

**Civil Court Rules**  
**of the**  
**High Court of Jharkhand**

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# CIVIL COURT RULES OF THE HIGH COURT OF JHARKHAND

## PRELIMINARY

[1. These General Rules are in supersession of all such General Rules which are contrary to these Rules.

2. Nothing in the Civil Court Rules will interfere with the general powers of supervision of the Principal District Judge over the Courts and officers subordinate to him.]

1. All Courts shall ordinarily sit at 10.30 A.M. and rise at 4.30 P.M., standard time. It is expected that the Judges will so arrange the business of their Courts as to supply work for these hours.

**Note 1.**-Between 1st April and 30th June, the exact date being settled in consultation with the Heads of Offices in the station, the Courts may commence their sittings at **7.00 A.M.**; or as soon thereafter as convenient. When this arrangement is in force the Court expect that Judicial Officers will sit for at least five hours each day. However, if the local weather conditions so necessitate or for any other sufficient reason or cause the subordinate Courts may sit in the morning at any time of the year with the prior approval of the High Court.

**Note 2.**-Judges are at liberty to rise for half an hour or less at about 1.30 P.M. (or at about **9.00 A.M.** in the case of morning sittings).

**Note-3** **In case of demise of judicial officer or any practicing advocate or staff of the civil court of the judgship, business of the court work will remain suspended after 4.00 P.M and after 11.30 A.M. during morning Court.**

2. Every Civil Court shall maintain a Diary in the prescribed form. Each case fixed 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 at the 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 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.

**Note 1.**-The above instructions are intended for strict observance, and the hours of the sitting and the rising of the Court must be regularly and carefully entered. In the case of any unusually short sitting on any day, a short note explaining the reason shall be given in the diary.

**Note 2.**-When an officer has to perform Criminal duty in addition to his work as a Civil Judicial Officer, he will, when at headquarters, note in the diary whether the day has been spent wholly or partly in the performance of such duty., The whole of the days spent by him on tour will be credited, to Criminal duty alone.

**Note-3** **Entry of the Diary (Supra) shall also be uploaded in the Computer of respective courts, as well as in the server of the respective District.**

3. A daily cause list of cases shall be posted in some conspicuous place in every Court-house for the information of the parties and their Advocates and it shall also be made available on line on the website of the court. The cases should, as far as possible, be arranged in the order in which they are likely to be taken up. Execution and Miscellaneous case may be shown either in the same list or in a separate list. The list shall be prepared and posted on the preceding working day at 4.30 P.M., or in the case of morning sittings before 11 A.M. In the list the cases will be sufficiently described by their number, year and class.

- Note-Judgments ready for delivery should ordinarily be notified in the cause list for the day.

4. At the close of each day a list shall be prepared and posted up in the Court-house showing all cases for the hearing or adjourned hearing of which dates have been fixed during the day, and dates so fixed.

**“The Cause List shall be prepared in five copies through Computer**

**(i) One Cause List to be send to the Bar Association**

**(ii) Second shall be pasted in the ‘Cause List Cage’**

(iii) After filling the adjourned date, the third and fourth cause list shall be kept for the use on the next day after filling of adjourned date. Thereafter the third list shall be pasted in the “cause list cage” and Fourth shall be sent to the Bar Association.

(iv) Fifth copy shall be sent to the Court Manager.

**Note 1.**-The number of cases fixed for each day should be restricted to such number as, after making allowance for unavoidable postponements, the Court may reasonably expect to be in a position to deal with.

**Note 2.**-Lists shall be prepared in the language of the Court and shall remain posted for seven working days 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 daily list referred to in Rule 3 Will be used at the end of the day as the list referred to in Rule 4.

**Note 4.**-The list shall be signed by the Presiding Judge and exhibited before he leaves the Court

**Note (5) The entry of the cause list in the computer shall be saved till the period prescribed for preservation of cause list i.e. for three months.**

**Note (6) There shall be an advance cause list for the next date and the cause list so prepared shall be uploaded to local server forth with for the purpose of uploading the same in the website of the district court.**

5. Without the consent of the parties and in the absence of urgent necessity no Civil Trial should proceed on Sundays or gazetted holidays.

6. **The court language in state of Jharkhand shall be “Hindi” to be Written in “Devanagri” character or in “English”.**

7. With the permission of the Presiding Judge any Advocate may address the Court in English when any of the Advocates on the opposite side is acquainted with that language or whenever the senior of such pleaders or his client consents to this being done.

8. Plaints may be presented **“(In duplicate)”** after complying with the relevant rule contained in Order VI of the Civil Procedure Code and by time during the Court hours before the Centralized Computer Filing Counter to facilitate immediate registration of cases, stamp reporting, calculation of court fees and removal of defects, if any. The ministerial staff available on the

centralized filing counter under Saristedar at this very stage, will ensure that all defects are removed.

9. Petitions, applications, etc., should always be taken in open Courts, and usually at the commencement of the daily sitting of the Court. 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 other papers is necessary before an order can be made, petitions should, unless they are of an exceptionally urgent nature, be brought up with such record or papers on the following open day and orders should then be passed in Court.

**Note 1-**The Principal District Judge shall fix for his Court and for all Courts sub-ordinate to him a time for the presentation of such applications, petitions, etc., as can be presented to the Presiding Officer only.

**Note-2** **Serial number of petition in the diary as well as in the court fee register shall be entered** on a daily basis.

10. No documents or proceeding required to be presented to or filed in Court, which is sent by post or Email, shall be received or filed in Court.

**11. Judge-In-Charge/ Registrar/ Court Manager at the District Head Quarter and ACJM or any other officer, so designated as in-charge at the Sub Divisions, shall function under the control and supervision of the Principal District Judge.**

12. 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. The Regular Seal is to be used for sealing judgments, decrees, writs, processes, sale-certificates, copies or other documents made or issued judicially.

The date seal shall be affixed to all documents and papers presented to Court in such a way as to show clearly the date on which they were presented. If any Court-fee 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 date seal shall also be put daily in a separate register called as “Date Seal Register” with initial (Signature) of P.O. or the In-Charge Court, as the Case may be.**

**Note-2** **The P.O. shall record the order relating to the custody of Regular Seal and the Date Seal to a responsible ministerial staff working under him in his “order book”**

**Note-3** **Work out and useless court seal when replaced by new ones, should be destroyed in the presence of P.O. and note of the fact of such destruction should be made in the "Order Book".**



**PART I**

**General Rules relating to Practice and Procedure**

**CHAPTER I**

**Pleadings, Petitions and Affidavits**

**13.** Parties should file pleadings, petitions, applications and affidavits in the language of the Court as far as practicable, or in English and typewritten/ **Computerized Print out** along-with its soft copy i.e. Compact Disc (CD) or DVD, if possible and if filed all the pleadings, petitions, applications should be scanned and saved as a PDF document.

**14.** Every pleading, petition, affidavit or application filed in Court as contemplated in rule 13 above shall be :

(1) As written on foolscap water-marked plain demi-paper or on A4 size computer / xerox paper, one side of the paper only being used and a 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 "copier" paper.

(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.

**Note** 1-This Rule shall apply as far as possible to *vakalatnamas*, , process-fee sheets and similar other papers

**15.** When the person presenting a pleading, affidavit, petition or application is not **“an Advocate”**, 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.

**16.** Every petition or pleading shall state concisely and clearly

(1) the facts, matters and circumstances upon which the applicant relies;

(2) the matter of complaint, if any, and the relief sought or prayer made.

**(3) Age, Category, Contact Number either of Mobile or Base Phone and E-mail Address, if available, of each Plaintiff shall be mentioned in the cause title of the pleadings. Similarly, the defendants shall also furnish their age, category, Contact Number either of Mobile or Base Phone and E-mail Address, if available, on their appearance in statement of addresses, filed along with written statement.**

**17.** Every interlineations, alteration or erasure in a petition or pleading shall be authenticated by the initials of the pleader, or recognized 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,

18. 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 of the Court-fee paid.

19. Applications in regard to distinct subject-matters shall be made in separate petitions

20. Petitions requiring verification shall be verified in the manner prescribed in Order VI, Rule 15, Civil Procedure Code

21. 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** for each set of parties whose interests are not joint. **Advocates** served with such copies shall give receipts on the original written statements, applications or lists and service through e mail to the Advocate concerned with printed proof of sending of e-mail shall be deemed to be a valid service where possible.

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

22. An order appointing an officer to receive plaints under Order IV, Rule 1 of the Code of Civil Procedure must be in writing.

23. 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.

**“Such entries, be also maintained in the computer under the Case information system at the filing counters itself .”**

24. 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.

25. A computerized / typed list of all the plaints filed each day shall be posted on the same day in the prescribed form (M-1) 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.

When a large number of rent suits is instituted at one time special arrangements shall be made so that the information may be supplied as quickly as possible, and previous notice shall be given to the Bar and the public of such modifications of the ordinary procedure as may be necessary on these occasions.

The list shall be affixed one above the other in the form of a guard file. They shall remain posted for one week. 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 Principal District Judge shall decide whether the list of memoranda of appeals shall be in the vernacular or in English.

26. All *Shirestadars* shall be *ex-officio* Commissioners of affidavits in respect of matters and causes arising within and subject to the jurisdiction of the respective Courts in which they are employed.

27. All *Nazirs* shall be Commissioners of affidavits when such affidavits relate to service of processes and sworn to by process servers under them.

28. Principal District Judges should be careful to satisfy themselves that persons, whom, in the exercise of the power vested in them under clause (c) of Section 139 of the Code of Civil Procedure, they propose to appoint to be Commissioners to administer oaths on affidavits, are trustworthy and capable of discharging that function with efficiency.

29. Every affidavit to be used in a Court of Justice shall be entitled "In the Court of.....  
.....at....." naming such Court.

30. 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.

31. If there be no cause in Court, the affidavit shall be entitled "In the matter of the of.....".
32. Every affidavit containing any statement of facts shall be divided into paragraphs, and every paragraphs shall be numbered consecutively and, as nearly as may be, shall be confined to a distinct portion of the subject.
33. Every person, other than a 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, identity mark of permanent nature, **age**, the name of his father, his profession or trade, photocopy of Aadhar card or Voter ID Card or PAN Card or any other document of identity and the place of his residence.
34. 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".
35. When the 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 verily 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 source, the deponent shall state what the source from which they were procured is, and his information, or belief, as to the truth of the facts disclosed in such documents.
36. Every person making an affidavit, if not personally known to the Commissioner, shall be identified to the Commissioner by some person known to him, and 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.
37. If any person making an affidavit shall be 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:
38. In administering oaths and affirmations to deponents, the Commissioner shall be guided by the provisions of the Indian Oaths Act, Act X of 1873. Christian deponents shall be sworn on the New Testament. The following forms are to be used:-

#### OATH

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

#### AFFIRMATION

I solemnly declare that this my declaration is true, that it conceals nothing and that no part of it is false.

39. In all suits and appeals, evidence should, **be recorded in accordance with the provisions as contained in order XVIII, rule 4 and 5 of the C.P.C.**” 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, Rule 1, 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; where any such orders have been given, they should be withdrawn.
40. 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 of his own knowledge and to refuse statements founded on mere belief.
41. In determining how the costs of affidavits should be borne by the parties to the suit, a 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 should

not form costs in the suit and be charged against the opposite party.

## CHAPTER II

### Processes and process-servers

#### I.-PROCESSES

##### A.-GENERAL

**42.** 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.

**43.** Processes should ordinarily be issued 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 certified to be correct.

**44.** Every person on whom a process is to be served or executed shall be described therein in such a manner to identify him clearly, 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, vide Order 41, Rule 38, Code of Civil Procedure.

**45. (1)** With every plaint and every application for the issue of process, parties shall file the necessary number of printed forms of the same duly filled up in bold, 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)** 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.

**(3)** When orders 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)** The Presiding Officer may, in his discretion, direct in any particular case that the forms of processes be entirely filled up in the office of the Court.

**(5) Summon with requisites and process fee with as many as Copies of plaint on plain paper as there are defendants, shall be filed by the plaintiff within seven days from the date of order of summon (Amended Order 7, Rule 9).**

**(6) Summon issued by the Court shall mention a clear date of 30 days for appearance and to submit the defence by the defendant from the date of services.**

**46.** 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.

**47.** A summon issued under Order V, Rule 21, shall ordinarily be sent to the Court of the Munsif (*Civil Judge (Junior 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 1**-Summons and notices issued by Superior Courts for service within the jurisdiction off outlying Munsifs [*Civil Judge (Junior Division)*] of the same district shall be forwarded to the Court of the Munsif [*Civil Judge (Junior Division)*] concerned and not ordinarily served by a peon from *Sadr*. This procedure is to be followed also in the case of notices received from the High Court.

**Note-2**      **Service report of notices issued from the Supreme Court of India shall be forwarded to the concerned High Court with required certificate by the Judge-In-Charge/Registrar, expeditiously for its onwards communication to the Supreme Court of India.**

**Note-3**      **Notice issued from High Court must return with service report endorsed by Registrar/Judge-In-Charge, relating to its execution.**

**Note-4**      **For every Summons and other Judicial Processes which are to be served on the parties to any civil proceeding, out side India, the regular channel is Ministry Of Law and Justice, Govt. of India, the nodal Ministry for mutual legal assistance in Civil Matters.**

[Letter No. 25012/84/2006 - Legal Cell, Govt of India Ministry of Home Affairs Dt. 25.05.06]

#### **B.-METHOD AND PROOF OF SERVICE**

**48. (1)** 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.

**(2)** Services may be affected within the jurisdiction of the Court by such Courier services also, which are approved by the court.

**(3)** In addition to the service through registered post, the other modes like Speed Post, Fax message or electronic mail service may be ordered to be made, at the expense of plaintiff (Parties) to the defendant residing outside the Jurisdiction of the Court.

**(4)** the panel of such courier service or the other mode as specified in the above Sub-Rule 3 shall be made and approved by the High Court.

**(5)** In addition to the service of summon as mentioned above the court on an application may permit the plaintiff to effect such service of summon on the defendants in accordance with the provisions of Order 5 Rule (9-A) (2).

**49.** 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 summon or notice should be proved and, in the case of a defendant or judgment-debtor his identity should also be proved.

**50.** 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 Section 85 (1), or by virtue of appointment for that purpose in writing. The party causing the service to be effected must, in both the last mentioned cases, furnish the necessary proof to this effect.

**51.** Where service is made under Order V, Rules 14, 15, 17 or 21 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.

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

**53.** 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.

**54.** 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, has at the time of service, the control or management of the partnership business.

**55.** If the summons or notice, when tendered, is declined by the defendant or his agent, or a male **or female adult** member of his family, besides the proof required as to identity, etc., as stated above, it should be proved that the party was informed that the document tendered was summons or notice, and that he was made acquainted with the nature and contents thereof.

**56.** The proof required under the preceding Rules 49, 51 and 55 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 the following

(a) that 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, *Chaukidar*, *Dafadar*, *Mukhia* or *Sarpanch* present thereat;

[(c) Proof referred to in Order “**Order V Rule 9**” 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;

[Provided further that in the case of service [upon any adult member of the family, whether male or female, residing with the defendant or respondent or Judgment-debtor or opposite party (as the case may be); the affidavit of the person, by whom service was effected, shall contain a statement that the adult members of the family receiving or taking the notice was residing with the defendant or the respondent or the judgment-debtor or the opposite party at the time of the service and that he was satisfied that the person upon whom service was effected was not a servant but a member of the family;]

Provided further, that in rent suits and execution cases arising therefrom and in case of Advocates appointed as guardians *ad-litem* Government Pleaders in suit against Government and Public Officers, service of summons or notice should be accepted as sufficient upon the peon's affidavit alone, if the peon certifies that he has served the summons or notice in the presence of two witnesses (name and addresses of the witnesses are to be given).

**57.** As there is no legal obligation upon a plaintiff, decree-holder or appellant to supply an identifier for service of process or notice, process-servers must not return unserved any notice, process or summons tendered 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 56 (2) (b) above, making for that purpose careful enquiries in the locality. The *Nazir* 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 of the Judge-in-charge of the department.

**58.** 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; this 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 relative 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 certified to be correct.

**Note- By similar means, the Summons shall be issued to be served on the person detained in prison, through the Officer-In-Charge of the prison.**

**The High Court of Jharkhand under the powers conferred in this section, makes the rule to effect service of summons and other processes by means of other modes as appended in Appendix IV of this Rule**

#### **C.-ADDITIONAL RULES RELATING TO THE SERVICE OF NOTICE OF APPEAL ISSUED BY HIGH COURT**

**59.** On receipt of the proceeding of the High Court transmitting notices 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-* The appellant or someone employed by him may accompany the serving officer for the purpose of pointing out the residence of the respondent.

**60.** The Lower Court shall issue all notices received for service immediately on receipt thereof.

**61.** 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 High Court with reasons in case of failure. This certificate may be endorsed on the process and 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.

**62.** 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 Rules 58, 59 and 60 above.

#### **D.-SUMMONS ON PERSONS IN CIVIL AND MILITARY EMPLOY OF GOVERNMENT, ETC.**

**63.** When a summons is issued on a 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 for the relief of the person summoned.

#### **E.-PRODUCTION OF PUBLIC DOCUMENTS AND RECORDS**

**64.** 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 documents 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.

**65.** Whenever any document or documents, which are required to be produced in a case are in the custody of the House of the People/Council of States/State Legislatures or whenever a witness whose presence is required in a case, for being examined, is an officer in the Secretariat of the House of the People/ Council of States/State Legislatures or any duly informed officer of the Secretariat of the House of the People/Council of States/State Legislatures a letter of request in Form No. (M) 8-A shall be issued instead of a summons in the ordinary form.]

**66.** A summons for the production of any of the records of a post office or a certified extract from or copy of any of such records shall be addressed to the Postmaster.

## II.-PROCESS-SERVERS AND NAZARAT

### A.-PROCESS-SERVING ESTABLISHMENT

**67.** There shall be a joint process-serving establishment for all Courts at the same station under the direct control of the *Nazir*, who will be responsible for proper service of processes made over to him for the purpose. The *Nazir* and all his staff shall also be subordinate to any such Court issuing a process, for the purpose of execution of that particular process and shall place themselves under the orders of the Presiding Officer in that regard. A register of process serving peons shall be maintained in the following form.

**68.** The Judge of every district shall ascertain after every five years the average number of original process issued from his own Court and from each of the Courts subordinate thereto during the immediately preceding 5 years and fix 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 process given in the following table

All Districts	Summonses and notices issued by all Courts and other processes issued by Civil Judge except in cases valued at over Rs. 2000	Process other than those mentioned in Column 2
1	2	3
All districts	500	250

Note 1 – For the purpose of this Rule all copies of a process 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 on separate visits or in different villages shall be reckoned as so many original processes as the number of different villages or separate visits to the same village.

Note 2 – Where a summons or notice is served by a peon at Sadr within the jurisdiction of an outlying Munsif [Civil Judge (Junior Division)] under the special order 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 case of warrants of arrest, etc., should be reckoned as service of 3 original processes.

Note 4 – Each day on which a peon is occupied in keeping custody of attached movable 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, should be reckoned



as service of 3 original processes of the class specified in column 2.

69. (a). The Principal District Judge may authorize 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 manner as may appear necessary.

(b)- **Assignment of job of Process Server amongst the peons** - The Principal District Judge shall order to post required number of process servers amongst the duly appointed peons

## B. ARRANGEMENT OF WORK

70. The *Nazir* shall maintain for the jurisdiction for which he is the proper officer for service of processes (1) a list of villages within '[eight kilometers] radius of his office, (2) a list of villages outside such [eight kilometers] radius.

71. Process for service at places within' [eight kilometers] radius shall be sent out every working day and should ordinarily be returned either next day or on the day following.

72. The *Nazir* shall divide the area outside '[eight kilometers] radius into beats and shall make the best arrangement possible for the prompt service of process of each beat.

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

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

75. The following processes may be executed by special peons  
 (1) Warrant of arrest.  
 (2) Warrant of attachment of movables.  
 (3) Any process respecting which there is such a direction by the Court.

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

76. Processes received in the office, must be made over to the *Nazir*, if possible, on the same day on which they are filed, and in no case later than two days after their receipt.

77. Processes made over to the *Nazir for* service must be returned to the issuing Court as soon as possible after return and at least one day before the date fixed.

78. When not employed in serving processes process-servers should be employed in miscellaneous work of the Courts.

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

79. The attendance and deputation of peons should be entered regularly by the *Nazir* in the register in Form No. (R) 13.

80. (i) Whenever a-process-server is entrusted with the service of a process under which he is authorized to receive money, he shall be given by the *Nazir* a loose form of cheque with counterfoil in Form No. (A)12C. The cheque made over to the peon shall be entered by the *Nazir* in the register of cheques in Form No. (R) 30A and the peon's signature shall be taken in column 7 of the register in token 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 or thumb impression of the payer 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 endeavour to obtain the signature of a literate witness on the back of the counterfoil. The *Nazir* on the return of the peon shall scrutinize 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) The cheque forms issued by the *Nazir* during each calendar year shall bear consecutive serial numbers for the year.

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

(iv) Cheque forms returned unused shall not be re-issued. Such forms shall be kept by the Nazir in yearly bundles and destroyed at the end of the year following.

### **CHAPTER III ADJOURNMENTS**

81. Sufficient time should be given to litigants to enable them to take the necessary steps towards getting their cases ready for hearing, but more than one adjournment for the same step ought not generally to be required and, if it is allowed, the question of compensating the other party by means of adjournment costs should be considered. Except 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 matters such as calling for records, service of interrogatories, issue of commissions, filling of lists of witnesses and payment of costs for issuing summonses.

82. **(i) The Court after recording the admission and denial and before the recording of evidence, shall direct the parties to the Suit/ Proceeding to opt either mode of settlement out side the Court and may refer the case to :-**

**(a) Arbitrator**

**(b) Conciliator**

**(c) Judicial settlement including settlement through Lok Adalat**

**(d) Mediator**

**(ii) In cases so referred to above, the Court shall give the certificate to the plaintiff authorizing him to receive back the full court fee paid from the Deputy Commissioner of the district.**

**(Amended Section 16 of the Court Fee Act, 1870)**

**(iii) If the matter is referred to the mediator so appointed by the parties, or from the panel of mediators, as approved by**

**Jharkhand High Court in terms of the Civil Procedure Mediation Rules, 2003 as contained in Part II of Jharkhand High Court Mediation Rules ; the procedure laid down in this rule shall be followed during mediation proceeding and the result thereof shall be submitted to the referral court which shall proceed further depending upon the nature of result as contained in Rule 25.**

Provided further that consequent to the failure of efforts of conciliation or other modes of settlement as provided in Section 89 and also under order 10 Rule 1(C) of the Code of Civil Procedure between the parties, the Court shall frame issues on the next day fixed in the case.

**83.** Dates for the hearing of cases ought not to be fixed at random or automatically as a matter off 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 judicial proceeding of whatever nature shall be postponed *sine die*.

**84.** It is of the utmost importance that frequent and unnecessary postponements and attendance of witnesses should be consistently discouraged, and a Principal District Judge should call for and scrutinise some of the records of the cases before any of his subordinates who appear, from their explanations regarding long pending cases or otherwise, to be wanting in firmness in the matter.

**85.** 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.

**86.** 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) [subject to the proviso to Rule 1(2) of Order XVII of the Code of Civil Procedure], proceed throughout the day on 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, in the case stated, 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 applies also to Small Cause Court and Miscellaneous cases.

**87.** In the absence of 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.

**88.** 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 recumbent to the other party of the cost 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 consider 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.

**Note 2.**-Where adjournment costs have been paid into Court, under head (h) of Account Rule 532, Part X, the fact of such payment should be noted on the order-sheet by the *Shirestadar*. 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.

## CHAPTER - IV

### Hearing of suits and examination of witnesses

**89.** Parties shall file in Court their lists of witnesses who are in attendance to give evidence on their behalf before 11.30 AM., or in the case of morning sittings before **"7.45 A.M."**

Where a party himself wishes to appear as a witness he shall so appear before any other witness on his behalf has been examined unless the Court, for reasons to be recorded, permits him to appear as his own witness at a later stage. The omission to file a *hazri* within the time fixed shall be no bar to witnesses for any party being examined if presented for examination, but nothing shall 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 1-This Rule in no way affects the obligation on the part of witnesses to attend punctually at the time for which they are summoned.

**90.** The following forms of oaths and affirmations are prescribed under Section 7, Act X of 1873.

#### FOR WITNESSES

##### *Oath*

I swear that the evidence which I shall give in this case shall be true, that I will conceal nothing, and that no- part of my evidence shall be false.

So help me God.

#### [ 17 Affirmation' .

I solemnly declare that the evidence which I shall give in this case shall be true, that I will conceal nothing, and that no part of my evidence shall be false.

#### FOR INTERPRETERS

##### *Oath*

I swear that I will well and truly interpret, translate, and explain all questions and answers, and all such matters as the Court may require me to interpret, translate, and explain.

So help me God.

**Affirmation**

I solemnly declare that I will well and truly interpret, translate, and explain all questions and answers, and all such matters as the Court may require me to interpret, translate or explain.

**91.** 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.

**92.** The evidence of each witness in appealable cases shall be read over in presence of the Judge and of the witness and the Judge shall if necessary, correct the same and shall sign it.

**93.** Every Presiding Judge shall in the examination of witnesses record in his own handwriting or when recording on a computer by himself or on his dictation by a steno typist and in each deposition the name of the person examined, the name of his or her father and, if a married woman, the name of her husband the nationality-religion, profession and age of the witness and the village, *thana* and district in which the witness resides and if the witness belongs to Scheduled caste or Scheduled tribe, a statement to that effect. The entry of age shall be the Presiding Judge's own estimate and in his own handwriting.

**94.** In every case, examination-in-Chief shall be on affidavit on deposition format and the copy of the same shall be supplied to the other side. Cross examination and re examination of such witness will be recorded either by the Court or it be entrusted to the Commissioner appointed by the court from the panel approved by the High Court or the Principal District Judge as the Case may be, the proof and admissibility of the document filed and relied upon by the parties along with the affidavit, shall be subject to the orders of the court.

**Note-1:-** Even if the examination-in-chief on affidavit has been filed, it shall be at the discretion of the Court to call upon the witness to depose on oath, stating the reason thereof in the order; and shall record the deposition in open Court. In such event the deposition so recorded shall be given weightage for the purpose of trial.

**Note-2:-** Except as provided under order 26 of Code of Civil Procedure for appointment and recording of evidence by Commissioner, no court will allow the recording of cross-examination or re-examination of a witness who is present in the court by the pleader commissioner.

where the recording of evidence is likely to take a long time or for any other special ground, the same shall be entrusted to the commissioner vide Rule-7 of Jharkhand High court Case Flow Management in Sub-Ordinate Court Rules, 2006.

Evidence through video conferencing may also be resorted to with recording of audio and visual clips forming part of the record.

**Note-3**                    **Relating to Electronic evidence**

**If any evidence is filed in form of electronic evidence which includes computer evidence, digital audio, digital video, cell phones or digital fax machines, the expert opinion with regard to the**

same will be given by the examiner, as specified by the Central Government by notification in official gazette as mentioned in section 79-A of the Information Technology Act 2000 (Amended Act -2009).

Implication of amended provisions of Indian Evidence Act in sections 3(a) (b), 17, 22, 34, 35, 39, 47, 59, 65, 67, 73, 81, shall be given effect to.

**Note-4**

Mode of marking the electronic evidence as mentioned in above Note-3.

The following mode may be prescribed for marking the e –evidence –

- (i) Computer evidence – If the computer itself is produced, the same may be marked as material exhibits and its print out may be marked as ‘e’ - series
- (ii) Digital audio - As ‘e’-digital audio series
- (iii) Digital Video - As ‘e’-digital video series
- (iv) Cell phone - As ‘e’-cell phone series
- (v) Digital fax machine – As ‘e’-digital fax machine Series

**95. Adjournment on the ground of preferring Appeal/Revision before High Court against any order passed in pending Suit/Proceeding in the District Courts :-**

Upon information to the Court that the Parties have preferred any appeal or revision before the High Court or they intend to prefer/file the same, fifteen clear working days time shall be given at the very first instance and on filing affidavit, adjournment shall be stretched to another fifteen clear working days and in exceptional cases, by way of third and last adjournment fifteen clear working days shall be granted.

**96.** Arguments should be heard immediately after the evidence closes

**97** a) Before close of oral argument, the Court at the request of the parties shall permit them to file their respective concise written argument under distinct heads by supplying the copy of the same to the other side. Such written arguments shall form the part of the record.

b) the Court shall fix such time limit for the oral argument by either parties, as it thinks fit and no adjournment shall be granted for filing written argument, unless for the reasons so recorded by the Court.

## Judgment and decree

### I.-JUDGMENT

**98. Judgment in civil cases may be recorded by the stenographers upon the dictation of the presiding officer** provided that the Presiding Judge attaches a certificate to the effect that the judgment has been recorded at his dictation and attests each page thereof by *his signature*.

**Note - 1** - When a Presiding Judge uses a type-writing machine/Computer 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.

**Note-2:-** When a Presiding Officer uses a Computer himself in delivering judgment, a certificate must be given at the foot of the judgment that, it has been done on computer by him and each page of the print out so taken out, shall be attested with his signature. In case the digital signatures of the Presiding Officers are available, the judgment / orders and decrees may be digitally signed and certified copies etc. may be issued without actual movement of the records from the court to the copying section.

**99.** (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) Judgments should state specifically whether any or what interest (including interest *pendente lite*) is allowed.

(a) The Presiding Officer shall put his name and designation at the top of the original judgment.

(b) Name of all the parties with full particulars including their age shall appear in the heading column of the Judgment.

(c) Paragraphs of the judgment shall be break off into shorter one, according to the sequence of thoughts and shall be serially numbered.

(d) The name of all the parties in cause title with full details shall be typed in the judgment and final order in addition to the decree

(4) The last part of judgment shall state in precise -term the relief which has been granted by such judgment.

(5) After hearing the case, judgment shall be pronounced either at once or soon thereafter as may be practicable and endeavor shall be made by the court to pronounce the judgment within 30 (thirty) days from the date on which

**the hearing of the case was concluded, but, where it is not practicable so to do on the ground of the exceptional and extra ordinary circumstances of the case, the fixing of future day for pronouncement of judgment shall be made giving due notice to the parties or their pleaders. Such day shall not ordinarily be a day beyond 60 (Sixty) days from the date on which the day of hearing was concluded.**

**(Vide amended C.P.C. - Ord. 20, R (1)(1)**

**Note- Immediately after the pronouncement of the judgment the Court shall make available its copies to the parties for preferring the appeal on payment of usual charges applicable for obtaining the copy.**

**(Vide amended C.P.C. - Proviso to Ord. 20 Rule 6-B.**

**II.-Decree**

**100.** Decrees of District and Subordinate Judges should ordinarily be drawn up in English. Decrees of Munsifs [*Civil Judge (Junior Division)*] should also be drawn up in English wherever possible.

**101.** 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.

**Note 2-The** particulars of the claim and the date of institution of the suit shall appear in the decree.

**Note 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 the case of an appellate decree the valuation as given in the decree of the first Court should also be embodied.

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

**102.** The decree should be drawn up as expeditiously as possible and in any case, within 15 days from the date on which the judgment is pronounced, but where the decree is not drawn up within the time aforesaid, 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 indicate in the certificate the reasons for the delay as required by Order XX, Rule 6A.]

**103.** Whenever an address has been filed for service by a party under Order VII. Rules 19 and 22, or Order VIII, Rules 11 and 12 of the First Schedule to the Code of Civil Procedure, such address shall be entered in the decree or 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 addresses given above are the addresses for service filed by the parties with the exception of ..... who did not appear or omitted to file their addresses.

**104.** 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.

**105.** Without prejudice to the generality of the provisions of the Code of Civil Procedure relating to costs, costs in respect of items specified in Order XXA, Rule 1, C.P C. shall form part of the costs of the case unless otherwise directed by the Court.



**106.** Decrees shall be prepared under the supervision of the *Shirestadar* of the Court who shall initial the same.

**107.** As soon 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. The notice shall remain exhibited during this period. At the end of every quarter the notices for the previous quarter will be destroyed.

**108.** When such notice has been posted any party or his **Advocate** may before the expiry of the time prescribed in the last preceding Rule peruse the decree and either sign it or if it is incorrectly prepared bring the matter to the notice of the Court.

**109.** 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.

**110.** 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 holder is capable of execution or affects execution by reason 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.

