

578. Procedure for obtaining or extending leave on medical certificate - Officers of the Orissa Judicial Service who desire to obtain leave on medical certificate or extension of such leave must follow the procedure prescribed in the Orissa Leave Rules, 1966 as amended from time to time.

579. Application for extension or further extension of service- An officer of the Orissa Judicial Service desiring extension or further extension of service should submit an application for the same through the District Judge either in January or in July before the date on which he is due to retire. In the absence of such application, it will be assumed that he is not desirous of continuing in the service, and the State Government will be informed accordingly.

580. Courtesies to Inspecting Judge - When a member of the High Court Bench enters a subordinate Court to inspect the ljl's work, it is the duty of the Presiding Officer to stand in the ljl's as a mark of respect. Similar courtesies should also be shown to other Judicial Officers such as the District Judge and the Chief Judicial Magistrate on their entering the Court room for the purpose of inspection of the Court room.

VII. Inspection by District Judge

581. Annual inspection by District Judge - The District Judge of each District is required to inspect annually, ²[if possible and if not, at least once in every 18 months] ¹[* * *], each of the Subordinate Civil Courts and the Courts of Small Causes in his Judgship and to submit a report of inspection of each Court without delay to the High Court. It is not intended that the District Judge should make a long tour for the purpose of Inspection and he should use the most expeditious means available of travelling to and from the place where the inspection is made.

Note - 1. The Additional District and Sessions Judge should submit the report of inspection of Subordinate Civil Courts to the District Judge who shall forward the same to the High Court with his notes, if any.

Note - 2. The District Judge may take the assistance of his Sheristadar or Nazir for inspecting the subordinate Courts.

Note - 3. The Ministerial Officer assisting the District Judge should not look to the diary, order sheet, records of cases, etc. nor shall offer any remark connected with the judicial work, judicial procedure or judicial administration.

582. Object of inspection by the District Judge - The object of an inspection is to satisfy, in the first instance, the District Judge and afterwards, through him, the High Court, that the work, judicial and ministerial in each of the Subordinate Courts is conducted strictly according to Jaw and according to the rules prescribed by the High-

1. Deleted by C.S. No. 46, XLIX-D-9/98, Dt. 7.10.1998

2. Inserted by C.S. No. 52, XLIX-D-7/2004, Dt. 17.5.2005

Court, that it is disposed of with regularity, punctuality and efficiency; and to detect and correct errors and irregularities. The District Judge should, however, remember that while his duty is, on the one hand, to observe and correct errors, he is also to encourage assistance and advice; he should clearly and courteously explain all difficulties occasioned by inexperience or change of system, and should invite free communication on all topics of mutual concern.

583. Submission of information sheet to the Inspecting Judge - Subordinate Courts after receipt of intimation of inspection should prepare an information sheet signed by the Sheristadar/Chief Ministerial Officer and the Presiding Officers in the *pro forma* given below and place the same before the Inspecting Judge.

PRO FORMA

1. Names of the Presiding Judges since the last inspection till now showing the periods of occupation of office.
2. State of Court building.
3. Information about the pending building projects.
4. List of the staff of the Court's establishment since the last inspection giving the following particulars.
 - (a) Name;
 - (b) Date of first appointment;
 - (c) Educational qualification;
 - (d) Date since when serving in the Court under inspection;
 - (e) The branch of the office to which he is attached.
5. Number of Advocates, Pleaders and Mukhtars practicing at the Station (for outlying Courts only).
6. Number of licensed Typists/Petition Writers showing their names and the dates since when they hold the licence.
7. (a) Dates of last inspection by the Presiding Officer of the Court under inspection and by higher authorities.
 - (b) The dates of sending compliance reports.
 - (c) If the compliance reports of any of the items has not been submitted the reason for not doing so.
 - (d) Whether any of the instructions issued at the time of previous inspections have not been carried out and if so, the reason therefor.
 - (e) If the Presiding Officer checked the entries made in the Inspection Defects Removal Register before submitting reports of compliance.
- 8. Furniture :**
 - (a) Has the Stock Register of furniture been maintained up-to-date?

(b) Date of last verification of the furniture by the Presiding Officer.

9. Stationery and forms :

- (a) Are the stationery articles and forms required by the Court being indented from the Government Press on due dates ?
- (b) The last dates on which indents for forms and stationery articles were submitted since the last inspection :
- (c) Are the Stock Registers of stationery and forms maintained up-to-date ?
- (d) Are receipts and issues of forms and stationery articles duly entered in the register ?
- (e) Are the forms neatly arranged and kept ?
- (f) Dates of verification of forms and stationery articles by the Presiding Officer since the last inspection.

10. Library:

- (a) Is the catalogue up-to-date ?
- (b) Are all the books and periodicals received in the library correctly labelled and properly arranged ?
- (c) Are all correction slips pasted at proper place ?
- (d) Are loss of books and periodicals reported to the appropriate authority and steps taken for replacement ?
- (e) Date of verification of the library by the Presiding Officer and the date of submission of the certificate.

11. State of file :

- (a) Number of different types of cases on the file on the last date of the previous month preceding inspection according to years of institution;
- (b) Number of different types of cases on the corresponding day of the previous year;
- (c) Number of different types of cases disposed of ¹[during the year] by the last day of the previous month preceding inspection;
- (d) Number of different types of cases disposed of ¹[during the year] by the corresponding day of the previous year;
- (e) Reason for increase or decrease of pendency;
- (f) Number of year-old cases and the reason of such pendency.

12. (a) Total number of working days during each calendar year since the last inspection;

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- (b) Number of days devoted to civil work;
 - (c) Number of days devoted to criminal work;
 - (d) Contested disposal during each calendar year after the last inspection;
 - (e) Whether the disposal is according to the yardstick and if not the number of days by which the outturn falls short;
13. Are the records of the Court properly arranged ?
14. (a) Are the judgments delivered with due promptitude according to Court's instructions ?
- (b) List of cases the judgment whereof were delivered; (i) After expiry of 30 days from the date of conclusion of hearing; and
 - (ii) After expiry of 14 days from the date of conclusion of hearing.
15. Are the arguments being heard soon after evidence is closed and is continued from day to day ? If there is any departure the reason therefor.
16. (a) Number of cases stayed by the appellate or revisional Courts,
- (b) Have any attempts been made to know the stages and results of the appeals and revisions ? If so, the list be prepared and appended.
17. Have all the decrees been drawn up to the date of inspection ? If not the list of cases in which decrees have not been drawn up be prepared and appended assigning reason therefor.
18. Court Diary :
- (a) Is the diary legibly written and neatly maintained?
 - (b) Are the adjournment correctly posted ?
 - (c) Does the Presiding Officer note that the time of arrival and departure from the Court and the time he transacts judicial business ?
19. Copying Department :
- (a) Number of copy applications filed during each calendar year since the last inspection;
 - (b) Number of copy applications pending on the date of Inspection;
 - (c) Number of urgent and ordinary copies prepared and delivered beyond the prescribed period. In case of delay, reasons therefor;
20. Have the disposed of records been consigned to the record room up-to-date ? If not, the reason therefor.
21. Number of kept back records according to year of disposal.

22. Are all the records due for destruction destroyed ? If not, the reason therefor.
23. Has the Sheristadar or the Chief Ministerial Officer, as the case may be, inspected the different branches on Clearance Days ? If so, a list be furnished showing the dates and the Sections inspected since the last inspection.
24. Has the Presiding Officer inspected different branches of his office on Clearance Days ? If so, a list showing the dates and branches inspected since the last inspection be furnished.
25. The date of annual inspection of the office by the Presiding Officer.

584. Forwarding copy of inspection report and keeping the same in guard file - The District Judge shall forward the copy of his report of inspection to the Presiding Officer of the Court concerned for his information and guidance, unless for any special reason the Judge considers that it should be withheld in which case he will take the orders of the High Court in the matter.

The copy of the inspection report shall be preserved by the subordinate Court in guard file to be kept for the purpose and it shall be the duty of the Presiding Officer of the Court to see that the defects and irregularities pointed out therein are remedied as soon as possible and a note made against each defect or irregularity that this has been done.

The guard file is to be placed before the District Judge at every inspection.

585. Visiting outlying stations by District Judges -The District Judges may visit the outlying stations for inspection, for making confidential enquiries and for other administrative purposes on any working day subject to adjustment of part heard sessions cases except on Saturdays. They may leave the headquarters for the aforesaid purposes on Saturdays on special emergency with prior intimation to the High Court.

586. Heads of Inspection report - In making an inspection and writing his report the District Judge should deal with the work of the Subordinate Court under the following main heads :

(i) *the working of the establishment*- This will include the English Office, Library, the Accounts, Forms and Stationery, Copying, the Nizarat Departments and the State of the Registers, Records and the Record Room :

(ii) *The manner in which the Presiding Judge performs his judicial work as regards ability, temperament, discretion and punctuality* -The District Judge should sit in Court with the Presiding Officer and should note particularly whether due attention is paid to the provisions of the Code of Civil Procedure regarding the drawing of the plaint and the written statement of the parties before the Court, the settlement of the issues and the examination of witnesses, as also the reasons given -

for postponements or adjournments. He should remark particularly on the degree of ability, exhibited by the Presiding Officer in examining parties before him, in checking the putting of irrelevant questions by the Pleaders, and generally in the conduct of a case before him;

(iii) The outturn of judicial work and the state of the pending files;

(iv) Records of cases in which *ex parte* injunction has been granted should be scrutinised to see whether the inspection in Chapter X, Part I, are carefully acted upon, Defects, if any, in the application of the principles which govern the exercise of the powers given by Order XXXIX, Schedule I of the Code of Civil Procedure should be explained to the officer whose work is inspected;

(v) The register of information regarding the application of the Usurious Loans Act, 1918, and records of cases should be examined to see whether the provisions of the Act are being properly applied.

Note -For the purpose of this rule, the additional District and Sessions Judges are subordinate to their respective District and Sessions Judges on the administrative matters.

¹**586-A.** The Presiding Officer of the Tribunal or the Authority is required to inspect his office annually in the last week of December or first week of January and submit a report of his inspection without delay to the High Court.

586-B. The High Court may inspect the office of any Tribunal or of any Authority, other than the Administrative Tribunal in order to find out whether the business is transacted with regularity, punctuality and efficiency.]

587. Inspection of District Judge's Record Room - (a) It is desirable that the District Judge's Record Room should be thoroughly inspected at least once each year by the District Judge, or should he be unable to do so for any reason, which should be explained to such Gazetted Officer subordinate to him as he may depute for the purpose. An inspection by the District Judge himself must, however, be made at least once in two years. A copy of the report of inspection shall be submitted to the High Court.

(b) An officer inspecting the Record Room should call for the inspection guard-file to see what action has been or is being taken on previous inspections and to note any undue delay or omission in this respect.

588. Hearing complaints and suggestions from the Bar – All the Judicial Officers should listen patiently to all complaints and suggestions coming from the Bar and given their personal attention to the working of their offices with particular reference to Process Serving Departments, procedure for making or withdrawing deposit, and to the machinery for obtaining information and copies.