**(a) No formal decree/ separate award is required to be prepared in Motor Vehicles Accident Claim Cases. The judgment itself shall contain the detailed particulars viz, (i) name and address of the parties with age, (ii) the detail of amount of compensation with rate of interest (iii) the cost awarded and other relevant factors, enabling its execution without any further delay.**

**(b) P.O shall verify before putting his signature on the decree that all the entries are duly and correctly filled up.**

**111.** In suits for money including suits upon mortgage, in suits for specific movables, in suits for accounts and in suits for arrears of rent no decrees need be drawn up, if:-

(i) Neither party has to recover anything unless the Judge otherwise directs;

(ii) The claim is satisfied after judgment but before the decree is drawn up.

**112.** 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.

## CHAPTER VI

### Execution of decrees

#### 1. GENERAL

**113.** 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 scrutinized by him with a view to his taking such steps as may be necessary to prevent their recurrence.

**114.** 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 **Rs 1.00** 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.

- (a) A preliminary hearing of petition filed u/S 47 of C.P.C., in Execution Proceeding shall be made before admission and registering the same as Misc. Case.**
- (b) Execution Case shall be treated as pending, until the installment of the Decreed Amount is paid.**
- (c) Execution Case should be shown disposed off on the date when the sale is confirmed or on the date when the Stamps for the sale certificate is filed.**

**115.** The attention of Courts is drawn to the provisions contained in Order. XXI, Rule 1, Code of Civil Procedure. 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.

**116.** Judgment-debtors desirous of sending decretal dues to the Court by postal money-order must use the green money-order form specially approved by the High Court for the purpose. They must fill in all the particulars indicated in the coupon of the money-order form. If any particular be not entered, the money order clerk or sub or branch post-master will refuse the money-order.

Payment under such money-orders will be made by book transfer. The provisions in Rules 11-23 in Parts II and III, Chapter XVII of the Board's Miscellaneous Rules, 1939; and of the Post Office Rules in respect of payment and adjustment of accounts of Government money-orders relating to the procedure to be followed in the Post Office and in the Treasury or Sub-Treasury in regard to the payment of money-orders by book transfer should, so far as applicable, be followed in dealing with such money-orders. In the offices of the Court and the Treasury or Sub-treasury concerned, the following procedure shall be observed-

(a) The Treasury or Sub-treasury will send the money-order coupon and acknowledgment to the Court with its daily advice list in High Court Form No. (A) 9 and advice list of money-orders in form-G.M.O. On receipt thereof from the Treasury or Sub-Treasury the Accountant of the Civil Court will at once enter the amount in the Deposit Register and fill up columns 1, 2, 4 and 6 and enter "by money-order" in column 3 and in column 5 only, the suit or case number, leaving other particulars to be filled in later. He will then send the money-order coupon and acknowledgment to the Registrar-cum-Judge In-charge.

(b) The Registrar-cum-Judge In-charge will scrutinize the tender in the manner laid down in Rule 538, Part X, Chapter I. If he finds the tender to be in order, he will sign the acknowledgment portion of the money-order form after obtaining orders of the Presiding Officer, the orders being written on the order-sheet and send it immediately to the post office for despatch to the remitter. The money-order coupon with his endorsement of correctness will be sent to the Accountant who will enter the remaining particulars in column 5 of the Deposit Register, prepare a money-order credit slip in the form prescribed below for his own record and return the money-order coupon with an endorsement of compliance to the Registrar-cum-Judge In-charge to be kept with the record.

(c) If, on the other hand, the tender is found to be defective, the Registrar-cum-Judge In-charge will, under the orders of the Presiding Officer, make a note on the acknowledgment portion of the defects found stating that the amount will be transferred to the credit of the decree-holder on the date on which information to cure defects is received, by post or otherwise and will then send the acknowledgment to the post office, and retain the coupon with the record. When the information necessary to cure the defect is received, the Registrar-cum-Judge In-charge should obtain the orders of the Presiding Officer on the order-sheet specifying the person to whose credit the amount is to be entered in the Deposit Register and should then send the coupon with necessary corrections to the Accountant for action as in sub-clause (b). If the

particulars supplied be found to be still incomplete, the Court will not take any action not enter into correspondence about them.

(d) For administrative purposes the deposits shall bear date, the date on which the deposit was made into the Treasury:

#### **MONEY ORDER CREDIT SLIP**

1. Name of the Court passing the decree or order.
2. Number of the suit or case and date of judicial decree or order (if any) under which the amount is tendered.
3. Name, father's name and address of person or persons on whose behalf the money is tendered.
4. Name, father's name and address of person or persons to whose credit the amount is to be placed in the Court's Books.
5. Amount tendered.
6. Deposit number and date in the Deposit Register.

#### **Accountant**

**117.** The temporary deputation of the Presiding Officer of a Court to some other station does not necessarily mean an abolition of his 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 decree passed by the latter in the cases belonging to the file of the first named Court may be executed by that Court presides over by the officer sent on deputation when he returns.

#### **II.-ATTACHMENT**

**118.** An officer deputed to attach movable property should be furnished with a certificate stating the period for which the fee required under Part V, Chapter I, Rule 376, 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 required by the second paragraph of Note 1 to that Rule.

**119.** A register should be maintained by the *Nazir* in the prescribed Form No. (R) 13A showing the securities, jewellery and other valuable articles in his custody. A separate register should also be maintained in Form No. (R) 13B, for ordinary movables and live-stock attached in execution cases.

#### **III. SALE**

**120.** 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.

**121.** Every application for the sale of immovable property shall, in addition to other particulars required, state the area of the land involved.

**122.** 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 the property is put up for sale.

**123.** The selection of local newspapers in which sale proclamation may be published under Order XXI, Rule 67, rests with the Principal District Judge. The name or names of the papers selected shall be notified to the public and to the Subordinate Courts.

**124.** Subject to the proviso in Order XXI, Rule 43, sales 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 of each month to be fixed by the Principal District Judge.

**125.** All property, except property of the nature specified in the proviso to Order XXI, Rule 43, of the

Code or Rule 129 of this Chapter, to be sold at each place of sale, shall be entered in lists for each place, the lists of movable 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 stuck up in the Courts where the sales are to be held in the case of movables not less than seven days, and in the case of immovables not less than 15 days, before the date fixed for the commencement of each set of sales.

**126.** At the stated hour each fixed date the sales 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 sales shall be held from day to day, except when the Court is closed and until the lists are finished : Provided that this Rules shall not interfere with the adjournment of any particular sale according to law. (See Order XXI, Rule 69.)

**127.** The same days shall not ordinarily be fixed for the sale of movable and immovable property.

**128.** 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.

**129.** 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 be for the greatest advantage of the debtor, regard being had to the prospect of good prices and to the saving of expenses in conveyance and carriage.

**130.** 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 to 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 requirements of the Indian Arms Act.

**131.** Whenever the Civil Courts have occasion to sell, in execution of a decree or other order, any house or other building situated within the limits of a military cantonment or station, they shall, on 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.

**132.** As soon as 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 Article 18 of Schedule I of the Indian Stamp Act, 1899, shall be noted. Under Article 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 *Shirestadar* and destroyed in the presence of Registrar and if there is no Registrar, in the presence of the Presiding Officer concerned after [one year] from the date of confirmation of the sale.

**133.** When a sale certificate is ready, notice thereof should be exhibited on the notice board in form no. (M) 17-A which shall remain pasted for a period of one week. At the end of every quarter the notices for the previous quarter will be destroyed.

**134.** 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 the person who is declared to be the 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 situated;
- (4) The date on which the sale became absolute.

#### **IV. ARREST, IMPRISONMENT AND RELEASE**

**135.** 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 of 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.

136. 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**

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

### **CHAPTER VII**

#### **Commission**

##### **I. GENERAL**

**138.** Courts must issue commissions with promptitude and Principal District Judge should at the time of their periodical inspections satisfy themselves that this is done. Before issuing a commission the Court shall

(a) call on the party at whose instance the commission is issued to supply an abstract of the pleadings and issues 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.

**139.** 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.

**140.** 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.

##### **II. COMMISSIONS FOR EXAMINATION OF WITNESSES**

**141.** If a commission is to issue to a Pleader Commissioner, the commission shall be transmitted together with the fee, to the Court in which the Commissioner is practicing as an **Advocate**, and, when such Court is the High Court, to the Registrar.

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

**142.** The Court or officer receiving a commission issued to a Pleader Commissioner shall immediately deliver it to him unless he refuses to act.

**143.** When a Court in India issues a commission, or a letter or request under Section 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 a solicitor to apply to the High Court in England to make the necessary orders. The Court in India shall for this purpose make over the commission or letter of request in Form No. 8 of Appendix H 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 Section 1 and 6 of the Evidence by Commission Act, 1859.

**144.** 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 **(Ministry of Law and Justice, Govt. of India is the regular channel and the nodal Ministry for Mutual Legal Assistance in Civil Matters, including the service of Summons and other Judicial Processes, out side India)**. Such Letters of Request must be issued in English, 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.

**145.** When issuing such Letter of Request, Courts in India should observe the law in force in different countries affecting the execution of commissions, issuing out of the English Courts, for the examination of witnesses abroad.

**146.** A Commissioner for 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 advocates 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 houses 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**

**147.** 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 and such inquiry, whether the nature of the case calls for that particular mode of inquiry, whether the application has been made at a proper stage of the proceedings, Whether the importance of the case warrants that expense being 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.

**148.** When the commission is for a local inquiry a 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 ought to be so substantiated. A copy of such proceeding shall be forwarded to the Commissioner.

**149.** When in any suit or proceeding a local investigation for any of the purposes specified in Order XXVI, Rules 9 and 13, Civil Procedure Code, or any other local investigation under the said Code, requiring knowledge of surveying 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 Principal 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 it is estimated the commission will take to execute and the cost including proposed fee (which should be inclusive wherever possible) and travelling allowance, if any.

**150.** 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 knowledge of surveying, it should, so far as possible, be issued only to a person whose name is entered in a list to be maintained by each Principal District Judge or persons qualified to execute such Commissions. The qualifications for entry in this list shall be as follows :-

(i) the holding of certificate of a proficiency in surveying granted in accordance with the Rules framed by the Government of Bihar and promulgated with the Bihar Government notification no. B/PSE-01/56-758-J., dated the 10th February, 1956, published at page 673 in Part II of the *Bihar Gazette*, dated the 22nd February, 1956;

(ii) the possession of an equivalent or higher qualification. This shall *include* the passing of the following examinations; Bachelor of Civil Engineering ;Intermediate Civil Engineering; the examination for Overseers of the Public Works Department (but not that for sub-overseers); Subordinate Engineer's Examination;

(iii) the satisfactory execution of survey commissions for the Civil Courts in the judgeship during a period of not less than ten years before the date of notification of these rules.

Provided that a Civil Court is not precluded from issuing a commissions to salaried *Amins* in judgeships in which they still exist.

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

**151.** Whenever transmission by post is necessary for the issue of a commission whether to a Court or to a advocate, the papers are to be sent and returned by registered post and the cost of doing this should be realised from the parties.

**152.** The Principal District Judge should keep a careful watch upon the work of each Commissioner included in the list maintained under Rule 150 and a record of the work of each should be kept by him in a form similar to that of a service book. When issuing his nomination under Rule 149 the Principal District Judge should invariably direct the Court concerned to submit a report indicating the fee paid and stating whether the commission in question was executed satisfactorily and punctually.

The report should be submitted by the Court immediately after the fee has been paid to the Commissioner. If, after considering such reports and making such enquiries as he may deem necessary, the Principal 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 filed to his report, after the expiry of the period fixed for filing the objection. The Principal District Judge should see that only reasonable remuneration is paid.

**153.** When the work of a Commissioner is completed he shall submit, with the report, his diary showing how he was occupied during the enquiry.

## CHAPTER VIII

### Suits by or against Government or public officers

**154.** 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.

**155.** 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.

**156.** 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, he shall, in lieu of a *vakalatnama*, file a memorandum on unstamped paper signed by him, and stating on whose behalf he appears. Such memorandum shall be, as nearly as may be, in the terms of the following form

***Title of the suit, etc.***

I, A, B, Government Pleader, appear on behalf of the Union of India (or the State of **Jharkhand** or as the case may be). Respondent (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 Advocate.

**157.** 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

**158.** 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 of the fact should always be given to the Collector without delay.

**159.** No Civil Court officer should be appointed Receiver except with the sanction of the Principal District Judge, which should only be given in petty cases where 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

**160.** The power under Order XXXIX, Rule 3 of the Code of Civil Procedure, to issue an ex-parte 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 deviation 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.

**161.** An application for an ex-parte injunction should not ordinarily be granted unless it is made promptly.

**162.** 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. If any time it appears to the Court that an ex-parte injunction was obtained by such misstatement or suppression of material facts as to lead the Court to grant the injunction, the injunction shall be dissolved unless for the reasons to be recorded Court considers that it is not necessary so to do in the interest of justice.

The plaintiff cannot be heard to say that he was not aware of the importance of the facts so mis-stated or concealed or that he had forgotten them.



163. 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.

164. The notice to be given should be for the shortest possible time. The Presiding Judge must take particular care to arrange for prompt service of a copy of the plaint, a copy of the application for injunction together with copy of affidavit filed in support of the application and copies of documents on which the applicant relies upon the opposite party and to bring the matter to hearing as early as possible.

165. 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.

166. When an *ex-parte* injunction has been granted the Court shall make an endeavor to finally dispose of the application within thirty days from the date, on which the *ex-parte* injunction was granted, and where it is unable so to do it shall record its reasons for such inability.

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

168. When an injunction is granted the 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.

169. Dissolution of an *ex-parte* injunction on the ground of mis-statement or concealment of material facts will not operate as a bar to a fresh application for another injunction on the merits.

## CHAPTER XI

### APPEALS

170. All memoranda of appeal should, when practicable, be in English and type-written **OR** computer printout or through e-filing.

171. 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.

**(a) Memo of appeal shall be filed in the District Court, facilitating its advance copy to the other side opposing the appeal.**

**(b) There shall be mention of clear date of four weeks for reply by the respondent, in the notice issued by the appellate court in interlocutory**

**matters from its date of order. Rejoinder if any, to the reply so given, shall be also filed within 4 weeks from the date of filing of the reply.**

**(c) Both the appellants and the respondents shall file their written argument two weeks before the commencement of the argument, in the appeal, copy of the same shall be served to either side and no counter reply submission shall be allowed to such written submissions.**

**172. Rule 171 shall apply to the appeal against the orders passed under the special Acts, like.- Indian Industrial Dispute Act, Family courts Act, Indian Succession Act etc....**

**173.** Every memorandum of appeal when signed and presented by a pleader shall, at its foot or when presented by the party in person or by his recognized 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, as the case may be, 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:"

**174.** All memoranda of appeal must be registered on presentation irrespective of any question as to their possible rejection.

**175.** When two or more cases are tried together and decided by the same judgment and two or more appeals are filed against such judgment, whether by the same or different appellants, the appellate Court may in its discretion, and if satisfied that the questions for decision are analogous in each appeal, dispense with the production of more than one copy of the judgment.

**176.** 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.

**177.** The provisions of Rules 169, 170 and 171 shall, as far as they may be applicable, apply to the memorandum of cross-objection.

## **CHAPTER XII**

### **Rules framed by the High Court for the guidance of guardians-ad-litem of minor defendants and minor respondents**

#### **I. ORIGINAL SUITS**

**178.** (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 post-card 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 interests of the minor require, 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 the following particulars

(a) Date and hour of departure for the locality.

- (b) Mode of journey, viz., whether by rail or 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 residences 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 accrue 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 the 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 rent suits and 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 Rules 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 he 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 traveling and halting expenses of the guardian, not exceeding the scale laid down by Rule 177 will be required by the 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) and (10) will be deposited and paid to the guardian along with the fee prescribed by the High Court.

## TRAVELLING ALLOWANCE

**179. The *Guardian-ad-litem* shall be entitled in the case of original suit as well as in an appeal, the traveling and dearness (TA, DA) allowances admissible to class II officer under the provisions of Jharkhand Travelling Allowance Rules.**

## PART II

### **Special Rules relating to Acts other than the Code of Civil Procedure and the Court-fees Act**

#### **CHAPTER I**

#### **THE INDIAN SUCCESSION ACT, 1925 (XXXIX OF 1925)**

**180.** In uncontested proceedings under the Indian Succession Act and Guardians and Wards Act, it shall be competent to the Court exercising jurisdiction therein to permit or direct; except when otherwise provided by any law or Rule for the time being in force, that any particular fact or facts may be proved or evidence upon any application may be given, by affidavit or on oath through video – conferencing.

Note-When a District Delegate, acting under Section 288 of the Indian Succession Act, 1925, returns the petition and documents filed therewith to the person by whom the application was made, he should forward to the Principal District Judge, and not to the Record-room, such other papers in connection with the application as may have been produced before him.

#### **THE GUARDIANS AND WARDS ACT (ACT VIII OF 1890)**

**181.** The following Rules have been made by the High Court under Section 50 of the Guardians and Wards Act, 1890 (Act VIII of 1890)

(1) The application made under Section 8 of the Act shall, in addition to the particulars required by Section 10, state whether the minor is entitled to any property absolutely, or subject to the rights or interests of any other person, and the encumbrances, if any, to which the property is subject; and shall specify all *persons of the same degree or relationship as, or of nearer degree than, the proposed guardian*, and where a female is proposed as guardian, the nearest male relation of the minor.

(2) Where the father of the minor is living, and is not proposed as guardian, the application shall also state any facts relied on as showing that he is unfit to act as guardian of the minor, or that he consents to the application.

Whenever the petition made under Section 10 of the Act states that the property of the minor consists of land or any interest in land, a copy of the petition shall be sent free of charge to the Collector of the district in which such property or any part of it is situate

(3) The notice required by Section 11 of the Act shall be in Form (P) 59.

(4) Unless for reasons to be recorded the Court excuses him from giving security, a person appointed or declared to be a guardian shall give a bond as nearly as may be in Form (M) 14. Such bond, unless it be otherwise ordered by the Court, shall be for the amount or value of the movable property, and twice the amount of the annual rents, profits or other income of the movable and *immovable property to be received or accounted for by the guardian*.

(5) Where security is required the Court shall fix a time within which such security shall be furnished; and the order of appointment or declaration shall be made conditional on the furnishing of such security.

(6) At the time of the appointment or declaration of a guardian, the Court shall require an inventory of all the property of the ward and of all debts due from the estate to be furnished to the Court within SIX months under Section 34 (b) of the Act unless for reasons to be recorded it dispenses with the same and shall fix a date for the inventory to be brought to the Court for such further orders thereon as may be deemed necessary.

(7) Any appreciable increment to or diminution of the property of the ward shall be reported immediately by the guardian to the Court and the Court shall cause the same to be noted in the inventory produced under Rule (6).

(8) The Court shall direct the guardian to keep such accounts as may be deemed necessary having regard to extent and circumstances of the estate unless the Court, for reasons to be recorded, dispenses with accounts.

(9) The accounts to be kept by the guardian shall, unless the Principal District Judge otherwise directs, be for the year beginning with the 1st April and ending with the 31st March.

The Court shall require the guardian to submit within one month after the expiry of the account year in each year after the date of his appointment copies of such accounts as have been required under Rule (8) to be kept by him during the preceding year; provided that the Court may in all cases call for the original accounts at any time it thinks fit to do.

(10) Accounts filed by the guardian shall be exhibited and preserved with the record of the application and shall be open to inspection with the permission of the Court by persons legitimately interested in the same on payment of a fee of one rupee to be paid by means of a Court-fee stamp to be affixed to the application for inspection.

(11) An application for leave to deal with immovable property of a ward by way of sale, mortgage, lease, or otherwise, shall state concisely the substance of the order prayed for, the value of the property proposed to be dealt with, and the necessity or advantage of the proposed disposition of the property and shall be supported by an affidavit of the guardian.

(12) An application for leave to sell or mortgage immovable property of a ward for the discharge of debts or other liabilities of the ward, shall be accompanied by a statement in Form No. (M) 13 of the movable and immovable properties of the minor and of all debts due from the estate unless such statement has already been delivered to the Court by the guardian under Section 34 (b) of the Act. The particulars of each debt should be separately specified.

Note-The form of application to sell or mortgage immovable property can be obtained from the *Nazir* at six paise each or six rupees per hundred.

(13) When the guardian applies for an order of the Court to do any of the acts mentioned in Sections 28 and 29 of the Act and the Court considers it necessary to call upon the Collector or a Subordinate Court for a report as to the necessity or expediency of the proposed act, the guardian shall deposit as the costs of the enquiry such, sum as may be fixed by the Court. If it is found that the application was not made in good faith the guardian shall be required to refund the cost of the application and inquiry to the estate within such time as may be allowed by the Court.

(14) Moneys belonging to wards shall not, without the leave of the District Court, be invested in securities other than those mentioned in the clauses (a), (b), (bb), (c) and (d) of Section 20 of the Indian Trust Act, 1882 (II of 1882), or deposited in any bank other than a Government Savings Bank.

(15) The accounts of Wards estates of which the annual income is Rs. 4,000 or more shall ordinarily be audited by the Examiner of Local Accounts, provided that where in the opinion of the Court, for reasons to be recorded in writing, exceptional circumstances render such course advisable, they may in the alternative, with the previous sanction of the High Court, be audited by persons who are holders of certificates granted by a State Government under Section 144 of the Indian Companies Act, 1913, or who are members of any institution or association the members of which have been declared under that Section to be eligible to act as auditors of companies throughout India.

(16) The accounts of Wards estates of which the annual income is below Rs. 4,000 will be audited by the *Shirestadar* or any other officer, judicial or administrative subordinate to the Principal District Judge, whom the latter may appoint.

When the audit is made by a ministerial officer of the Court the Principal District Judge may, in exceptional cases of special difficulty, and provided it has been necessary to do the work outside office hours, sanction a small remuneration to the ministerial officer concerned, out of the funds of the estate.

(17) Unless **otherwise** directed by the Court for reasons to be recorded in writing, the accounts of Wards estates shall be audited annually or once in two years according as the annual income thereof does or does not exceed Rs. 10,000.

**A. Rules under C.N.T. Act**

**182. Suit related to settlement of rent and correctness of publication of record of right shall be filed before the Revenue Officer. Civil Court shall have no jurisdiction in the matters relating to record of right.**

**183. Judicial procedure in matters cognizable by the Deputy Commissioner shall be carried in accordance with the provisions enumerated u/S 135 to 214-A including execution of, and sale in decree and order of Deputy Commissioner.**

**184. Appeal from the order of the Deputy Commissioner**

**Order passed in suit not exceeding its value Rs. 100/-(Rupees one hundred) by the D.C. shall be final which shall not be subject to an appeal.**

**Proviso I Cases in which right, title, conflicting claim or some interest in the land inter-se parties have been determined in the order/judgment; appeal shall lie to the Principal District Judge / Principal Judicial Commissioner, Ranchi.**

**Proviso II In such cases (supra) if the value of the suit exceeds Rs 500/- (Rupees five hundred) the appeal shall lie to the High Court.**

**185. Hearing of appeals by Principal District Judges / Principal Judicial Commissioner, Ranchi instead of Deputy Commissioner**

(a) **Cases where analogous appeals, some presented before D.C. and some before the Principal District Judges / Principal Judicial Commissioner, Ranchi, on application of any of the parties, the J.C. may order for transfer of the appeal from the court of the D.C. to its own court and shall hear the appeals together.**

(b) **The Principal District Judges / Principal Judicial Commissioner, Ranchi shall also have the right to transfer the case pending before D.C. in analogous suit from which some**

**appeals lies to the D.C. and some to his court, on application of any party to the appeal.**

**B. Rules under S.P.T. Act (Proposed)**

**186. Judicial procedure shall be regulated under chapter VII, VIII and IX of the Act.**

**187. The D.C. in dealing with the proceeding and applications under this Act shall have all the powers of Santhal Civil Court mentioned in Section 12 of Santhal Parganas Justice Regulation 1893 (Regulation V of 1893) in the matter of obtaining evidence, enforcing the attendance of the witnesses and the parties and production of the documents.**

**188. Rules engrafted in Rule 13 of S.P.T. (Supplementary) Rules, 1950, shall be followed by the D.C. in proceedings under the S.P.T. Act.**

**189. Forms of notices, other settlements and receipts prescribed under Rule 14 shall be used as specified in schedule I to V of the Rules (supra).**

**THE PROVINCIAL SMALL CAUSE COURTS ACT (ACT IX OF 1887)**

**190.** The following Rules of Practice shall be observed in Courts of Small Causes

(1) The summons shall ordinarily be served on the defendant seven clear days before the day on which the Court shall be held at which the cause is to be tried, unless the Court shall otherwise order, but a summons may be made returnable at a longer or a shorter date in the discretion of the Court, with reference to distance or to any other cause.

(2) The cause of action shall be transcribed from the plaint into the Cause-Sheet [Form No. (J) 15] to be attached to the record immediately before the plaint.

(3) The substance of the evidence, the judgment, and the decree shall be entered in the Cause-Sheet referred to above.

(4) In a case in which the defendant has moved the Court for a review of judgment, and the Court is of opinion that such review should be granted, the date for hearing shall be fixed within seven days, unless the Court shall for special reason fix a later date.

**THE INDIAN STAMP ACT (ACT II OF 1899)**

**191.** When a Judicial Officer sees reason to doubt the genuineness of a stamp filed before him, the stamp should be forwarded to the Collector of the district, who will examine it, and satisfy himself if possible, as to its character, reporting the result to the officer sending it. Care should be taken to retain and examine copy of any document bearing a stamp which may be forwarded to the Collector under the above orders.

**192.** In all cases in which the Civil Courts find any document which comes before them to have been stamped after its execution in contravention of law, they should give a copy of their judgment to the Government Pleader with a view to the prosecution, if necessary, by the Revenue Authorities of the parties concerned in such after-stamping.

**193.** When submitting a reference to the High Court under Section 60 of the Stamp Act, the Principal District Judge shall forward a copy of the same to the Superintendent and Remembrances of Legal Affairs together with an expression of opinion as to whether that officer should engage Counsel to argue the matter before the High Court.

**THE INDIAN REGISTRATION ACT (ACT XVI OF 1908)**

**194.** In any case in which a registered document is discredited by the judgment of a Court on grounds connected with registration, such as false personation, forgery, want of execution, presentation or admission of execution beyond the statutory period, minority, idiocy or lunacy of the executant, such Court shall send a copy of its judgment to the District Registrar within whose jurisdiction the instrument was registered

#### THE MENTAL HEALTH ACT, 1987 (14 OF 1987)

**195.** *When a person has been adjudged by a Civil Court to be a mentally ill* and the Court is satisfied that the mentally ill person is a proper person to be detained in a psychiatric hospital, it shall obtain and forward with such person a certificate from the Medical Officer with whose assistance the person was so adjudged and a medical history sheet of the mentally ill person in Form no. (M) 18.

#### THE INDIAN COMPANIES ACT (ACT VII OF 1913)

**196.** The Rules made by the High Court under Section 246 of the Indian Companies Act, 1913 (as amended by Act XXII of 1936), referred to in Chapter XXII of the Patna High Court Rules, shall be deemed to apply to all District Courts subordinate to the High Court **“of Jharkhand”** empowered by the State Government under sub-section (1) of Section 3 to exercise all or any of the jurisdictions conferred by that Act.

#### THE PROVINCIAL INSOLVENCY ACT, 1920 (V OF 1920)

**197.** The following Rules may be cited as "the Provincial Insolvency Rules

(1) Every insolvency petition shall be entered in the Register of Insolvency petitions in Form No. (R) 2-A.

(2) All insolvency proceedings may, at such times and subject to such restrictions as the Principal District Judge may prescribe, be inspected by the Receiver, the debtor and any creditor who has proved, or any legal representative on their behalf.

(3)(i) The insolvency notice to be given under Section 6 (2) of the Act shall be in Form No. (P) 65A

(ii) The notice shall state

(a) the name and address of the creditor (s):

(b) the name and address of the debtor, decree (s) or order (s) for payment of money on which the creditors or creditors claims are based with particulars thereof (viz., the number of the suit or proceeding in which the decree (s) or order (s) has/have been made the date thereof and the amount as claimed due there under).

(c) the aggregate amount due to the creditor (s) (in case there are more than one decree or order); the fact that the decree (s) or order (s) has/have become final and that the execution thereof has not been stayed.

(d) Particulars of decree (s) or order (s) viz., the number **of** the suit or proceeding in which the decree (s) or order (s) has/have been made, the date thereof and the amount due thereunder to such creditor (s).

(e) in case there are more than one decree or order, aggregate amount due thereunder to the creditor (s)

(f) the date (which shall not be less than one month from the date of the service of the notice) before which compliance with the requirements of the notice is asked for.

(iii) The notice shall require the debtor to pay to the creditor (s) the amount claimed or to furnish security for the payment of the amount to the satisfaction of the creditor (s) or his/their agent(s).

(iv) Service of insolvency notice shall be personal. Notice shall be served in the manner provided in Rules 9 to 19 of Order V of the Code of Civil Procedure or by the registered post or through e-mail.

(v) If the notice is refused, or it is returned unserved and the Court is satisfied that the debtor is keeping out of the way for the purpose of avoiding service, it shall be published in a local daily newspaper



and such publication shall be deemed to be sufficient service of notice.

(vi) Any person served with an insolvency notice may within the period allowed for compliance with that notice, apply to the Court to set aside the insolvency notice on any of the grounds specified in sub-section (5) of Section 6 of the Act.

(vii) Where an application to set aside the insolvency notice has been made and it cannot be disposed of until after the expiry of the period specified in the notice as the day on which the act of insolvency will be complete, no act of insolvency shall be deemed to have been committed under the notice until the application shall be disposed of.

### **Notice**

(3) Whenever publication of any notice or other matter is required by the Act, to be made in an Official Gazette, a memorandum referring to and giving the date on which such advertisement appeared, shall be filed with the record and noted in the order-sheet

(4) Notice for an order fixing the date of the hearing of a petition under Section 19 (1) shall be forwarded by registered post to each creditor to the address given in the petition. Such notice, where the Court so directs, may, in addition, also be published in the local official Gazette or in some selected newspapers, or in both. The same procedure shall be followed in respect of notices of the date for consideration of a proposal for composition or scheme of arrangement under Section 38 (i).

(5) Notice of an order of adjudication under Section 30 is required by the Act to be published in the local Official Gazette. The Court may also order that it should be published in such local newspapers as it may direct. When the debtor is a Government servant, a copy of the order shall be sent to the head of the office in which he is employed. The same procedure shall be followed in regard to notices of orders annulling adjudication under Section 37 (2).

(6) The notice to be given by the Court under Section 50 shall be served on the creditor or his pleader and shall be sent through the post by registered letter or through e-mail or as provided under rule 9 to 19 or order V or the Code of Civil Procedure.

(7) The notice to be issued by the Receiver under Section 64 before the declaration of a final dividend to the persons whose claims to be creditors have been notified but not proved, shall be sent through the post by registered letter.

(8) Notices of the date of hearing of, an application for discharge under Section 41 shall be published in the Local Official Gazette or in such local newspapers as the Judge may direct, and copies shall be sent by registered post to all creditors whether they have proved or not.

(9) A certificate of an officer of the Court or of an Official Receiver, or an affidavit by a Receiver that any of the notices referred to in the preceding Rules has been duly posted accompanied by the post office receipt, shall be sufficient evidence of such notice having been duly sent to the person to whom the same was addressed.

(10) The Court may instead of or in addition to forwarding a notice by registered post under the foregoing Rules cause it to be served in the manner prescribed for the service of summons.

(11) In addition to the prescribed methods of publication any notice may be published otherwise in such manner as the Court may direct, for instance, by affixing copies in the Court-house or by beat of drum in the village in which the insolvent resides.

### **Receivers**

(12) Every appointment of a Receiver shall be by order in writing signed by the Court. Copies of this order sealed with the seal of the Court should be served on the debtor, and forwarded to the person appointed.

(13) (i) A Court when fixing the remuneration of a Receiver should, as a Rule, direct it to be in the nature of a commission or percentage of which one part should be payable on the amount realised after deducting any sums paid to secured creditors, out of the proceeds of their securities and the other part on the amount distributed in dividends.

(ii) When a Receiver realizes the security of a secured creditor, the Court may direct it additional remuneration to be paid to him with reference to the amount of work which he has done and the benefit resulting to the creditors.

(14) The Receiver shall keep a cash-book and such books and other papers as to give a correct view of his administration of the estate, and shall submit his accounts at such times and in such forms as the Court may direct. Such accounts shall be audited by such person or persons as the Court may direct. The costs of the audit shall be fixed by the Court, and shall be paid out of the estate.

(15) Any creditor who has proved his debt may apply to the Court for a copy of the Receiver's accounts (or any part thereof) relating to the estate as shown by the cash-book up to date, and shall be entitled to such copy on payment of the charges laid down in Rules of this Court regarding the grant of copies.

(15A) The Receiver shall keep a record of his proceedings and shall state in it his reasons for all important acts and decisions. Any person affected by any such act or decision shall be entitled to a copy of the proceedings relating thereto on payment of the charges laid down in the Rules of this Court regarding the grant of copies.

(16) In any case in which a meeting of creditors is necessary and in any case in which the debtor proposes a composition or scheme under Section 38, the Receiver shall give seven days' notice to the debtor and every creditor of the time and place appointed for each meeting. Such notices shall be served by registered post.

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(16A) If on the expiry of one year after the date of the order of adjudication the Receiver has not been able to realize all the property of the insolvent, he shall refer the case to the Court for decision under Section 64 of the Act whether as much has been realized as can be realised without needlessly protracting the receivership.

#### ***Proof of Debts***

(17) A creditor's proofs should be in Form No. (M) 27 with such variations as circumstances may require.

(18) In any case in which it shall appear from the debtor's statement that there are numerous claims for wages by workmen and others employed by the debtor, it shall be sufficient if one proof for all such claims is made either by the debtor or by some other person on behalf of all such creditors. Such proof should be in Form No. (M) 28.

#### ***Procedure where the Debtor is a Firm***

(19) Where any notice, declaration, petition, or other document requiring attestation is signed by a firm of creditors or debtors in the firm's name, the partner signing for the firm shall also add his own signature, e.g. "Brown and Co., by James Green, a partner in the said firm."

(20) Any notice or petition for which personal service is necessary, shall be deemed to be duly served on all the members of a firm if it is served at the principal place of business of the firm within the jurisdiction of the Court, on any one of the partners, or upon any person having at the time of service the control or management of the partnership business there.

(21) The provisions of the last preceding Rule shall, so far as the nature of the case will admit, apply in the case of any person carrying on business within the jurisdiction in a name or style other than his own.

(22) Where a firm of debtors files an insolvency petition the same shall contain the names in full of the individual partners, and if such petition is signed in the firm's name the petition shall be accompanied by an affidavit made by the partner who signs the petition showing that all the partners concur in filing of the same.

(23) An adjudication order made against a firm shall operate as if it were an adjudication order made against each of the persons who at the date of the order is a partner in that firm.

(24) In cases of partnership the debtors shall submit a schedule of their partnership affairs, and each debtor shall submit a schedule of his separate affairs.

(25) The joint creditors, and each set of separate creditors, may severally accept compositions or schemes of arrangement. So far as circumstances will allow, a proposal accepted by joint creditors may be approved in the prescribed manner, notwithstanding that the proposals or proposal of some or one of the debtors made to their or his separate creditors may not be accepted.

(26) Where proposals for compositions or schemes are made by a firm, and by the partners therein individually, the proposals made to the joint creditors shall be considered and then voted upon by them apart from every set of separate creditors; and the proposal made to each set of creditors shall be considered and voted upon by such separate set of creditors apart from all other creditors. Such proposals may vary in character and amount. Where a composition or scheme is approved, the adjudication order shall be annulled only so far as it relates to the estate, the creditors of which have confirmed the composition or scheme.

(27) If any two or more of the members of a partnership constitute a separate and independent firm, the creditors of such last mentioned firm shall be deemed to be a separate set of creditors, and to be on the same footing as the separate creditors of any individual member of the firm. And when any surplus shall arise upon the administration of the assets of such separate or independent firm the same shall be carried over to the separate estates of the partners in such separate and independent firm according to their respective rights therein.

#### ***Sale of Immovable Property of Insolvent***

(28) If no Receiver is appointed and the Court, in exercise of its powers under Section 58 of the Act, sells any immovable property of the insolvent, the deed of sale of the said property shall be prepared by the purchaser at his own cost, and shall be signed by the Presiding Officer of the Court.

#### ***Dividends***

(29) The amount of the dividend may, at the request and risk of the creditor, be transmitted to him by post.

(30) When an estate is ordered to be administered in a summary manner under Section 75 of the Act

(i) There shall be no advertisement of any proceedings in the local Government Gazette or in a local newspaper.

(ii) The petition and all subsequent proceedings shall be endorsed "Summary case".

(iii) The notice of the hearing of the petition to the creditors shall be in Form No. (P) 65.

#### ***Costs***

(31) All proceedings under the Act down to and including the making of an order of adjudication shall be at the cost of the party prosecuting them, but when an order of adjudication has been made, the costs of the petitioning creditor including the costs of the publication of all gazette notices required by the Act or Rules which, by the Act or Rules, the petitioning creditor is required to pay shall be taxed and be payable out of the estate.

(32) Before making an order in an insolvency petition presented by a debtor, the Court may require the debtor to deposit in Court a sum sufficient to cover the costs of sending the prescribed notices of the hearing of petition and the costs of the publication of all gazette notices required by the Act or Rules which, by the Act or Rules, the debtor is required to pay.

(33) The cost of the publication in the Gazette of

(a) An order fixing the date for the hearing of an insolvency petition under Section 19 (2) shall when the petition is by creditor, be paid by the creditor, and, when the petition is by the debtor, be paid out of the sum deposited in Court by the debtor under clause (32);

(b) Notice of a proposal for a composition under Section 38 (1) and notice of an application for discharge under Section 41 (1) shall be paid by the debtor.

(34) The publication in the Gazette of-

(a) Notice of adjudication under Section 30,

(b) Notice to creditors whose claims have been notified but not proved. under Section 64,

(c) Notice of an order annulling an adjudication under Section 37 (2), shall be made free of charge.

(35) No costs incurred by a debtor of, or incidental to, an application to approve a composition or scheme shall be allowed out of the estate if the Court refuses to approve the composition or scheme.

(36) If the assets available are not sufficient in any case for taking proceedings necessary for the administration of the estate, the Receiver or Interim Receiver or Official Receiver, as the case may be, may call upon the creditors or any of them to advance the necessary funds, or to indemnify him against the cost of such proceedings. Any assets realized by such proceedings shall be applied, in the first place, towards the repayment of such advances with interest thereon at 6 per cent per annum.

## RULES FOR THE DISPOSAL OF AUDIT OBJECTIONS AND AUDIT REPORTS RELATING TO ESTATES UNDER THE FIDUCIARY CONTROL OF THE CIVIL COURTS

198. The following Rules have been framed by the High Court for the disposal of audit notes and audit objections relating to estates under the fiduciary control of the civil courts-

- (1) The Auditor should give reasonable notice through the Court of the date when the audit is to begin.

The Receiver / Common Manager / Guardian of the estate the accounts of which are under audit should arrange to give every facility to the Auditor in the conduct of his business. All accounts, registers and other documents which the Auditor may demand for this purpose should be laid before him and due expedition. If the Auditor is not given any necessary document demanded by him, he should bring the fact to the notice of the court before making a representation to the Examiner of Local Accounts.

- (2) The results of each audit should be communicated as follows –

- (i) The objection statements which are issued daily by the Auditor in the course of the audit, and
- (ii) The audit report which is issued formally after the close of the audit over the signature of the Examiner of Local Accounts.

- (3) The daily objection statements issued by the Auditor in the course of the audit should be returned to him within three days from date of receipt with replies showing the action which is taken and which it is proposed to take to settle the objections raised. These replies should be signed by the Receiver / Common Manager / Guardian of the estate the accounts of which are under audit. The objection statements should all be returned without fail on or before the date on which the audit closes. No objection statement should remain unanswered on this date.

- (4) When the objection statements are received back by the Auditor he will write out the draft audit report and will send it to Receiver / Common Manager/ Guardian of the estate the accounts of which are under audit. If the latter finds any inaccuracies in the draft he should point them out. He may also take such action as he may consider necessary. He should return the draft audit report with such remarks as he may consider necessary within a week of the date of receipt by him.
- (5) The audit report as finally approved will be signed by the Examiner of Local Accounts and copies will be sent by him to the Receiver / Common Manager / Guardian of the estate, to the Presiding Officer of the Court concerned, to the registrar of the High Court of Judicature and to the Secretary to Government in the Judicial Department.
- (6) On receipt of the audit report the Receiver / Common Manager / Guardian must take steps to remove the objections mentioned therein and should submit his reply to the Examiner of Local Accounts through the Court within one month.

His reply to the audit report showing the action which has been taken on it must be sent in duplicate. A tabular form should be adopted providing separate columns for the record against each item or paragraph of the audit report of –

- (i) the reply and explanation of the Receiver / Common Manager / Guardian
- (ii) the remarks of the Examiner, and
- (iii) the final order of the Court.

If the Examiner remains unsatisfied with the reply offered to any point raised in audit he will forward one copy with his remarks to the Court for consideration and the orders of the latter will be final, subject to appeal and the superintendence of the High Court.

- (7) An audit objection is usually removed by the requisite sanction or making the necessary recovery, by correcting or completing the relevant account or voucher, by furnishing the necessary documents or information, or by the otherwise securing compliance with the provisions of a specified Rule.

In cases in which a protest is made against an audit objection as being incorrect, objection should be held to be in force unless formal intimation of its withdrawal is received from the Audit Department or it is disallowed by the Court under Rule (6).

- (8) The final disposal of the audit report by the Court shall be communicated by or through the Principal District Judge with copies of the tabular statement, to the High Court, the Examiner of Local Accounts and the Receiver / Common Manager / Guardian.
- (9) Auditors have instructions to mention prominently in the audit report unremedied

objections of previous audit reports. The Receiver / Common Manager / Guardian should pay particular attention to these items and in explaining or replying to them it should invariably be stated why the objections could not be removed.

**ACCOUNT RULES AND FORMS FOR ESTATES UNDER THE FIDUCIARY CONTROL OF THE CIVIL COURTS AND SUBJECT TO AUDIT BY THE EXAMINER OF LOCAL ACCOUNTS, Jharkhand**

199. (1) The following registers, accounts and forms are prescribed for Estates under the fiduciary control of the Civil Courts the accounts of which are subject to audit by the Examiner of Local Accounts, Jharkhand. All estates should also prepare budget estimates showing all anticipated heads of income and expenditure in such form as may suit the requirement of each estate. Receipts for rent, where rent is collected in cash or in kind, should be granted in the form prescribed by Government under the Tenancy Act.

SI . No.	Description of the register, account or form	Form number	Remarks
1	2	2	4
<b>Class I</b>			
1	Rokar or Cash Book	F.E.F. No. 1	
2	Voucher ...	F.E.F. No. 2	
3	Detailed Khatian ...	F.E.F. No. 3	
4	Register of Civil Suits, Appeals and Execution Cases.	F.E.F. No. 4	Need not be written up every year except in the case of large estates if found necessary.
5	Stock Book (for Sadr office)	F.E.F. No. 5	All sorts of articles, namely, forms stationery, furniture, tools, live-stock, etc... should be entered in this register which should be divided into the necessary parts, one or more pages being allotted to each item according to necessity. There should be an index in the beginning and the register should be balanced quarterly.
6	Siaha or daily collection register	F.E.F. No. 6	
7	Jama Wasul Baki register	F.E.F. No. 7	
8	Receipt for Miscellaneous Payment	F.E.F. No. 8	
<b>Class II</b>			
9	Khatian of each kind of dues and balances.	F.E.F. No. 9	
10	Register of tenants holdings purchased in execution and resettlement of the same	F.E.F. No. 10	
11	Register or proprietor's private lands	F.E.F. No. 11	
12	Jamabandi or rent-roll	F.E.F. No. 12	One Jamabandi Register should be kept at headquarters for ready reference, a

			copy of the same being given to the mufassal staff for the purpose of collection. An abstract account of the total assets should be given at the end of the jamabandi which must show separately the area under Nagdi, Bhaoli, Gairmazrua and Bakasht together with rent and other miscellaneous income from Jalkar and Sairat, etc. This register should be compared annually with the mufassal Jamabandi with a view to check and surreptitious act done by the mufassal staff. All mutations should be reported to the Manager, or guardian or Receiver and changes in red ink made in the office copy of the Jamabandi.
13	Jamabandi or miscellaneous tenancies	F.E.F. No. 13	
14	Settlement Register	F.E.F. No. 14	
15	Register or mutation fee ...	F.E.F. No. 15	
16	General Ledger ...	F.E.F. No. 16	To be written up from the Cash Book or Rokar to show the progress of income and expenditure under each budget head. It should not be necessary to maintain this General Ledger in small estates.
17	Danabandi Khasra	F.E.F. No. 17	To be written by carbon process on the spot, the pencil copy being sent to the Head Office at the close of the day. N.B. – The paper should be kept mauza by mauza. Where rent is collected on the basis or an estimate of produce, signatures or thumb impressions of the party concerned, the persons making the appraisal and of some respectable witnesses present thereat, should be taken on the appraisal papers, wherever possible. If it is necessary to note that a particular area has been kept fallow an entry may be made in the remarks column.
18	Agor Batai Register	F.E.F. No. 18	May be used for both system of Bhaoli rent – Batai and Danabandi.
19	Sale Paper ...	F.E.F. No. 19	
20	List of defaulters ...	F.E.F. No. 20	To be drawn up half- yearly with a statement showing collection, remission and balance.
21	Stock Book for mufassal office including Bhaoli realization	F.E.F. No. 21	
22	Wasul Baki Register for Bhaoli and Batai Rents	.....	F.E.F. No. 7 may be used, description and quantity of produce being noted in the column provided for rent.
23	Siaha for Bhaoli and Batai rents	.....	F.E.F. No. 6 may be used, description and quantity of produce being noted in the column provided for rent

Note 1 – The registers and forms may be kept in English or in the Vernacular as may be found convenient.

Note 2 - The registers and forms should be preserved for the periods given in “note” at page of 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.

(2) The registers and accounts under class I are essential and must be maintained by all estates. The Principal District Judge or the Court concerned may modify them only in detail, if necessary, but must not dispense with any of the entirely. The registers and forms under class II may not be necessary for all estates and the Principal District Judge or the Court concerned may modify or dispense with the keeping of any of these upon application by the Guardian, Common Manager or Receiver. The Principal District Judge may also accept in extreme cases a register or even a note book in which some of the items of class II are entered. In deciding whether any particular register or form of class II should be dispensed with or should be combined with others into one register, the Principal District Judge or Court should take and consider the advice of the Examiner of Local Accounts, who should be consulted in the matter as soon as possible after the first audit subsequent to the date on which these Rules and forms come into force. [“Essential Registers”, “Optional” Registers]

(3) The forms prescribed under clause (1) above are contained in Appendix D, Volume II.

Imp. Note - to be examined by the Hon’ble Rule Committee [The above two Rules 198 and 199 of this draft were not incorporated in the earlier proposed draft prepared by the High Court Committee the reason best known to the said committee, but the present committee after going through the above two rules resolved to incorporate the rules as they are very important in cases of appointment of receiver in a suit.]

#### **RULES UNDER THE BANKERS' BOOKS EVIDENCE ACT (XVIII OF 1891)**

**200.** (1) A Bank ordered under the Banker's Books Evidence Act XVIII of 1891, to supply certified copies of entries from its books shall be entitled to charge on the following scale [*Scale of fees*]

- *Searching fee-For* each year or part of a year in respect of which search is made-Rs. 5.
- *Copies-For* each Bank folio or part thereof-Rs. 5.
- *Certificate-For* the certificate under Section 6 of the Act-Rs. 5.
- Fees for writable compact disc (CD) / DVD as fixed by bank depending upon market price
- A Bank folio for this purpose is a page of the Bank's books of not less than 40 and not more than 50 lines

(2) An application for an order under the said Act shall be made *ex-parte* upon petition and the Court or a Judge may direct that notice of the application shall be served on the Bank or Banks named in the application. The petition shall set out particulars of which it is desired to obtain copies (or, if this is impossible, the year or years in which such entries will appear) and the materiality of such entries. [*Application how made.*]

(3) All applications shall be made in sufficient time to allow three clear days' notice required to be given by Section 6 (2) of the Bankers' Books Evidence Act, and all applications made in insufficient time shall state the reason thereof. (*Application made in insufficient time and procedure to be followed in such cases.*)



(4) The party who has obtained such order shall serve it upon the Bank or Banks affected and at the same time pay to the Bank or Banks the searching fee of which the amount shall be stated in the order. *[Service of order in Bank.]*

(5) Upon service of the order the Bank or Banks shall forthwith cause search to be made and shall thereafter forthwith inform the party who has obtained the order for the amount to be paid to such Bank or Banks for copies of the entries to be made in terms of the order. *[Bank to make search and make out demand for fee for copies.]*

(6) Thereupon the party concerned shall pay to the Bank or Banks the amount so stated and the fee for the certificate and the Bank or Banks shall upon receipt thereof forthwith prepare and deliver to the party the copies of the relevant entries together with the certificate under Section 6 of the Act. *[Party to pay for certified copies and certificate.]*

(7) Nothing in the above Rules shall be construed as derogating from the power of the Court or the Judge to make such orders as to costs in particular cases as may seem appropriate to it or him under Section 7 of the Act.

**Note:- Certified copies referred to above, shall include hard copy of Data stored in Floppy, Disc, Tape or any other Electromagnetic Data Storage Device as mentioned in Section-2 (8) (b) & (c) of the Bankers Book Evidence Act (amended), with proper certificate of its correctness as required under amended section 2A. As well as the soft copy of the data so produced in such storage media.**

Rules framed by High Court of Jharkhand under Section 21 of the Family Courts Act, 1984

**201.** Noti. No. 1.A./ Court Gathan 102/2003-2060/J, dated the 20th July, 2004. No. 6543, dated the 15th July, 2004. – In exercise, of the powers conferred by Section 21 of the Family Courts Act, 1984 (Central Act no. 66 of 1984), and all enabling provisions in that behalf, the High Court of Jharkhand hereby make and prescribe the following Rules to regulate the proceedings for the Family Courts in the State of Jharkhand.

In exercise of the powers conferred by Section 21 of the Family Courts Act, 1984, the High Court of Jharkhand are pleased to prescribed the following Rules for Family Courts in the State of Jharkhand.

#### Rules

1. Short title. - (a) These rules may be called the Family Courts (Jharkhand High Court) Rules, 2004.

(b) Commencement – These rules shall come into force from 15th August, 2004.

(c) Application – These rules shall apply to the Family Courts established in the State of Jharkhand under Section 3 of the Family Court Act, 1984.

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

(a) “Act” means the Family Courts Act, 1984;

(b) “Centre” means a counseling centre;

(c) “Counsellor” means a person referred to in Section 6 of the Act;

(d) “Court” means the Family Court established under Section 3 of the Act;

- (e) “High Court” means the High Court of Jharkhand;
- (f) “institution” means any institution or organization engaged in social welfare;
- (g) “Petition” shall include an application under Chapter IX of the Criminal Procedure Code, unless the subject matter or context requires otherwise;
- (h) All other words and expressions used but not defined in these rules and defined in the Act, or in the Code of Civil Procedure, 1908 or in the Code of Criminal Procedure, 1973, shall have the meaning respectively assigned to them in the Act, or , as the case may be, in the Code of Civil Procedure, 1908 or in the Code of Criminal Procedure, 1973.

3. Working hours – (i) The office of the Family Court shall be open daily except authorized holidays for transaction of office work between 10.00 a.m. and 5.00 p.m.

(ii) The Judges of the Family court shall ordinarily sit in the Court between 10.30 a.m. – 4.30 p.m. on working days of the Family Court with recess between 1.00 p.m. – 1.30 p.m.

(iii) The Judges may, for expedience, hold proceedings of the Court beyond the working hours as prescribed in sub-rule (ii) above, and even on holidays:

Provided no such proceedings shall be held under sub-rule (iii) except with the consent of the parties to the proceeding.

(iv) The Family Court shall hold its sitting in open or in camera as determined by it in such case, but shall hold the proceedings in camera if either party so desires.

(V) No act of the Family Court shall be invalid by reason of holding or continuing its sitting at anyplace of its choice or on any holiday or outside normal working hours, when such sitting is informed to the parties in advance.

4. Place of sitting - The judge of the Family Court may hold sitting at places other than the ordinary place of sitting in consultation with the parties to the proceedings : the provision of the Legal Aid Scheme may be invoked in appreciate cases in the proceedings under the Act.

Institution of proceedings :-

(a) All proceedings instituted before a Family Court shall be by way of an application as per form No. 1 appended to these rules which should be duly verified by the petitioner. Interlocutory application in the proceeding to be instituted or already instituted shall be filed in form No. 2 after being duly verified by the applicant. The petition in form No. 1 or the interlocutory application in form No. 2 can be in any language falling in Schedule VIII to the Constitution.

(b) There shall be no Court fee or any other fee in respect of any petition or any interlocutory

application filed before the Family Court.

(c) In respect of application under Section 125 of Cr.P.C. or other application under Chapter IX of the Criminal Procedure Code the provision of that Code will apply.

(d) The application may be filed before Family Court as permitted under any law which also includes provisions in 'the following viz.

(i) Chapter IX of the Criminal Procedure Code, 1973 (2 of 1974).

(ii) Hindu Marriage Act, 1955 (25 of 1955).

(iii) Maintenance under the Hindu Adoptions and Maintenance Act, 1956 (78 of 1956).

(iv) Guardianship of the person or custody of or access to any minor under the Hindu Minority and Guardianship Act, 1956 (32 of 1956).

(v) Dowry Prohibition Act, 1961 (28 of 1961) (28 of 1961) for an order for in-junction in circumstances arising out of marital relationship.

(vi) Hindu Marriage (Validation of Proceedings) Act, 1960 (19 of 1960).

(vii) Personal law applicable to Muslims including :

(a) Muslim Personal Law (Shariat) Application Act, 1937 (26 of 1937).

(b) Dissolution of Muslim Marriages Act, 1939 (8 of 1939).

(c) Muslim Women (Protection of Rights on Divorce) Act, 1986 (25 of 1986).

(viii) Parsi Marriage and Divorce Act, 1936 (3 of 1936) which can be instituted or taken before the Parsi District Matrimonial Courts Constituted under Sections 18 and 20 of the said Act.

(ix) Indian Christian Marriage Act, 1872 (15 of 1872)

(x) Indian Divorce Act, 1945

(xi) Special Marriage Act, 1954 (43 of 1954)

(xii) Child Marriage Restraint Act, 1929 (19 of 1929).

(xiii) Anand Marriage Act, 1909 (7 of 1909)

(xiv) Arya Marriage Validation Act, 1937 (19 of 1937)

(xv) Foreign Marriage Act, 1969 (33 of 1969).

(xvi) Suits or proceedings relating to Part B States Marriages Validating Act, 1952 (1 of 1952).

(xvii) Guardians and Wards Act, 1890 (8 of 1890).

6. Filing of Petition – A petition or any other application shall be filed with two copies signed by the parties alongwith as many copies to be sent to all the respondents by an officer designated for this purpose. One copy of such petition or application shall be forwarded by the designated officer of the Family Court to the Counsellor forthwith.

7. Notice to respondent.—Notice of the proceeding including interlocutory application shall be issued in form No. 3 appended to these rules alongwith a copy of the petition of the application as the case may be in respect of matter under Chapter IX of the Criminal Procedure

Code the summons to appear and answer shall be in form No. 4.

8. Name and address of the party or of the representative to be stated in every process.— The name and address of a party or of the representative appearing for a party shall be stated in every notice, summons, witness summons, interim application, warrant and every process of the Court issued at the instance of such party or representative.

9. Notice, summons, etc. how attested and signed.— All notices, Summons, Rules, Orders, Warrants and other mandatory processes shall be sealed with the seal of the Court and shall be signed by the designated officer of the Court.

10. Returnable date of notice, summons.— Unless otherwise ordered the notice, summons shall be made returnable three weeks after the date of the filing of the petition, if the respondent resides within the local limits of the Court and five weeks after the date of the filing of the petition, if the respondent resides outside the said limits.

11. Mode of service of notice, summons.— (a) The notice, summons shall be served in the manner prescribed in the Code of Civil Procedure save and except in proceedings under Chapter IX of the Criminal Procedure Code where the provisions of the Code will apply. Along with the notice, summons a copy of the petition and exhibit thereto shall be sent.

(b) In addition to the normal process of service by the Court, the applicant will be at liberty to serve

upon the respondent, the notices, summons of the Court along with copy of the petition and exhibits either through person or through other recognisable mode of service including registered post and shall file affidavit of service upon the respondent.

12. Proof of service of summons.— It has to be shown by affidavit of applicant or other evidence that the notices, summons were served upon the respondents.

13. Substituted service.— In case of failure to serve by normal process, the Court on an oral/written application of the applicant may direct for serving upon the respondents by substituted mode i.e. through pasting publication in the newspaper, etc. and applicant shall file affidavit stating as to the mode adopted for service of summons.

14. Copy of petition to be furnished to the respondent.— Any respondent who asks for the copy on the ground that he has not received the copy of the petition or that he has not received complete copy, the applicant shall furnish the complete copy with all exhibits to the respondents.

15. The provisions under Order 1 of Civil Procedure Code for addition of a necessary party or a proper party shall be applicable to a proceeding before the Family Court.

16. Proceedings before the Court shall be taken up in the presence of the parties, and a legal practitioner shall be allowed to appear only as *amicus curiae*, if the Court finds it necessary in the interest of justice.

17. Directions on the returnable date.— On the returnable date of the notice, summons, the

petition shall be placed for directions before a Judge of the Family Court. On that day, the designated Counsellor shall attend the Court of the Judge giving directions. The Judge shall, in consultation with the Counsellor, direct the parties to attend a specified date by which Counsellor shall file a memorandum setting out the outcome of the proceeding before him. On that day the Court will pass further order and directions as it deems fit and proper.

18. Role of the Counsellor.— The Counsellor appointed to counsel the parties shall fix time and date of appointment. The parties shall be bound to attend the counsellor on the date and at the time so fixed if either of the parties fails to attend the Counsellor on the date and time so fixed, the Counsellor may fix another date and shall communicated the same to the absentee party by registered post. In case of default by either of the parties on the adjourned date, the Counsellor shall submit a report to the Court and on receipt of such report, the Court may proceed with the matter without prejudice to other powers of the Court to take action against the defaulting parties.

The Counsellor entrusted with any petition on appearance of the parties before her/him shall assist and advise the parties regarding the settlement of the subject matter of dispute and shall endeavour to help the parties in arriving at conciliation.

The counsellor may in discharge of him/his duties, visit the home of either of the parties and interview the relatives, friends, and acquaintances of either of the parties.

The counsellor in discharge of him/his duties may also seek such information as she/ he deems fit form the employed of either of the parties and such requisition for information shall be made through the Court.

The counsellor may take the assistance of any organisation, institution or agency in discharge of her/his duties.

the counsellor shall submit a report to the Court as and when called for to assist the Court in deciding the case in hand. The report may, inter alia contain the following points :

- (a) Living environment of the parties concerned.
- (b) Personalities.
- (c) Relationship.
- (d) Income and standard of living.
- (e) Educational status of the parties.
- (f) Status in society.
- (g) Counsellor's findings.

The Counsellor may also supervise the child/children if and when called upon by the Court.

19. Confidentiality of information.— Information gathered by the counsellor or any statement made before the counsellor or any notes or report prepared by the counsellor shall be treated as confidential and the counsellor shall not be called upon to disclose such information,

statement, notes or report to any Court except with the consent of both the parties.

20. Efforts for arriving at settlement.— (1) Every Family Courts shall maintain separate lists of :

- (a) Institutions and organisations engaged in social welfare together with names and addresses of representatives of each institutions or organisations.
- (b) Person professionally engaged in promoting the welfare of the Family with their addresses.
- (c) Persons working in the field of social welfare with their addresses.

Report from institution, organisation etc. (1) A Family Court may call for report as regards efforts made or to be made by the institution organisation or persons referred to in Section 5 of the Act :

Provided that where efforts for amicable settlement are continuing or are deferred, the Family Court may require the institution, organisation or person to submit before it an interim report.

21. When the parties arrive at a settlement before the Counsellor relating to the dispute or any part thereof such settlement shall be reduced into writing and shall be signed by the parties and countersigned by the counsellor.

#### HEARING OF PETITIONS IN COURT

22. Adjournment by the Court.— The petition so fixed shall not be adjourned by the Court unless there are circumstances justifying such adjournment and to meet the ends of justice. The Court shall record its reasons for adjourning a matter.

23. Memorandum of evidence.— The Court shall record only the substance of what the witness deposes and prepare a memorandum accordingly with shall be read and explained to the witness and the memorandum of the said substance recorded by the Court shall be signed by the witness and the presiding officer of the Court and shall form part of the record. The evidence taken on affidavit, if any, shall also form part of the record of the Court. The judgment shall contain a concise statement of the case, the point for determination the decision thereon and the reasons for such decision.

24. The Court shall furnish to the parties to the proceedings before it a copy of the judgment certified to be a true copy free of cost.

25. Appeal under Section 19(1) of the Act shall be in the manner of appeals against the original decree or order in a civil proceedings but there shall be no Court fee payable for the

appeal.

26. The rules framed under the Guardians and Wards Act, 1890 by the Patna High Court and published in Bihar Gazette-III dated the 27th May, 1931 and 8th September, 1933 shall be applicable in matter relating to Guardians and Wards Act, 1890 to the extent they are not inconsistent with the provisions of the Act or the Rules framed thereunder.

27. Application for Guardianship.— All petitions for guardianship other than applications over which the High Court has jurisdiction, shall be filed before the Family Court.

28. Contents of the Application.— Every petition for guardianship when it is by a person other than the natural parent or natural guardian of the child shall be accompanied by a Home Study Report of the person asking for such guardianship and his/her spouse, if any, prepared by an approved association of social welfare agencies etc. or a suitably trained social worker, from the list of agencies and/or persons for the purpose of their association with the Court approved by the Government in the rule made under Section 5 of the Act, in consultation with the High Court.

29. In case of a child placed in guardianship the Court may, at any time direct a Counsellor attached to the Court to supervise the placement of the child and submit a report thereon to the Court in such manner as the Court may deem fit.

30. A child study report of the child proposed to be taken in guardianship together with a photograph of the child should also be filed in all petitions for guardianship, as required under Rule 23 of the Rules framed under the Guardian and Wards Act, 1890. Such report shall be in a particular Form prescribed by the Court when the child is institutionalised (or Court committed). The report shall be countersigned by the petitioner.

31. A proceeding before the Family Court shall not become invalid by reason only of non-compliance with any of the procedural requirement prescribed herein.

#### INTERIM APPLICATIONS

32. Interim application.— All interim applications to the Court shall be separately numbered as

“Interim Application No.....” In Petition No.....

33. Interim application while matter is pending before Counsellor.— An interim application may be made even while the matter is pending before a Counsellor.

34. Report from the Counsellor.— The Court may ask the Counsellor to submit an interim report for the purposes of such an application before deciding and interim application. The Family

Court Rules, 2002 relating to report to be submitted by Counsellor, shall mutatis mutandis apply to interim reports also.

35. Officers.— The High Court may authorise and empower judge of the Family Court, or if, there be more judges than one in a Family Court the principal judge of such Court to appoint so many and such clerks and other ministerial officers as may be necessary for the administration of justice and due execution of all powers and authorities exercisable by a Family Court.

Provided that the appointments of officers and ministerial staff shall be subject to any rules or restriction as may be prescribed or imposed under the Act.

36. The proceedings before the Court shall be heard and disposed of as expeditiously as possible, preferably within 3 months, and in achieving this objective the rules or procedure may not rigidly be adhered to.

37. Control of High Court.— Every Principal Judge, and Judge of Family Court shall be under administrative and disciplinary control of the High Court.

38. Power of High Court to transfer Judges, officers etc. without prejudice to the administrative and disciplinary control of the High Court under Rule 12, such Court or a Judge thereof authorised under general or special order in this behalf by such Court, may where it is considered necessary or expedient so to do, transfer any Principal Judge, Additional Judge, Judges or any officer or Ministerial official of one Family Court to another Family Court in this state or retransfer such Principal Judge, Additional Judge, officer or ministerial official, as the case may be and every such principal Judge, Additional Judge or Judge, official or ministerial official shall comply.

39. Power of High Court to issue directions.— For carrying out the purposes of the Act and for

ensuring the uniformity of practice to be observed by Family Courts and for expeditious disposal, the High Court may from time to time, supervise and inspect the Family Courts and issue directions/circulars etc. to the Family Courts.

40. Judge not to try a case in which he is interested.— No Judge shall hear or decide any case to which he is party or in which he/she is personally interested.

41. The Family Courts may use such forms and containing such particulars as may be approved by the High Court.

42. Powers to call for information etc.— The High Court may require Family Courts to maintain such registers and records and containing such particulars as may be approved by the High Court.