1. Inserted by C.S.No. 4, (IX-7/85,Dt.25.3.1986)

589. Taking photograph of trial scenes – Except with prior permission of High Court no photograph of trial scenes or other proceedings in any subordinate Court should be taken.

590. Perusal of judgment by Press Reporters -The Press Reporters should not be allowed to handle case records. They *may be* permitted to peruse the judgments and taken extracts from them in Court or before the Registrar, Civil and Sessions Courts at the headquarter Station or before the Sheristadar or Chief Ministerial Officer of the Court at other stations.

PART - IX

Accounts Rules (Judicial)

CHAPTER - I

I. General

591. Procedure for receipt and payment of money and keeping accounts

- The following rules prescribe the procedure for the receipt and payment of money, and for keeping accounts to be observed by officers exercising judicial powers and dealing with money in that capacity. They apply to all Judges, Additional Judges, [Civil Judge (Sr. Division)], [Civil Judge (Jr. Division)] and Small Cause Court Judges.

592. Out-station - (i) "Out-Station" means a Court not situated at or near a Treasury or a Sub-Treasury and includes a Court at or near a Sub-Treasury during such time as it may be temporarily closed owing to the absence of the Sub-divisional Officer from his headquarters.

(ii) *District Judge* - "District Judge" means the Officer whose accounts are rendered to the Accountant-General, either for his own Court only or for his own and Subordinate Courts and includes any officer who may be vested with the powers of a District Judge for the purposes of these rules and in any district in which a District Judge is not for the time being resident, in principal Civil Judicial Officer at headquarters.

Note - In district where there is no District Judge and principal Civil Judicial Officers at the headquarters are the officers vested with the powers of a District Judge.

(iii) *Judge-in-charge* - "Judge-in-charge" means the officer who, when two or more Courts at one station are combined for the purposes of these rules, supervises the single set of accounts maintained for all the Courts so combined. When Courts are not so combined each Judge is the "Judge-in-charge" of his own accounts.

(iv) *Day* - "Day" shall be taken to close at 1.00 P.M. on weekdays and 11.00 A.M. on Saturdays, and the next "day" to extend from that hour to 1 P.M. of the following calendar day if it is a week day and to 11.30 A.M. if it is a Saturday :

Provided that in case of morning sittings of the Court 'Day' shall be taken to close at 9.00 A.M. on all days, and the "next days" to extend from that hour to 9.00 A.M. of the following calendar day.

(v) *Month* - "Month" shall be taken to close in Courts at district headquarters at the end of the last account day of the month; in Courts at Sub-Treasuries at 1.00 P.M. on a week day at 11.30A.M. on a Saturday as the case may be, on the day on which the accounts of the Sub-divisional Treasury are finally closed for the month; and at outstations at 1.00 P.M. or at 11.30 A.M. as the case may be of the last day on which the accounts can reach the Treasury in time for incorporation with the Treasury accounts for the last day of the month.

(vi) *Year* - "Year" shall be taken to begin on the 1st April and to close on the 31st March.

593. Judge-in-charge of accounts and delegation of duty of passing chalans - A district Judge cannot delegate his powers as regards accounts to any of his subordinates. What he can do, when absolutely necessary, is to place any of the officers subordinate to him in charge of accounts, without in any way relieving himself of the responsibility for the due accounting of all receipts and payments. When this is done, the Judge's establishment will do all the work in connection with the accounts, and the Subordinate Officer will sign the papers as if he were placed in charge of the current duties of the Judge's Court, and to the Chief Ministerial Officer of the District Judge's Court (but of no other Courts at headquarters station) may be delegated the duty of passing chalans.

594. Time for making up accounts - Between 1.00 and 2.00 P.M. on week days and 11.30 A.M. and 12.00 noon on Saturdays, the accounts shall be made up and no transactions shall take place in Court. If under exceptional circumstances, any transaction has to be allowed after 2.00 P.M. on week days and 12.00 noon on Saturdays, they must be entered on the same calendar day as the Courts accounts but bearing date the next open day, and the receipt should on the same day be verified by the Judge-in-charge :

Provided that in case of morning sittings of the Court, the accounts shall be made up between 9.00 and 10.00 A.M. on all days and no transaction shall take place in Court thereafter. If, under exceptional circumstances, any transaction has to be allowed after 10.00 A.M. it must be entered on the same calendar day in the Court's accounts but bearing date the next open day, and the receipt should be on the same day be verified by the Judge-in-charge.

Note - On the last working day of each month or when the Treasury closes at 1.00 P.M. it is necessary that the accounts be closed at noon, and in this case the next day shall extend from noon till 2.00 P.M. of the following calendar day in case of morning sittings the accounts on such occasions be closed at 9.00 A.M.

595. Heads of accounts -The following are the heads of accounts in the public accounts under which the money received and paid by Judicial Officers, or under their orders is classified –

- (a) Civil including rent deposits and also compensation for land taken up for public purposes.

Note 1 - Any sum deposited in Court under Sec. 379 (1) of the Indian Succession act (XXXIX of 1925) with an application for certificate or for the extension of a certificate must be classed under Civil Deposits. [See Note 3 to Rule 600].

Note 2 – All deposits in proceedings under the Orissa House Rent Control Act, 1967 (Act IV of 1968) should be treated as Civil Court deposits;

- (b) Fines (Judicial); refunds of the same. Note - For refunds of fines see Rule 626;
- (c) Stamp duty and penalties realised in Court. Refunds of the value of Court-fee stamps;
- (d) Value of the unclaimed property of inter estates and others credited to Government;

Note - The value of such property cannot be credited to Government until the time limited by law has expired [Vide Rules 667 post]. For refund under heads (d) to (f), see Rule 626.

- (e) Other general fees, fines and forfeitures, i.e. general forfeitures and forfeitures of earnest money of defaulting bidders.
- (f) Miscellaneous receipts, that is, sale proceeds of forms in Civil Courts, and other items.

Note 1 -Details of accounts credited as "other items" should invariably be furnished to the Treasury Officer.

Note 2-Service books are sold direct from the treasury to parties requiring them. These can therefore be no cash receipts on this account.

- (g) Sale-proceeds of old stores and materials.

Note - The Treasury Officer should invariably be informed of the nature of the items, i.e. whether furniture or stores, etc.

(h) Peremptory receipts, i.e. witnesses' expenses, prisoners' diet-money, boat-hire, costs of adjournments, amins' travelling allowances, fees and expenses payable to commissioner's daily fees payable under the rules for deputation of peons and other peremptory receipts.

Note 1 - Money-orders for the payment of witnesses' expenses or of any other of the peremptory items falling under Clause (h) shall be made payable to the cashier of the Court to which the money is remitted. The cashier will receive the money as provided in Rule 605 and will deal with it as directed in Rule 611. The number of the suit and other necessary particulars shall be entered in the coupon which is attached to all money-orders.

Note 2 - The Civil Courts shall not receive postage stamps in payments of travelling and other expenses of witnesses.

Note 3 - When a Government servant whose salary exceeds Rs. 200 per mensem is summoned to give evidence in his public capacity in a civil case to which Government is a party, all sums recovered under Order XVI, Civil Procedure Code, on account of his travelling and other expenses shall be credited to Government. In all other cases such expenses should be, paid to him in full. Any sum ordered by the Court to be paid to a Government servant as actual travelling expenses incurred in attending Court not more than 8 kilometers from his headquarters shall in any case be paid to him.

Note 4 - The fee and salary of the finger print expert for his services on behalf of a private party and also the fee for enlargement of finger prints shall be recovered in cash in advance and dealt with as per peremptory receipts. All sums so received shall be paid by the cashier into the treasury as receipts of the police department. A chalan in quadruplicate shall be kept separately prepared, of which one copy shall be kept in the-Court, another forwarded with the cash to the treasury, the third sent to the office of the Deputy Inspector-General of Police, Criminal Investigation Department and the fourth retained by the Accountant. A copy of the chalan on account of the consultation fee and fee for photographic enlargement will accompany the documents sent for examination and a copy of the chalan showing deposit of the cost for additional photographic enlargements (referred to in Rule 386) if required and the fees and salary of the expert together with a certificate to show that the expert's travelling allowance has been deposited in Court will accompany the requisition requiring the experts services.

Note 5 -The Nazir will purchase a Court-fee stamp of the amount actually incurred in deputing a peon and affix it on the process under the signature of the Presiding Officer in payment of the fees. The balance of the deposit, if any, will be available for refund to the party.

Note 6 -Application for the refund of unspent peremptory receipts may be made on plain paper [Sec. 19 (xx) Court Fees Act]. Such applications must be presented within three years of the date when the right to refund accrues.

Note 7 - For payments of sums received under head (h) See Rule 595.

596. Manner of detaining accounts -The receipts and payments under head (a) must appear in the Court's accounts in detail but in the Treasury account in which a personal ledger account only is maintained for this head the daily totals of receipts and payments made at the Court and the individual items of receipts and payments at the treasury will appear. All receipts and payments under heads (b) and (d) to (f) must appear in the Court's accounts and in the treasury accounts in detail. An account in detail of all receipts under heads (e) and (g) must be kept in Court, but only the daily totals of each kind of receipts will appear in the "Treasury Books."

All receipts and payments under head (h) will be made on the responsibility of the cashier security must be sufficient to cover any amount in his hands, and the balance in the hands of the cashier must be noted daily in the Cash Book, as well as the balances of any other moneys with which he may be entrusted (*e.g.* permanent advance, or pay of establishment). They will not appear in detail in the Treasury accounts, but a statement in form No. (A) 9-A showing the gross amount of receipts and disbursements during the month must be sent to the Treasury on the last working day of each month for incorporation in the Treasury accounts for the same month.

Note - ¹[Fractions of a rupee shall be brought into accounts by rounding off to the nearest rupee, i.e. fractions of 50 paise and above to be rounded off to the next higher rupee and the fractions of less than 50 paise to be ignored].

Proviso -Provided that where money has to be paid by one person to another and both are present in Court the money should be passed direct from the one to the other under the sanction of the Court, the fact being noted in the record of the case. No officer of the Court shall, however, receive or become in any way responsible for the money, these transactions will not appear in the Court's accounts at all.

Note - Advantages of this proviso may be taken in cases where the judgment debtors are prepared to satisfy the claim of judgment creditors where costs of the day are allowed by the Court, or when sums in excess of those paid into Court are to be paid to witness.

597. Avoiding direct receipt and payment of money -Judges will as far as possible in their transactions with the public avoid direct receipt and payment of money under head (a) of Rule 595;

Proviso 1 -Provided that the cash must be received in the following cases;

- (a) When the Court is bound by law to accept payment either absolutely or up to a given time (*vide* Sec. 55 and Order XXI, Rules 84 and 85 of the Code of Civil Procedure) and in every such case the money shall be received even though tendered after the hour prescribed by Rule 592 Clause (iv);
- (b) When the proceeds of moveable property sold in execution (Order XXI, Rule 77 of the Code of Civil Procedure) are realised after the hour prescribed in Rule 592 Clause (iv).
- (c) When any sum is tendered for deposit under Sec. 379 (1) of the Indian Succession Act (XXXIX of 1925) even though tendered after the hour prescribed by Rule 592, Clause (iv);

Proviso 2 – Provided that cash may be received at out –stations when the receipt falls under head (a) of Rule 595 in the cases where, having regard to the balance in hand (which should not ordinarily exceed Rs. 500) this can conveniently be done.