## SCHEDULE FORM No. I

*(Rule 3)*IN THE COURT OF THE PRINCIPAL JUDGE, FAMILY COURT  
ORIGINAL PETITION No. .... OF 20 ...*A B--Petitioner.**C D-Respondent.**E F--Co-respondent*(Petition under Section .....of the Special Marriage Act, 1954 and Rule .....  
of the Rules under Special Marriage Act.) FORM No. II*(Rule 8)*IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE ORIGINAL PETITION NO.....OF 20 ... I  
in the matter of the Special Marriage Act, 1954*A B-Petitioner.**C D-Respondent.**E F-Co-respondent. C D-Respondent**E F-Co-respondent.*

- Petition presented on
- Petition filed on
- Notice issued on

Where on the .....day of .....20 ... the above named petitioner filed a petition against the respondent for .....(specify the relief) you are hereby required to appear in this Court on the .....day of .....20 ... at 10.30 A.M. (6.30 A.M. in case of morning sittings) in person or by pleader duly instructed and able to answer all material question relating to the above proceeding.

Also take notice that in default of your appearance on the aforesaid day the *issues will be settled and the petition heard and determined in your absence.*

You shall also bring with you or send by your pleader any documents which the petitioner desires to inspect and any documents on which you intend to rely in support of your defence.

You are required to file a written statement in Court on or before the ..... day of .....20... .

Given under my hand and the seal of the Court, this .....day of .....20... .

Principal Judge, Family Court

**Note-A** copy of the petition accompanies this notice.

## **202. Rules framed by the Jharkhand High Court under section 82 of the Arbitration and Conciliation Act, 1996.**

### **1. Short title, Commencement and Applicability**

**(a) These rules may be called “The High Court of Jharkhand (Arbitration and Conciliation ) Rules, 2010.”**

**(b) They shall come into force with immediate effect.**

(c) They shall extend to whole of the State of Jharkhand and Shall apply to all proceedings before the “Court” under the Arbitration and Conciliation Act, 1996.

## **2. Definitions**

- (a) “Act” means the Arbitration and Conciliation Act, 1996.
- (b) “Application” means an application filed in the “Court” under the Act.
- (c) “Arbitrator” means a person so appointed by the Chief Justice of Jharkhand high Court under the scheme as framed in view of section 11 of the Act
- (d) “Chief Justice” means the Chief Justice of the High Court of Jharkhand.
- (e) “Claimant” means a person making the claim.
- (f) “Respondent” means a person against whom the claim is made. Other expressions not specifically defined herein, shall carry the same meaning as they do under section 2 of the Act.

**3. Mode of application** - All applications under the Act shall be made only to the proper Court and all applications shall be made by petitions and shall be presented in the same manner as plaints or other applications to the Clerk of the Court or to such other Officer as the Court appoints in that behalf who shall cause them to be registered and take such order as are necessary from the Presiding Judge. and if the Court so directs, shall be supported by an affidavit.

### **Entitling of application affidavit and proceeding**

(a) Save as hereinafter provided, all applications affidavits and proceedings under this Act shall be titled

“In the matter to Arbitration and Conciliation Act, 1996 and in the matter of Arbitration (state the proceeding and its number) under section for.....

Note - All the applications under sections (1), 9 11, (4) (5) (6), 14(2) 27, 34 and 36 shall be titled as above by inducting relevant section and purpose as follows in the above title:-

Under sections 8(1), 45 and 54 for reference to Arbitration.

Under section 9 for interim measure (e.g. Appointment of guardian)

Under section 11 (4)(5)(6) for appointment of an arbitrator.

Under section 14(2) for termination of the mandate of an arbitrator.

Under section 27 for Court Assistance in taking evidence.

Under section 34 for setting aside arbitral award.

Under section 36 for enforcement of arbitral award.

(b) An appeal under sections 37, 50 and 59 shall be entitled:-

**“In the matter of the Arbitration and conciliation Act, 1996 and in the matter to Arbitration (State the proceeding and its number), appeal under section 37 against (state the section under which and the nature of impugned order e.g., order under section 34 setting aside arbitral award)”**

#### **4. Contents of Petition**

(i) It shall be divided into paragraphs numbered consecutively and shall contain the name, description and place of residence of the parties. It shall contain a statement in concise form:-

(a) of the material facts constituting cause of action;

(b) of facts showing that the court to which the application is presented has jurisdiction;

(c) relief(s) asked for, and

(d) names and addresses of the persons liable to be affected by the application:

(Provided that where a party by reason of absence or for any other reason, is unable to sign and verify the same, it may be signed and verified by any person duly authorized by him in this behalf and is proved to the satisfaction of the Court, to be acquainted with the facts of the case.)

(ii) An application for enforcement of an Arbitral Award under section 36 or foreign award under Section 47 or section 55 shall be in writing signed and verified by the applicant or by some other person proved to the satisfaction of the court, to be acquainted with the facts of the case, and shall contain in a tabular form the particulars prescribed in sub-rule (2) of Rule 11 of order 21 of the Code of Civil Procedure, 1908. A certified copy of the Arbitration Agreement or the Award, relating to the Petition, if any whenever necessary, shall be annexed thereto. The date of the order appointing arbitrator shall be mentioned in the application wherever applicable.

#### **5. Registration.**

Every application shall, if the Court is satisfied that the same is in order, be

numbered and registered as an Arbitration Case and every appeal shall be registered as an Arbitration Appeal.

**6. Notice of application to persons affected by award** - Upon any application by petition under the Act the Judge shall direct notice thereof to be given to all persons mentioned in the petition and to such other persons as may seem to him to be likely to be affected by the proceedings requiring all or any of such persons to show cause within the time specified in the notice, why the relief sought in the petition should not be granted. The notice shall be accompanied by a copy of the application and documents filed by the applicant.

**7. Court Fees and Process fees** – The Court fees and Process fees chargeable for all petitions shall be in accordance with the Court Fees Act and the rules for the levy of process fees in force for the time being.

### **8. Applicability of the provisions of Code of Civil Procedure**

(1) Save as otherwise expressly provided in the Act or those Rules the following provisions of the Code of Civil Procedure 1908 (v of 1908) shall apply to the proceedings before a Court in so far as they may be applicable thereto, namely:

(i) Sections 28, 31, 35, 35-A, 35 B, 107, 133, 135, 148-A, 149, 151 & 152. and

(ii) Orders III, V, VI, IX, XIII, XIV, XVI to XIX, XXIX and XLI.

(2) (a) For the purpose of facilitating the application of the provisions referred to under sub-rule (i) the Court may construe them with such alterations, not affecting the substance, as may be necessary or proper to adopt to the matters before it; and

(b) The Court may, for sufficient reasons, proceed otherwise than in accordance with the said provisions if it is satisfied that the interests of the parties shall not thereby be prejudiced.

**9. Appointing Judges as Arbitrators** – The system of appointing Judges as arbitrators through legal and convenient, is open to objection A party may sometimes be compelled against his wishes to agree to such an arbitration: and it may be difficult for a litigant to raise objections successfully to an award on the ground of erroneous procedure or technical misconduct of the arbitrator before the Court when the Presiding Officer was himself the arbitrator. Further, it is undesirable that Judges who have given awards as arbitrators could be subject to reckless personal charges at the instance of suitors disappointed by an award. The practice, therefore, of presiding Judges acting as arbitrators is undesirable.

**10. Cost of copies** - Copies to pleadings and issues in cases of suits referred to arbitration should be prepared at the cost of the parties.

**11. Service of order appointing arbitrator** - an order appointing Arbitrator/s should be served on arbitrators whether they are present in the court or not and even when they are present in Court and express their willingness to act as such. In all these cases, process fee should be charged for serving an order on arbitrators. Where, however, a party is permitted to serve the copy of an order or reference on the arbitrator, half the prescribed process fee should be charged.

### **12 Repeal and Saving**

**(A)**The rule framed by the High Court of Judicature at Patna u/s 44 of the Arbitration Act, 1940 as applicable in State of Jharkhand in view of the provision under Section- 29 of the Bihar Re-organization Act, shall stand repealed, however the Proceedings filed under the Repealed Act and pending before the Subordinate Courts shall be governed by the existing Rules.

**(B)**The proceedings instituted under the Arbitration and Conciliation Act, 1996 shall be governed by the newly framed Rules i.e. Section 213-A & B of Civil Court Rules

### **203. Rules for Conciliation proceeding.**

Conciliation proceedings shall be governed under the provisions of Civil Procedure Alternative Dispute Resolution and Mediation Rules, 2003 as framed by the High Court of Jharkhand.

## **PART III**

### **Records**

#### **CHAPTER I**

#### **The Classification of Records of Judicial Proceedings**

**204.** The records of judicial proceedings, whether suits or cases, are divided into six 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.

**205.** Class I includes records of :-

(a) Suits for or affecting immovable property other than suits under Order XXXIV, Civil Procedure Code, 1908.

Note-Suits under Section 9, of the Specific Relief Act, 1877, should be included, not in this class, but in class III:

(b) Suits 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 Family Courts Act including the Hindu Marriage Act and the Special Marriage Act and Suits for dissolution of marriage by exercise of the option of puberty under the Muhammadan 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 Section 87 (2) of the Chota Nagpur Tenancy Act.

(g) Cases under the Wakf Act, 1923 (XLII of 1923), and applications for the sanction required by the Muhammadan Law for the transfer of Wakf property.

(h) Applications under the Charitable and Religious Trusts Act (XIV of 1920).

(i) Applications under Sections 32 (3), 43 (1) and 48 of the Bihar Hindu Religious Trusts Act (Act I of 1951).

(j) Appeals under Section 70, sub-clause 2 (b) of the Bihar Hindu Religious Trusts Act (I of 1951).

(k) Applications-under Sections 11, 22, 32, 34, 36, 41, 46, 49, 53, 71, 72, 73 and 74 of the Indian Trusts Act (II of 1882).

**206.** Class II includes records of

(a) Suits under Order XXXIV of the Code of Civil Procedure, 1908.

(b) Suit for 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 for Probate and Letters of Administration, and for the revocation of the same.

**Note 1.**-The custody and the preservation of a will itself is provided for by Chapter VI, 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 19H 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 proceedings will form part of the original case.

(d) Cases under Guardians and Wards Act, 1890, and the Hindu Minority and Guardianship Act, 1956 (Act 32 of 1956) relating to the guardianship of minor and the administration of their property and **Cases under the Family Courts Act**

(e) Cases under the Mental Health Act, \_\_\_\_\_ relating to the guardianship of Mentally disabled and the care of their estates.

Note-An application by an executor or administrator or by the guardian of a minor or mentally disabled, 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.

(f) Cases for Succession Certificate under the Indian Succession Act, 1925.

(g) Application under Section 30 of the Industrial Finance Corporation Act, 1948 (Act XV of 1948).

(h) Application under Section 31 (1) of the State Financial Corporation Act, 1951.

**207.** (1) Class III includes records of- .

(a) All suits which do not come under Class I or Class II, excluding suits of the Small Cause Court class which are tried in the Regular Civil Courts under the procedure prescribed for Small Cause Courts and suits falling under Class III-A and cases tried in Lok Adalat.

(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 and IV.

(e) Cases under the Transfer of Property Act, 1882, Section 83, regarding the redemption and foreclosure of mortgages.

(f) Cases under the Advocates Act.

(g) Cases under the Civil Procedure Code for a declaration of insolvency, or under the Provincial Insolvency Act, 1920.

**(h) Election petition under the Jharkhand Panchayat Raj Act and Election petitions under the other bodies like Municipal, Zila Parishad, Panchayat Samiti etc.**

(i) Applications to sue or appeal *in forma pauperis*, if rejected.

(j) Applications under Section 5 of the Religious Endowments Act, 1863 (XX of 1863).

(k) Cases under Section 17 of the Payment of Wages Act, 1936 (IV of 1936).

**(I) Application under sections (1), 9, 11 (4) (5) (6), 14(2), 27, 34 and 36 of the Arbitration and Conciliation Act, 1996**

- (m) Applications under Sections 28 (3) and 47 of the Bihar Hindu Religious Trusts Act (Act I of 1951).
- (n) Applications under Section 22 of the Hindu Succession Act, 1956 (Act 30 of 1956).
- (o) Such other cases as the High Court may from time to time direct to be included.

(2) Class III-A includes records of:-

(α) Applications under Sections 11 B and 12 (3) of the **Jharkhand** Buildings (Lease, Rent and Eviction) Control Act, 1947.

(β) Applications under Sections 75, 89, 113, 141, 234, 240 and 614 and cases under Sections 118, 144, 163, 196, 219, 304, 307 and 375 of the Companies Act, 1956 (1 of 1956).

(γ) Applications for compensation under Section 110A of the Motor Vehicle Act, 1939.

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.

**208.** (1) Class IV includes :-

Proceedings in execution of decrees in suits belonging to Classes I, II, and III.

(2) Class IV-A includes

Proceedings In execution of decrees in suits belonging to Class III-A.

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 the 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 this general heading.

**209.** 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 (Chapter V).

**210.** A separate record having its own order-sheet and containing appropriate papers or 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 proceeding 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 PRESERVATION OF RECORDS

##### A-The division of the Records into Files

**211.** Every record shall as hereinafter provided consist of one or more of the following files to be ordinarily preserved for periods noted against each 1 [File A - For ever.

File A	For ever
File B	For 12 years
File C	For 6 years
File C1	For 3 years
File D	For 6 years
File D1	For 3 years

Note: After introduction of scheme of digital mode of record keeping the same may be done in accordance with the rules so introduced in addition to the rules mentioned above.

For 3 years.

- 212.** Every record under Class I shall consist of three files to be styled and marked, respectively, File A, File C and File C-1.
- 213.** File A shall contain
- (a) Table of Contents.
  - (b) Order-sheet.
  - (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 field-book (if any) of a Commissioner in matters relating to immovable property, if referred to or given effect to in the decree, but not any portion of the evidence taken by such Commissioner; also, in the case of Minors or Lunatics, any order of the Court sanctioning a compromise as beneficial to the Minor or Lunatic.
  - (g) The preliminary decree (if any), with the further directions (if any) given and the judgment upon which the preliminary decree is founded.
  - (h) The Judgment.
  - (i) The final decree.
  - (j) The copy of the judgment and decree of the Appellate Court or Courts (if any).
- 214.** File C shall contain
- (a) Table of contents.
  - (b) All the evidence, oral and documentary, upon which the subject matter of the suit is decided.
  - (c) Lists of documents admitted in evidence.
- 215.** File C-1 shall contain
- (a) Table of contents.
  - (b) All other papers.
- 216.** Every record under Class II shall consist of two files to be styled and marked File B and File C-1.
- (a) File B shall contain the papers specified and included in Files A and C, Class I.

Note-Security bonds filed in cases mentioned in clauses (c) and (d) and applications referred to in the note under clause (e) of Rule 206 as also other papers the preservation of which has been directed by the Judge, will form part of File B.

(b) File C-1 shall contain all other papers.

Note-The paper of the proceedings of an inquiry made at the instance of the Collector under clause 5 of Section 19H of the Court-fees Act, VII of 1870, should be kept in this file.

- 217.** Every record under Class III shall consist of two files to be styled and marked File C and File C-1 and every record under Class III-A shall consist of two files to be styled and marked File D and D-1 containing all the papers relating to the case.

File C shall contain the papers specified and included in Files A and C of Class I and File C-1 shall contain all other papers.

File D shall contain the claim petition, order sheet, award and decree, and File D-1 shall contain other paper relating to the case.

(a) The record of Lok Adalat as specified in Rule 207-a shall consist of only one file as 'File-A' which shall contain:

(i) Table of Contents

(ii) Order Sheet



- (iii) Application given by the petitioner and Written reply if any
- (iv) The copy of the documents produced by the parties if any (original should be returned to the parties )
- (v) Third copy of the award/settlement paper.

**Note:** After introduction of scheme of digital mode of record keeping the same may be done in accordance with the rules so introduced in addition to the rules mentioned above.

**218.** (a) Every record under Classes IV and IV-A shall, except as provided in sub-rules (b) and (d) consist of one file which shall contain all the papers relating to the case. It shall be styled and marked File D where the decree under execution has been passed in a suit belonging to Class III-A and File C in all other cases.

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

(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.
- (iv) The petition raising any question as to construction or effect of the decree, and any counter-petition. [*When a question as to the construction, effect or scope of the decree is raised and determined.*]
- (v) The judgment of the Court on such question.
- (vi) The copy of the judgement of the Appellate Court or Courts (if any).
- (vii) 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-1, the essential papers, namely, the order sheet, the application for execution, the copy of the sale certificate and the writ of delivery of possession with *Nazir's* report being placed in file B and other papers in File C-1.

**219.** (a) Every record of an Appellate Court shall be arranged in the same way 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-1 File.

(b) The files must be marked A, B, C or D 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-1.

**Note 2.**-In the case of Civil Appeals except miscellaneous appeals the certified copies of judgments and decrees filed with the memorandum of appeal should be returned to the appellants on their applying for them after the disposal of the appeals, since the original record is kept with the appellate record in the district record room. In the case of appeals from the decisions of Settlement Officers and 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.

**220.** 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.

**221.** 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.
- (ii) Where the cases 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 cases has been dismissed on satisfaction before decree.
- (iv) Where the plaint or memorandum of appeal has been returned for presentation to proper Court.

**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.

On the record of every such case the Court *Muharrir* shall stamp or write conspicuously the words "rejected", "dismissed for default", "satisfaction" or "plaint returned", as the case may be.

### ***B-The Title Page***

**222.** 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 221 until these are called for by some superior Court. Then the title page of the first file according to classification, shall be attached.

**223.** The title pages shall be of different colours

File A	White
File B	Red
File C and C-1	Yellow
File D	Blue
File D1	Colour Blue

### ***C-The Table of contents***

**224.** 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 in giving page marks to the other papers in the file.

**225.** The transfer of any paper from one file to another shall be noted in the table of contents of both the files.

**226.** Document 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***

**227.** The order-sheet shall be written in English **/Hindi in Devanagri script** and shall contain all orders passed by the Court **consecutively numbered.**

Note-Orders 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.

**228.** 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 statements were filed, issues were recorded or amended, witnesses examined and the names of such witnesses, the date of the delivery of judgment, of 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 the reading of the deposition of 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, 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 an Appellate Court calling for the record of a suit or appeal, should be recorded on a separate paper and reproduced on the order sheet of a suit or appeal when the records have been received from the Lower Court. When such proceedings are disposed W 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.

**229.** 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.

**230.** Orders directing anything to be done by the parties or their pleaders, shall be signed then and there by the parties or their pleaders.

**231.** 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. Rubber stamps may conveniently be used for recording routine orders.

### *E-The Record*

**232.** The pleadings, applications, proceedings 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.

**233.** The depositions of witnesses for 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.

**(A) While recording of deposition care must be taken that one and half inch margin is left in every side of the paper.**

### *F-Document*

**234.** Documents admitted in evidence shall be marked with figures 1, 2, 3, etc., and capital letters A, B, C, etc., accordingly as they are admitted on behalf of the plaintiffs 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 lists shall be made day by day and the same shall also be maintained in digital mode.

**235.** When there are two or more parties of defendants, the documents 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. If on behalf of either of the party digital evidence is filed and the same is taken into evidence thus digital documents shall be marked in case of plaintiff as E1-P1, P2, P3. Similarly in cases of defendants the same shall be marked as E1-D1, D2, D3.

(a) Where an exhibit forms part of a voluminous document, such 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) 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.

**236.** 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.

**237.** 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.

**238.** 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.

**239.** When a document of historical or anti quarian interest is in question the Court should make every possible endeavor to prevent it being defaced by endorsement or 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 endorsed outside such box or cover. If every other means fails measures should be taken for the safe custody of the document pending instructions from higher authorities.

**(A).** Any party to a suit or proceeding may file photostat copy of any valuable and important document and the original thereof may be produced at the time of evidence. The original document may be returned to the party concerned soon after it has been inspected or put in evidence unless its retention is considered necessary. In case retention of original document is considered necessary by the Court, all measures should be taken by the Court for

its safe custody.

**240.** 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 XI 11, 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.

**241.** 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 as 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.

Note- While returning any public document, the Court shall make an endorsement therein near about the exhibit mark and by a separate order in the order-sheet of the case direct that it shall not be destroyed without previous permission of the Court and the Court shall not accord such permission until the trial is concluded, or in case where appeal lies until sufficient time has elapsed for appeal, or, if an appeal is preferred, until the determination thereof. The Court shall forward to the department concerned a copy of the order and before according permission for destruction, shall satisfy itself that no appeal is pending. The term "appeal" includes a second appeal and an appeal to the Supreme Court.

**242.** Should any document or book produced at anytime in the course of the proceeding, present a suspicious appearance or be held by the Court to be forged or fabricated, the Court shall make a note of the fact on the order-sheet of the case and direct therein that it shall be kept in safe custody and shall not be returned to the parties concerned without permission of the Court. The Court shall not accord such permission unless all proceedings connected with such document or book have been completely disposed of. A note in red ink to the above effect shall also be made in the exhibit list as well as on the list with which the document has been filed in Court. A similar note shall be made on a separate piece of paper which shall be attached to document or book concerned.

**243.** Where the Court does 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 on 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. [G.L. 3/29.]

**244.** (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 the record, if not already there. The original shall then be returned to the person producing it personally or by registered post, or to his pleader unless the genuineness of the documents is in controversy, in which case the original shall, unless the Court otherwise directs, be returned after the trial is concluded, or, in 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 collections 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 expense will be furnished.

(b) This procedure shall also be adopted where 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 cases where the person producing a document has any Advocate authorised to take back documents on his behalf the document may be returned under the foregoing Rules to such Advocate, 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 are likely to be incurred, including the cost of returning the document by registered post, the cost of preparing a 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 registered letter therein referred to.

**245.** A period of three months from the date of the decree should ordinarily elapse before the documents exhibited in a case are returned to the person who produced them. The Presiding Officers of outlying Courts should see that exhibits are as far as possible returned before the periodical despatch of the records to the District

Record Room.

(A). Rule 286 of Chapter IV shall in so far as it is not inconsistent with these Rules apply to applications for the return of documents from the Courts.

## II- INSPECTION OF RECORDS

**246.** All the pending record not deposited in the record room shall be inspected in the Ijlas of the Registrar-cum-Judge In-charge of the district and similarly all applications for inspection of the record shall be filed before the registrar and the same shall be sent to the office concerned through dispatch register. The office concerned shall sent the required records along with the applications to the Ijlas of the Registrar for inspection after making entries in Register No. R-23, Column No. 1 to 5.

### CHAPTER III

#### The Transmission of Records to the District Record-Room

**247.** The records of decided, contested and uncontested suits and of Classes I, 11, III and III-A other than those referred to in Rule 221, of the preceding chapter, shall be forwarded to the District RecordRoom 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 were decided or disposed of.

**Note 1.**-For the purposes of this Rule suit in which preliminary decrees are made should be regarded as finally disposed of only when the final decree has been passed but where 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 Courts 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 the 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 Order 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.

**248.** The Principal 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 as even distribution of work in the Record-Room.

**Note 1.**-The orders passed by the Principal District Judge under this Rule, fixing the date for the transmission of records, shall be copied and posted in the RecordRoom and in the offices of the Courts to which they relate.

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

**249.** (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 entry of every suit or case other than those referred to Rule 221 of the preceding chapter, disposed of during the period. The duplicate copy shall be forwarded to the Principal 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 Principal District Judge.

Note-Zanetic, that is, pen 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 247, which though entered in the list are not yet due for despatch. The 'kept back' records of both such classes should be entered also in a separate list to accompany the despatch list.

**250.** The records of cases referred to in Rule 221 of the preceding chapter shall be entered in a separate list [in Form No. (R) 20] and kept in the respective Courts to which they belong and will be destroyed after one year from the date of final disposal unless there has been an order for restoration to file. When such

destruction takes place the fact should 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.

**251.** 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 Courtfee 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 or the first sheet of each record of the date on which the stamps on documents contained in it have been so punched.

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

**252.** All registers which have to be permanently preserved shall, after 12 years from the date of the last entry therein, be sent to District Record-Room with a list in Form No. (R) 21.

## CHAPTER IV

### District Record-Room I-RECORD-ROOM ARRANGEMENT AND THE GENERAL DUTIES OF THE RECORD-KEEPER

**253.** "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.

**254.** 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 shall be so placed that no one can enter or pass papers out of the Record-Room unseen by him.

Note-Repunching peons should work near the Record-Keeper's table.

**255.** All other windows, doors or openings in the walls of the Record-Rooms, 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.

**(A).** The Record keeper shall be the custodian of the keys of the Record Room. The duplicate keys shall be kept by a Selection Grade Clerk of the Civil Courts to be appointed as custodian for the purpose by the Principal District Judge. The clerk so appointed should be required to live as near as possible to the Civil Court buildings.

**256.** 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.

**257.** 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.

**258.** The Record-Keeper shall submit to the Judicial Officer placed by the Principal District Judge in charge of the Record-Room a fortnightly progress report in Form No. (M) 30.

**259.** A plan and index of the Record-Room shall be prepared by the RecordKeeper 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 place 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.

**260.** This plan and index must be kept up to date, and should be corrected yearly after the periodical destruction of record has been carried out.

**261.** 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 easily read; the letters A and B should be marked to denote the left and right hand shelves of the rack.

- 262.** 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.
- 263.** 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.
- 264.** The Record-Keeper shall keep in a guard-file all inspection notes (or copies thereof) made by the Principal 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.
- 265.** Registers not in current use and kept in the Record-Room, should be arranged on shelves vertically and should be labelled on back of the volume.

## **II-RECEIPTS OF RECORDS IN THE DISTRICT RECORD-ROOM**

- 266.** 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 " Principal 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 despatch 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 titlepage of each record of the date on which the stamps 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 papers 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 Courts after the due date for despatch under Rule 249 (c), Chapter III, Part III, are entered in Register (R) 19 so that they may be dealt with under Rule 296.
- 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.

- 267.** If in the course of carrying on 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 circumstance 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 for each record and should not be delayed until the examination of a complete batch of records is concluded.

- 268.** 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. Should there have been material delay in despatching the records, the fact should be brought to the notice of the Judge-in-charge.

- 269.** Reports under Rules 267 and 276, if forwarded under the orders of the Principal District Judge for explanation to Courts 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 a separate Court.

## **III-ARRANGEMENT OF RECORDS IN THE RECORD-ROOM**

- 270.** The records in the District Judge's Record-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.
- 271.** The records of each Court for each year should be made up into bundles, each such bundle containing records of only one of the classes referred to in Rules 205-208, Chapter I of this Part, according to their dates of disposal as shown on the title-pages.
- 272.** The bundles will be arranged on the racks, class by class, and in each class year by year in sequence. As the time for destruction of records of Classes II, III, IIIA and IV (other than those comprising a files and IV-A of a particular year arrives, the bundle or bundles for that 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 in-coming year.
- 273.** 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.

**274.** 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.

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

**276.** 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.

**277.** 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.

**278.** Where the system of depositing records in cloth bundles exists it should be discontinued as soon as possible and the system of flat bundles laid down in these Rules should be introduced provided that this can be done within the available Record-Room grant. Meanwhile the bundles should be indexed as indicated in these Rules.

#### **IV-CUSTODY, REMOVAL AND TRANSMISSION OF RECORDS AND DOCUMENTS CONTAINED THEREIN**

**279.** No record should be retained in a District Record-Room which does not find an entry in one of the prescribed Record-Room registers.

**280.** 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.

**281.** When a record is called for, except by superior Judicial authority or by a Civil Court acting under Order X111, 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 of every grade should exercise a careful discretion in acting under the provisions of Order XIII, Rule 10, Code of Civil Procedure.

**282.** 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 the High Court **of Jharkhand** for production of the record of a case appertaining to, and in the custody of a Court subordinate to the High Court **of Jharkhand** should be complied with unless such requisition is transmitted through the High Court **of Jharkhand** 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(1)-The above procedure will apply when a Civil Court subordinate to the High Court **of Jharkhand** calls for a record appertaining to and in the custody of any other High Court or Court subordinate thereto.

#### **Note-2 Transmission of record to High Court in appeal, revision and writ**

**(a) While sending the record to the High Court, proper indexing will be made with proper arrangement of the papers. Care should be taken that no paper in torn condition is attached with the file and the documents be marked with separate flags showing the nature of document in short.**



**(b) So far as practicable, the record to the High Court will be transmitted by messenger of the court instead of post, to reduce the risk of its lost in transit .**

**283.** 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. It frequently happens, however, that in the course of a criminal trial the production of an original record becomes necessary. In such cases the Court where the record is deposited shall comply with the requisition of the Criminal Court even though the reasons given for the production of the original record may be considered insufficient.

**284.** 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 document or record, he shall note in this Register the date of such return.

**Note 1.-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 2.-A** memorandum of removal with the date should also be made in the remarks column of the despatch list against entry relating to a record removed.

**Note 3.-Requisitions** for records should, at the time of registration under this Rule, be stamped with a date stamp and numbered serially.

**Note 4.-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 5.-All** requisitions for records should be despatched without delay.

**Note 6.-Such** records on receipts should be forthwith placed and carefully kept with the records of the cases in connection with which they have been requisitioned.

**Note 7.-After** disposal of the cases in question, such records must be returned to the Record-Rooms at latest at the time of the next periodical despatch of records.

At the time of each periodical despatch of records certificate under the signature of the Court and countersigned by the *Sarishtadartar* 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 Rule 247 or Rule 249 (c), Chapter III, Part III, and which have subsequently become due for despatch or which are no longer required have been despatched, shall be forwarded with the records despatched.

**Note 8.-Requisitions** received and issued for records and replies thereto shall be treated as correspondence and shall be entered in Register (R) 19A or (R) 19B as the case may be, kept by or under the supervision of the *Shirestadar* of the Court.

**285.** 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 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.-Clerks** of the Record-Room establishment should bring to the notice of the Record-Keeper any delay on the part of the Copying Department in returning documents to the Record-Room and the Record-Keeper should take such steps as will secure their return.

**286. (a)** Applications 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 Principal 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 a 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 Principal District Judge for the purpose, during the time to be fixed by the Principal District Judge. The dated signature of the person to whom the document is returned shall be obtained on the application and in the list of exhibits in acknowledgment 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 documents to be traced by any other means or there is any objection to the return of document, or if the document cannot be returned on account of its non-availability or otherwise, 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 the 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 Principal District Judge, to be refiled after removing the defects if possible. In case the applicant does not turn up to take back the defective application, or is not available, within three days of the filing of the application, the application shall be rejected. If the application is refiled it shall be proceeded with as before. The date of refiled application shall be entered in red ink in column 2 of the Register in Form No. (R) 22 under its original serial number and entries in columns 7 and 8 thereof in respect of refiled applications shall be made below the original entries against the fresh entry in column 2.

**Note 1.**-The rejected applications shall be collected in monthly bundles in chronological order and preserved for three months.

**Note 2.**-The form of application for return of documents can be obtained from Nazarat one rupee each or hundred rupees per hundred.

**287.** Whenever a record or a document from a record is removed from the Record-Room there shall be inserted in its place a removal slip in Form No. (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 initialled by the Record-Keeper. 2[or the clerk handling the application for requisition. 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, petition of re-hearing, restoration, review, etc., respecting the same case) no such removal slip will be necessary.

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

**289 .** The records of cases called for by the High Court, on appeal from the judgments and orders passed therein 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 cause 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 of reference, care should be taken to see that the instructions contained in clause (a) of Rule 235 have been complied with.

**290.** Records of execution cases sent 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.

**291.** 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 despatch register 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 despatch register should be reproduced in the remarks column 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 or Criminal, thinks fit, the record may be sent through a special messenger, in which case, an intimation thereof being given forthwith, the cost of sending the special messenger including his pay and travelling allowance, if any, shall be realized 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 a 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 that letter.

(d) A letter of advice should be forwarded simultaneously with the despatch 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 1.**-All letters advising the despatch of civil records to the High Court and parcel containing such records, as also all returns of civil processes issued by the High Court, should be addressed to the Deputy Registrar of the High Court, Appellate Side.

**Note 2.-The** procedure in clause (a) of this Rule is to be followed also where the Principal District Judge sends for a record from his own Record-Room.

**292.** When a record is received back in the Record-Room the following procedure should be followed

(a) The record shall 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 discloses any other defect, he should at once report the matter to the Judge-in-charge who should, if necessary, draw the attention of the Principal District Judge.

(b) An entry should be made in column 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-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].

**293.** 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.

**294.** 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 the 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.

**295.** Original records received back from the High Court, together with the High Court's judgment on appeal, should be kept together 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.

**296.** It is the duty of the Record-Keeper to see that records sent out are returned and that records kept back though mentioned in the list are despatched without undue delay. With the object he shall cause the serial number of records not returned or kept back after the due date of despatch 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 sent out of or kept back from the Record-Room after their due date for more than three months. On the return or 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 despatch list and in the separate list prescribed by Rule 249 (c) of Chapter III should also be cancelled. 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 number      of

.....of the .....Court.

Note-In the case of records referred to in Notes 1, 2 and 3 of Rule 247 of the preceding chapter this Rule shall come into operation only after the expiry of the periods mentioned therein.

**297.** 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.

**298.** Reminders relating to records sent to the High Court should be issued in the first instance on the expiry of twelve months and thereafter at intervals of not less than six or more than twelve months.

**299.** 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

**300.** The Record-Rooms of Civil Courts are not open to the public but public *officers of the district including Shirestadars, may, with the permission of the Judge-in-charge*, be allowed to enter the Record-Room and to examine the record of any specified case free of any charge provided that such entry is made in pursuance of a public purpose.

**301.** 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, and at a place to be provided for the purpose in the Registrar's Ijlas, 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 Record-Keeper). If any extract from the record is required, it shall be obtained through the Copying Department in the usual way.

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 record within this period, the application shall be rejected and no inspection will 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 Record-room or the offices appertaining thereto, otherwise than in accordance with this Rule.

**302.** Pleadors duly authorised 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.

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

**304.** Defective applications for inspection of records shall be returned to the parties concerned after noting the defects thereon for compliance. If the applications are re-filed after removing the defects within three days from the date on which they are returned, they shall be accepted and dealt with in the usual course. Applications filed after three days shall be rejected.

**305.** All disposed of applications including rejected application for inspection of records of decided cases shall be kept separately in monthly bundles in chronological order and preserved for three months. All disposed of applications including rejected application for inspection of records of pending cases shall be kept attached with the respective records.

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

## VI-THE DESTRUCTION OF RECORDS

**307.** The periods of preservation of different files laid down in Rule 211, Chapter II of this Part, shall be calculated as regard suits, cases, or appeals of Classes I, II, III and IIIA 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 installments, shall commence from the date of last installment allowed by the Court, except in the case of Files C-1 of such records which may be destroyed in accordance with above Rule.

Note-Where in a suit for partition the necessary steps for obtaining a new final decree are not taken within twelve years from the date of the preliminary decree. Files C and C-1 of the record of the suit shall be destroyed on the expiry of that period.

**308.** In cases of Classes IV and IV-A, 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 purposes of this Rule, each execution record shall be dealt with separately, irrespective of any other application to execute the same decree or order.

**309.** 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 the destruction of the B, C and D files, viz., 25, 12' [and 12 years respectively] shall have arrived, when they shall be destroyed along with their files.

**310.** Cumbrous and bulky exhibits, e.g., account books, *khatas*, *zamindari* papers and the like, which cannot be conveniently put up with the records of the trials 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 Principal 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-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.

**311.** 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.

**312.** Requisitions, Acknowledgments of 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.

**313.**

**(a) The present mode of destruction of record and other used requisitions of copying Dept. shall be, by Shredding Machine under the supervision of Judge-in-Charge/Registrar.**

**(b) The shredded paper may be auctioned by open tender and its yield be deposited in favour of Govt. with intimation to the High Court.**

**(c) Similarly, the confidential records becoming useless may also be destroyed by the specific order of Principal District Judge, by keeping a record of same, by the same method of shredding.**

## CHAPTER V

### Records of the Court of Small Causes

**314.** 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, on Order-Sheet will be attached and orders continued on it. .

**315.** The Record shall be prefixed by 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 as an ordinary execution

record of Class IV.

**316.** The Records of suits decided by Judges of Small Cause Courts shall remain in the Trial Courts until the period for their destruction shall arrive.

**317.** The Records of suits decided by officers vested with the powers of a Small Cause Court Judge shall, in the course of the next succeeding month be deposited in the District Record-Room at headquarter stations and the *Munsif's [Civil Judge (Junior Division)]* Record-Room at outlying *Munsifs (Civil Judge (Junior Division))* and preserved there until such time as they are destroyed under these Rules.

**318.** 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 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 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.

**319.** (a) The Record-Keeper shall arrange the records of each Court by groups 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 twelve years] and that to Group B for one year.

(d) Besides Groups A and B there will be the 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 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 effected as occasion arises, regard being had to be 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 on the date of disposal and of the results of the suit and of every subsequent proceeding on the outer sheet of each record.

**320.** Records of Groups A and A-1 left over after transfer in pursuance of the above Rules by reason of execution or other proceeding shall be destroyed [at the end of twelve years], and those belonging to Groups B and B-1 at the end of one year from their dates of disposal. After twelve years from the date of decree or from the date of payment fixed by the Court all records shall be destroyed whether there has been a satisfaction or not.

Note-The period of 12 years for the purpose of this Rule is to be calculated in accordance with the provisions in column 2 of Section 136 of the Limitation Act 1963.

**321.** Destruction shall be carried out annually. The Record-Keeper shall during the first month of every year remove the bundles due for destruction and note the 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 twelve years.

## CHAPTER - V-A

### Reconstruction of record destroyed during pendency of the proceeding

**322.** If any record or any part thereof, is found destroyed or lost during pendency of the proceeding before any court, the fact should immediately be brought to the notice of Principal District Judge. Subject to taking an

appropriate action against the staff entrusted with the custody of the record, so destroyed /lost, specific order of the Principal District Judge would be necessarily obtained for reconstruction of the same. Having obtained the order, proper notice shall be given to the counsel of both sides and their assistance may be taken to bring on record the copy of documents either destroyed or lost. After filing of copy of those documents, steps shall be taken by the presiding officers to reconstruct the record as expeditiously as possible. Reconstruction of the record so done be also reported to the Principal District Judge before proceeding further in the matter.

## CHAPTER VI

### Wills

#### I-RELATING TO THE CUSTODY AND PRESERVATION OF WILLS

**323.** All original Wills presented to the Principal District Judge or District Delegate, in accordance with the provisions of Sections 276, 289 and 290 of the Indian Succession Act, 1925, shall, immediately upon the passing of the order for granting Probate or Letters of Administration be committed to the care of the Head Clerk, or Registrar-cum-Judge In-charge of the Judge's or District Delegates Court, who shall be responsible for their safe custody.

Note-All Wills, as soon as they are filed in a Court for the purpose of being proved, should be made over for safe custody in the presence of the Principal District Judge or Delegated either to the Head Clerk or to the *Sarishtadar* of the Court who should give a receipt for them, and should personally produce them before the Court, on the date of hearing, and, if the Will has to be retained in Court, should take a written receipt for it from the Bench Clerk. The latter officer will be responsible for the custody of the Will so long as it remains in the Court. The Rule as to return of unexhibited documents shall apply to unexhibited Wills.

**324.** The said officer shall, on the receipt of each original Will, cause a copy of the same to be carefully entered in a register to be kept for that purpose, and shall also cause to be prepared an alphabetical index, in which the name of the testator, etc., and the number and page of the register in which a copy of the Will is entered, shall be recorded in the annexed form

Name of Testator	Residence, etc	Number and year or Register	Page
1	2	3	4

**Note 1.**-Every volume of the register to which copies of Wills are made must be Ruled and the pages numbered before it is brought into use, a note being made at the beginning of the volume of the number of pages it contains. Each copy should follow immediately upon that which precedes it and should be written in a clear hand, corrections being written above the line and initialled by the officer who compares the copy with the original, no erasures being permitted. All copies should be made immediately on receipt of the original, and should be compared with the original by the *Shirestadar* Head Clerk, who should certify at the bottom of each page and at the end of the copy that such comparison has been made and that the copy is correct. Should the number of pages at the end of a register be insufficient to include a copy of the Will which would ordinarily be inserted there, a fresh volume should be taken into use and the blank sheets scored across, a note being added at the beginning of the volume.

"Pages to blank."

**Note 2.**-Each volume of the register should be legibly marked on the back with its own serial number, with the year to which it relates with the serial numbers of the first and last copies contained in it.

**Note 3.**-In preparing the alphabetical index referred to in this Rule

(a) In the case of persons of outside India the surnames shall be taken as the index word, and

(b) Indian names shall be indexed according to their first letters as they stand in the Will, except that appellations such as *Sheikh*, etc., if appearing at the beginning of the name, shall be shown in the index at the end of the name and shall be transliterated in the same form as that in which they are written in the Will.

**Note 4.**-This Rule does not apply where an application for Probate or Letters of Administration has been refused. In such cases the Will is to be attached to the record provided that this is not done before the expiry of the period for an appeal or if there has been an appeal before its disposal. This procedure is also to be followed when the order granting Probate or Letters of Administration is revoked in a subsequent proceeding or in appeal. In such cases appropriate notes should be made in the index and in the Register of Copies.

These instructions will have a retrospective effect and Wills in connection with unsuccessful applications the records of which have without them been transmitted to the Record-Room may now be sent to the Record-Keeper to be attached to the records to which they appertain or to be destroyed as the case may be in accordance with the Rules for periodical destruction of records.

**325.** The original Wills shall be deposited in a fire-proof safe, which shall be kept in the office-room of the Head Clerk or other officer aforesaid to whom, the safe custody of the Wills may have been entrusted. Where the Court has no iron safe, the Wills may be placed in a small block-tin box, the key of which shall remain with the Judge or District Delegate.

**Note 1.**-Each original Will shall have endorsed upon it the number and page of the volume in which its copy is entered, and shall be kept in a separate envelope marked outside with the same particulars and with the testator's name and the year of execution. Wills should be kept in the safe or box in their proper serial order.

**Note 2.**-when an original Will is removed from the custody of the officer responsible for it, a note of the date of despatch and return should be made against the entry in the index prescribed in Rule 324, and for such entries sufficient space should be left in the form.

**Note 3.**-All copies of Wills shall be prepared, in the presence of the officer responsible for the custody of the original, which shall not be removed by the copyist. The same officer shall check the copy and certify its accuracy.

**Note 4.**-In all cases when an original Will is removed from the custody of the officer in charge, he should note upon the envelope (which should be retained in its proper place) the date and place of removal, scoring out the entry, with a note of the date, on return. Careful examination should be made of all Wills so returned, to ensure that no alterations have been made.

**326.** At the expiration of every calendar year each District Delegate shall transmit to the Court of the Principal District Judge all the original Wills in respect of which a grant has actually been made of Probate or Letters of Administration during the year, together with the register containing the copies thereof and the index and these shall then be preserved along with the Wills deposited in the District Court subject to the same Rules as to custody, inspection, etc:

## II-RELATING TO INSPECTION OF WILLS

**327.** Every inspection of original Wills or the register thereof, as well as applications for copies of Wills, shall be made within the hours fixed by the Judge or District Delegate, and published by a notification posted in a conspicuous place in the Court, and shall be subject to the following conditions

**328.** The inspection of an original Will shall be allowed only on the written order of the Judge or of the District Delegate previously obtained, and shall take place in the presence of the Head Clerk, or other officer who may have charge of the same, and that officer shall be responsible for the Will not being taken out of his sight during such inspection, and also that no erasures or alterations are made in it.

Note-The same procedure should be followed in respect of inspection of a copy of a Will in the Register.

**329.** Application of a copy of an original Will shall be submitted to the Judge or District Delegate and such copy shall only be granted subject to the conditions which attach to the inspection of original Wills.

**330.** The following fees shall be levied in Court-fee stamps or the inspection of Wills, etc.

(i) For the inspection of an original Will, Court-fee stamp of the value of **Ten** rupee.

(ii) For the inspection of a copy of a Will in the Register, Court-fee stamp of the value of **Five Rupees**



(iii) For copies, the same fee as for inspection, in addition to the copying charges, which shall be at the usual rate obtaining in the Civil Courts, and shall be levied in the same way as such charges are levied in the Civil Courts.

**331.** All applications for copies or inspection of Wills and Registers of Wills shall be entered in the Register of applications for copies prescribed by the High Court.

Note-Applications for inspection may be entered instead in the Inspection Register Form No. (R) 23.

**332.** In cases where the fees collected exceed Rs. 5 per mensem, Principal District Judges or District Delegates may assign a moiety to the officer entrusted with the custody of the Wills, the balance being credited to Government. In cases where the collections do not average more than Rs. 5 per mensem, Principal District Judges or District Delegates may sanction the payment to such officer of the full amount realized.

Note- Principal District Judges should not pass bills for remuneration under this Rule unless they are satisfied that the work has been carried out methodically and completely up to date.

**333.** (a) The following certificate should be appended to each bill in which the charges referred to in the preceding Rule are drawn

"Certified that the charges included in this bill have been drawn in accordance with the scale laid down by Government in the notification, dated the 23rd May, 1892, and that each Court-fee stamp for which commission is drawn is defaced with the words "Commission allowed". Certified also that the fees drawn on previous bills (with the exception of those deducted above) have been disbursed to the proper person and his receipt taken in the acquaintance roll filed in my office."

(b) As there is a separate Budget Allotment for the expenditure, the charges should be drawn on separate bills showing the allotment and expenditure up to date of each drawal.

Note-The Rules in this chapter apply also to Subordinate Judges Civil Judge (Senior Division) and *Munsifs (Civil Judge (Junior Division))* taking cognizance of proceedings under the Indian Succession Act, 1925 (Act XXXIX of 1925), under the authority conferred by Section 28(2)(d) of the Bengal, Agra and Assam Civil Courts Act, 1887 (Act XII of 1887).

## **PART IV**

### **Rules relating to Information, Copies and Copying Department.**

#### **CHAPTER I**

##### **Information and copies GENERAL RULES**

**334.** All applications for information or copies shall be made in the prescribed form during the first two hours of the Court's sitting, to the Judge-in-charge of the Copying Department or to some other officer designated by him for the purpose.

Note- (i) The form of application for information or copy can be obtained from the *Nazir* at one rupee each or hundred rupees per hundred.

(ii) Fill the informations regarding the above application shall be entered in the computer of the centralized filing counter and the information supplied thereon shall also be entered in the column meant for that in the said computer.

**335.** Applications shall be consecutively numbered and registered as they are received and the date of receipt shall be noted or stamped thereon; the receipt portions, after being initialled shall be forthwith made over to the applicants.

Note-Urgent applications will be entered in the register in red ink. An application for information will be entered under a sub-number to the last preceding application for copy.

**336.** Each clerk through whose hands the application passes shall put his initials and the date and hour of receipt and passing on by him on the back of the applications. These entries should be made one below the other and must be legibly written, the dates and hours being shown against the entries beyond a vertical line on the left to be drawn about three inches from the left hand side of the reverse of the application. Each clerk receiving an application shall at once comply with the requisition on its back or pass on to another who can do so.

Note-There should be no unnecessary delay in complying with the requisitions of the Copying Department.

**337.** Applications in respect of which the information or copy asked for cannot for any reason be given, shall be rejected. Such applications and receipts are to be destroyed at the end of the next quarter.

If the application is merely defective in that search is necessary in order to trace the record, a searching fee **of Rupees one or as prescribed from time to time** shall be demanded and affixed to the application for copy and the information shall be supplied on the application from without any separate application, in accordance with Rule 384(2) (2). The application shall thereupon be complied with in accordance with the Rules.

This concession is to be liberally interpreted in favour of the applicant for copy.

Note-When an application for copy is rejected on the ground that the original has been destroyed, the fact should be noted on the back of the application and the endorsement should be signed by the Judge-in-charge.

## II-INFORMATION

**338.** Any person may apply for information from the records and registers of any Court.

### **Note:-Information relating to judicial record shall not be given on application filed under The Right To Information Act / Rules.**

**339.** Information may be asked for in one application in respect of one matter from a single record or register and shall ordinarily be limited to a single question.

Note-Questions regarding particulars of any document or record necessary to be inserted in an application for copy for its proper identification (e.g., date of document, date of disposal, number of the case, names of parties, etc..) will be treated as a single question.

**340.** Information requiring anything but short answers shall not be given. If any extract from the record is desired the proper course is to apply for a copy.

**341.** Information will be given in writing in the remarks column of the application ordinarily on the next open day after its presentation. Urgent applications for information will, if possible, be complied with on the same day.

**342.** After an application for information has been registered it shall be sent to the Ministerial Officer in immediate charge of the record and it shall be the duty of the latter to note the necessary information and to return the application to the Head Comparing clerk with the least possible delay. On the applicant's appearance and on his giving up the receipt referred to in Rule 335 above, the application shall be made over to him.

Rule 368 *infra* of this chapter shall apply *mutatis mutandis* to all applications for information.

## III-COPIES

**343.** A plaintiff or a defendant who has appeared in the suit is entitled at any stage, before or after decree, to obtain copies of the record of the suit including exhibits which have been put in and finally accepted by the Court as evidence." [A party interested shall be entitled to apply for a copy of the last paragraph of the judgment only without being required to apply for a copy of the whole of the judgment as provided in Order XX, Rule 6A.]

**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 Rule does not prohibit the grant to parties at any stage of copies of documents produced along with the plaint or under Order XIII, Civil Procedure Code, in cases where they do not wish to take copies themselves under the provisions of Order XI, Rule 15.

**Note 3.**-Suit in this Rule and in Rules 344, 345 and 346 includes execution and miscellaneous cases.

**Note 4.**- A copy of the type-written judgment shall where it is practicable so to do be made available to the party on payment of prescribed charges if application for the same is made before the hearing of the case is concluded.

**344.** A stranger to the suit may *after decree* obtain, as of course, copies of plaints, 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 document *before decree*.

**345.** A stranger to the suit may also obtain, as of course, copies of judgments, decrees or order at any time after they have been passed or made.

**346. (i)** A stranger to the suit has not 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 a interest including depositions for *bona fide* use in the Courts, and case maps, at any time after they have been proved or completed.

**(ii).** Copies of papers required to be furnished to the Officer for public purposes free of cost as provided in Rule 386 Part V may be prepared in the Copying Department, after obtaining permission of the Judge-in-charge of the Department, who shall consider the merit of each case before passing any order in the matter. The charges incurred in preparing the copies shall be met from the head Civil and Session Courts.

**347.** Copies of printed and lithographed maps and plan will not ordinarily be supplied by the Copying Department. Application should be made to the office where the original maps are deposited.

**348.** 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.

**349.** Only one application is necessary when a copy is applied for any number of documents on the same record.

Note-For the purposes 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.

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

**351.** After an application for copy has been registered the Head Comparing Clerk shall forward the application to the proper officer who shall at once enter it in a register to be kept in Form No. (R) 17, bring out the document to be copied and keep it in readiness for the estimating of the folios and Court-fee stamps required for the copy. The Head Comparing Clerk shall depute a comparing clerk to make the estimate by reference to the original document. The comparing clerk shall enter the amount of Court-fee stamps and the number of folios required in the space provided for the purpose in the application, sign and date of the entries, make the necessary entry in column 5 of register no. (R) 17 and return the complete application to the Head Comparing Clerk. The number of folios required should be carefully calculated so that it may not be necessary to obtain additional folios from the applicant, a contingency which under a proper system ought never to arise.

**Note 1.**-The expression "Head Comparing Clerk" in the Rules in this Chapter includes a comparing clerk to who the functions of the Head comparing Clerk have been delegated by the Principal District Judge for the purposes of these Rules.

**Note 2.**-If the record from which copies are required is in the Record Room the comparing clerk should be shown the record in the Record-Keeper's office.

**Note 3.**-In outlying stations where there is only one comparing clerk the estimating of the folios and Court-fee stamps may, if the Judge-in-charge so directs, be made by the officer to whom the application is forwarded.

**352.** The Head Comparing Clerk shall notify the number of folios required for the copy and defect, if any, in the case of each application on the same day, or at the latest, on the day following, unless they have already been filed, by means of an entry in the prescribed register [Form No. R-14].

**353.** The requisite folios shall be filed before the Head Comparing Clerk and defects removed within three days [excluding holidays and Sundays] of the giving of the notice prescribed in Rule 352 (excluding the date of notification) [failing either of which the application may be rejected]. The applicant should file along with the folios list showing the number and date of application, the name of the applicant and the number of folios filed. Court-fee stamps for either copying fees or for value of forms or tracing cloth should be affixed to sheets of plain paper, on which the value of each Court-fee stamp together with the number and date of the application and the name of the applicant should be noted. Before they are made over to the copyists these lists and papers are to be stitched to the respective original applications and should be compared with the reports of the comparing clerk in the space provided for the purpose in the form of application and should be initialled by the Head Comparing clerk as a token that the correct number of folios, plain paper and Court-fees of required value has been filed. If this is not done the application may be rejected. If the application has been rejected a note to that effect shall be made against the entry of the application in the Register no. (R) 14. The comparing clerk while going round the offices to make estimates shall take with him the rejected

applications and show them to the proper officers who shall sign the applications on the reverse and after restoring the documents to the proper places make the appropriate entries in columns 7, 8 and 9 of register no. (R) 17.

**354.** The Principal District Judge should make special arrangements for the proper custody of the documents removed from the shelves for compliance with applications for copies until the document is sent to the copying department to be copied or until intimation is received of the rejection of the application.

**355.** When the folios are filed, the date shall be entered in the place provided in 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 Comparing Clerk 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 the folios and the date when the copy will be ready for delivery. The applicant shall retain the counterfoil, and it shall be his duty to attend on the date fixed for the purpose of receiving the copy.

**356.** The comparing clerk deputed for the purpose by the Head Comparing Clerk shall take the application 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 the fact of compliance with the requisition. The comparing clerk shall make the necessary entry in column 6 of 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 the necessary entries in column 7 of register no. (R) 17. The comparing clerk will at the same time receive from such officer the documents for copies of which the requisite folios and stamps have been filed by the applicant.

**357.** Every application for copies of depositions in a case which is being heard shall be laid before the Trial Judge for such orders as he in his discretion may make. If such Judge so directs so much of the deposition shall each day be given to the Head Comparing Clerk as there is a reasonable hope of being copied in the course of the day. The Head Comparing Clerk shall return the portion to the Judge at the close of the day.

Subject always to (a) the precedence which must invariably be accorded to applications on which an expedition fee has been paid and (b) no delay occurring as a consequence in respect of ordinary applications, of an earlier date, such copies will ordinarily be issued on the same day or the following day.

Note-If sufficient folios to cover the full charge for copy are not filed with the application, the procedure laid down in Note 2 to Rule 367 will be followed.

**358.** The Head Comparing Clerk will be responsible for all documents received in the Copying Department until they are returned. At the end of the day all undistributed work and all incomplete copies with the originals, shall be locked up in an almirah or chest of which the key will be kept by the Head Comparing Clerk. Separate compartments in the almirah or separate boxes, as the case may be, shall be allotted to each copyist in which to place his papers.

**359.** Copies of English documents shall as far as possible be type-written. / **“Photostat copy”**.

**Note-Copies on requisition may also be prepared through photocopier machine kept in the Copying Department at photo copy rate of Rs. 1/-(one) per page apart from the usual stamp as copying charge for urgent and ordinary copy.**

**360.** As the copies required under each application are completed they shall be made over together with all unused folios and the original documents to the Head Comparing Clerk. He should examine the copy with reference to the original and pay careful attention to the points mentioned in Rule 375 of Chapter II.

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

**361.** All copies must be examined before issue by a Comparing / Examining Clerk.

**Note-1 Care should be taken that name of Court, Case number and name of parties in cause title are correctly and legibly mentioned.**

**Note-2 Much care should be taken in preparation of copy of the documents like hand written depositions, order sheets or like documents, which are not easily readable. In such cases instead of issuing certified copy in the form of photocopy, typed copy shall be issued.**

Note-The duty of examining copies should as a Rule be entrusted to the Comparing or Examining Clerks or if there are none in the office, to the Head Clerk or *Sarishtadar*. The copyists and typists must not be allowed to examine for each other.

**362.** The officer entrusted with the duty of examining a copy shall be held responsible for its being a correct copy. In the event of any copy being found to be unfit for issue by reason that it .

- (i) has not been clearly, legibly or neatly written or typed and with proper ink;
- (ii) is not in the prescribed form;
- (iii) is so incorrect that revision has rendered it unfit for issue;
- (iv) does not conform to the Rules and orders of the High Court;
- (v) is otherwise incomplete, defective or open to objection; the examining or certifying officer shall report the matter to the Judge-in-charge of the Copying Department, who will cancel the copy and require the copyist or typist to make a fresh copy at his own cost.

**363.** A copy must be "certified to be a true copy", must bear the seal of the Court and must be signed, if not by the Judge-in-charge, then by the officer hereinafter named

At the headquarters of a district-By such officer as may be appointed by the Judge-in-charge with the approval of the Principal District Judge.

At out-stations- By the *Sarishtadar* of the Judge-in-charge.

In Courts of Small Causes constituted under Act IX of 1887-By the Head Clerk

In every case the certifying officer will append to his signature the words "Authorised under Section 76, Act I of 1872". The words "Certified to be a true copy".

Authorized under Section 76, Act I of 1872," may be impressed by means of a stamp.

Note-The above certificate shall not be given on a blank sheet. If the last sheet has been fully taken up by the copy, the certificate may be given on its reverse.

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

**365.** (a) The following particulars must invariably be recorded on the last sheet of the copy-

- Date of application for copy
- Date fixed for notifying the requisite number of folios
- Date of delivery of the requisite folios
- Date on which the copy was ready for delivery
- Date of making over the copy to the applicant

In the case of a copy of a judgment, decree or order the dates, excepting the date of making over the copy to the applicant, shall also be expressed in words.

Note-Each date on which extra folios are to be notified and each date on which they are delivered shall also be recorded.

(b) On the back of the last sheet of the copy shall be recorded the cost paid by the parties applying for copies in the form given below

	Rs. P.
Application for copy	
Searching fee	
Extra fee for urgency Folios	
Other items, if any	
<b>Total</b>	

The entries shall be made by the examiner of the copy. A rubber stamp may be used for the form of these particulars.

**366.** In ordinary circumstances a copy shall be furnished not later than 4 P.M.. or 10 AM., as the case may be, on the 5th open day' [except holidays and Sundays] after the application; [Provided that in case of notification regarding filing of deficit stamps and folios, copies shall ordinarily be furnished on the next open day following the date of filing deficit stamps and folios, if the time prescribed in the above Rule has expired.]

**367.** Urgent copies should be furnished on the day of the application and where this is not possible on the day following.

**Note 1.**-No application is complete until the necessary folios have been filed. When these are not filed with the application the periods referred to in this Rule and in Rule 366 will be reckoned from the date of their being filed.

Note 2.-If sufficient folios to cover the full charge for an urgent copy are not filed with the application the estimate of the deficit in respect thereof shall at once be personally communicated to the applicant and the fact will be noted on the application and signed with date by the applicant. Where the applicant cannot be found the procedure laid down in Rules 352, 353 and 355 will be followed.

**368.** All copies ready for delivery shall be entered day by day between 2 and 3 P.M.. or in the case of morning sittings between 9 and 10 AM. in a register which shall be placed outside for public inspection. The register will be in Form No. (R) 16. The copies shall be made over in open Court in the presence of the Judge-in-charge or any other Judicial Officer specially appointed for the purpose by the Principal District Judge, the appropriate entries in the register being at the same time struck out, initialled and dated by the Officer in whose presence the copies have been delivered.

Note- Loose forms of the above register may also be used for the purpose and posted upon the notice-board.

**369.** When the copy is delivered to the applicant his receipt therefor with the date will be taken on the reverse of the application, the counterfoil being at the same time given up. Unused folios returned with the copy should be noted by the applicant in the receipt taken as above from him. The counterfoil will be kept attached to the application.

**370.** (a) Should the applicant in any case fail to appear to claim either the copy or the unused folios both must of necessity be retained temporarily but on the last day of each month all unclaimed copies ready for delivery before the preceding month together with all unused folios attached thereto shall be destroyed in the presence of the Judge-in-charge of the Copying Department.

(b) In any case in which copy cannot be granted, the folios supplied by the applicant for the copy should be returned to him when he is so informed. This should be done also where the application is withdrawn or rejected and the folios have not been used. If such folios are not taken back by the applicant, they shall be destroyed according to the above (a). The stamps affixed to the application as searching-fee and expedition-fee shall not be returned.

**371.** Applications for copies which have been disposed of shall be recorded in the Copying Department and filed in a separate bundle for each month. At the close of each quarter they will be examined by the *Sharishtadar* who will bring to notice any irregularity or unpunctuality that may be apparent in the department. The Judge-in-charge after satisfying himself as to the working of the office by an inspection of the forms recorded will then direct their destruction and they will be destroyed at the end of the next quarter.

## CHAPTER II

### Copying Department and Copyists

**372.** At stations where there are more Courts than one there shall be one, amalgamated Copying Department. The Registrar-cum-Judge In-charge shall be the in-charge of the Copying Department in every district.

**373.** The Copying Department shall have as many copyists as may be required for the purpose of supplying all applicants with copies without inconvenient delay. One of them at least should be conversant with map-copying.

**374.** No one but a copyist appointed by the Principal District Judge shall be employed in the preparation of copies;

Provided that where it appears that the granting of ordinary copies is likely to be much delayed by reason of having to furnish urgent copies, an extra copyist may be temporarily appointed by the Judge-in-charge for the number of days actually necessary.

**375.** To protect the interest of Government care must be taken to see that all copies issued from the Court are prepared on the prescribed stamp paper, they must be written or typed on one side of the sheet only, and must not contain more than the authorized 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 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 this matter, the number of words in a few of the lines in each folio being checked.

## PART V

### FEES AND COSTS

#### I- PROCESS FEES

*Rules framed by the 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 and Revenue Courts.*

**376.** The fees in the following tables shall be charged for serving and executing the several processes against which they are respectively ranged

Nature of Process	Table of fees		
	1. In Courts of District Judges. 2. In Courts of Subordinate Judges. (Civil Judge (Senior Division) 3. In Courts of Munsifs (Civil Judge (Junior Division) and Revenue Courts where the suit in which process is issued is valued at over Rs. 1,000	In Courts of Munsifs (Civil Judge (Junior Division) and of small Causes and in Revenue Courts where the suit in which process is issue does not exceed Rs. 1,000 and exceeds Rs. 50 in value	In Courts of Munsifs (Civil Judge (Junior Division) and of Small Causes and in Revenue Courts where the suit does not exceed Rs. 50 in value.
1	2	3	4
Article 1 – In every case in which personal or substituted service of any process on parties to the cause is required, irrespective of the number of persons – one fee.	Rs. P.  25.00	Rs. P.  25.00	Rs. P.  25.00
Article 2 – Where process of attachment of property by actual seizure			

is issued –	25.00	25.00	25.00
(a) for the seizure under the order of attachment ;	20.00	20.00	20.00
(b) for each man necessary to ensure safe custody of property so attached when such man is actually in possession, per diem.			
Article 3- For the proclamation and publication of any order or prohibition under Order XXI, Rule 54 of the Code of Civil Procedure, irrespective of the number of such proclamations or publications.	25.00	25.00	25.00
Article 4 – For the publication by posting up of a copy or copies of the notification of any proceeding or process not specially mentioned in any article irrespective of the number of such publications.	25.00	25.00	25.00
Article 5 – For executing a decree by the arrest of a person or for executing a warrant or arrest before judgment	125.00	125.00	125.00
Article 6 – Where an order for the sale of property is issued –			
(a) for proclaiming the order of sale under Order XXI, Rule 66 of the Code of Civil Procedure -	75.00	75.00	75.00
(b) for settling the property, a percentage on the gross amount realized by the sale up to Rs. 1,000 at the rate of -	2 00 Percent 1 00 Percent	2 00 Percent 1 00 Percent	2 00 Percent 1 00 Percent
Article 7 – For service of any process not specified in any preceding articles.	25.00	25.00	25.00

**Note 1. (1)** When process of attachment mentioned in article 2 is issued in a number of cases relating to the same or neighbouring villages, the fee (a) must be paid in each case, the daily fee (b) only for the men actually employed.

(2) 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. When 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 expire of the period.

The Nazir will purchase a Court-fee Stamp of the amount actually incurred in debuting a peon and affix it to 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 2.-(1)** When a sale of immovable property mentioned in Article 6 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 when the process is obtained. The percentage 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 379 and (2) in a case where the decree-holder has been permitted to purchase, 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 380.



(3) The percentage liveable under this article shall be calculated on multiples of Rs. 75 realized by the sale upto Rs.1,000 and in the cases of the proceeds of the sale exceeding Rs. 1,000 an additional fee of Rs. 25 should be levied.

(4) In cases in which several properties are sold in satisfaction of one decree, only one fee, calculated on the gross sale-proceeds should be levied, 2 per cent, being charged on the gross sale-proceeds up to Rs. 1,000 and one per cent, on such proceeds exceeding Rs. 1,000.

**377.** Notwithstanding the provisions of Rule 376 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 on its own motion, if it considers such a step necessary to serve the ends of justice.

**378.** 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 where otherwise provided be paid by means of stamps affixed to the petition in addition to the stamps necessary for its own validity.