1. Substituted by C.S.No. 17, (XLIX-D-1 5/87, 22.12.1989).

Note - Payments of small sums should ordinarily be made out of cash in hand, but large payments should be made in cash, only if this can be done conveniently, and it is better to disburse the balance of cash in hand than to remit it to the Treasury:

Proviso 3 - Provided that all Judges in Civil Courts may receive and pay in cash small coming under head (a) of Rule 595. The sum so received or paid shall not in any case exceed Rs. 100 in amount.

598. Receipt of cash and re-payments - (a) Money under heads (b) to (h) of Rule 595 may ordinarily be received in cash in all Courts.

- (b) Re-payments under heads (b) to (f) should ordinarily be made through the Treasury.
- (c) Under head (h), payments will ordinarily be made in cash by the cashier on his own responsibility.
- (d) No refund should be made on account of head (g).

II. Receipt of money

599. Manner of tendering money - Payment of sums falling under heads' (a) to (e) and (g) of Rule 595 cannot be accepted either in Court or at the Treasury unless the money be tendered with a chalan in quadruplicate signed by the Chief Ministerial Officer of the Court, under whose decree or order the money is tendered and also by the Accountant of the Court or group of Courts.

Note - Where Courts are combined for the purpose of account [see Rule 592 Clause (iii)] there shall be only one Accountant and one cashier for all the Courts so combined.

600. Free supply of chalan - Any person desirous of paying money into Court, or in the case of collections made by any officer of the Court, the officer who has realised the money, shall be furnished, free of cost, with four forms of chalan [Form No. (A) 1] in each of which he must enter in English the particulars required from him. One of the chalans herein called the original chalan, shall bear the Court Fee Stamp (if any) required by law.

Note 1- In the case of deposit chalans care must be taken to enter fully the nature of the deposit, the number of the suit or execution case (if any), the name of the person on whose behalf the money is paid in and of the person to whom it is to be paid over, etc.

Note 2- 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, as the Court cannot refuse the tender. In case where the payment is voluntary, such as deposits made on account of rent, or by a mortgagor and the like a stamp should be required; but if the application or petition be duly stamped a second fee should not be exacted for the chalan.

Note 3 - In-the case of sums deposited under Sec. 379 (1) of the Indian Succession Act (XXXIX of 1925) the deposit chalans must show that the amount is deposited to the credit of the Judge.

601. Presentation and passing of chalans -The person desirous of paying in the money having filled up four forms of chalan, shall present them to the Chief Ministerial Officer of the Court mentioned in Rule 599. The latter shall then ascertain that the amount tendered is correct and is due from the person on whose account it is tendered to the person to whom it is stated to be payable and after correcting the forms of chalan, if necessary, shall sign it and pass the forms on to the Accountant of the Court or set of Courts, who having made the necessary entries in Part II shall give a serial number to them. The chalans shall then be laid before the Judge-in-charge and shall if in order, sign them. One chalan shall be retained by the Accountant and the other three shall be returned to the party tendering the money, and they shall be his authority to pay the same into the Court, or into Treasury. The copy left with the Accountant will be kept in guard file and will be preserved for three years.

Note 1- Where the Nazir happens to be the payer three copies only of chalan need to be presented to the Chief Ministerial Officer. He will get back two copies from the Accountant which he will send his Pass-Book to the Treasury.

Note 2 -(a) All payments into Court for deposit under the Land Acquisition Act, I of 1894, shall be made by means of cheques, drawn by the Land Acquisition Officer in favour of the Presiding Officer of the Court to credit of Civil Court deposit. The transaction will be passed through the Court's accounts in the same ways deposit in cash.

(b) The cheques of the Land Acquisition Officer shall be accompanied by receipts in triplicate in Form No. (A) 12-A duly filled up. These receipts should be regarded as chalans and dealt with in the matter of numbering in the same manner as chalans tendered with other Civil Deposits. The Accountant will use a form of chalan [Form No. (A) 1] and note the number and details for his office record. The three receipts will be duly signed and returned to the Collector. One of these when received back will be attached to the record of the case.

(c) When a Court awards any compensation in excess of the Land Acquisition Officer's award, the further payment due shall also be made into the Court by means of a cheque and the procedure prescribed in the preceding paragraph shall be followed.

(d) Investment under Sees. 32 and 33 of the Land Acquisition Act, of money deposited in Court, shall be arranged for, in the case of Government securities, in communication between the Court and the Accountant-General and purchases of land should be effected under the Court's order through the Collector or other revenue authority of the district.

Note - At Sub-divisions and out-stations the Judge-in-charge may, with the previous sanction of the District Judge, delegate to the Chief Ministerial Officer of his Court the duty of passing chalans.

602. Time for tendering money limited to the day on which the chalan is passed - No person is required to take out a chalan till

he is actually ready to pay the money for which he takes it, nor, after a person has taken a chalan can be permitted to defer using it. The order to the Treasury Officer must, therefore, be limited in its operation to the day upon which the chalan is made over to the applicant, or, if the transaction occurs after the accounts are closed [Rule 594] to the next open day. This is distinctly provided for in the form of order. In case of failure to tender the money at the treasury within the time limited, the tender must obtain, by written application, an order from the Court extending the time.

Note -When a chalan is issued on the treasury it may be acted upon till 2.00 P.M. on the day following that on which it is issued, if it is a week day, and till 12.00 P.M. if it is a Saturday, if so ordered by the Court. But when the chalan is for the receipt of money at the Court, it should be restricted in its operation to the day of issue.

603. Time for tendering money in out-stations - In the case of out-stations, the order to the Treasury Officer shall grant for the payment of the money such time only as is indispensable to enable it to be taken to the treasury.

604. When chalan is not necessary -No chalan will be necessary for purchase of forms from the cashier of the Court. The total sale-proceed of each day shall be deposited in the Treasury by the cashier in the usual way.

Note- For account of saleable forms see Rule 681.

605. Peremptory receipts under head (h) of Rule 595 shall be tendered to the cashier direct the intervention of the Accountant, a chalan is not required in respect of such payments.

Receipt of Money by Cashier

606. Acceptance of money by cashier - The cashier receiving a chalan in triplicate addressed to him under Rule 602 or a tender of money under Rule 604 or under Rule 605 shall accept the money and enter the amount as a receipt in the appropriate cash-book [Rules 610 and 611].

607. Sending money to the treasury by cashier - (a) When chalans have been so passed, he shall keep two copies and return the third copy with his receipt enfaced upon it. This receipt shall be produced in Court by the person paying the money, when it is necessary for him to have satisfaction entered upon the record of the case to which he is a party, or when it is necessary to have a sale confirmed (or notice issued upon the landlord in cases of rent deposits) or upon the creditor in cases of debt due to a mortgage creditor and like. The amount and the remaining two copies of the chalan retained by the cashier shall be sent with the pass-book to the Treasury which shall forward one copy to the Judge-in-charge to be filed with the record of the case to which the person paying the money is a party.

(b) In the same way, on presentation of the chalan (in triplicate) at the treasury, as prescribed above in Rule 602 and on payment of the money, the payer shall receive as an acknowledgement, one of the three chalans signed by the Treasury Officer, if the amount be Rs. 500 or more by the Accountant and Treasurer if less than that sum. Of the two copies of the chalan retained by the treasury officer, one copy shall be forwarded to the Judge, together with the advice lists referred to in Rule 641, for the purpose of being filed with the record of the case in connection with which the deposit was made.

608. Direct payment in Court under express order of the Presiding Officer - When under Clauses (a) and (b) of Rule 597 above a tender is made of money which must, by law, be received the payments shall be made direct into Court in cash but only under the express order of the Presiding Officer to be recorded on the top of the original chalan.

609. Duty of cashier in respect of money - When money is tendered under Rule 605 the cashier shall enter the amount in the foil and counterfoil of a bound book [Form No. (A) 21] of receipts numbered in serial order. He shall then tear off the counterfoil, sign it and give it to the payer as voucher.

INVESTMENT OF CIVIL DEPOSITS

610. No authority for withdraw for investment without sanction of the A.G. - No authority shall be given for the withdrawal of a civil deposit from the treasury for the purpose of investment unless the sanction of the Accountant-General has been obtained.

PEREMPTORY CASH BOOK

611. Maintenance of peremptory cash book - To exhibit the peremptory receipts and payment [Head.(h) of Rule 595] for which the cashier is responsible and of which the Accountant keeps no record the former officer shall maintain a Register in Form No. (A) 22. A balance shall be struck at the close of each day in words as well as in figures.

Note -The Sheristadar of the Judge-in-charge of the accounts should check the receipts and repayments. He should affix his initial in Column 13 against each repayment.

GENERAL CASH BOOK

612. Maintenance of general cash-book - The cashier shall maintain a General Cash Book in Form No. (A) 23 and shall enter in it in detail all receipts and repayments under heads (a) to (g) of Rule 595. At the close of the day's transactions the cashier shall enter the totals of receipts and payments under these heads, and below these totals he shall enter also the totals of receipts and payments for the day under head (h) as entered in the Peremptory Cash - Book as well as the totals of receipts and payments on account of establishment pay and contingencies and on any other accounts (which should be described). He should enter here all sums received or held by him in -

his official capacity upon any other account whatever, for though such sums may form no substantive part of the judicial accounts it is essential that the Judge should have in a single view a statement of all money in cashier's possession. In particular he must include under the head "other amounts" any sums received by encashment of any payment orders upon the treasury drawn in his favour whether as Cashier, Nazir, or Receiver in insolvency proceedings or otherwise.

Note - If any refunds are made on account of value of Court-fee stamps out of cash in the Court and this is allowable, if the sum, does not exceed Rs. 5 [see Rule 627] they should be included in the Cash Book like other payments in cash.

613. Striking and exhibiting balance under different heads -The Cashier shall then strike a general balance and exhibit the balance under the different heads as follows :

		Rs.	P.
1	Balance of General Cash Book	0	0
2.	Peremptory Balance	0	0
3.	(i) Establishment pay and allowances (ii) G.P. Fund advance, etc. (This sub-heading includes cycle advance, festival advance or G.P. Fund advance, etc.)	0	0
4.	(i) Balance of permanent advance as per contingent register (ii) Encashment of advance contingent bills This sub-heading would include amounts received by the Nazir by encashment of contingent bill which has not been paid from the permanent advance)	0	0
5	Other amounts (This would include the items defined under Rule 612 the sums received by the Nazir in Insolvency and Guardianship proceedings or otherwise)	0	0
	Total money in cashier's possession (in words as well as figures)	0	0

614. Initialing cash entry by Judge-in-charge -The Judge-in-charge, Accounts is required to attest and initial each entry in the General Cash Book as required under S.R. 37(II) of the Orissa Treasury Code volume I,

III. PAYMENT OF MONEY APPLICATION FOR PAYMENT

615. Procedure for drawing money - (a) Persons desiring to draw money deposited in Court, and payable to them shall submit to the Chief Ministerial Officer of the Court under whose decree or order the money was tendered, an application in Form No. A-3 accompanied with a petition, duly stamped where necessary. One copy of such forms shall be supplied free of charge. In this form the applicant shall enter all particulars necessary for the identification of the credit. If it is intended to withdraw more than a single item of deposit made in the same case by one application, the number and date and amount of each deposit must be distinctly stated. Separate applications are necessary where cases are different.

Note 1- If the party entitled to the money does not appear in person, the applicant must satisfy the Court that he is duly authorised by an instrument in writing to draw the money for the person so entitled.

Note 2- The applicant must comply strictly with the terms of the order under which the money is claimed. Thus, one of a number of joint decree-holders, cannot be allowed to take out what he calls his share in the decretal amount; they must all joint in the application unless there has been an order for distribution.

This note is not intended to prohibit the payment of the entire amount of deposit to one of a number of joint-decree holders or to one of joint landholders on the certificate of the Court under whose order money was received that the amount is payable to him for himself and for all the others, whose names should be mentioned. What is intended to be barred is the payment of the amount in dribblets to the several decree-holders separately unless there has been an order for distribution.

(b) In case in which Court-fee stamps are purchased by the Nazir from deposits the final order for the payment of such deposits must contain a direction to the Treasury Officer to pay the amount in stamps to the Nazir of the Judge, to whose credit it was deposited and to transfer the amount of deposit to stamp revenue.

Note - This rule should not be held to apply to outlying [Civil Judge (Jr. Division)], at places where there is no Treasury. In such cases the [Civil Judge (Jr. Division)] should purchase stamps from local stamp-vendors from cash out of the deposit money in their hands.

AUDIT OF APPLICATION

616. Duty of Chief Ministerial Officer, Presiding Officer and Accountant -The Chief Ministerial Officer shall compare the application with the record of the case, or with the registers concerned in the absence of record and carefully test the validity of the claim. If he finds that the name of the payee has been correctly given, and that there is no objection to the payment of the money on the ground of -

attachment or otherwise, he shall make inquiry as to the identity of the applicant, and, if satisfied of such identity, shall sign the certificate, at the foot of Part I of the application, and obtaining the signature of the Presiding Officer to it, pass on the application so signed to the Accountant of the Court or group of Courts. Such Accountant shall compare the contents of the application with the Register of Deposit Receipts, and shall satisfy himself that the amount has shown has been received and is still unpaid, and that the name of the claimant corresponds with the name of the payee entered in the Register, and that no order for the attachment of the money is in force. If the deposit has been transferred to the Clearance Register [Rules 664 and 665], such Clearance Register shall be deemed to be the Register of Deposit Receipts within the meaning of this Rule and Rules 621 to 624.

Note - The Chief Ministerial Officer will not both in the order sheet of the record of the case and the copy of the chalan kept therein, if available and also in the registers concerned that the application for payment order has been passed so that a second claim for the amount may be checked. This note should be signed by that officer and also by the Presiding Judge.

617. Removal of defects and return of or rejection of the application -

When there are defects in the application which it appears possible for the applicant to remove, the applicant should, unless it is evident that the application cannot at all be allowed even after amendment, be permitted then and there to remove them all alterations being attested and date in the presence of a responsible officer or if so desired, the application may be returned to the applicant or his Pleader, under the orders of the Presiding Officer with the defects noted on the back of petition accompanying it and he should be given a reasonable time for their removal. The application should not be returned merely for correction of clerical errors, unless the errors are such as to introduce uncertainty or ambiguity. In other cases such clerical errors may, if so ordered by the Presiding Officer, be ignored. The application should be definitely rejected by the Presiding Officer only if it is clear that it is not fit to be allowed, apart from removable defects, or if the defects are not removed within a reasonable time. Information required to cure defects in the application may be supplied without a separate application in accordance with Rule 382 (2)(2), if a searching fee is paid on the application.

618. Forwarding the application to the District Judge - If the record of the case has been despatched to the record room of the District Judge, under the orders of the High Court relating to the periodical despatch of records by Subordinate Judicial Officers, the Presiding Officer of the Court to which the application is made shall after the Chief Ministerial Officer has checked the application with the Court's Registers, forward it to the District Judge, whose record-keeper, if the record be available, will certify, under the countersignature to the Judge-in-charge of the record room, whether a specified sum of money-

is due to the applicant and if so required, that the legal practitioner applying for the payment order has authority for the purpose. If the records has been destroyed the record-keeper will give a certificate to that effect. On receipt of the record-keeper's report, the Chief Ministerial Officer will proceed in accordance with Rule 616.

Note 1- The record-keeper will enter both in the order-sheet of the record of the case and the copy of the chalan kept therein if available a note that an application for payment order has been countersigned, so that a second claim for the amount may not be passed. This note shall be signed by the officer and also by the Judge-in-charge of the record room.

2. In case of outlying Court's when the record has been despatched to the Record Room of the District Judge, the application for payment order should, in the first instance, be audited by the Accountant of the Court, before it is sent to the record-keeper.

619. Intimation to the District Judge about the order of attachment of money - Whenever, after despatch of the record of a case to the District Record Room any Subordinate Court passes an order for the attachment of money in deposit in the case, intimation thereof shall be forthwith sent to the District Judge. The District Judge shall thereupon cause such information to be noted in the order-sheet of the case under the signature of the record-keeper and under the countersignature of the Judge-in-charge of the record room.

620. Returning of defective application - If the application for payment is found to be incorrect or defective the Accountant shall note the error or defect on the back of the petition accompanying it and return it under orders of the Judge-in-charge to Court concerned to be dealt with according to the procedure prescribed in Rule 617.

PAYMENT ORDER AND REGISTRY

621. Duty of the Accountant when the application is correct- If the application is found to be correct, and the deposit has not lapsed the Accountant shall fill up the second part of the application form, post the transaction in the Register of Payment Order [Form Jo. (A) 13] number with its proper index number, and make the requisite entry in the Register of Deposit Receipts, finally the application, with the Register of Payment Orders and the Register of Deposits Receipts, shall be laid before the Judge-in-charge.

APPROVAL BY JUDGE-IN-CHARGE

622. Duty of Judge-in-charge before passing the application for payment - Before passing the application for payment, the Judge-in-charge is required to satisfy himself, in the first instance, that the requirements of Rule 616 and where necessary of Rule 618 have been implied with. He shall further satisfy himself by personal inspection his Register of Deposits, that the balance at credit of the particular posit is sufficient to meet the repayment, and that no order for the attachment of the money has been noted. If the result of his scrutiny -

is satisfactory, he may sign the order for payment of the amount either from the local Treasury or from his Court as prescribed above in Rules 597 and 598 and shall attest with his initials the note of the order of repayment made in the Register of Deposit Receipts. He shall also initial the entries in the Register of Payment Orders [Form No. (A) 13]. The payment order shall then be made over to the applicant for presentation to the cashier, if the money is to be paid in Court, or to the Treasury Officer, if it is to be paid by such officer.

Note 1 - A list of all payment orders made ready during the day should be sent to the Bar Association before 3 P.M. in case of day-sitting and 10 A.M. in case of morning-sitting.

Note 2 - Deposits in favour of an estate under the management of the Court of Wards should be paid not in cash from the Court, but at the treasury by transfer to the credit of the personal ledger account maintained therefore the estate concerned. The payment order should, therefore, be addressed to the treasury officer and should authorise him to pay as above by transfer credit to the personal ledger account of Ward's estate or (if the personal ledger account of the estate is maintained at a treasury other than that from which the repayment of the deposit is made in which case a money order form duly filled in favour of the treasury officer who keeps the account for the amount less money order commission, should accompany the application) to pay as above by transfer credit to post office in order that the amount may be remitted, less money order commission, to the treasury officer for credit to the personal ledger account of Ward's estate. The applicant should file a duly filled in Revenue Chalan [Form No. 186, Schedule LIII] along with the application for payment order so that payment order and chalan may be passed simultaneously.

623. Forwarding the application to Judge-in-charge and issue of payment order - When the money sought to be drawn out of Court is in deposit; not in the Court to which the application is made, but in another Court as for example where two or more Courts at one Station are combined for the purposes of accounts, in every such case the duty of the Court to which the application is made shall be merely to receive such application and forward it to the Court of the Judge-in-charge with a certificate made after examination of the record as provided in Rule 616 that the applicant is the proper party to receive payment of the amount claimed in any case in which the amount has been transferred from the credit of the original payee to that of the claimant, and this fact should be stated. This Certificate shall be compared with the Deposit Register in the office of the Judge-in-charge. Such Register, if the sum is shown therein to be in deposit, will inform the Judge whether there is any bar to payment. If there is no such bar, the payment order may be issued by the Judge-in-charge, and the fact of its issue shall be noted on the back of the accompanying petition which shall be sent to the Court upon whose certificate the application was passed, in order to enable it to enter satisfaction for the amount on the record of the case.

Note 1- The certificate should be given on the payment order, that is to say in the tripartite Form No. (A) 3 at foot of Part I, in the place-intended for it; and in recording the payments in the Register of Repayments, particulars may be entered as to the Court under whose orders the payments have been made.

Note 2- When money realised under the decree of one Court is attached at the instance of another Court, the application for payment should made to the Court attaching the money. Such Court after receiving the application should forward it to the Court under whose decree the money is realised, and if there be no objection to the payment of the money to the applicant, the latter Court should deal with it under this Rule or, if the record of the case has been despatched to the District Record Room, under the Rule 618.

The Court so dealing with the application should also report to the attaching Court or if the application has been dealt with under Rule 618 also to the District Court that the amount claimed has been transferred from the credit of the original payee to that of the claimant.

LAPSE OF ORDER

624. Period of validity of the payment order - (a) An order for payment from the local Treasury is valid for ten days only, and may not be cashed after the expiry of ten clear days subsequent to the date thereof. An order which has not been paid within ten days, as aforesaid, may be presented to the Court which issued it, and such Court may re-enface thereupon a new payment order, which shall remain valid for ten clear days immediately after the date thereof. When the last day of any such period of ten days is a day on which the Treasury is closed the order may be cashed on the day on which such Treasury re-opens.

Note - This rule applies also in the case of an order for payment at the Court.

(b) When such order, as aforesaid, is for a sum exceeding Rs. 100 it should be included in a "Daily Advice List" in Form (A) 8 to be issued by the Court making the order to the local Treasury where the cheque is to be paid.

(c) When the Treasury accounts are closed on the 31st day of March in each year, every order for payment issued on or before the date shall lapse absolutely, and Treasury Officers are forbidden to cash after the 31st March orders issued on or before that date. An order which has lapsed under this Clause cannot be renewed, but a new order may be obtained upon delivering upon the old order and making a fresh application under Rule 615.

Note -Judge should warn persons who apply for orders at the end of March of the effect of this Rule, and tell them to wait till April 1st unless they mean to cash immediately any order that they may obtain. No order shall be cashed at Court which in the ordinary course cannot -

be shown in the Pass-book sent to the Treasury on the last day of the financial year.