**379.** The proceeds of a sale effected in execution of any decree will only be paid out of Court on an application made for that 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.

**380.** When a decree-holder happens to be the auction purchaser his application for an order to set off the purchase 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.

**381.** The *Shirestadar* of the clerk concerned should note on the application for payment of sale-proceeds or on the application for an order to set off the purchase money, as the case may be, that poundage fees have been paid.

**382.** 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

## II- REDUCTION AND REMISSION OF COURT FEES

**383.** For notifications, under reducing and remitting the Court-fee, issued by the Government under Section 35 of the Court-Fees Act, *see* Appendix A-III, pages 76 to 84 of the Bihar Stamp Manual, 1940 Edition.

**Note :- The Court fee and stamp mentioned in the Court Fee Act, Stamp Act and Jharkhand Stamp Rules shall be applicable so far as the different petitions and applications requiring court fee and stamp, which are filed in judicial proceeding before the courts**

## III-OTHER FEES

**384.** 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 (Rs. P.)	How to be paid
1	2	3	4
1. Affidavits under the Code of Civil Procedure.	(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.  (b) In any other case	500  280	By means of a Court fee stamp to be affixed to the affidavit. Note-This fee of Rs. 5 does not include the travelling expenses of the Commissioner which must be paid in cash.  Ditto
2. searching fee. [Re-searching fee on application for calling records from the Civil Record Room for attestation.	EXCEPTIONS No charge shall be made in respect of-  (i) Affidavits made by process servers deposing as to the manner of service of a process. (ii) Affidavits in proof of service or as to avoidance of service made by persons who accompany such process servers. (iii) Affidavits made by public officers in virtue of their office.  1. On all applications (1) For information whether the record is deposited in the Record Room or not.  <b>Note</b> -This is the only fee to be paid on such application.  (2) For inspection of the record of decided case.  <b>Note</b> 1.-No searching fee is to be charged to pleaders for looking at records of pending cases.  <b>Note</b> 2.-For fees for inspection of Wills, see Chapter VI, Part III.  <b>Note 3.-(1)</b> For fees for inspection of accounts filed by guardians, see Rule 179 (10), Chapter I, Part II.  (2a) For inspection of each volume of suits and appeals.	5.00  10.00  500	By a Court-fee stamp to be affixed to the application.  By a Court-fee stamp to be affixed to the application.  By a Court-fee stamp to be affixed to the application.

	(3) For copy (in addition to the prescribed fee of two Ann's under the Court-fees Act) where the record relates to a decided case. <b>Note 1.</b> -One searching fee shall be charged for any number of copies taken from the same record and included in the same application. <b>Note 2.</b> -Records called for in connection with original case or appeal will be treated as a part of the record of such case or appeal.	<b>1.00</b>	Ditto.
	(4) For sending for documents involving a search in the Collector's office.	1.00	By means of a Court fee stamp to be affixed to a separate sheet of paper which will be forwarded to The Collector
	2. For information in order to remedy defects that may be found in an application where the supply of such information without a separate application for it has been authorised by the High Court.	1.00	By a Court-fee stamp affixed to the application
3. Copying charges.	(a) Manuscript copies...	1.00 per folio consisting of 150 words English, [or Hindi in Devanagri script] or 300 words vernacular [other than Hindi in Devanagri script] four figures counting as one word.	By means of an impressed stamp of Rs. 1 on each sheet of paper corresponding with the folio to be provided by the applicant for a copy  Note : In place of typed copy preference should be given to provide computerized copy and accordingly the charge will be as above
	(b) Typed copies containing-		By means of an impressed stamped paper of Rs 1.00.

(i) Not exceeding 150 words.	5.00	Note Special stamped sheet divided into two equal part by a blue line, each being intended for 150 words, should ordinarily be used for typewritten copies.
(ii) Exceeding 150 but not exceeding 300 words.	10.00	By means of the same impressed stamped paper of Rs. 10.00 affixed thereto across the top so that the figure head may be above the perforated line and that the portion below may clearly show the value.
(iii) Concluding portion of documents beyond 300 words.	....	By means of an additional impressed stamped paper or papers of Rs. 5.00 for every additional 150 words affixed thereto, if necessary, according to the number of words remaining to be typed  <b>Note</b> 1-The adhesive stamp will be supplied loose by the parties and affixed in the Copying Department according to necessity.  <b>Note</b> 2-Imprinted stamp sheets should
(C) Copies of registers and sale proclamation supplied on forms  (i) Cost of forms ...	1.00	By means of a Court-fee stamp to be affixed to the application.
(ii) For the number of words actually copied.	Ordinary	By means of an adhesive stamp of the required value to be affixed across the top of the copy so that the part thereof containing the figure head may be torn off to serve as the copyist's voucher.

	(d) Expedition fee for urgent applications-		
	(i) For inspection and information.	1 00	By means of Court-fee stamp to be affixed to the application.
	(ii) For copies - (1) Not exceeding 600 words English, [or Hindi in Devanagri script] or 1,200 words vernacular, [other than Hindi in Devanagri script.]	1.00	Ditto.
	(2) Exceeding 600 words English, [or Hindi Devanagri script] or 1,200 words vernacular '[other than Hindi in Devanagri script.]	1.00 for every 50 words English,' [or Hindi in Devanagriscript] or 800 words vernacular [other than Hindi in Devanagri script.] or part thereof.	Ditto. Note- This Calculation is to be made on the aggregate number of folios covered by the same application
	(iii) For return of documents	1.00	By means of Court-fee of Rs. 5.00 stamp to be affixed to the application
	(e) For copy of type written judgment as provided in Rule 343 (Note -4)	At half of the folio rate	By means of Court-fee stamp to be affixed on the application
<b>4. Copying Charges</b>	<b>Xerox copy Charges</b>	(Paper Charges)	(Stamp Charges)
	<b>Full Page</b>	<b>Rs. 1/- per page</b>	<b>At Present Court Fee</b>
	<b>Half Page</b>		<b>Rs. 10/-</b> <b>Rs. 5/-</b>

(1) For issuing certified photo copies of the documents by the Civil Courts, Photo copying charges has been fixed at Re. 1 (Rupees one) per page which will be realised by the Copying Department of each Civil Courts in addition to the usual charges for the certified copies under the Rules.

(2) Photocopying charges shall be realised against separate receipt and the amounts so realised shall be recorded in a Register to be maintained separately under specific head, with date of realisation, case number and name of the Court and number of pages photocopied.

(3) Entries of the total day's receipt shall be regularly maintained in database every day and the total shall be carried forward to the following day till the end of the month.

(4) A Bank account in the joint names of the District and Sessions Judge and the Registrar of the Civil Courts concerned shall be opened in which the amount of the Photo copying charges shall be deposited.

(5) A separate Register for expenses incurred towards purchase of consumables required for the photo copier machine, shall also be maintained in database separately and a balance-sheet of the final accounts thereof, shall be prepared at the end of the each financial year.

(6) The surplus amounts, if any, which may be left in the Accounts shall be deposited with the Government at the end of the every financial year under intimation to the High Court, of such deposit, made if any.

**385.** (1) In the case of documents, such as *Jamabandis*, 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' [50 words English or Hindi in Devanagri script] or 300 words vernacular (except Hindi in Devanagri script) 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 on 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 eight to eleven folios, three 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.

**386.** No fees are to be required or paid for searching or for copying papers wanted by public officers for public purposes.

**387.** 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 the work to be done. The charge will be levied by means of adhesive stamps to be affixed to the map or plan, the upper half being kept by the copyist as his voucher. 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.

**388.** 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 393 (c) (v) post. If more than three photographic enlargements of any finger print are required, an additional charge of Re. 1 for each such additional enlargement shall be realised from the party concerned in the manner laid down in note 3 to Rule 532 (h).

Note-For procedure as to deposit and credit, see Rule 532 (h), note 3.

#### IV-POSTAGE

**389.** The postage charges on all processes, notices and such other documents are issued from any Judicial or Revenue Court, 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. If registered, the postage must be prepaid by stamp by the party concerned.

**390.** 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, or to when transmitting copies of decree and certificates under Sections 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 person at whose instance they are sent.

#### V-WITNESSES' EXPENSES

**391.** The Civil Courts shall receive the witness expenses in cash from the party concerned. A party applying for a summon on a witness shall deposit for the letter expenses a sum in cash sufficient to cover the transmission.

**392.** The cash for the payment of witness expense shall be made payable to the cashier.

**393.** (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 traveling allowance, according to the following scale.

Class of Witness	Travelling Allowance	Diet Allowance
CLASS I Gazettes Officers, Professionals like Doctors, Advocates, Architects, Chartered Accountants,	By Mail In case of official witnesses T.A. Applicable as per T.A. Rules and Others like retired or	Rs. 300

etc.. Income Tax payees, Members of Parliament, Members of State Legislatures.	1st Class or IInd Class AC Or as per T.A. Rules. if a witness Retired person applicable to him as he was on duty.	
CLASS II	By Rail.	Rs. 200
All other except those mentioned in Class I.	Sleeper Class or 2nd Class Fare. By Road Actual Bus Fare.	

**Explanation- (a)** The above rates are maxima. The Court may direct a reduced allowance to be deposited or paid according to circumstances.

(b) In addition to the above, the authorized 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 Rules

(i) In the case of officers serving under Government the word "expenses" in this Rule means the travelling and halting allowances admissible under the Jharkhand Travelling Allowance Rules.

(ii) When a Government servant is summoned to give evidence of facts which have come to his knowledge, or of matters with which he has had to deal, in his public capacity, he shall, if the case is one to which Government is party 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 witness shall be paid to him by the Court and a certificate in the form above prescribed shall be granted to him.

(iv) When a Government servant is summoned to give evidence at a Court situated not more than [eight kilometers] 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 expense shall be deposited when a Government servant is summoned on behalf of Government to give evidence at a Court which is situated not more than [eight kilometers] from his headquarters, the expenses admissible under the Rules shall be advanced by Court and recouped by drawing a regular contingent bill upon the treasury.

(ivA) 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 3 to Rule 532 (h).

**Note 2.**-The term "Government Servants" in this Rule includes employees of the Central Government in the Commercial Department as well as State Railway employees.

**Note 3.**-"Salaries" in this Rule has the same meaning 'as "Subsistence allowance or compensation" in Rule 129 of the **(Jharkhand)** Travelling Allowance Rules.

**Note 4.**-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 **Forensic Science Laboratory** for examination, in a sealed cover properly attested, together with the 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 50 per case and a fee at the rate of Rs15 for each finger print sent for examination to cover the cost of three photographic enlargements of each such finger print shall be realized from the party concerned and paid into the treasury by the Court. A copy of the *challan* supporting the deposit [in Court] shall accompany the request for examination. If subsequently a finger print expert of the **Forensic Science Laboratory** 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 so realised shall be credited into treasury by the Court and a copy of the *challan* [showing the deposit thereof in Court] shall be set to the **Forensic Science Laboratory** with the letter summoning the expert. The travelling expenses should be made over to the expert on arrival in Court.

Note-For procedure as to recovery of the expert's fees, etc. see Note 3 to Rule 532 (h).

(vi) For witnesses 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)

**394. Court before issuing a commission, shall consider all the related aspects, viz: - nature, difficulty and importance of the work, time likely to be taken, necessity of entrustment of such work to an expert, etc, and shall fix a reasonable fee for such commissioner and shall direct the party to deposit the same in Court, at whose instance the commissioner is appointed.**

**Note 1.-(a)** Before the issue of a commission a consolidated inclusive fee which must not be excessive should be fixed wherever practicable with due regard to all the circumstances of the case, the probable duration of the Commissioner's work including desk work and the time likely to be spent on journey and the current fees of pleaders of the standing and practice of the commissioner concerned. Prompt and efficient execution of the Commissioner concerned. Prompt and efficient execution of the commission is implied.

(b) In case any work is finished or is likely to be finished in less than six hours, it may be treated as full one day's work.

**Note 2.-**The following statement of daily outturn of work required by the Survey Department from professional agency will afford some guidance to the Courts in determining the work involved in a particular commission

(1) Boundary survey		Half a square mile.
(2) Plain table survey of field	...	15 acres.
(3) Extraction of areas		250 plots.
(4) Tracing and numbering		750 plots:
(5) Traverse line	...	100 chains.

A diary showing clearly the work done each day must be kept by the Commissioner and submitted to the Court with his report.

**Note 3.-** When possible, the remuneration of professional Surveyors should be regulated by the Rules framed by Government regarding the employment of such officers in Government service.

**Note 4.-**Fees payable to Civil Court Survey knowing Pleader Commissioner should be realized in cash.

**Note 5.-**The cost of sending and returning the papers relating to a commission by registered post should also be realised in cash from the parties.

**395. For commission to make partition by Civil Court Survey Knowing Pleader Commissioner and also in other cases the Court shall fix a sum commensurate with the difficulty and importance of the work to be done**

**396.** As a general Rule, the amount to be allowed as incidental expense should be regulated by the scale of travelling and halting allowance 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 allowance calculated on this scale, it may order such further sum to be paid as it thinks reasonable.

**397.** 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 **(Jharkhand)** Travelling Allowance Rules.

Note-The above Rule also applies to a Judicial Officer proceeds to make a local investigation or to examine a witness in a case pending before him.

**398.** 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 Survey knowing Pleader Commissioner.

**399.** 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 a witness or witnesses, any surplus payment should be refunded.

**400.** 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.

**401.** In any case in 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 the further, instructions of the Court. If the additional deposit required be not made within a reasonable time, the trial should proceed.

## VII-FEES OF ADVOCATES

**402.** (i) The advocates' fees shall be in the discretion of the Court.

The following scale of advocates' fees shall ordinarily be allowed to the successful party  

<i>Amount or value of the claim</i>	<i>fee decreed or dismissed</i>
Not exceeding Rs. 5,000	... 5 per cent to 10 per cent.

Exceeding Rs. 5,000 but not exceeding Rs. 20,000	... 5 per cent to 10 per cent on Rs. 5,000 and 2 per cent to 3 per cent on the balance.
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Exceeding Rs. 20,000 but not exceeding Rs. 50,000	As above on Rs. 20,000 and 1 per cent to 2 per cent on the balance.
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Exceeding Rs. 50,000	... As above on Rs. 50,000 and $\frac{1}{2}$ percent to 1 percent on the balance.
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Provided that the minimum fee to be allowed shall be **Rs.100** in contested cases and **Rs. 50** in uncontested cases. For the purpose of this proviso, suits tried together may be regarded as one suit, unless the Court otherwise directs.

**Note 1.**-In cases under Part III of the Land Acquisition Act (I of 1894) such fees will be calculated on the amount decreed in excess of the sum rendered by the Collector.

**Note 2.**-In uncontested cases the fee shall not exceed half the fee calculated as above unless the Court otherwise directs.

**Note 3.**-When several defendants having a joint or 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 defences 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 4.**-A probate case which the Court certifies to have been seriously contested shall be treated as an original suit for assessment of advocates' fee.

(ii) In Execution and Miscellaneous Proceedings and Appeals

In the Court of a Principal District Judge or

Subordinate Judge [Civil Judge (Senior Division)]

Not exceeding Rs. 150.

In the Court of a Munsif [Civil Judge (Junior Division)]

Not exceeding Rs. 50.

Note-A specific sum shall be awarded as payable on account of the adversary's advocate's fee and award of such sum shall be distinctly recorded at the foot of the order unless each party is directed to bear his own costs.

(iii) in Review and Remand cases— Half the fee otherwise admissible under these Rules.

**403.** The scale of remuneration besides incidental expenses of guardian ad litem which the High

Court consider reasonable, should be between **Rs. 125** and **Rs 250** resting on the discretion of the Court trying the suit, who may fix the amount considering the valuation, nature and status of the parties;

Provided that 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.

**404.** In addition to the fee here-in-before prescribed the successful party shall ordinarily be allowed to recover the following charges—

(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 witnesses' expenses in Rule 393 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 in 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 charges of a plaint, memorandum of appeal, application or written statement which is filed in the Court and served upon the opposite party shall in addition to the price of paper, be ordinarily allowed at the following rates—

Copying—Re. 2/- each page of copy size.

Typing— Rs. 3/- each page of copy size.

**If, in the form of Photostat copies, at usual rate of Rs. 1/- per page**

**405.** In all decrees and orders a sum calculated at the rate of 5 per centum of the pleader's fee taxed, and subject to a minimum of Rs. 50 shall be taxed as costs on account of the fee of the pleader's clerk or clerks.

## CHAPTER II

### Rules and instructions relating to Court-fee stamps

#### I—USE OF ADHESIVE AND IMPRESSED STAMPS

**406.** The following Rules to regulate 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 stamp 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 the deficiency shall be made up by the use of one or more additional adhesive stamps 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. it shall 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 stamps of the next lower values available, which may be required to make up 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 additional 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 preceding 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 of the entire document being written on the side of the paper which bears the stamp, 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 –FEES STAMPS**

**407.** Each Judicial Officer should under Section 30 of the Court-Fees Act, 1870 formally appoint an officer for the purpose of canceling stamps, and should see that the officer and no other is allowed to do the work.

**408.** 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 remove 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.

(A). Each Presiding Officer shall cause an inspection of the disposed of records before they are consigned to the Record Room so as to check the sufficiency or otherwise of the Court-fee stamps affixed on documents. This check applies to all papers which are chargeable with stamps duty.

409. The Court or officer 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 portion of the stamp in such a manner as to remove neither the figure-head nor the part of the stamp upon which its value is expressed.

410. The Court or office issuing Succession Certificates, Probates, Letters of Administration or other similar documents liable to stamp duty shall, before issue, cancel the impressed stamps, on which the documents are engrossed, and the labels affixed to them by punching out with a round punch, a portion in such a manner as to remove neither the figure-head nor that part of the impressed stamps or labels upon which the value is expressed.

**Note: - After assessment of requisite stamp value, the party concerned shall deposit the value thereof by challan in treasury for purchase of the stamp and copy of which will be filed in court showing the deposit. After the order for grant of Succession Certificate, Probate or Letters of Administration is passed in favour of the petitioner, the office will make requisition for the impressed Judicial Court Fee stamp from the government treasury and having obtained the same, the required certificate will be endorsed on the stamp paper with seal of the Court.**

411. 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 documents 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

412. Government having directed the Inspector-General and Inspectors of Registration to examine Record-Rooms of the various Courts in the *mufassil* in order to see how far the Rules and instructions on the subject of the punching, custody, and sale of stamps are carried out, every assistance should be afforded by Judicial Officers to such officers in the discharge of their duty.

413. Government having ordered that on the discovery of any irregularity in respect of punching or otherwise defacing Court-fees stamps, the inspecting Registration Officer shall at once bring the matter to the notice 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 the omission pointed out by the inspecting officer.

**PART VI**

**Rules relating to Registers, Periodical Returns, Statements  
and Annual Reports**

**CHAPTER- I**

**I- REGISTERS**

**A. GENERAL**

**414.** 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.

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.** The periods 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.** 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 specifies all the Registers, which, it is believed, are absolutely necessary for judicial, administrative or statistical purposes.

**417.** All registers shall be kept in Hindi except the Accounts registers which shall be kept in English.

**418.** 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.** The forms in most cases sufficiently explain themselves. The following additional instructions are, however, issued for general guidance.

**B. PRIMARY REGISTERS**

**420.** *Register No. (R) 1-General Register of Suits*-Separate Registers should be maintained for the following classes of suits

- (i) Suits for Money and Movables.
- (ii) Title and other Suits.

(a) In the Register of Suits for Money and Movables, column 2 shall contain the consecutive number of suits in the Register and column 3 a subordinate serial number for all suits dealt with under Small Cause Court powers which are to be entered in red ink.

(b) In columns 4 and 7 "and another" or "and others", as the case may be, should be added after the first name where there are more plaintiffs or defendants than one.

(c) It will be sufficient in the nature of the claim is briefly indicated in column 10.

(d) 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 desire to impress upon the attention of all subordinate Courts the necessity of duly and regularly filling in the particulars regarding proceedings in execution of decrees (columns 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 decree.

(f) 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 the countersignature of the *Shirestadar*. 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 Recordroom, the petition together with the connected papers shall be sent to the Recordkeeper, 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 connected 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 115 should be carefully observed.

(g) This Register shall be maintained only in the permanent Courts. 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 proceedings regarding suits transferred to the additional Court for disposal should be entered in register (R) 1 of the Court where the suits were instituted.

**421.** *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 or Succession Certificate, Applications in respect of Minors and Lunatics, Applications to sue in *forma pauperis*, Claims and Objections should be entered. Applications to appeal in *forma-pauperis* shall also be entered in this Register.

Note 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.

Note 2.-Where there are numerous applicants or opposite parties objectors, the names of the principal applicant and principal opposite party only need be entered in column 4 and of the principal objector, if any, in column 6, and the fact of omission of the names of the other parties may be indicated by adding the word "and ors." after the names of the principal applicant, opposite party and objector. In cases which relate to suits or other cases and where the descriptions and addresses can be traced out with reference to other registers containing the descriptions and addresses of the parties in those suits and cases, the descriptions and place of residence need not be noted in columns no. 4 and 6.

Note 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 undervalued in the first instance,
  - (b) The date of filing of the inventory mentioned in Sections 256 and 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 Courts-fee paid thereon.
- (ii) In the case of applications in respect of minors and mentally disabled
  - (a) The date of filing of the inventory mentioned in Section 34 of Act VIII of 1890 and in Section 76 of Act IV of 1912.
  - (b) The date or dates of submission of accounts referred to in the same Section.
  - (c) In regard to 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 the disposal of the sale-proceeds of a minor's or mentally disabled's property should be quoted and a note made when it has been complied with.
  - (e) Value of the estate.
- (iii) In the case of application to sue or appeal, as a pauper
  - (a) The corresponding number of the suit or appeal as the case may be. (b) Date of sending the decree to the Collector.

- (iv) In case of Garnishee applications under Rules 63-A to 63-H, Order XXI, Civil Procedure Code, the amount realised, the amount deducted as Court-fees, the number of *challan* with date showing the deposit of Court-fees in the Treasury.
- (v) In other Miscellaneous Judicial Cases relating to suits and other cases, the number of the suit or the case out of which the Miscellaneous Judicial case has arisen.

**422. 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 only in the Courts of Principal District Judges. Additional Judges, Subordinate Judges [Civil Judge (Senior 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 the records shall be sent to the Court of the Principal District Judge for columns 13 to 15 of the latter's register being filed in his office. After this is done the records shall be returned to the Court disposing of the appeal for transmission to the Record-room in due course.

Note-When appeals are transferred to Courts situated at an outlying station in the district, the records of disposed of appeals need not be transmitted to the Court of the Principal District Judge for columns 13 to 15 of the latter's register being filled in. It will be sufficient to send an extract from the judgment and a copy of the decree, signed and attested by the Presiding Officer of the Court which decided the appeal, to the Court of the Principal District Judge. Columns 13 to 15 of the Register No. (R) 5 should be filled up in the office of the Principal District Judge from the copy of the decree and extra copy of the judgment so received.

(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, to the original Court of Appeal.

(d) The date of sending copies of judgment and decree to the lower Court shall be entered in the remarks column of this register and of the supplementary register, Form No. (R) 6.

### **C. SUBSIDIARY REGISTERS**

**423. Registers of Ministerial Officers, etc.-**Registers of attendance and of Casual Leave, Acquittance Rolls, Registers or Registers permanently preserved, Register of issue of Forms, Registers of issue of Stationery, Registers of Letters Received, Registers of Letters Despatched, Registers of account of service postage stamps, Peon-books-the forms prescribed by the State Government or the Board of Revenue may be used.

### **D. STATISTICAL REGISTERS**

**424. Registers Nos. (R) 31 to (R) 38-**These registers are intended to be written up from day to day, except in respect of Rent suit 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 required for inclusion in the Monthly, Quarterly or Annual Statement concerned.

**425.** The value of suits and amount realised in execution cases should be expressed in rupees only. Fractions of a rupees less than 50 paise will be disregarded and 50 paise and above will be reckoned as one rupee.

## **II-PERIODICAL, RETURNS AND STATEMENTS**

### **A. FORMS**

**426.** 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 Appeals from Decrees**

**427.** (a) For the purposes of the periodical statements, suits and appeals from decrees are divided into three classes-

(i) Suits for Money and Movables and Appeals in the same;

(ii) Suits and Appeals under the Rent Law; and

(iii) 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 23, 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 Statements nos. 2, 3 and 4, Part I.

**428.** Suits for money, etc., are again subdivided accordingly 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.** Cases under Act XX of Religious Endowment Act, 1863 and under section 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.** 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 of Letters of Administration.

**(ii) Miscellaneous Judicial cases**

**431.** Separate statements being provided to show applications 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 required 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 applications made in the course of the trial of the suit, vide Order XX, Rule 12.

(vi) Inquiries under Order XXI, Rule 2, on the application of judgment-debtors as to payments or adjustment alleged to have been made.

(vii) Claims to, and objections to the attachment of, attached property under Order XXI, Rule 58, and Order XXXVIII, Rule 8.

(viii) Applications under Order XXI, Rules 90 and 91 to set aside a sale in execution of a decree.

(ix) Complaints by decree-holders or purchasers under Section 74 and Order XXI, Rules 97 and 98 of *resistance* to possession being given.

(x) Applications under Order XXI, [Rule 99].

(xi) Commission under Section 76(2) for the examination of witnesses,

(xii) Applications under Order XXXIII, Rule 1 and Order XLIV, Rule 1 for permission to sue or appeal as



a pauper.

(xiii) Proceedings under [Order XXXIX Rule 2(a)],

(xiv) Applications under Order XLVII, Rule 1 for Review of Judgment.

(xv) Applications for a Reference to the High Court under Order XLVI. Rule 7.

**(b) Cases under other Acts**

(xvi) Applications under Part VII of the Indian Succession Act (XXXIX of 1925).

(xvii) Applications regarding the care of mentally disabled estates, and the guardianship of their persons, under the Mental Health Act.

(xviii) Applications under Section 47 or Section 75 of the Mental Health Act, for sanction to the sale, etc., of the property of lunatics.

(xix) 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.

(xx) Cases under Advocates Act.

(xxi) Cases regarding redemption and foreclosure of mortgages under Section 83 of the Transfer of Property Act, 1882.

(xxii) Applications for Succession Certificate under the Indian Succession Act, 1925.

(xxiii) Applications under the provisions of Arbitration Act.

(xxiv) Applications under the Guardians and Wards Act, 1980 or 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.

(xxv) (a) Applications under Section 8 of the Hindu Minority and Guardianship Act, 1956 (Act 32 of 1956).

(xxvi) Miscellaneous Criminal Cases under Sections 195(1) (a), 476, 478 and 480 of the Criminal Procedure Code, 1898.

(xxvii) (a) References under Section 146 (1) of the Code of Criminal Procedure, 1898,

(xxviii) Insolvency petitions under the Provincial Insolvency Act, 1920.

Note-Subsequent proceedings in connection with the same insolvency petition are to be treated as part of the original proceeding, and should not be registered as separate Miscellaneous Cases.

(xxix) Application under the Charitable and Religious Trusts Act (Act XIV of 1920).

(xxx) Cases under the Waqf Act, 1955, and applications for the sanction required by the Muhammadan Law for the transfer of Wakf property.

(xxxii) Applications under Section 5 of the Religious Endowment Act, 1863 (XX of 1863).

(xxxii) Applications under Section 13 of the Bihar Money-lenders (Regulation of Transactions) Act, 1939 (Bihar Act VII of 1939).

(xxxiii) Applications for deposit of money under Sections 15 and 24 of the Bihar Money-Lenders Act, 1938 (Bihar Act III of 1938)

(xxxiv) Cases arising out of Election Petitions under the Bihar District Election Petitions Rules, 1939.

- (xxxvi) Cases arising out of Election Petitions under the Bihar Municipal Election Petitions Rules, 1941.
- (xxxvii) Case under Section 82A of the Indian Railways Act, 1890
- (xxxviii) Applications under Sections 28(3), [29(3)], 32(3), 43(1), 47 and 48 of the Bihar Hindu Religious Trusts Act (Act I of 1951).
- (xxxix) Application under Section 30 of the Industrial Finance Corporation Act, 1948 (Act XV of 1948).
- (xl) Applications under Section 11 B of the Bihar Buildings (Lease, Rent and Eviction) Control Act, 1947.
- (xli) Applications under Sections 11, 22, 32, 34, 36, 41, 46, 49, 53, 71, 72, 73 and 74 of the Indian Trust Act (II of 1882).
- (xlii) Applications under Sections 75, 89, 113, 141, 234, 240 and 614 and cases under Sections 118, 144, 163, 196, 219, 304, 307 and 375 of the Companies Act, 1956 (I of 1956)
- (xliii) Applications under Section 22 of the Hindu Succession Act, 1956 (Act 30 of 1956).
- (xliv) Applications under Sections 31 and 31 (1) of the State Financial Corporation Act, 1951.
- (xlv) Applications under Section 11 of the Bihar Panchayat Samitis and Zila Parishads Act, 1961.
- (xlvi) Petition under Rule 149 of the Bihar Panchayat Samitis and Zila Parishads (Elections, Co-options and Election Petitions) Rules, 1963.
- (xlvii) Applications under Sections 46 and 47 of the Jharkhand Waqf Act, 1947.]

### **(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 73, sub-clause 2(b) of the Bihar Hindu Religious Trust Act (I of 1951).
  - (v) Appeals under Section 9 against orders under Sections 5 and 7 of the Public Premises (Eviction or Unauthorised Occupants) Act, 1958.]
  - (vi) Appeals under Section 11 (1) (i) of the Bihar Land Encroachment Act (Act XV of 1956).

### **C. COMPILATION OF STATEMENTS AND RETURNS**

**433.** For the purpose of Periodical Statements, suits in which preliminary decrees are made under the provisions of Order XX of the Civil Procedure Code and suits for the foreclosure of a mortgage or the sale or redemption of mortgaged property in which a preliminary decree is made under the provisions of Order XXXIV 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 decrees 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 247, Part III, Chapter III) should be furnished every quarter in Form No. (S) 7-B.

**434.** 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 according to the decision reported in Indian Law Reports 23, Calcutta, 738, be exhibited in the periodical returns as "decree *ex-parte*".

**435.** 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 apportionment of costs;
- (2) a question regarding payment by instalments;
- (3) an unsubstantial question as to the rate of interest; or
- (4) in rent suits, a question regarding the award or amount of damages.

Note-Such cases should be shown as disposed of on confession or compromise as the cases may be.

**436.** 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.** Applications under Section 39 of the Code of Civil Procedure for the transfer of decrees to other 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 of 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. In any other case 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, where 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.** 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.

**439.** As regards suits, cases or appeals the date of the presentation of the plaint, application or memorandum of appeal shall be considered as the date of institution, unless some defect or omission requires to be amended before the plaint, application or memorandum of appeal can be admitted, in which case the date of admission after amendment, shall be regarded as the date of institution. With regard to plaint, application or memorandum of appeal, which is rejected for non-compliance of defects and applications to execute date of their presentation should alone be considered.

Note-When a plaint is admitted after the date on which it is presented, the date of admission should be shown below the date of presentation in column 1 of the register of civil suits.

**440.** 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, be counted as time occupied in the appeal.

**441.** When an order of remand is made under [Order XLI, Rules 23 and 23A] 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.

**442.** 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 (see Rule 439 above) and not from the date of restoration, 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. Revived suits are to be treated as newly instituted on revival.

(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 notified in the explanation.

**443.** Gazetted holidays, Sundays and vacations should be included in the calculations but where a long series of holidays or a vacation is a serious factor in delay this should be noted in the remarks column.

**444.** Separate accounts must be kept of the time 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 applications 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**

**445.** Monthly and Quarterly Statements should be despatched by Subordinate Courts to the Principal District Judge on or before the 5th of the month next succeeding the period to which they relate and Annual Statements on or before the 20th day of the new year.

**446.** Quarterly Statements should be submitted by the Principal District Judges to the High Court on or before the 15th 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 15th February of each year.

**447.** Punctuality in the submission of statements must be insisted upon and the Principal District Judges should be careful to take necessary steps to ensure the accurate compilation and prompt despatch of the same.

**448.** 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 figures required are mere totals for the "class of Court".

**449.** Where the figures given in any return differ from those given in any returns previously submitted, explanations should always be given in order to avoid the necessity for a reference in the matter.

**450.** Officers having work in more departments than one should always note in their returns how their time was apportioned between the various departments. This is necessary to enable the Court to judge whether the work done, is sufficient, and to admit of the officer's salary being correctly apportioned in the Annual Returns between the various departments.

**451.** In the Periodical Returns submitted to the Court by Principal District Judges the returns of all Subordinate Courts including Small Cause Courts, as well as those of Additional Judges, should be incorporated.

**452.** 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 State should be noted particularly, as the information is required in the preparation of the Court's general returns.

**453.** When a statement is blank it should not be submitted a note to that effect being sufficient.

**454.** Principal 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 Principal District Judge is unable to do so himself he should cause the records to be examined by the senior Subordinate Judge [Civil Judge (Senior Division)] under him.

**(A) Compilation of entire statement and return referred to above shall be stored in computer with up to date entries by respective courts and along with the printed copies its CD/Floppy will be prepared as and when required by the superior courts for onwards transmission.**

**455.** In all Quarterly Statements the number of days during which any Principal District Judge or Subordinate Judge [Civil Judge (Senior Division)] or any *Munsif* [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.** (a) Explanation of the delay in the disposal of suits, etc., shall be submitted half-yearly to the Principal 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 six months or (4) when a decree has been for more than six 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. In the case of

Rent suits, Principal District Judge need make enquiry only if the number entered in the Quarterly Statements as pending for more than three months is unusually great.

(b) The above explanations shall be submitted to the Principal District Judges in Form No. (S) 8.

(c) Principal 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.** Principal 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. These statements will be taken into consideration by the Court in connection with transfers and promotions in the State Judicial Service.

Note-The number of witnesses examined by Assistant Sessions Judges is not to be included in column 11 of the Statement.

458. 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 Principal 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 convenient intervals.

### III-ANNUAL REPORTS

**459.** Principal District Judges shall submit to the High Court, along with the Annual Returns and Statements, a Report for the year to which these 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. Principal 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.

**460.** (a) The High Court does not consider it necessary to prescribe the use of any particular form of Report, leaving it to the Principal 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 the Judges Record-room, which must be ascertained by careful 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 model in which effects given to the Rules relating to the employment of Civil Court *Amins* and other Commissioners.

(vi) The working of the Rules framed under Court-Fee Act (Rule 383, 384 ).

(vii) The result of the examination of the records of cases decided by Subordinate Judicial Officers (Rule 454).

**(viii) The effort of the officer in settlement of the matter by ADR mechanism.**

**(ix) The extent to which the presiding officer has benefited out of the training courses imparted to him in recent past by Judicial Academy, Jharkhand and its application in disposal of the cases.**

**(x) The effect of recent legislation on the working of the Courts.**

**(xi) The date on which each Subordinate Court in the district was last inspected by the Principal District Judge.**

**461.** 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 appeals from, each officer ought to be analysed and commented upon, only as aids to forming a judgment as to their respective deserts and fitness for promotion. This is not however, to debar Principal 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 or of Government.

Note 1.-Such reports should set out clearly and tersely sufficient particulars to enable the Court to form a correct and definite judgment on the merits 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 his case. In case of a very bad report it is desirable. If possible, that the unfavourable trait should be very briefly illustrated. Principal District Judges 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 Principal District Judge has seen 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. Where the Principal District Judge has been newly posted to the district he should submit to the Court the report or opinion recorded by his predecessor and when the subordinate officer has been transferred from another district, the Principal District Judge should obtain from the Judge of the district and submit the report required by this Rule. Where a Principal District Judge has seen something of an officer's work, he should record something more than such vague general expressions as "satisfactory", "good", "unsatisfactory", "bad" or the like. [If at the time of submitting the confidential report it is found that an officer has taken steps to remedy any defect previously reported, mention should be made of this fact also in the report and then with the Courts concurrence that officer concerned should be informed that his efforts at improvement have been noticed: If the confidential report on the work and character of subordinate Judicial Officers contain remediable defects or any adverse remarks regarding an officer which in the opinion of the High Court should be communicated to him for his guidance and correction, a transcript of the remarks will be sent by the Registrar directly to the officer concerned.]

Note 2.-Reports on the merits of an officer should invariably state whether the officer exercises effective control of his office and of any departments which may be in his charge.

**Note 3 The aforesaid entries shall be filled up so far as practicable in the ACR format as approved and supplied by the High Court in this regard.**

## PART VII

### Legal Practitioners

#### CHAPTER I

#### **The Qualifications Admission and Certificates of Legal Practitioners in Courts subordinate to the High Court.**

#### **General**

462. "Legal Practitioner" means an advocate defined under section 2(i) of the Advocate Act, 1961

**Now the Advocates are the only recognized class of persons entitled to practice law in courts through out the territories of India to which the Advocates Act applies.**

#### CHAPTER II

#### **Rules regarding Vakalantnamas**

**463.** When a *Vakalantnamas* is given by a party, who can sign his or her name, it must be signed by the party. When the party cannot sign his or her name, the *Vakalantnamas* must be endorsed as follows-

I, A. B., do hereby appointed C. D., Advocate to act for me in the above named case, in token whereof I have affixed my left thumb impression in the presence of E. F.  
X (Left thumb impression)

and I, E. F, do hereby attest the above thumb impression as having been affixed in my presence by A. B., who is known to me.

X (signature)

**464.** *Vakalatnamas*, whether executed by principals or their attorneys and agents, 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

**465.** (a) No *Advocate* without accepting in writing a *Vakalatnama* shall act in any case.  
(b) No *Advocate* shall plead in any case unless he has (a) been engaged for that purpose by another *Advocate* duly appointed to act for party or (b) filed a memorandum of appearance under Order III, Rule 4 of the Civil Procedure Code.

**466.** (a) *Advocate* must understand their responsibility to the Courts in which they practise in the matter of accepting *Vakalatnamas* from the parties themselves or from persons professing to be authorized by special or general powers-of-attorney to act on behalf of other persons.

(b) The Courts accept *Vakalatnamas* on the responsibility of the legal practitioners filing them. An *Advocate* accepting a *Vakalatnama* purporting to be executed by his client in person 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 an *Advocate* and has himself executed the document.

(c) No *Advocate* shall receive a *Vakalatnama* from a person who is unable to sign his or her name, unless it bears an endorsement in the form prescribed by Rule 463.

(d) Where there are more parties than one and they want to file separate *Vakalatnamas*, the *Vakalatnama* of one may be received from any other similarly authorised but if they desire to put in one and the same *Vakalatnama* it may be received from any one of them or from a person duly authorized by any one of them without special authority from the others.

(e) When a *Vakalatnama* is filed by an *Advocate* 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.

(f) A *Vakalatnama*, which has been filed in Court may, subsequently, with the permission of the Presiding Officer, be accepted by a person whose name appeared in it at the time when it was filed. In the case of such subsequent acceptance an endorsement shall be made as in the case of the first acceptance.

(g) A *Vakalatnama* filed in Court may, with the permission of the Presiding Officer, be transferred by one Pleader to another named in such *Vakalatnama*, provided that the transferee signs the endorsement made by the original holder under sub-clause (f) of this Rule. But a Pleader cannot transfer his *Vakalatnama* to another Pleader whose name does not appear in the *Vakalatnama* without an express power in the *Vakalatnamas*.

Note-An *Advocate's* registered clerk cannot transfer a *Vakalantrnama* to any other *Advocate*.

**467.** **Advocates** cannot without a special power in their *Vakalantrnamas*, or unless distinctly authorized by a separate instrument, receive sums to deposit in Court. If the record containing the *Vakalantrnamas*, or separate instrument has been sent to the Record-Room, and such authority cannot be proved without reference thereto, the *Advocate* concerned should be required to endorse on the application or on 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.

### CHAPTER III

#### Miscellaneous

**468.** No Judicial Officer shall be allowed to practice as an *Advocate* during the term of any leave that he may obtain from the Court.

**469.** An *Advocate*, or Attorney of a High Court other than that of **Jharkhand** is not entitled to practice as such in the State of **Jharkhand** unless he ordinarily practices in the Court on the roll of which he is entered or some Court subordinate thereto.

**470.** *Advocates* appearing in the Supreme Court, Subordinate Courts, Tribunals or authorities shall wear

the following dresses- .

1. Advocates other than Lady Advocates

(a) a black buttoned Up Coat, Chapkan, Achkan, Black Sherwani and White bands with Advocate's Gowns, or

(b) a black open breast Coat, white shirt, white collar, stiff or soft, and white bands with Advocate's Gowns.

In either case long trousers (white, black or black stripped or grey) or Dhoti.

2. Lady Advocates

(a) Black and full or half sleeve jacket or blouse, white collar, stiff or soft with white bands with Advocate's Gowns.

(b) Sarees or long Skirts (white or black) or flare;

Provided that wearing of Advocate's Gown shall be optional except when appearing in the Supreme Court or in a High Court;

Provided further that in Courts other than the Supreme Court, High Court, District Court, Sessions Court or City Civil Court a black tie may be worn instead of a band.

Provided further that wearing of black coat in summer shall be optional in district courts.

**471.** The expression "Registered Clerk" means a clerk who is employed by an **Advocate** in connection with his legal business and who is registered under these Rules.

**472.** A registered clerk shall for the purpose of performing the ministerial part of the work of his employer's office have access to any Court in which the latter is authorized to practise and to such of its ministerial officers as may in that behalf be designated by the Presiding Officer of such Court.

**Note 1.**-This does not authorize a registered clerk to go inside the office of any Court.

**Note 2.**-No person employed by an **Advocate** other than a registered clerk shall be allowed access to any of the Courts of the district or to have any dealing with the ministerial officers attached thereto.

**473.** Not more than two clerks at a time shall ordinarily be registered.

**474.** At *Sadar* stations the registering authority for all registered clerks shall be the Principal District Judge. At all other stations, such authority shall be the senior Judge (unless the Principal District Judge otherwise directs) where there is Civil Court, and the Sub Divisional Officer where there is no Civil Court.]

**475.** (a) Every application for the registration of a clerk shall be made to the Registering Authority by the Advocate desiring to employ him. It shall also be signed by the clerk proposed to be employed.

(b) Such application shall be on plain paper and shall contain

(i) a certificate from the **Advocate** that the person proposed is to the best of his belief fit to be so employed and will be employed *bona fide* in his own service and for the purpose of his legal business and that he will make it a condition of his accepting a brief that remuneration shall be paid to his authorized clerk or clerks of an amount not less than five per cent of the fee paid to him subject to a minimum of Rs. 50;

(ii) the name of names of other registered clerks, if any, under him;

(iii) a statement declaring that he has no unregistered clerk and undertaking not to employ any such clerk during the year.

(c) The registering authority on receiving the application may

(i) dispose of it at once when the person proposed is known to him; or

(ii) refer it to the Bar Association before their opinion; or

(iii) make such other inquiry as he thinks necessary.

(d) When the registering authority is of opinion that the person proposed is a fit and proper person to be employed as a registered clerk he shall enter his name in the Register of Clerks [Form No. (R) 25] and issue to him a card in Form No. (M) 21]. These cards shall be strictly non-transferable and shall be returned at the close of each year when clerks must be re-registered.

(e) Each registering authority shall at the beginning of the year send a copy of his register and of all subsequent additions and alterations therein immediately after they are made to the other registering authority; if any, at the same station for information and for incorporation in his register.

**476.** The procedure in Rule 475 shall apply to annual re-registration. As soon as a card (new or renewed) is ready for delivery a notice thereof shall be posted in the Court-house with an intimation that it will be liable for cancellation if not taken delivery of within 15 days from the date of the notice. No card which has been lost or cancelled can be renewed without payment of fee of Rs **50** to be credited to Government.

The same fee shall also be levied where an **Advocate** *applies* for registration of a clerk in place of another unless he gives up the card of such other clerk.

Note-A list containing the name of the clerks who have not renewed their cards should be posted in the



Court house with an intimation that they are liable to penalties if found working without having renewed their cards.

477. Any registering authority in the case of a clerk registered by him may for reasons to be recorded in writing and after hearing the clerk in his defence order his suspension or removal from the register and the cancellation of his card. Every order of the removal shall be communicated to the other registering authorities of the district.

Note-Proceedings taken against clerks under this sub-rule are administrative and not judicial proceedings.

478. No clerk registered as the clerk of one **Advocate** work or do business on behalf of any other **Advocate** in any case in which his employer is not engaged.

479. No clerk registered as the clerk of a particular **Advocate** shall, except in the absence of his employer, pass or hand over to another **Advocate** paper written by him to be filed in a case unless such paper also bears his employer's signature.

480. In exercising the powers mentioned in Rules 474 and 475 the Subordinate Civil and Criminal Courts shall be subject to the general control of the Principal District Judge.

## PART VIII

### Libraries, Forms and Stationery

#### CHAPTER

##### Libraries

481. The Head Clerk of the Administrative Office or the Accountant at outstations is to be appointed librarian of the Office 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 devolving on him as Head of the Office.

482. (a) Separate registers of all books, reports, returns respectively received in the library shall be maintained. As soon as anything is received in the library, it must at once be entered in the register, in catalogue and in the computer. Once a quarter the clerk in charge of the Library will submit the register for inspection to the Register –cum- Judge In-charge.

(b) Catalogue-Correct catalogue must be kept up of the books in the Library. No particular form is required but the catalogue should be of stout paper, and strongly bound to be preserved forever. 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.

Note-The proceedings of the State Legislature and other publications referred to in Rule 253 of the Bihar Records Manual, 1951, should be treated as books for the purpose of this Rule.

483. Each book must have a number labelled upon it corresponding to a number in the catalogue, and, as fresh additions are made to the Library, they should be labelled and numbered in like manner. Each book should also be marked on several leaves with the office stamp.

484. (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 / initial of the person who received
- (f) the date of return and the librarian's initial;

- (g) the date of each reminder; and
- (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 5 of the above register.

**485.** The preceding Rules shall be applied, as far as possible, to the Courts of the Civil Judge (Senior Division) and Civil Judge (Junior Division). 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 no 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 books 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.

**486.** The copy of the Government Gazette supplied to the Principal District Judge should 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.

**487.** Principal District Judge 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

**(A) Entire process of Library maintenance shall be done under the forgoing rules, in computer also.**

**488.** At every district headquarters a separate clerk shall be deputed to have charge of the combined stock of forms and stationery required for all the Courts thereat. He will be known as the Forms and Stationery Clerk and shall work under the supervision of the Accountant. At every other station where Civil Courts are situate, the Accountant shall hold charge of the combined stock of forms and stationery. 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, (iv) Name of person, (v) Remarks.

The requisitions shall be put up before the Judge-in-charge of the form who will pass necessary orders and the forms will be issued accordingly. Supplies, if ordered, should be issued by the clerk-in-charge, Forms and Stationery, once a week to the Registrar-cum-Judge In-charge of each Court, and to parties daily, at an hour to be fixed by the Judge-in-charge of Forms and Stationery. The requisition slips should be retained for two years.

**489.** The Forms and Stationery clerk shall maintain correct accounts of receipts and issues.

**490.** Each entry of the receipt and of the issue of blank books of peremptory cash receipts [Form 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.

**(A) Each entry so referred to above shall also be stored in computer.**

**491.** 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 groups.

**492.** The Cashier will keep the supply of the saleable forms. These forms can only be issued to the public by the Cashier.

**Note 1.**-For Rules as to the indent and supply, etc., of forms, see the Rules prescribed by the Government for the supply and custody of printed forms.

**Note 2.**-For Rules as to indent and supply of stationery, see Stationery Manual.

**Note 3-** The specimen forms given in Civil Court Rules volume II & Criminal rules volume II will also be kept in the stationery department. In case of extraordinary and in urgent need of any form which is out of stock and there is no likelihood of its supply in near future and demand of the form is so urgent, in that case, the Principal District Judge may order for preparation of the copy of the said form for the use of the requisitioning Court.

## PART IX

### Miscellaneous Instructions

#### CHAPTER

#### I-OFFICE

**493.** 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.

**494.** At the entrance of each office room occupied by clerks or copyists, a wicket gate shall be placed which no outsider shall be allowed to pass. Outside the entrance a board should be hung 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 Principal District Judge may in his discretion direct.

**495.** 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.

**496.** Each clerk will keep a duty card in the following form. It will be signed by him and by the *Shirestadar*-

Name of Clerk		Department	
Nature of work			
Authorised registers.	Unauthorised registers.	Miscellaneous duties.	Remarks
1	2	3	4

**Note 1.**-The card is to be signed by the *Shirestadar* 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 affected. These cards shall be preserved for a period of twelve years from the date of their revision and then destroyed.

**Note 2.-A** separate Duty Card shall also be maintained by the *Shirestadar*, which will be signed by him and by the Registrar at Sadar Station of the Judgeship and at such stations where there is no Registrar, his Duty Card shall be signed by the Principal District Judge.

**497.** (i) The *Shirestadar* 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

the office, the records kept there and the work done by the staff employed.

(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 each man's work and check it frequently, to give proper instructions regarding the maintenance of registers, etc., and the performance of other duties, and to see that the Rules and Orders of the 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 officer, or of such 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 *Shirestadar* 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, *Shirestaders* will do inspection, and the Presiding Officer will finish pending judgments, consider the *Shirestadar's* reports and do some inspection himself when necessary. The Principal District Judge will make a thorough inspection of the diaries of all the subordinate Courts once a month on the clearance day or on any Saturday or even a holiday. Plaints, urgent petitions and appeals may be filed on a "clearance day". Wherever the last Saturday of the month is a holiday (except when it falls during the annual vacation), the working day next preceding that holiday will be observed as "clearance day".

**498.** (1) Judicial Officers should see that the Rules in the Board's Miscellaneous Rules, relating to securities of officers are followed *mutatis mutandis* in the case of ministerial officers of civil Courts who are required to furnish security.

Note-Rule 208 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 220 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 are required to furnish the security prescribed in Rule 220.

(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 power to reduce the security in exceptional cases is vested in the State Government alone and the Principal District Judge has not been empowered to exercise the function.

**499.** The attention of Judicial Officers is drawn to the following Rule (Rule No. 227) of the Board's Miscellaneous Rules

"Promissory notes and/or stock certificates of the Central Government or of the State Government and savings 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".

## II-CORRESPONDENCE

500. 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 Courts.

**Note 1.**-Correspondence includes returns and requisitions for records required for reference in other cases.

**Note 2.**-The instructions given in the Court's General Letter no. 2, dated the 3rd December, 1928, regarding the preservation and destruction of English correspondence and the division thereof into classes A, B and C should be carefully observed.

**Note 3.**-The correspondence register should be put up to the Presiding Officer for check once in a week. The preparation of separate pending lists is unnecessary.

**Note-4 -A Correspondence register of Principal District Judge shall be checked weekly by Judge-In-Charge/Registrar.**

**501.** Registers 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 Principal District Judge. This

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 papers should be entered in the permanent register, the description in the fly leaf being verified from the original.

Note-The *Shirestadar* or where so directed by the Principal 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.

**502.** In the Courts subordinate to the District Court it will be sufficient to keep the letters received in one file and drafts of letters issued in another, instead of opening a separate file for each subject.

Note : General Letters and Circulars Orders 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.

### MAINTENANCE OF GUARD FILES

Separate Guard files detailed below shall be maintained in Sub-ordinate Courts

- (i) Inspection note of the High Court Judges.
- (ii) Inspection note of the Principal District Judge.
- (iii) Inspection note of the Presiding Officer and the Registrar, if, any.
- (iv) High Court General Letters (Civil)
- (v) High Court General Letters (Criminal)
- (vi) High Court Circular Order (Civil)
- (vii) High Court Circular Order (Criminal)
- (viii) Misc. Letters of the High Court containing general instructions as to practice and procedure.
- (ix) Govt. order and circular of the Appointment Deptt.
- (x) Govt. order and circular of the Finance Deptt.
- (xi) Govt. order and circular of the Law Deptt.
- (xii) Govt. order and circular of the Departments other than Appointment, Finance and Law of the State Govt...

- (xiii) Important notification of the High Court, which may be required for future reference.
- (xiv) Important notification of the Govt., which may be required for future reference.
  - (a) Paper should be arranged in the Guard Files in chronological order with a proper index and it should also be duly page marked.
  - (b) Misc. letter of the High Court should be entered 1<sup>st</sup> in the Fly-Leaf of the correspondence and then placed in the Guard File concerned with appropriate notes made in the Fly-Leaf.
  - (c) Similar files shall be stored in computer/disc having scanned copy of above referred letters.

**503.** Correspondence relating to any case shall be filed with the record of that case.

**(A).** All communications whether through fax / general letters / emails / speed post intended for the High Court should be addressed to the Registrar General, unless they relate to case work in its Appellate or Civil Revisional Jurisdiction in which case they should be addressed to the Deputy Registrar.

**504.** The pages and paragraphs of Annual and Inspection Reports and similar lengthy communications submitted to the High Court should invariably be numbered.

**505.** When a Civil Court has occasion to correspond with a Court of any foreign territory, such correspondence should be addressed as provided in C.P.C. and Cr.P.C. and if such correspondence related to administrative work it should be addressed through the State Government.

### **III- PRINCIPAL DISTRICT JUDGES AND SUBORDINATE JUDICIAL OFFICERS**

**506.** (a) When presiding on the Bench Principal District Judges, District & Additional Sessions Judges, Civil Judge (Senior Division) and Civil Judge (Junior Division) shall wear, over a dark-coloured coat, a Judge's gown made of back alpaca, with Barrister's bands.

(b) Such members of the State Judicial service as have been called to the Bar, may, if they prefer to do so, wear a Barrister's gown and bands.

**507.** 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 **District Judge-1, District Judge 2 likewise, 1st Subordinate Judge [Civil Judge (Senior Division)], 2<sup>nd</sup> Subordinate Judge, [Civil Judge (Senior Division)] likewise, Munsif 1<sup>st</sup> [Civil Judge (Junior Division)], Additional Munsif [Civil Judge (Junior Division)] likewise**, as the case may be according to the names or numbers their Courts bear; without any reference to seniority. **An Officer of the Principal District Judge rank, shall be appointed as Principal Judge (Family Court) to deal with the cases**

**falling under the Family Courts Act in the stations where such court functions.**

**One officer of the rank of Civil Judge (Senior Division) shall be posted in every District as, Secretary District Legal Services Authority.**

**508.** It is not ordinarily within the province of Principal District Judges 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 of their districts, which in their opinion requires the issue of a general order for the information and guidance of the 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.

**509.** Before leaving a district of which he has held charge, a Principal District 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.

**510.** (a) Principal District Judges are required to report to the High Court any formal transfer of charge in any Civil Court subordinate to them including the assumption by the *Sarishtadar* of charge of the current duties of a *Munsif's [Civil Judge (Junior Division)]* Court during the temporary absence of the *Munsif [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 Principal District Judge proceeding on circuit.

(b) When a Principal 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.

**511.** 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 Government, granted in exceptional cases and upon consideration of circumstances, brought to notice by the Principal District Judge under whom the officer whose exemption from the Rule is recommended is serving at the time.

**512.** The attention of Judicial Officer of all grades is invited to "the Government Servant's Conduct Rules" regulating the conduct of public servants in respect to borrowing money, receipt of complimentary addresses and the like.

**513.** The Nazir shall maintain a register keeping the stocks of every governmental property at the residence of the Judicial Officer and he will prepare an inventory thereof on handing over the official quarter and also when the officer vacates the quarter.

#### **IV- CONSTRUCTION AND REPAIR OF BUILDING FOR JUDICIAL OFFICERS**

**514.** (a) Principal District Judges are empowered to give administrative approval to projects for construction of non-residential buildings under the head "50-Civil Works" under their control, the cost of which does not exceed Rs. 50,000. Projects estimated to cost a sum exceeding Rs. 50,000 and not exceeding Rs. 1,00,000 must be submitted, with plans and estimates, to the High Court for administrative approval. Projects estimated to cost more than Rs. 1,00,000 must be submitted with plans and estimates for administrative approval to the State Government through the High Court.

(b) Principal District Judges are further empowered to accord administrative approval to the additions, improvements and alterations, in existing water-supply and sanitary installations under the head "39-P.H.D." and in existing electrical installations under the head "50-Civil Works" of a non-residential buildings, the cost of which does not exceed Rs. 25,000 and Rs. 5,000, respectively.

(c) Projects relating to residential buildings under the head "50-Civil Works" the cost of which does not exceed Rs. 75,000 and additions, improvements and alterations in existing water-supply and sanitary installations under the head "39-P.H.D" and in existing electrical installations under the head "50-Civil Works" the cost of which does not exceed Rs. 25,000 and Rs. 5000, respectively, with plans and estimates, rent statement and average pay of the incumbent of the post must be submitted to the High Court for administrative approval. All projects costing more than the amount specified above should be submitted to the State Government for administrative approval through the High Court.

(d) Outlay on the first installation of water-supply, sanitary and electrical works in a non-residential or residential building requires the sanction of the State Government and all such projects must be submitted to the State Government with plans and estimates (and also with rent statement. and average pay of the incumbent of the post in case of residential buildings) through the High Court.

(e) In framing such applications care should be taken to satisfy the requirements of the Resolution on the subject, quoted on the margin, and in particular, to explain clearly the degree of urgency which attaches to reach 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**

**515.** 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 inaptitude of individual officers. Without such information, the Judges are unable to fix with any certainty, the number of officers required, for different districts from time to time.

**516.** If a Principal 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.

**Note 1.**-Further instructions are contained in General Letters Nos. 3 of 20th February, 8 of 28th April, 1902 and 7 of 14th July, 1913, and 4 of 12th August, 1916, to which reference should be made.

**Note 2.**-For form of statement which should accompany such application, see Form No. (M) 20. The statement should be submitted in duplicate.

**517.** Additional officers appointed temporarily are, as a Rule, comparatively junior and inexperienced. The simpler suits should therefore be transferred to them for trial, while cases of a more complicated character should be dealt with by the permanent staff. Principal District Judges are expected to see that the services of additional officers are utilized to the best advantage.

#### **VI- LEAVE AND EXTENSIONS OF SERVICE**

##### **A- [*Leave of Principal District Judges and District & Additional Sessions Judges*]**

**518 .** Applications for casual leave of absence during gazetted holidays or any other day or any other leave applications applicable under the Jharkhand Service Code and earned leave should be made by the Principal District Judges and District Judges to the High Court. The earned leave application shall be in duplicate, one copy being sent to the High Court direct and the other to the Accountant General, Jharkhand.

Note – When the services of any Principal District Judge or District & Additional Sessions Judge on deputation or otherwise, are placed at the disposal of the State Government or when any such officer is or has been permitted to be employed under any department of the State Government or some other authority he should submit his application for leave to the authority concerned except in the case of officers deputed in the Department of Law (J) and the officers posted in the Family Courts of each district, shall submit his application for leave to the High Court.

##### Leave of Officers of the rank of Civil Judge Senior Division and Junior Division

**519.** Applications for casual leave presented by officers of the state Judicial Service should be disposed of by Principal District Judges without reference to the High Court in terms of the provisions of the Jharkhand Service Code. Principal District Judges should maintain a register of casual leave in the prescribed form but the applications for earned leave should be made to the High Court through the Principal District Judges of the district.

**520.** 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 anticipate the sanction



of the Court will expose themselves to the risk of being treated as absent without leave.

**521.** When forwarding applications for leave on average pay or half average pay, the Principal 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 other practicable arrangements made for the work, or would have been refused.

**522.** Officers of the State Judicial Service who desire to obtain leave on medical certificate or extension of such leave must follow the procedure prescribed in Rules 178 of the Supplementary Rules made by the State Government in extension of the Fundamental Rules.

**(A) Directions contained in G.L.1/05 dated 21.06.05 issued by the Jharkhand High Court with regard to leave/ Casual Leave/Vacation Leave/Leave of Absence during Holidays shall be observed stringently in case of members of Sub-ordinate Judiciary within the State.**

**(Copy of the letter annexed in schedule of Rule.)**

#### **VII-INSPECTIONS BY PRINCIPAL DISTRICT JUDGES**

**523.** The Principal District Judge or each district is required to inspect annually if possible, but if not, at least once in every 18 months, each of the Subordinate Civil Courts and the Courts of Small Causes in his district, and to submit a report of his inspection of each Court without delay to the High Court. It is not intended that a Principal 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 Principal District Judge may authorize District & Additional Sessions Judge to do regular inspection of the Sub-ordinate Courts annually or once in 18 months, if, he is unable to do this:**

**Note-2** **Inspection note prepared by the P.O. and D.J. shall be preserved for 12 years.**

**524.** The object of an inspection is to satisfy, in the first instance, the Principal 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 law and according to the Rules prescribed by the High Court; that it is disposed of with regularity, punctuality and efficiency; and to detect and correct errors and irregularities. The Judge should, however, remember that while his duty is, on the one hand, to observe and correct errors, he is also to encourage, assist and advise; 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.

**525.** The Principal District Judge shall forward a 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 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 a 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 Principal District Judge at every inspection.

**526.** In making an inspection and writing his report, the Principal 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 Administrative Office, Library, the Accounts, Forms and Stationery, Copying, and Nazarat Departments, and the state of the Registers, Records and the Record-Room.

**Note:- Notwithstanding the aforesaid rules relating to inspection, the guidelines given in questionnaire given in Letter no. 9553-53 dated 23 July 1980 be strictly followed by the head clerk (Shirestadar) while making report to Judge In Charge/ Principal District Judge.**

(ii) The manner in which the Presiding Judge performs his judicial work as regards ability, temper, discretion and punctuality. The Principal District Judge should sit at least twice in a year 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 examinations 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 state of the pending files.

(iv) Records of cases of the grant of *ex parte* injunction should be scrutinized to see whether the instruction in Chapter IXA, Part I, is carefully acted upon. Defect, if any, in the application of the principal 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.

**527.** (a) It is desirable that the Principal District Judge's Record Room and Offices be thoroughly inspected at least once each year by the Principal District Judge, or should he be unable to do so for any reason, which should be explained, by such Gazetted Officer subordinate to him as he may depute for the purpose. An inspection by the Principal 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.

## **PART X**

### **Account Rules (Judicial) CHAPTER I**

#### **I- GENERAL**

**528.** 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, Subordinate Judges [Civil Judge (Senior Division)], *Munsifs* [Civil Judge (Junior Division)] and Small Cause Court Judges.

**529.** (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) "Principal 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 Principal District Judge for the purpose of these Rules and in any district in which a Principal District Judge is not for the time being resident, the principal Civil Judicial Officer at headquarters.

Note-In districts where there is no Principal District Judge the principal Civil Judicial Officers at the headquarters are the officers vested with the powers of a Principal District Judge.

(iii) "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" shall be taken to close at 2 P.M. and the "next day" to extend from that hour to 2 P.M. of the following calendar day.

(v) "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 2 P.M. on the day on which the accounts of the Sub-divisional treasury are finally closed for the month; and at out-stations, at 2 P.M. 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" shall be taken to begin on the 1st April and to close on the 31st March.

530. A Principal 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 charges of the current duties of the Judge's Court, and to the Registrar-cum-Judge In-charge of the Principal District Judge's Court (but of no other Courts at headquarters station) may be delegated the duty of passing *challans*.

531. Between 2 and 3 P. M., the accounts shall be made up and no transactions shall take place in Court. If, under exceptional circumstances any transactions have to be allowed after 3 P.M., they must be entered *on the same calendar day*, in the Court's accounts but bearing date the next open day, and the receipt should 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 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 P. M. of the following calendar day.

532. The following are the heads of account 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-Any sum deposited in Court under Section 379 (1) of the Indian Succession Act (XXXIX of 1925), with an application for a certificate or for the extension of a certificate, must be classed under Civil deposits. See note 3 to Rule 537.

(b) Fines (judicial); refunds of the same.

Note-For refunds of fines, see Rule 561.

(c) Stamp duty and penalties realized in Court. Refunds of the value of Court-fee stamps.

(d) Value of the unclaimed property of intestates 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* Rule 610). For refund under heads (d) to (f), see Rule 561.

(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 directed from the treasury to parties requiring them. There can therefore be no cash receipts on this account.

Note 3.-Other items will include deposit of the minor's money under the Guardians and Wards Act, whenever necessary.

(g) Sale-proceeds of old stores and materials.

**Note 1.**- Receipts under this head are credited to the head "XXYMiscellaneous" in the Treasury Accounts.

**Note 2.**-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 adjournment, Amins travelling allowance, fees and expenses payable to Commissioners, 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 542 and will deal with it as directed in Rule 548. 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 payment of traveling and other expenses of witnesses.

**Note 3.**-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

peremptory receipts. All sums so received shall be paid by the cashier into the treasury as receipts of the Police Department. A *challan* in quadruplicate shall be 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 *challan* on account of the consultation fee and fee for photographic enlargements will accompany the documents sent for examination and a copy of the *challan* showing deposit of the cost for additional photographic enlargements (referred to in Rule 388) 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 expert's services.

**Note 4.**-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 5.**-For payments of sums received under head (h), see Rule 535.