(d) Immediately after the 31st day of March in each year, the Judge-in-charge shall ascertain what payment order issued on or before that date are still uncashed, and shall mark them off under his initial in the Registers (1) of Payment Orders; and (2) of Deposit Receipts, as "Cancelled under Rule 624 (c)".

LAPSED DEPOSITS

625. Procedure on application for drawing lapsed deposits -When an application is made to draw money at credit under a deposit which has lapsed under Rule 670 but the payment of which is otherwise un-objectionable and the District Judge is satisfied that the enquiry of the application in Form No. (A) 3 is adequate the Accountant shall prepare a special form of application [Form No. (A) 4] which when passed by the Judge-in-charge after the examination prescribed by the Rule 622 shall be dealt with under Rule 673.

626. Procedure on application for refund of fine or miscellaneous receipt - When an applicant is made for the refund of a fine or a miscellaneous receipt [heads (b) and (d) to (f) of Rule 595] the Payment Order shall be prepared by the Accountant in Form No. (A) 5 after checking the application by a reference to the prescribed Register [Form No. (A) 20] and the Judge-in-charge at the time of passing the refund order shall note the repayment against the entry of the receipt in such Register. The Payment Order shall also be noted in the Register of Payment Orders and initialed by the Judge-in-charge.

Note - Entries in the Register of Payment Orders in the case of refund of fines or miscellaneous receipts must be made in red ink.

627. Duty of Chief Ministerial Officer, Accountant and Presiding Officer on application for refund of value of Court Fee stamps -Application for the refund of the value of Court Fee Stamps is to be made to the Chief Ministerial Officer of the Court in which the stamps are filed. The Chief Ministerial Officer shall compare the application with due regard, and if he finds that a refund is due and if the Presiding Officer is also the Judge-in-charge shall draft and sign an order on the back of the paper to which the Court Fee stamps are affixed. The paper must then be passed on to the Accountant, who shall prepare a payment order in Form No. (A) 6 or 7, as the case may be require, and shall enter the particulars in the Register of Payment Orders [Form No. (A) 13]. The application with the other papers and the Register shall then be laid before the Judge-in-charge who, if satisfied that the proceedings are in order, may sign the order of refund on the back of the stamped paper and the payment order, and initial the entry in the Register. The payment order shall then be made over to the applicant for presentation at the Treasury of, if the amount does not exceed Rs. 5 to the cashier of the Court. If the Presiding Officer of the Court is -

not the Judge-in-charge, the Chief Ministerial Officer shall put up the application with the draft refund order on the back of the stamped paper first before the Presiding Officer, who may if satisfied that the refund is due, sign the refund order and then send the papers to the Accountant. On receipt of the papers the Accountant shall proceed in the manner stated above and submit the papers and Register to the Judge-in-charge who, if satisfied that the proceedings are in order, will sign the payment order and initial the entry in the Register. The rest of the procedure will be the same as in the case where the Presiding Officer is also the Judge-in-charge.

Note 1- Petty refunds of the value of Court Fee Stamps may be paid out of cash in the Court on vouchers in Form No. (A) 7 and charged in the cash book [see Note to Rule 612].

Note 2- Court Fees realised in stamps may under certain circumstances be returned by order of the Court.

Note 3- No general rule can be laid down respecting the refund of the value of the Court Fee stamps in cases where the fees have been paid into Court for the issue of processes and such processes have not issued. Each case must be left to the discretion of the Court, and decided on its merits. Where the amount is large it may well be refunded.

Note 4- In an exceptional case in which the paper to which the Court Fee stamps are affixed has been destroyed under the rules for the destruction of records the Court authorising the payment should satisfy itself that the amount claimed is due and record the order for refund on the application which may be filed. In cases of this nature, it is objectionable to record a copy of the refund order in Form No. (A) 7 for it is an order upon the Treasury and there is risk of its being presented for payment.

Note 5- Entries in the Register of payment orders in the case of refunds of Court Fee stamps must be made in red ink.

628. Tracing items of payment to corresponding items of receipts- In so far as concerns the account system, it is invariably necessary to trace each item of payment under the Court's orders back to its corresponding item of receipt; in other words to connect each item or a Court's debit in the Treasury with the corresponding item or credit, however, far in time the two may be separated from each other. Accordingly the Court must take care to furnish itself and the Treasury with the necessary particulars for this purpose.

PAYMENT BY CASHIER

629. Payments by cashier - In the case of payment orders directed to the cashier, the payment must be entered by the cashier in the general cash book, the payment order being retained by the cashier as his voucher.

Note - The cashier should cancel the vouchers, as soon as he pays them, by writing on the face "paid" with his initials.

A "paid" stamp should not be used, as that indicates the subsequent discharge at the Treasury.

IV. Account keeping and remittance to Treasury Courts near treasuries

630. Entry in Treasury Pass-book by the Accountant - In Courts situated within daily reach of Treasury, the Accountant shall, after the close of business each day, make the proper entries in the Treasury Pass-book [Form No. (A) 14] showing in detail the sums received from and paid to the public in cash. The receipts shall be entered on the right hand side and are to consist of the amounts received in Court. The payment shall be entered on the left hand side, and are to consist of the sums shown in Column 5 of the Register of Payment Orders, as amounts to be paid in Court.

Note - The number of the chalan on the back of which the amount to be remitted to the Treasury is noted may be shown against the entry made below the total of payments or receipts.

631. Maintenance of entry in Treasury pass-book - Every chalan and payment order for money received or paid at Court under heads (a) to (g) shall be shown in detail in the Pass-book, and the head of account shall be noted against each, so as to enable the Treasury Officer to bring the transactions in detail upon his books, and classify them correctly.

Note -It is necessary to show in the Pass-book the totals only of each chalan and payment order. Each chalan may contain any number of items provided they belong to the same head of account.

EXAMINATION BY JUDGE-IN-CHARGE

632. Examination of accounts by Judge-in-charge - The Judge-in-charge shall examine the accounts by comparing (1) the guard file of chalans, Register of payment orders (amounts received and paid in Court) and the daily account of Forms sold, with the Cashier's General Cash book; (2) the Treasury Pass-book, with above; and (3) the balance shown in the Peremptory Cash-book with those shown in the General Cash-book.

DAILY REMITTANCE

633. Daily remittance of excess peremptory cash -The balance of the cashier's account in respect of diet money and other peremptory receipts should be observed everyday in passing the General Cash-book. To prevent excessive accumulations under this head, the Judge-in-charge shall fix the amount which the balance in the hands of cashier shall not be permitted to exceed. He shall for this purpose regularly transfer to deposits in lump sum amount as would keep down the balance within the limit prescribed. Amounts in Court, and shall be entered in the Cashier's General Cash-book, both on the credit and debit sides. Should the money be subsequently required, it shall be withdrawn from deposits in the manner described before and credited in the Peremptory Cash-Book. If such sums remain in deposit for three years they must -

be carried to the credit of Government under Rule 670 relating lapsed deposits.

Note - Chalang for such deposits should be kept in the guard files. A list of the deposits giving their dates, numbers and amount should be maintained on the front page of the peremptory cash-book. When a particular item lapses or is withdrawn it should be scored through a note being made on the corresponding chalan. Withdrawals shall as far as possible be made against earliest deposits which have not lapsed. The chalang in a guard file shall be destroyed on the expiry of four years from the date of the last deposit shown therein.

634. Duty of Judge-in-charge while passing the Cash-book - (a)

Having initialled the accounts of the day and signed the Cash-books the Judge-in charge shall send the Pass-Book to the Treasury together with the net amount in cash and all the chalang and payment orders. This remittance must be entered in the Cash-Book as a payment of the day upon which it is made.

(b) It is important that this be done before the business of the new day commences, and the cashier should have in hand, after each such remittance only the balance of the peremptory cash transactions and the other balances referred to in Rule 613.

Note -The total of chalang of the day for money received in cash by the Court, minus the total of payment orders cashed at the Court, will represent the balance of cash to be remitted to the Treasury. The amount so remitted will be noted on the back of the last chalan which otherwise would be required by the Treasury Officer.

COURTS NOT NEAR TREASURIES

635. Balancing the accounts and verification by the Judge-in-charge at out-stations - At out-stations, the Cash-book shall be balanced as prescribed above; and the balances, both that of the receipts and payments under heads (a) to (g) and that of peremptory transactions, shall be carried forward to the next day's account. The accounts shall be balanced, compared, and signed everyday in the manner prescribed in Rule 632, save that, instead of comparing the Treasury Pass-book with the accounts, the Judge-in-charge shall see that the Court balances be brought forward and at least once a week, ascertain that the money is actually in possession of the Cashier.

PERIODICAL REMITTANCES

636. Periodical remittances - On the last day of the month and from time to time as occasion arises the Treasury Pass-book shall be made up, showing all receipts and payments at the Court since the last remittances to the Treasury or to a Branch Bank [*vide* Note to Rule 638]. Its accuracy having been tested it shall be forwarded to the Treasury with all chalang and payments orders. Where the receipts have exceeded the payments, the cash excess shall be sent to the Treasury unless such excess does not amount to Rs. 25 in which case-

it may be remitted in the following month; a special report of the circumstances being sent to the Collector. The Cashier will have, after the completion of the transaction in addition to the balance of peremptory cash transactions, only the peremptory advance allowed to the Court for carrying on its payments at a distance from the Treasury.

Note - Under no circumstances shall balance of cash in hand be allowed to exceed Rs. 1,000/-.

ADJUSTMENT WITH TREASURY

637. Last day for remittance in each month - The last day for remittance in each month must be so fixed that the final payment or receipt of money at the Treasury may just come within the month's accounts at the Treasury or Sub-treasury [See Rule 650], as otherwise the monthly accounts of the Judge-in-charge and those of the Treasury will not agree. Any transactions at the Court after the remittance is made, although shown under their proper dates, should be treated as if they belonged to the ensuing month's accounts, Registers and returns.

RULES REGARDING REMITTANCES

638. Duty of Judge-in-charge - It is the duty of the Judge-in-charge to see that money remitted from his Court actually reaches the Treasury, and is acknowledged by the Treasury Officer in the Passbook.

Note - Where the Court remits to a Branch Bank direct, the Agent of the Branch Bank should acknowledge the receipt of the remittance in the Pass-book.

639. Observance of rules as to sending escort with money - In making such remittances the Police rules as to sending an escort with the money must be duly observed.

Note - In the case of [Civil Judge (Jr. Division)] which are at the headquarters of districts or sub-divisions the Civil Court peons should be employed to take charge of remittances of the local Treasury. In the case of [Civil Judge (Jr.Division)] situated in the interior of districts and Sub-divisions, remittances should be made under police custody. During the absence of the Sub-divisional Officer, remittances to the District Treasury [vide Rule 640,] should also be made under Police custody.

640. Rules for remittance during the closure of treasuries consequence upon absence of Sub-divisional Officers - During the absence on tour of Sub-divisional Officers, and the consequent closing of their Treasuries, [Civil Judge, (Jr. Division)] must be guided by the preceding rule applicable to officers at stations where there are no Treasuries and make remittances of surplus cash, if necessary, to the District Treasury. They will take advantage of the periodical return of Sub-divisional Officers to headquarters to reduce the cash balances in their hands as much as possible due regard being had to their probable requirements.

TREASURY ADVICE LIST

641. Forwarding advice lists with orders - At the close of the business each day, the Treasury Officer, whether Sadar or Sub-divisional; shall prepare Advice Lists, in Form No. (A) 9, of all such chalans and Payment Orders of each Judge-in-charge as have been brought upon the Treasury accounts in the course of the day, and shall forward them to such Judge-in-charge respectively, together with the chalans referred to in Clause (b) of Rule 607. In these lists shall be entered in detail such chalans and payment orders as have been received or paid at the Treasury or Sub-Treasury in cash, while those brought into the Treasury account from the Pass-Book shall be included in a single total on each side with the description "as per your pass-book dated....."

642. Advice list for the District Judge - The list prepared at the Sadar Treasury for the District Judge shall include, besides the moneys received and paid on account of the Judge's own Court, those transactions also which belong to his subordinate Courts. These amounts, however, need not be entered in details, but may be included in a single total of receipts and of payments for each Court including Passbook transaction brought into account.

COMPARISON BY JUDGE

643. Comparison on receipt of advice list - On receipt of this Advice list, the Judge-in-charge shall cause the particular of the chalans the payment orders, shown in it to be compared with the office copies of the chalans and with the details recorded in his Register of Payment Orders and shall further cause the date of actual credit and payment, as certified by the Treasury Officer to be entered in the office copy of the chalan and Register of Payment Orders.

Note 1 - The Judge-in-charge must satisfy himself that sums withdrawn from deposit have been credited in the peremptory Cash-Book (as required by Rule 633 or in the General Cash-Book, as the case may be, before he puts initials against the particular entries in Column 9 of the Register of Payment Orders.

Note 2 -The Judge-in-charge, Accounts should personally verify the Peremptory Cash-book and the General Cash-book and note down the number of the pages and the volume of the said Registers in which the amount withdrawn in payment order has been entered by the cashier. With regard to the Court Fee stamps purchased in connection with the grant of succession certificates, etc., he should verify the Register of Petitions and Court Fees wherein the value of the Court Fees and the number of the suit or case in which they were filed or entered and make necessary entry in Column 9 of the Register.

644. Initial of Judge-in-charge in entries - These entries must be initialled by the Judge-in-charge when he checks the posting in the Deposit Registers as prescribed in Rule 646 below.

V. Deposit and repayment Registers

SEPARATION OF PETTY DEPOSITS

645. Registers of A and B deposits -Two Registers of Deposit Receipts, shall be kept in Form No. (A) 15 and two of Deposit Repayments in Form No. (A) 16. One of these shall be termed the Register of A deposits, and there shall be entered therein all deposits originally exceeding ¹[Rs. 25]. The other shall be termed the Register of B Deposits, and there shall be entered therein all deposits not originally exceeding ¹[Rs. 25]. Both Registers shall be kept in the same form and shall posted in the same manner, but with separate series of number [see next rule], distinguished by the initial letters A and B, respectively.

POSTING

646. Posting in the Deposit Register -As soon as the Treasury Advice List is received [Rule 641] the Deposit Register will be posted in the following manner for the date to which it refers. In the first place, all cash transactions in Court on that day shall be posted, the receipts from the office copies of the chalans and the payments from the Register of Payment Orders Transactions at the Treasury shall then be written up from the Advice List, chalans and the Register of Payment Orders.

Note -The date of granting the Payment Order should be entered in the repayment columns in the Register of Deposit Receipts, and the date of actual payment in Column 4 of the Registers of Deposits Repaid.

REGISTERS OF RECEIPTS

647. Numbering consecutive series annually all items of deposit in Registers - All items of deposit in these Registers must, directed above, be numbered in an annual consecutive series of numbers commencing on 1st April, and ending with the last day of March in each financial year. Only the first eight columns shall be filled in at first, the other columns being intended for the record of subsequent repayments.

NOTES OF CLAIMS

648. Communicating orders of attachment, transfers and substitution of parties to the Accountant and noting by him - In order to enable the Accountant to deal promptly with applications for payment of deposits, all attachment processes, transfer orders relating to decrees, orders for the substitution of parties and all other orders which affect the payment of decretal and other moneys in deposit, shall be noted by him in the Deposit Register with all changes in the names and addresses of the payees. The Sheristadar of each Court shall be responsible for communicating these orders to the accountant who shall sign on the order sheet of the case in acknowledgment.

Note - At stations away from headquarters the Sheristadar shall also be responsible for seeing that the entries are made in the Deposit Register.

1. Substituted by C.S. No. 27

REGISTERS OF RE-PAYMENTS

649. Posting in the Registers of Deposit Re-payments – The Registers of Deposit Repayment shall be posted from the Treasury Advice List and the Payment Order Registers, as directed above.

CLOSING FOR THE MONTH

650. Monthly closure of Register of deposit receipts and deposit repayments - (a) The Registers of Deposit Receipts and Deposit Re-payments in Courts at a Sadar station shall be totaled and closed on the last day of each month upon which the Sadar Treasury remains open, and in Sub-divisional stations on the day on which the accounts of the Sub-divisional Treasury are finally closed for the month, in such a way that the period and the transactions included in the Court's books and returns may correspond exactly with those included in the Treasury books and returns.

(b) Care must be taken to make the final remittance to the Treasury in such time that it may be entered in the accounts of the Treasury for the month to which it belongs.

(c) In each of the Registers of Deposit Receipts prescribed by Rule 645 a plus and minus memorandum must be drawn up at the end of the month's entries in the following form :

	Rs.	P.
Balance of deposits from last month	0	0
Received during the month, as per Register	0	0
Total		
Repayment , as per the Register	0	0
Balance of deposits at the end of the month	0	0

Control over Subordinate Courts

651. Report to the District Judge about all payments and deposits - Every Judge is responsible for all payments or deposits on his certificates or under his orders. In the case of receipts and payments of petty or B Deposits, no detailed check is exercised over his proceedings, the accounts which he is required to render of these showing total only. In the case of A Deposits, however, all sums received and not paid out during the month in which they have been received and the balance of such-of these deposits as have been partly paid out, must be included in that officers accounts and in his return to the Accountant-General.

Note - All returns will be signed by the District Judge.

DAILY RETURN OF SUBORDINATE COURTS

652. Submission of daily return by the Subordinate Courts -Everyday, after the Treasury advice has been received and other Registers have been written up and checked with it, two statements showing the transactions of the date to which it refers shall be prepared by the Judge-in-charge and forwarded to the District Judge. The first of these -

statements [Form No. (A) 10] shall show the total amount of the entries in the Deposit Registers and the totals of all other transactions brought on the Registers. The second shall be an extract from Part I of the Register of Deposits Repaid [Form No. (A) 16] giving the particulars of repayments on account of deposits received during previous months. At the foot of the first statement the Judge-in-charge shall certify that his Registers of B Deposits are written up to date and are in order.

Note 1- It will be observed that these returns are intended to exhibit actual receipts and payments and that they are, therefore, to be compiled from the Deposit Register and not from the Register of Payment Orders.

Note 2 - The Subordinate Courts referred to in Rules 651 and 652 are those which keep their own accounts and the accounts of other Courts as well [vide Rule 623].

653. Delay not to exceed receipt of Treasury Advice List – At out-stations some delay in submitting the daily returns is unavoidable but this delay should not exceed the time necessary for the Treasury Advice List to reach the Court. The date on which the returns are actually signed should be noted on them by the Judge-in-charge.

VERIFICATION BY JUDGE-IN-CHARGE

654. Verification while signing returns - At the time of signing the returns, the Judge-in-charge should have before him the Registers of Receipts and Payments of Deposits and the Treasury Advice List.

EXAMINATION BY DISTRICT JUDGE

655. Examination of returns by District Judge -The statements furnished by the Subordinate Courts, shall, when received in the District Judge's Office, be compared with the corresponding Advice List supplied to him by the Treasury Officers, under Rule 642. In the case of out-stations; the totals for the whole month supplied by the Judge-in-charge must agree with the totals for the whole month supplied by the Treasury Officer, if only attention has been paid to the rules regarding periodical remittances. In the course of the month of the former totals will ordinarily exceed the latter, and the difference must be taken to represent cash transactions advised by the Court, but not yet brought on the Treasury Books. In the case of Courts near Treasuries no such discrepancies should occur if the rules are properly observed. When any such discrepancies are noticed, immediate steps must be taken under the District Judge's order to reconcile them.

JUDGE'S REGISTER OF TOTALS

656. Posting in District Judge daily Register of deposit advice by subordinate Courts- After examination, the total of deposits received and paid shall be posted into a Register to be kept by the District Judge in Form No. (A) 19. This Register contains two sets of columns, one set relating to A Deposits and the other to B Deposits. Separate portions of the Register for the month must be allotted to each Subordinate -

Court, that is, for each Subordinate Court a number of pages, according to the probable work, must be assigned in the leaves devoted to that particular month. The entries in respect of each Subordinate Court will, thus come continuously and in order of date and they must be totalled at the end of the month.

657. Striking of daily balance - In the portion of the Register which relates to B Deposits, a column has been provided for a daily balance which must be struck by adding together the preceding day's balance and receipts and deducting the payments. The object of the daily balance is to afford the District Judge a ready means of controlling Subordinate Courts in the receipt and payment of small deposits as any excess of payments over receipts will be at once detected.

POSTING REPAYMENTS OF 'A' DEPOSITS

658. Posting of repayments in the Judge's daily Register of deposits received - (a) Taking up next the detailed Daily Register of Deposits Repaid [Form No. (A) 16], the repayments must be posted against the corresponding entries in the Judge's Daily Register of Deposits Received [Form No. (A) 15] and must be initialled by the District Judge in the same manner as repayments authorised by himself. They must also, at the same time, be copied into his Register of Deposit Repayments [Form No. (A) 16].

(b) As each payment is noted in the District Judge's Register the deposit number [Rule 662] against which the payment is charged must be noted in the Subordinate Court's return.

Note -In noting the repayments, care should be taken to see that the amounts, thus, reported as repaid are actually repayable, and that amount which should be credited to Government are not repaid to individual.

MONTHLY RETURN

659. Submission of monthly return by Subordinate Courts - (a) At the end of the month there shall be furnished by the Subordinate Court's to the District Judge a statement of all A Deposits received, but not wholly repaid during the month. This statement will be an extract from the Register of Deposit Receipts [Form No. (A) 15] omitting the items which have been wholly repaid during the same month. Of deposits received and partially repaid in the same month, the unpaid balance only is to be shown in this statement. The dates of despatch from the Subordinate Court and of receipt by the District Court shall be noted on this statement.

Explanation - An A Deposit the balance of which has been reduced below ¹[Rs. 25] by a payment made in the same month, is to be included among the A and not among the B Deposits.

1. Substituted by C.S. No. 28, Dt. 3.5.1995

(b) On the 31st March of each year the Subordinate Court shall, in addition, submit to the District Court a certificate that all uncashed orders to be cancelled under Rule 624 (c) have been marked off in their Registers.