**533.** The receipts and payments under head (a) must appear in the Courts' account 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 receipt and payments at the treasury will appear. All receipts and payments under heads (b), (c) and (g) above must appear in the Court's account and in the Treasury account in detail. An account in detail of all receipts under heads (d) to (f) 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 whose 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-Fractions of a Paise are not to be entered in the Court's account and they should neither be received nor paid.

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-Advantage of this proviso may be taken in cases where the judgment debtors are prepared to satisfy the claims 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 witnesses.

**534.** Judges will as far as possible in their transactions with the public avoid direct receipt and payment of money under head (a) of Rule 532.

*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 (Section 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 although tendered after the hour prescribed by Rule 529, clause (iv).

(b) When the proceeds of movable property sold in execution (Order XXI, Rule 77 of the Code of Civil Procedure) are realized after the hour prescribed in Rule 529, clause (iv).

(c) When any sum is tendered for deposit under Section 379 (1) of the Indian Succession Act (XXXIX of 1925) even though tendered after the hour prescribed by Rule 529, clause (iv).

*Proviso 2.*-Provided that cash may be received at out-stations when the receipts falls under head (a) of Rule 532 in the cases where, having regard to the balance in hand (which should not ordinarily exceeds Rs. 500), this can conveniently be done.

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 if it is better thus 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 sums coming under head (a) of Rule 532. This sum so received or paid shall not in any case exceed Rs. 100 in amount.

**535.** (a) Money under heads (b) to (h) of Rule 532 may ordinarily be received in Courts but in no circumstances the balance of preamptory amount shall be more than Rs. 10000.

(b) Repayments 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

**536.** Payment of sums falling under heads (a) to (e), other items of (f) and of head (g) of Rule 532 cannot be accepted either in Court or at the Treasury unless the money be tendered with a *challan* in quadruplicate signed by the Registrar-cum-Judge In-charge 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-When Courts are combined for the purposes of account [See Rule 529, clause (iii)] there shall be only one Accountant and one Cashier for all the Courts so combined.

537. 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 realized the money, shall be furnished, free of cost, with four forms of *challan* [Form no. (A) 1] in each of which he must enter in English the particulars required from him. One of the *challans*, herein called the original *challan*, shall bear the Court-fee stamp (if any) required by law.

**Note 1.**-In the case of Deposit *Challans* 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 cases 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 *challan*.

**Note 3.**-In the case of sums deposited under Section 379 (1) of the Indian Succession Act (XXXIX of 1925), the deposit *challans* must show that the amount is deposited to the credit of the Judge.

**538.** The person desirous of paying in the money having filled up four forms of *challan*, shall present them to the Registrar-cum-Judge In-charge of the Court mentioned in Rule 536. 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 *challan*, if necessary, shall sign it and pass the forms on to the Accountant of the Court or set of Courts who having made if the necessary entries in Part II shall give a serial number to them. The *challans* shall then be laid before the Judge-in-charge, and he shall, if in order, sign them. One *challan* shall be retained by the Accountant and the other three shall be returned to the party tendering the money, and shall be his authority to pay the same into the Court, or into the Treasury. The copy left with the Accountant will be kept in a guard-file and will be preserved for one year.

**Note 1.**-Where the *Nazir* happens to be the payer three copies only of the *challan* need be presented to the Registrar-cum-Judge In-charge. He will get back two copies from the Accountant which he will spend with 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 deposits. The transactions will be passed through the Court's accountants in the same way as a deposit in cash.

(b) The cheques of the Land Acquisition Officer shall be accompanied by receipts in triplicate in Accountant-General's Form No. 325, Schedule XXV, duly filled up. These receipts should be regarded as *challans* and dealt with in the matter of numbering in the same manner as *challans* tendered with other Civil Deposits. The Accountant will use a form of *challan* [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 described in the preceding paragraph shall be followed.

(d) Investments under Sections 32 and 33 of the Act, of money deposited in Court, shall be arranged for, in the case of Government securities, in communication between the Court and the Reserve Bank of India, and purchases of land should be effected under the Court's order through the Collector or other Revenue authority of the district.

**Note 3.**-At subdivisions and out-stations the Judge-in-charge may, with the previous sanction of the Principal District Judge, delegate to the Registrar-cum-Judge In-charge of his Court the duty of passing *challans*.

**539.** No person is required to take out a *challan* till he is actually ready to pay in the money for which he takes it, nor, after a person has taken a *challan* can he 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 *challan* is made over to the applicant, or, if the transaction occurs after the accounts are closed (Rule 612) 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 tenderer must obtain, by written application, an order from the Court extending the time.

Note-When a *challan* is issued on the Treasury it may be acted upon till 3 P.M. of the day following that on which it is issued, is so ordered by the Court. But when the *challan* is for the receipt of money at the Court, it should be restricted in its operation to the day of issue (*vide* Accountant-General's no. 452, dated the 9th August, 1882).

**540.** In the case of out-stations, the order to the Treasury Officer shall grant for the payment in of the money such time only as is indispensable to enable it to be taken to the Treasury.

**541.** No *challan* will be necessary for purchase of forms from the Cashier of the Court. The total sale-proceeds of each day shall be deposited in the Treasury by the Cashier in the usual way.

Note-For account of saleable forms, see Rule 613.

**542.** Peremptory receipts under head (h) of Rule 532 shall be tendered to the Cashier direct without the intervention of the Accountant. A *challan* is not required in respect of such payments.

#### **Receipt of money by Cashier**

**543.** The Cashier on receiving a *challan* in triplicate addressed to him under Rule 539 or a tender of money under Rule 541 or under Rule 542 shall accept the money and enter the amount as a receipt in the Appropriate Cash Book (Rules 548 and 549).

**544.** (a) When *challans* 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 notices issued upon the landlord in cases of rent deposits, or upon the creditor in cases of debt due to a mortgage creditor and the like. The amount and the remaining two copies of the *challan* 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 *challan* (in triplicate) at the Treasury, as prescribed above in Rule 539 and on payment of the money, the payer shall receive, as an acknowledgment, one of the three *challans* 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 *challan* retained by the Treasury Officer, one copy shall be forwarded to the Judge, together with the Advice Lists referred to in Rule 576, for the purpose of being filed with the record of the case in connection with which the deposit was made.

**545.** When, under clauses (a) and (b) of Rule 534 above, a tender is made of money which must, by law, be received, the payment 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 *challan*.

**546.** When money is tendered under Rule 542 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**

**547.** 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 State Government has been obtained under Rule 9 (1) Chapter I of the Treasury Code (Bihar).

#### **Peremptory Cash Book**

**548.** To exhibit the peremptory receipts and payments [head (h) of Rule 532] 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. The said balance shall not exceed in any case from the limit fixed under (a) of Rule 535.

Note-The *Shirestadar* 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**

**549.** 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 532. 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 heads (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 the money in the 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 the cash in the Court (and this is allowable if the sum does not exceed Rs. 5) they should be included in the Cash-Book like other payments in cash.

**550.** The Cashier shall then strike a general balance and exhibit the balance under the different heads as follows

	Rs.	P
Balance of General Cash Book	0	00
Peremptory balance	0	00
Establishment pay and allowances	...	0 00
Balance of permanent advance as per contingent register	...	0 00
Other amounts (which should be described)	...	0 00
Total money in Cashier's possession (in words as well as figures),	0	00

### III- PAYMENT OF MONEY

#### *Application for payment,*

551. (a) Persons desiring to draw money deposited in Court, and payable to them, shall submit to the Registrar-cum-Judge In-charge 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 form 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 authorized, by an instrument in writing, to draw the money for the person so entitled;

Provided that where the application is for payment of a sum not exceeding Rs. 50, the application may be signed by a pleader duly authorised in that behalf.

**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 join 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 land-holders on the certificate of the Court under whose orders the 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 cases 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 the deposit to stamp revenue.

Note-This Rule should not be held to apply to outlying *Munsifs* [*Civil Judge (Junior Division)*], at places where there is no Treasury. In such cases the *Munsifs* [*Civil Judge (Junior Division)*] should purchase stamps from local stamp-vendors, for cash out of the deposit money in their hands.

#### *Audit of Application*

**552.** The Registrar-cum-Judge In-charge shall compare the application with the record of the case or with the registers concerned in the absence of the 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 enquiry 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 after 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 as 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 601 and 602), such Clearance Register shall be deemed to be the Register of Deposit Receipts within the meaning of this Rule and Rules 557 to 560.

**Note-**The Registrar-cum-Judge In-charge will note in the order-sheet of the record of the case 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.

**553.** 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 dated 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 the 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 384 (2), Part V, Chapter I, if a searching fee is paid on the application.

**554.** If the record of the case has been despatched to the Record-Room of the Principal 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 Registrar-cum-Judge In-charge has checked the application with the Court's registers, forward it to the Principal District Judge, whose Record-Keeper, if the record be available, will certify under the countersignature of 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 have been destroyed the Record-Keeper will give a certificate to that effect. On receipt of the Record-Keeper's report, the Registrar-cum-Judge In-charge will proceed in accordance with Rule 552.

**Note-**The Record-Keeper will enter in the order-sheet of the record of the case 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 that officer and also by the Judge-in-charge of the Record-Room.

**555.** 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 Principal District Judge. The Principal 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 counter-signature of the Judge-in-charge of the Record-Room.

**556.** 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 the Court concerned to be dealt with according to the procedure prescribed in Rule 553..

#### ***Payment Order and Registry***

**557.** If the application is found to be correct, the Accountant shall fill up the second part of the application form, post the transaction in the Register of Payment Orders [Form No. (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 Deposit Receipts, shall be laid before the Judge-in-charge.

**Note-**In the case of decree money remitted by special money-order, the Accountant shall enter in columns 3 and 4 of the second part of the application form by money-order with date.

#### ***Approval by Judge-in-charge***

**558.** Before passing the application for payment, the Judge-in-charge is required to satisfy himself, in the first instance, that the requirements of Rule 552 and, where necessary, of Rule 554 have been complied with. He shall further satisfy himself by personal inspection of his Register of Deposits, that the balance at credit of the particular deposit is sufficient to meet the repayment, and that no order for the attachment of 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 534 and 535 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 sittings and 10 A.M. in case of morning sittings.

**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 there for 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 Wards 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 officer in order that amount may be remitted, less money-order commission, to the Treasury Officer, for credit to the personal ledger account of Wards Estate.

The applicant should file a duly filled in Revenue *Challan* (Form No. 186, Schedule LIII) along with the application for Payment Order so that Payment Order and *Challan* may be passed simultaneously.

**559.** 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 552 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, 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 realized under the decree of one Court is attached at the instance of another Court, the application for payment should be 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 in under this Rule, or, if the record of the case has been despatched to the District Record Room, under Rule 554 The Court so dealing with the application should also report to the attaching Court, if the application has been dealt with under Rule 554 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**

**560.** (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 No. (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 31 st day of March in each year, every order for payment issued on or before that date shall lapse absolutely; and Treasury Officers are forbidden to cash after the 31 st 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 up the old order and making a fresh application under Rule 551.

Note-Judges 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 1 st, unless they mean to cash immediately any order that they may obtain. No orders 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 orders 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 Deposits Receipts, as "Cancelled under above Sub Rule (c)".

### **Refunds under heads (b) to (g) of Rule 532**

**561.** When an application is made for the refund of a fine or a miscellaneous receipt [heads (b) and (d) to (f) of Rule 532] 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 initialled 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.

**562.** Application for the refund of the value of Court-fee stamps is to be made to the Registrar-cum-Judge In-charge of the Court in which the stamps are filed. The Registrar-cum-Judge In-charge shall compare the application with the record, 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 (A)-7, as the case may 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 or, 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 Registrar-cum-Judge In-charge 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 549.

**Note 2.**-Court-fees realized in stamps may, under certain circumstances, be refunded by order of the Court.

**Note 3.**-No general Rule can be laid down respecting the refund of the value of 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 authorizing 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.

**563.** In so far as concerns the accounts 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 of a Court's debit in the Treasury with the corresponding item of 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.

### **Payments by Cashier**

**564.** 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**

**565.** In Courts situated within daily reach of a 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 payments 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 Challan 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.

**566.** Every *challan* 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 *challan* and Payment Order. Each *challan* may contain any number of items provided they belong to the same head of account.

**Examination by Judge-in-charge**

**567.** The Judge-in-charge shall examine the accounts by comparing (1) the guard-file of *challans*, Register of Payment Orders (amounts received and paid in Court) and the Daily Account of Forms sold, with the Cashier's General CashBook: (2) the Treasury Pass-Book, with above and (3) the balances shown in the peremptory Cash-book, with those shown in the General Cash-Book. [G.L. 10/62.j

**(A) At the end of each month there shall be verification of actual cash with cash book by Judge-In-Charge in his pen and signature.**

**Daily Remittance**

**568.** The balances of the Cashier's account in respect of diet money and other peremptory receipts should be observed every day 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 the 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 so transferred shall be treated in the same manner as money received 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.

**569.** (a) Having initialled the accounts of the day and signed the Cash Book, the Judge-in-charge shall sent the Pass-Book to the Treasury together with the net amount in cash and all the *challans* 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 550.

Note-The total of *challans* 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 *challan* entered in the Pass-Book in order to avoid the separate *challan* which otherwise would be required by the Treasury Officer.

**Courts not near Treasuries**

**570.** 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 every day in the manner prescribed in Rule 567, save that, instead of comparing the Treasury Pass-Book with the accounts, the Judge-in-charge shall see that the Court balances are brought forward, and shall, at least once a week, ascertain that the money is actually in possession of the Cashier and record a signed and dated certificate to that effect in the Cash-Book.

**Periodical Remittances**

**571.** 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\*. Its accuracy having been tested, it shall be forwarded to the Treasury with all Challans and Payment 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. 5 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 permanent Advance allowed to the Court for carrying on its payments at a distance from the Treasury. [*\*Or to a branch Bank, vide note to Rule 573*]

Note-Under no circumstances shall the balance of cash in hand be allowed to exceed Rs. 10000.

#### ***Adjustment with Treasury***

**572.** 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 585), as otherwise the monthly accounts of the Judge-in-charge and those of the Treasury will not agree. Any transactions at the Court, after this 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***

**573.** 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 Pass-Book.

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.

**574.** In making such remittances, the Police Rules as to sending an escort with the money must be duly observed.

Note-In the case of *-Munsifs [Civil Judge (Junior Division)]* which are at the headquarters of districts or subdivisions, the Civil Court peons should be employed to take charge of remittances to the local Treasury. In the case of *Munsifs [Civil Judge (Junior Division)]* situated in the interior of districts and subdivisions, remittances should be made under Police custody. During the absence of the Subdivisions Officer, remittances to the District Treasury (*vide* Rule 575) should also be made under Police custody.

**575.** During the absence on tour of Sub divisional Officers, and the consequently closing of their Treasuries, *Munsifs [Civil Judge (Junior Division)]* must be guided by the preceding Rules applicable to officers at stations where there are no Treasuries, and must 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***

**576.** At the close of the business each day, the Treasury Officer, whether *Sadar* or Subdivisional, shall prepare Advice Lists, in Form No. (A)-9, of all such *challans* 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 Judges-in-charge respectively; together with the *challans* referred to in clause (b) of Rule 544. In these lists shall be entered in detail such *challans* and Payment Orders as have been received or paid at the Treasury or SubTreasury 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 ".

**577.** The list prepared at the *Sadar* Treasury for the Principal District Judge shall include besides the money 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 detail; but may be included in a single total of receipts and of payments for each Court, including Pass-Book transactions brought into account.

#### ***Comparison by Judge***

**578.** On receipt of this Advice List, the Judge-in-charge shall cause the particulars of the *challans* and Payment Orders shown in it to be compared with the office copies of the *challans* 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 *challan* and the Register of Payment Orders.

Note-The Judge-in-charge must satisfy himself that sums withdrawn from deposit have been credited in the Peremptory Cash-Book (as required by Rule 568) or in the General Cash-Book, as the case may be, before he puts his initials against the particular entries in column 9 of the Register of Payment orders.

**579.** These entries must be initialled by the Judge-in-charge when he checks the posting in the Deposit Registers, as prescribed in Rule 581.

## **V- DEPOSIT AND REPAYMENT REGISTERS**

### ***Separation of Petty Deposits***

**580.** Two Registers of Deposit Receipts shall be kept in Form No. (A)-17 and two of Deposit Repayments in Form No. (A)-16 be of these shall be termed the Register of A-Deposits, and there shall be entered therein all deposit: originally exceeding Rs. 5. The other shall be termed the Register of B-Deposits, and there shall be entered therein all deposits not originally exceeding Rs. 5 Both Registers shall be kept in the same form and shall be posted in the same manner, but with separate series of numbers (see next Rule), distinguished by the initial letters A and B, respectively.

### ***Posting***

**581.** As soon as the Treasury Advice List is received (Rule 576), 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 *challans* and the payments from the Register of Payment Orders. Transactions at the Treasury shall then be written up from the Advice List, *challans* 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 Receipt and the date of actual payment in column 4 of the Registers of Deposits Repaid.

### ***Registers of Receipts***

**582.** All items of deposit in these registers must, as 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 official year. Only the first eight columns shall be filled in at first, the other columns being intended for the record of subsequent repayment.

### ***Notes of claims***

**583.** 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 monies in deposit, shall be noted by him in the Deposit Register with all changes in the names and addresses of the payees. The *Shirestadar* 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 *Shirestadar* shall also be responsible for seeing that the entries are made in the Deposit Register.

### ***Registers of Repayments***

**584.** The Registers of Deposit Repayments, shall be posted from the Treasury Advice List and the Payment Order Registers, as directed above.

### ***Closing for the month***

**585.** (a) The Registers of Deposit Receipts and Deposit Repayments 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 Subdivisional Stations on the day on which the accounts of the Subdivisional 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 of the month to which it belongs.

(c) In each of the Registers of Deposit receipts prescribed by Rule 580 *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 00
Received during the month, as per-register	0 00
Total	<u>0 00</u>
Repayment, as per Register	0 00
Balance of deposits at end of month	<u>0 00</u>

## VI- CONTROL OVER SUBORDINATE COURTS

### Responsibility

**586.** Every Judge is responsible for all payments of deposits made 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 account which he is required to render of these showing totals 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 reported to the Principal District Judge, and must be included in that officer's accountants, and in his return to the Accountant-General.

Note- All returns will be signed by the Principal District Judge.

### *Daily Return of Subordinate Courts*

**587.** Every day, "after the Treasury Advice has been received, and the Deposit and other Registers have been written up and checked with it, two statements showing transactions of the date to which it refers shall be prepared by the Judge-in-charge and forwarded to the Principal 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 total of all other transactions brought on the Registers. 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.-This Subordinate Courts referred to in Rule 586 and in this Rule are those which keep their own accounts and the accounts of other Courts as well-vide Rule 559.

**588.** 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 shown on them by the Judge-in-charge.

### *Verification by Judge-in-charge*

**589.** 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 Principal District Judge*

**590.** The statements furnished by the Subordinate Courts shall, when received in the Principal District Judge's office, compared with the corresponding Advice List supplied to him by the Treasury Officers, under Rule 577. In the case of outstations, 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 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 are noticed, immediate steps must be taken, under the Principal District Judge's orders, to reconcile them.

#### ***Judge's Register of Totals***

**591.** After examination the totals of Deposits received and paid shall be posted into a Register to be kept by the Principal District Judge in Form No. (A)-19. This register contains two sets of columns, one set relating to A-Deposits and 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 totaled at the end of the month.

**592.** 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 Principal 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***

**593.** (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 Principal 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 Principal District Judge's Register the district number (Rule 597) against which the payment is charged must be noted in 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 amounts which should be credited to government are not repaid to individual.

#### ***Monthly Return***

**594.** (a) At the end of the month there shall be furnished by the Subordinate Courts to the Principal 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 District Court shall be noted on this statement.

**Explanation**-An A-Deposit, the balance of which has been reduced below Rs. 5 by a payment made in the same month, is to be included among the A and not among the B Deposits.

(b) On the 31st March of each year the Subordinate Courts shall, in addition submit to the District Court a certificate that all uncashed orders to be cancelled under Rule 560 (c) have been marked off in their Registers.

**595.** There shall be appended to the monthly statement of Deposit Receipt a *plus* and *minus* memorandum in Form No. (A)-11.

#### ***Examination by District-Judge***

**596.** 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 heads "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 regard B-Deposits, the balance itself can be tested in detail only once a year, when the yearly statement under Rule 605 is received; but every month the 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***

**597.** The Subordinate Court's monthly detailed statement of A-Deposits received shall be attached by the Principal District Judge to his own Register of Deposits received, after he has closed the accounts of the Civil Courts at the sadar station. The Principal District Judge will also number the deposits in the Subordinate Courts' return in continuation of his own series.

Note-The Principal 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 Subordinate Court accordingly.

## **VII- DISTRICT MONTHLY RETURNS**

### ***Returns of Deposits Received***

**598.** On the 12th of each month an Extract Register of Deposit Receipts exceeding Rs. 5 shall be prepared by the Principal District Judge in Form No. (A)-17, and forwarded to the Treasury Officer for transmission, after a comparison with his cash accounts, to the Accountant-General. This Extract Register will be prepared from the entries made during the month in his Register [Form No. (A)-15] and will contain all such items of more than Rs. 5 each as were deposited in his own Court, and in Courts subordinate to him, omitting all those which were wholly repaid during the month, and showing, in the case of those partially repaid during the month, the unpaid balance only. The Sadar Court entries should appear first, then, after a line or break-the entries of each Subordinate Court separately headed by the name of the Subordinate Court. At the foot of this Register, deposits received and repaid during the month, and deposits received from sums of Rs. 5 each and less, are to be shown in separate totals for each Court without details. This Extract Register should be despatched punctually on the 12th of the month, unless in the case of the large districts a later date is fixed. The whole of the entries for each Court should be consecutive and separated from those of the other Courts by a space and heading.

### ***Returns of Deposits Repaid***

**599.** A monthly extract from his Register of Deposit Payments [Form No. (A)-16] of sums above Rs. 5 shall be forwarded in the same form by the Judge to the Treasury Officer for transmission, after comparison with his lists of payments, to the Accountant-General. The Principal District Judge shall include in this extract (1) the details of repayments on account of deposits of previous months whether made in his own Court or entered by him from the statements of Subordinate Courts; (2) a single total for each Court of the repayments of the current month's deposits, whether made at the district or Subordinate Courts, which must agree with the total of receipts on the same account; (3) the totals for each Court of the repayments on account of deposits Rs. 5 and less received during the year of account and the year next preceding.

Like the Extract Register of Receipts, this return will keep each Court's entries in separate series. The extract will be prepared on the same printed form as the Register and should be posted as shown on the next page, columns 7 and 8 not being used.

Details of Deposit	Dates as to Present repayment	Number of payment voucher	To whom repaid	<i>in</i> <i>all</i> <i>the</i> <i>years</i>	Received in all previous years



Date of receipt	Number as per Register of Receipts	Amount or balance of deposit	Date of cashing Payment Order whether at court or at Treasury	Date of granting Payment Order as per Court's Register					
1	2	3	4	5	6	7	8	9	
		Court A Rs. P.						Rs. P.	R
7 <sup>th</sup> September 1898	...	15 50	3 <sup>rd</sup> September, 1901	2 <sup>nd</sup> September, 1901	176	...	...	15 50	..
3 <sup>rd</sup> January 1901	...	6 78	Ditto ...	Ditto ...	177	...	...	...	6
7 <sup>th</sup> June, 1901	...	108 62	Ditto ...	3 <sup>rd</sup> September, 1901	178	...	...	...	..
								15 50	6
						Add – Repayment or deposit of current month.	...	1 00	..
						Add- B Deposits repaid	...	9 37	3
						Total Court A	...	24 87	1

**600. (a)** A Plus and minus memorandum in the form prescribed by Rule 595, but **including** the figures of the Subordinate Courts, as well as those of the Principal **District Judge's own** Court, shall be appended to the Statement of Deposit Receipts.

(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--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 those of the Treasury.

### **VIII - ANNUAL CLEARANCE REGISTER OF DEPOSITS** **Clearance Register**

**601. (a)** At the end of each year the registers 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 Rs. 5. 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 1903 will show all unpaid balances of A-Deposits received in 1901-02.

Note-The words "Clearance Register" wherever they occur in these Rules, were substituted for the original words "Accountant Particulars".

(b) Of balances which do not exceed Rs. 5 a separate list shall be made out under Rule 599.

**602.** The items in this account having been carefully compared with the corresponding balances in the original Register of Deposits Received in Form No. (A)-15, the last named document shall be laid aside, and future repayments recorded only in the Clearance Register.

Note--If against any of the items transferred to the Clearance Register a repayment order has been issued and cancelled under Rule 560 (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.

#### **Return by Subordinate Courts**

**603.** A copy of the Clearance Register shall be sent by the Subordinate Courts to the Principal District Judge, by and him carefully compared with entries in his Register of Receipts. Any discrepancy found must be investigated and corrected.

#### **Return by Principal District Judge**

**604.** The Clearance Register of the District Judge necessarily includes the items in the several Clearance Registers of the Subordinate Courts, and a copy of it shall be sent to the Accountant-General. The due date for its despatch shall be the 30th April, by which time the Judge should have received and compared the Clearance Registers of his Subordinate Courts.

#### **Verification of Petty Deposit Balance**

**605.** 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.....

**606.** The balance found under the last Rule together with the total of the list prepared 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 Principal District Judge with the balances of the Subordinate Courts brought forward in the Register No. (A)-19.

### **IX--SUPPLEMENTARY RULES AS TO RECEIPTS UNDER HEADS (b) TO (g)** **OF RULE 532**

#### **- Fines -**

**607.** When a fine is paid into a Civil Court the receipt shall be dealt with under the next following Rule.

### **Registers**

**608.** 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 this Register all receipts are to be posted which do not come under head (a) (Deposits) or head (h) (Peremptory Receipts of Rule 532). 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 (f) and (g) are to be shown only in a single total for each day.

### **Credits to Government**

**609.** 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 transfer as per *challan* no of this date", and (2) a *challan* crediting it to the proper head. Such Payment Order and *challan* shall be registered and dealt with in every way as if cash were paid out of and received into Court.

**610.** With regard to unclaimed property of intestates or others, it will be seen from the form that Register No. (A)-20 deals only 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 belonging to an intestate estate which may be received in Court, from whatever source derived, must be paid into the Treasury at once and no such cash must be allowed to remain in the hands of the Nazir.

**Note 2-**On the receipt of the unclaimed property of person 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 *Challan* by the *Shirestadar* 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 the Register just mentioned, be put in deposit till the time arrives for paying them over to claimants or crediting them to Government.

**Note 3.-**The Judge should pay the expenses of conveying intestate property to the Sadar station from his permanent Advance and charge the same in the Contingent Bill, subject to reimbursement 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.

**611.** Under head (e) (other general fees, fines and forfeitures) of Rule 532 shall be comprised all receipts not falling within any of the other principal heads of receipts, e.g., forfeiture of earnest money, etc.

**612.** Receipts under the head of account mentioned in Rule 611 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**

**613.** At the close of the month, every Judge-in-charge shall prepare Lists in Form No. (A)-20 of all the miscellaneous receipts, etc., paid by him into the Treasury. Subordinate Courts shall forward their Lists in duplicate to the Principal District Judge, and the Principal District Judge shall add the totals of these Lists at the foot of his own List, and, appending 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**

**614.** 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].

### **Certificate**

Certified that the stock of saleable forms shown in the above return to be in hand on the ..... has been duly verified and found correct.

Cashier

The ..... 20 .....

Judge-in-charge

**ACCOUNTS OF SALEABLE FORMS** *(With Sample Entries)*

NOTE-The balance should be struck at the close of the month.

Date	Application for copy	Application for information		--	Price	Number and date of Challan by which paid into Treasury	Initials of the Judge In-charge	Remarks
1	2	3	4	5	6	7	8	9
					Rs. P			
Stock	500	300	...	...	(in red ink)	...		
Sold on 6th May, 1918	400	250	...	...	6 78	256, dated 7-5-1918		
Sold on 9th May, 1918	...	8	...	...	0 12	302, dated 10-5-1918	...	(Sd.) A.B. <i>Cashier</i>
Balance on 30th May, 1918	100	42	...	...	...	...		
Received	400	200	...	...	...	...	...	
	500	242	...	...	...	...	...	

(Sd.) A.B., Cashier

### **X - MISCELLANEOUS - Accountant and Cashier**

**615.** 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 *Challans* and Register of Payment Orders, Deposit Registers, 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. I 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 Shirestadar**

**616.** Every Judicial Officer shall keep his accounts in English; and it must be distinctly recorded by him whether the *Shirestadar* is, or is not responsible for a general control and supervision over the Accountant.

Note-The *Shirestadar* of the Court of each Judge-in-charge of accounts (at headquarters stations the *Shirestadar* of the Principal District Judge's office] should be required periodically to inspect carefully the *Nazir's* account books. The discovery of any defects in the notes to Form Nos. (A)-21 and (A)22 should be promptly brought to the notice of the Judge-in-charge.

#### **Forms**

**617.** Manuscript forms are prohibited. All Account Books should be paged before they are brought into use.

#### **Daily Examination of Accounts**

**618.** 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 causes corresponding entries in the registers may appear under different dates.

### **619. Savings**

- (i) **Phase wise computerization scheme for civil courts in the state of Jharkhand, under the e-Courts project is under way, which may have a considerable effect on many of the rules prescribed in this rule. The notification in this regard may have the overriding effect on provisions so specified, but the basic features of this rule shall be maintained.**
- (ii) **All the General Letters, Circulars and Orders of High Court of Judicature at Patna prior to the establishment of Jharkhand High Court, Ranchi shall remain effective, unless any other General Letter by this High Court is issued on the same matter suppressing / suggesting any amendment or alteration in such letters.**

- (iii) Provisions of “Jharkhand High Court Case Flow Management in the Subordinate Courts Rules, 2006” shall be applicable, notwithstanding any rules contained in these rules.

#### 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 Orders.	Form No. (A)-13			
		2.	Treasury Pass Book	" "	(A)-14		
		3.	Register of Deposits (Part I)				
			received. (Part I)	" "	(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 by the 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		
For District	Kept by the	4.	Account of saleable forms				
			<b>Accountant- Register showing Deposits Received and repaid by</b>				
			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 *challans* and payment orders and with Registers of Payment Orders.

Comparison of Treasury Pass Book with the Cash Book.

###### (2) Transactions at Treasury

Comparison of Treasury Advice with *challans*, 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 Court- Comparison of the Daily Statement with Registers.

By Principal District Judge-Comparison of Treasury Advice with Subordinate Courts Statement. 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 outgoing Statements with Officer Registers.
3. Comparison of *plus* and *minus* memorandum with totals of Registers.
4. Ascertainment and verification of outstanding Payment Orders.

By Principal *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 Principal District Judge***

Statement of total Receipts and Payments on account of deposits and other transactions.	Daily.
Extract Register of Repayments of A-Deposits received in previous months.	“
Statement of A-Deposits received, but not repaid during the month, with <i>plus</i> and <i>minus</i> memorandum enfacé.	Monthly.
Statement of Receipts under heads (b) to (g) of Rule 532.	“
Clearance Register of A-Deposits	Annually.
Certificate of the Examination of B-Deposits	“
Statements of Lapsed Deposits	“
	”

***From the Principal District Judge through the Treasury Officer***

Extract Register of Deposit Receipts with <i>plus</i> and <i>minus</i> memorandum enface & Extract from Register of Deposit Repayments.	Monthly.
Statements of Receipts of his Court, and of the Courts subordinate to him under heads (b) to (g) of Rule 532.	”
	”

***From the Principal District Judge to the Accountant-General direct***

Clearance Register of A-Deposits Statements of Lapsed Deposits of his Court, and of the Court subordinate to him, with certificates of the examination of B-Deposits enfacé.	Annually. “
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## APPENDIX- IV

### Service of summons and processes by other means.

In addition to the order for service of processes by post or by processes of the court, the order may direct to serve the same personally by any of the modes given below :-

- (i) By Fax to the parties at their official Fax number given either in the pleadings by the parties or in course of trial, furnished on affidavit and in proof of service by aforesaid mode the print generated by fax machines shall be kept on record of the case.
- (ii) By any of registered courier service agency of repute, having its office in the District and in the panel as prepared by the Principal District Judge with the approval of Jharkhand High Court,
- (iii) Through E-mail, at the E-mail address given either in the pleadings by the parties or in course of trial, furnished on affidavit, by producing the receipt of sending report print out.
- (iv) In all the cases referred to above, the party serving the summons shall enclose the proof of his step so taken and the service report thereof, supported with an affidavit
- (v) Before preparing panel of any such courier agency, appropriate surety bond must be obtained, with an agreement of prompt and correct service of processes from the head of such agency.

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