660. Plus and minus memo - There shall be appended to the monthly statement of Deposit Receipts a plus and minus memorandum in Form No. (A) 11.

EXAMINATION BY DISTRICT JUDGE

661. Examination by District Judge - On receipt of the monthly statement and the plus and minus memorandum, the Register [Form No. (A) 19] shall be compared therewith. First, as regards A Deposits the total of the column headed "Repaid on account of current month" should agree with the amount shown in the plus and minus memorandum; and when this amount is deducted from the total of the column headed "The Total Amount Received" the balance ought to agree exactly with the total of the statement of outstanding A Deposits received from the Court to which the figures relate. Second, as regards B Deposits, the balance itself can be tested in detail only once a year when the yearly statement under Rule 667 is received; but every month difference between the opening and the closing balance should be equal to the difference between the receipts and payments reported in the plus and minus memorandum.

POSTING RECEIPTS OF 'A' DEPOSITS

662. Attaching subordinate Court's monthly statement of deposits in District Judge's Register of Deposit received - The Subordinate Court's monthly detailed statement of A Deposits received shall be attached by the District Judge in his own Register of Deposits received after he has closed the accounts of the Civil Courts at the Sadar station. The District Judge will also number the deposits in the Subordinate Court's return in continuation of his own series.

Note 1 - An endorsement of the fact of such comparison and the entries being in order should be recorded by the Judge-in-charge.

2. The District Judge should examine the receipts so as to see that no item has been improperly held in deposit; and if he finds amounts so held which should be credited to Government, he should direct the Sub-ordinate Court accordingly.

VII. Submission of plus and minus memorandum

663. Forwarding plus and minus memo, by the District Judge- (a) A plus and minus memorandum in the form prescribed by Rule 660, but including the figures of the subordinate Courts as well as of his own Court shall be prepared by the District Judge and forwarded to the Treasury Officer for transmission after comparison with his accounts, to the Accountant-General.

(b) This plus and minus memorandum is to show as repayments, the actual repayments at the Treasury, and is further to show the Treasury balance outstanding.

Note 1- It will be found convenient to keep in a separate Register a copy of this plus and minus memorandum, with further memoranda of the details from which the figures have been arrived at. It is important that there should be no difficulty at any time in reconciling the figures of the Court with that of the Treasury.

Note 2 - The repayments of all A Deposits for previous years other than current year, shall be reflected in the plus and minus memo, year-wise and in the plus and minus memo, for the month of April, the opening balance shall be shown with year-wise balances.

VIII. Annual clearance Register of deposits CLEARANCE REGISTER

664. Annual closure of Register of A Deposits and drawing up clearance Register - (a) At the end of each year the Register of A Deposits received in the next preceding year shall be closed by transcribing into the last column headed "Transferred to Clearance Register", every balance which exceeds ¹[Rs. 25]. An annual Clearance Register shall be drawn up in Form No. (A) 18 showing all these balances against their original numbers, showing in other words, all the unpaid balances of A Deposits of the preceding account year next but one. For example, the Clearance Register of April, 1973 will show will show air unpaid balances of A deposits received in 1971-72.

Note -The words "Clearance Register" wherever they occur in these rules, were substituted for the original words, "Account Particulars."

(b) Of balances which do not exceed ¹[Rs. 25] a separate list shall be made out under Rule 670 below.

665. Future repayments to be recorded only in the clearance Register - The items in this account having been carefully compared with the corresponding balances in the original Register of Deposits Received [Form No. (A) 15], the last named document shall be laid aside, and future repayments recorded only in the Clearance Register. Note 1- If against any of the items transferred to the Clearance Register a repayment order has been issued and cancelled under Rule 624 (c) a note to that effect must be made in the Clearance Register, so that, if application for repayment is again made, an order may not be issued without recalling the original cancelled one.

Note 2- The total repayments made out of the deposits during the year as well as the total amount lapsed to Government shall be indicated separately in order to arrive at the outstanding balance at the close of the year.

RETURN BY SUBORDINATE COURTS

666. Comparison of copy of clearance Register submitted by the Subordinate Courts -A copy of the Clearance Register be sent by the Subordinate Courts to District Judge, and by him carefully compared with the entries in his Register of receipts. Any discrepancy found must be investigated and corrected. The Clearance Register of the District Judge necessarily includes the items in several Clearance Registers of the Subordinate Courts.

VERIFICATION OF PETTY DEPOSIT BALANCE

667. Balance of past year's B Deposits - In order to verify the balance of B Deposits, each Court shall make a list of the unpaid balances of receipts of the past twelve months, and by actual summation of these balances, find the total amount outstanding on account of the past year's deposits. Each Court is required to submit, along with the Clearance Register of A Deposits, a certificate that the balance of B Deposits of the past year has been found by actual summation to be Rs.....

668. Verification of balances-The balance found under the last Rule together with the total of the list prepared under Rule 670 (2) must equal the total balance of petty deposits on March 31st and must be so verified:

- (1) by each Court with the forward balance in the plus and minus memorandum;
- (2) by the District Judge with the balances of the subordinate Courts brought forward in the Register No. (A) 19.

669. Certificate of the District Judge - The District Judge, having verified the balance certificates of the subordinate Courts, shall endorse each with the certificate "Examined and found correct" and shall certify the fact of having done so upon the statements of lapsed deposits sent to the Accountant-General under Rule 671.

IX. Lapse of deposits

670. Writing off lapsed deposits - On the 31 st March of each year, the following unpaid balances of deposits lapse to Government, and are to be written off in the Clearance Register and Registers of Receipts respectively:

- (1) Of A Deposits, first, all balances which do not exceed ¹[Rs. 25] in respect of deposits made during the last three years including the year then closing; secondly, all balances of deposits outstanding over three complete years, that is, all balances in the Clearance Register prepared two years, before.

These balances should be marked "lapsed" in the last column of the Register of Receipts or the Clearance Register, as the case may be.

- (2) Of B Deposits, first, all deposits outstanding over one complete year; secondly, all balances of deposits which are remaining after part payment during the year.

These balances are to be marked 'lapsed' in the last column of the Registers of Receipts.

Example - The balances which lapse on the 31 st March, 1971, are –

- (a) All balances of the A Deposits received in 1967-68.

1.Substituted by C.S.No. 30, (IX-8-A/92, Dt. 3.5.1995).

- (b) All balances of A Deposits received in 1968-69, 1969-70 and 1970-71, which do not exceed ¹[Rs. 25] after repayments made during 1970-71;
- (c) All outstanding B Deposits received in 1969-70;
- (d) All balances of B Deposits received in 1970-71, which have been partly repaid in 1970-71.

STATEMENT OF LAPSED DEPOSITS

671. (a) Four statements of the balances to be written off shall be prepared in Form No. (A) 12, one for each of the four classes (a), (b), (c) and (d) specified in the example under Rule 670. These statements shall be submitted by the Subordinate Courts along with the Clearance Registers. Those of the Subordinate Courts must be compared by the District Judge with his own Registers, and discrepancies, if found, must be reconciled. Those of the District Judge must include, under the District Judge's numbers, the lapsed balances of A Deposits of the Subordinate Courts.

(b) As regards B Deposits, the statements received from the Subordinate Courts must be copied into the District Judge's statement with a separate total for each Court, the originals being filed for future reference.

Note -The note under Rule 665 applies to these Statements of Lapsed Deposits also.

CORRECTION OF BALANCE

672. Time for submission of statements - These statements must all be submitted during April, and the totals thereof must be deducted by a separate entry from the plus and minus memorandum, drawn up at the end of April, so that the plus and minus memorandum may show only the balance actually outstanding upon the Registers of the Court concerned.

REFUND OF LAPSED DEPOSITS

673. Procedure for refund of lapsed deposits - When payments of a deposit lapsed under Rule 670 is required by a person entitled thereto, an application in Form No. (A) 3 shall be made through the Presiding Officer who shall examine the claim and, if he finds it correct, shall forward the application to the District Judge, who, if satisfied that the inquiry has been adequate, shall forward an application in Form No. (A) 4 to the Accountant-General. The Presiding Officer should in cases of doubt, ordinarily insist on the personal attendance of the applicant and should require him to affix to the order-sheet in his presence his signature or thumb impression. He should also require the attendance of the Pleader through whom the application has been made. The Presiding Officer may, in his discretion require the applicant to swear an affidavit,

1. Substituted by C.S. No. 30, (IX-8-A/92, Dt. 3.5.1995

to adduce oral or documentary evidence of his identity, and as a guarantee of his good faith, to furnish security. If as a result of his enquiry the Presiding Officer, other than the District Judge, is not satisfied of the identity of the applicant he should forward the application with the record of his inquiry and report to the district Judge. If the District Judge is satisfied of the identity of the applicant he should forward the application. If he is not satisfied and considers that the identity cannot be established without a local inquiry he may refer the matter to the Collector or to the Sub-divisional Officer in the case of outlying Civil Judge (Jr. Divn.). The Collector or the Sub-divisional Officer, as the case may be., shall cause a local inquiry to be made and submit a report to the District Judge. Several deposit numbers may be included in a single application, if they are payable to the same person. The Accountant-General's letter of authority, when received shall be noted against the item in the Clearance Register (or Original Register in case of deposits not transferred to the Clearance Register) so as to prevent a second application. This fetter shall then be passed for payment at the Treasury, as prescribed in the form. No other record of these refunds is necessary and such payments are not to be shown in the plus and minus memorandum.

Note 1- As soon as the application in Form No. (A) 4 is forwarded to the Accountant-General the application in Form No. (A) 3 relating to it shall be cancelled by an endorsement (application made to the Accountant-General for refund across Part II of the form for which a rubber stamp may be used) and the endorsement shall be signed by the Judge-in-charge.

Note 2 -A record of the steps taken by the Presiding Officer to satisfy himself of the correctness of the claim should be kept on an order-sheet. Every application should be treated as a miscellaneous case and the order sheet and the connected papers should be preserved for a period of 12 years; provided that the records of the non-judicial miscellaneous cases dismissed for non-prosecution shall be preserved for one year only. Whenever the District Judge considers it necessary to call on the applicant to give his signature or thumb impression it should be taken on the order-sheet.

674.¹[When the letter of authority is received from the Accountant-General, it will be entered in the Register (A) 25-B to be maintained by the Accountant. A notice may be sent to the claimant for receiving the letter of authority. When the claimant appears, his signature will be obtained in the appropriate space provided in the form and the Judge-in-charge shall attest his signature. If the application has been made through any lawyer his signature should be obtained and attested by the Judge-in-charge in the same manner. The original letter of authority along with the payment order shall be made over to the claimant for encashment in the Treasury. A copy of the letter of authority received from the Accountant-General sanctioning the refund shall also be sent independently to the Treasury Officer concerned for verification before -

1. Substituted by C.S. No. 9, (IX – 3/84 , Dt. 17.2.1987)

payment of the amount is received by the claimant on the order. The signature of the claimant receiving the original letter of authority should be obtained in the remarks column of the Register (A) 25-B. A voucher slip may, as is attached to the ordinary bills, be attached to refund order to enable the Treasury Officer to communicate the T.V.No. and the date of encashment of the same to the Judge-in-charge in due course. After receipt of the T.V.Nos. an intimation may be sent to the Accountant-General of the encashment of the refund order. If the letter of authority received from the Accountant-General is not claimed by the payee within 12 months from the date of service of notice on him, the letter shall be returned to the Accountant-General.]

X. Supplementary rules as to receipts under

heads (b) to (g) of Rule 595

FINES

675. Payment of fine into Civil Court - When a fine is paid into a Civil Court the receipt shall be dealt with under the next following rule.

REGISTERS

676. Every Judge-in-charge shall maintain a Register of Miscellaneous Receipts including Judicial Fines and Stamp Duty and penalties in Form No. (A) 20. In the Register of all receipts are to be posted which do not come under head (a) (Deposits) or head (h) (Peremptory Receipts) of Rule 595. The entries shall be made and checked in the same way as the entries in the Register of Deposit Receipts of the subordinate Courts. The amount of petty receipts under Rule 595 (f) and (g) are to be shown only in a single total for each day.

CREDITS TO GOVERNMENT

677. Credit of sums forfeited, intestate property unclaimed, to Government - It is the duty of every Judge to see that sums which are in deposit, but which under any rule or law are forfeited, or become the property of Government (*e.g.*, earnest money forfeited, or intestate property unclaimed), are duly credited to Government. In every such case there shall be prepared simultaneously (1) a payment order addressed to the cashier and directing payment of the deposit "by the transfer as per Chalan No..... of this date" and (2) a chalan crediting it to the proper head. Such payment order and chalan be Registered and dealt with in every way as if cash were paid out of and received into Court.

678. Register of intestates' property - With regard . unclaimed property of intestates' of others, it will be sent from the form that Register No. (A) 20 deals with receipts under this head which have remained in deposit for the prescribed period. A Register showing the property in detail must be kept in Civil Courts in Form No. (A) 24.

Note 1 -Any cash and valuables belonging to an intestate estate which may be received in Court, from whatever source derived, must be remitted to the Treasury at once and no such cash or valuables must be allowed to remain in the hands of the Nazir.

Note 2 -On the receipt of the unclaimed property of persons dying intestate the Nazir must make the requisite entries in the Register in Form No. (A) 24, and these entries must be compared with the Police Chalan by the Sheristadar and the Accountant. If cash forms part of the property or if part of the property being perishable, is sold before the expiry of the year prescribed by law, such cash or sale-proceeds must, after entry in Register just mentioned be put in deposit till the time arrives for paying them over the claimants or crediting them to Governments.

Note 3 -The Judges should pay the expenses of conveying intestate property to the Sadar station from his permanent advance and charge the same in his contingent Bill, subject to re-imbusement from the eventual proceeds of the sale of the property, or in case where a claim to heirship is established, either by payment by the heir before the property is delivered to him, or by the sale of such portion of the property as may cover the expenses.

679. Inclusion of receipts falling outside the principal heads receipts - Under head (e) other general fees, fines and forfeitures of Rule 595 shall be comprised all receipts not falling within any of the other principal heads of receipts *e.g.* forfeiture of earnest money, etc.

680. Crediting the receipts to Treasury in favour of Government - Receipts under the head of account mentioned in Rule 679 are at once credited at the Treasury to Government. They are not to be retained intermediately in deposit either at the Court or at the Treasury.

MONTHLY RETURNS

681. Forwarding monthly returns - At the close of the month every Judge-in-charge shall prepare lists in Form No. (A) 20 of the miscellaneous receipts, etc., paid by him into the Treasury. Subordinate Courts shall forward their lists in duplicate to the District Judge, and the District Judge shall add the totals of these lists at the foot of his own list, and, append one of the copies received by him from each subordinate Court, shall forward the whole to the Accountant-General for check against the Treasury Accounts.

VERIFICATION OF THE STOCK OF SALEABLE FORMS

682. Half-yearly verification of stock of saleable forms -The stock of saleable forms in all Civil Courts subordinate to the High Court will remain with the cashier. The cashier will sell such forms and keep an account in the form given below. The stock shall be verified half-yearly, issues shown in the Register being checked from the entries in Column 13 of the Register of Miscellaneous Receipts [Form No. (A) 20]. A certificate in the form given below duly signed by the Judge-in-charge shall be submitted by Subordinate Courts to the District Judge at the close of each half-year, and those returns, when received, should be forwarded by the District Judge, together with the return of his own Court to the Director, Printing, Stationery and Publication, Orissa, Cuttack.

CERTIFICATE

Certified that the stock of saleable forms shown in the above return to be in hand on thehas been duly verified and found correct.

Cashier

The 20...../20..... Judge in Charge

Note- The chalan by which the sale – proceeds of forms were paid into Treasury shall be kept in a guard file and these chalans shall be destroyed on the expiry of 3 years.

Accounts of saleable forms

(With sample entries)

Date	Application for copy	Application for information	Prinice	Number and date of chalan by which paid into treasury	Initials of the Judge-in-charge	Remarks	Date	Application for copy
1	2	3	4	5	6	7	8	9
Stock	500	300	....	....	In red	Rs.P.		
Sold on 6 th May, 1973	400	250	.....	.....	ink 6.78	256, dated the 7 th May, 1973		Sd/A.B. Cashier
Sold on 7 th May, 1973	....	8	.....	....	0.12	302, dated the 10 th May, 1973		....
Balance on 30 th May 1973	100	42	.....	.....	.....		.....	.....
Received	400	200 500	.... 242	.... .....	..... .....	

Note – The balance should be struck at the close of the month

Sd/A.B.

Cashier

XI. Miscellaneous

ACCOUNTANT AND CASHIER

683. Accountant and Cashier be distinct officers - In carrying out these rules care must be taken by all Judicial Officers that, in respect of cash transactions in Court, distinct officers are employed as Accountant and Cashier. In other words, the same officer shall not keep the office copies of Chalans and Register of Payment Orders, Deposits Register, etc., and also receive and pay the money. The Deposit Register and Clearance Register and connected papers shall be kept by the Accountant under lock and key, he being solely responsible for them.

Note -In place of the Nazir, a Naib Nazir or a clerk may be appointed as Cashier, provided (i) that he is expressly so designated, (ii) that his duties and responsibilities are made clear, and (iii) that he gives the necessary security. Such appointments should be made in cases where the Nazir owing to the pressure of other work, is unable to discharge the duties of Cashier in strict accordance with the instructions contained in the Court's General letter No. 1 of 29th January 1902, but this will not relieve the Nazir of his responsibility for the correctness of the cashier's books.

LANGUAGE OF ACCOUNTS AND SUPERVISION BY SHERISTADAR

684. Every Judicial Officer shall, keep his accounts in English; and it must be distinctly recorded by him in the order book of the Court whether Sheristadar is not responsible for a general control and supervision over the Accountant.

Note -The Sheristadar of the Court of each Judge-in-charge of accounts (at headquarters stations the Sheristadar of the District Judge's Office) should be required periodically to inspect carefully the Nazir's accounts books. The discovery of any defects or a branch of the High Court's Account Rules or of the Instructions given in Rule 685 and in the note to Forms Nos. (A) 21 to (A) 22, should be promptly brought to the notice of the Judge-in-charge. In case of Courts in the interior of the District the fact should without delay, be brought to the notice of the District Judge.

FORMS

685. Prohibition of manuscript forms - Manuscript forms are prohibited. All account books should be paged before they are brought into use.

DAILY EXAMINATION OF ACCOUNTS

686. Daily examination of accounts - The accounts and Registers, of which a list is given in Appendices I and II, annexed to these rules, must be compared daily by the Judge-in-charge; and this rule is on no account to be neglected, as its observance is essential to the integrity of the transactions and the correctness of the books. The notes at foot of the forms indicate how the verification is to be made, though they must not be taken as exhaustive, and the Judge-in-charge is expected to use his discretion with regard to the amount of cross checking which -

may be rendered necessary by the fact that owing to delay in encashment of payment orders or other cause corresponding entries in the Registers may appear under different dates.

APPENDIX - I

LIST OF REGISTERS TO BE COMPARED DAILY

by Judge- in –charge

For All Judicial Officers	Kept by the Accountant	1. Register of Payment Order Forms No .	(A)	13
		2. Treasury Pass- Book “ “	(A)	14
		3. Register of Deposits Part I received Part II “	(A)	15
		4. Register of Deposits Part I repaid. Part II” “	(A)	16
		5. Clearance Register of A Deposit “ “	(A)	18
		6. Register of Miscellaneous Receipts and Repayments “	(A)	20
	Kept in by Cashier	1. Counterfoils of Receipts granted by Cashier for peremptory Cash receipts “ “	(A)	21
		2. Peremptory Cash – book “ “	(A)	22
		3. General Cash – book “ “	(A)	23
		4. Account of Saleable Forms		
For District Judges	Kept by the	Accountant – Register showing Deposits received and repaid by Subordinate Courts “ “	(A)	19
		Cashier – Register of intestate Property	(A)	24

APPENDIX - II**Judge's daily examination of accounts (1)
Transactions at Court**

Comparison of Cashier's General Cash-book with Chalans and payment orders and with Registers of payment orders. Comparison of Treasury Pass-Book with Cash-book

(2) Transactions at Treasury

Comparison of Treasury Advice with chalans, and Registers of Payment Orders of Deposit Receipts and of Miscellaneous Receipts. Comparison of Treasury Advice with Treasury Pass-book.

(3) Transactions at Subordinate Courts

By Subordinate Courts - Comparison of the Daily Statement with the Registers.

By District Judge - Comparison of Treasury Advice with Subordinate Courts.

Comparison of Statement with posting therefrom in the Register Form No. (A) 19 and Registers of Receipts and Payments of Deposits.

JUDGE'S MONTHLY EXAMINATION OF ACCOUNTS

1. The proper closing and totalling of all Registers.
2. Comparison of out-going statements with office Registers.
3. Comparison of plus and minus memorandum with totals of Registers.
4. Ascertainment and verification of outstandign payment orders.

By District Judges- Comparison of Subordinate Court's Return with Register, Form No. (A) 19.

APPENDIX-III**List of Returns****From the Subordinate Courts to the District Judge**

Statement of total Receipts and Payment on account of deposits and other transactions.....Daily

Extract Register of Repayment of A Deposits received in previous monthsDo.

Statement of A Deposits Received, but not repaid during the month, with *plus and minus* memorandum enfacedMonthly

Statement of Receipts under heads (b) to (g) of Rule 595...Do Clearance Register of A Deposits.,.....Annually

Certificate of the examination of B Deposits.....Annually

Statements of lapsed Deposits..... DO.

From the District Judge through Treasury Officer

Plus and minus memorandummonthly

Statements of Receipts of his Court, and of the Courts subordinate to him under heads (b) to (h) of Rule 595.....Do.

From the District Judge to the Accountant-General Direct-

Statement of lapsed Deposits of his Courts, and of the Courts subordinate to him, with certificate of the examination of B Deposits enforcedAnnually

APPENDIX - IV

**The Orissa Professional Typist for the Civil and Criminal Courts
(Registration) Rules, 1981**

*[Vide Rules on the subject in the General Rules (Criminal)
Volume I]*