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DELHI HIGH COURT

NOTIFICATION

New Delhi, the 11th May 1967

No. 10.—The following is published for general information:

In exercise of the powers conferred by section 122 of the Code of Civil Procedure 1908 and Section 7 of the Delhi High Court Act, 1966 (Act No. 26 of 1966), and all other powers enabling it, the Delhi High Court hereby makes the following Rules with respect to practice and procedure for the exercise of its ordinary original civil jurisdiction. Objections, if any, may be forwarded to the Registrar, High Court of Delhi, so as to reach him within one week of the publication of this notification.

DELHI HIGH COURT (ORIGINAL SIDE) RULES

1967

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CHAPTER I

General

1. **Short title.**—These Rules may be called the "Delhi High Court (Original Side) Rules, 1967".

2. **Commencement.**—These Rules shall come into force with effect from such date as may be notified.

3. **Application.**—All proceedings on the original side of the Court instituted or transferred pursuant to provisions of the Delhi High Court Act of 1966 or any other law shall unless otherwise ordered by the Court be governed by these Rules.

4. **Definitions.**—In these Rules, unless the context otherwise requires—

(a) "Advocate" means a person who is entitled to practise the profession of law under the Advocates Act, 1961 (Act No. 25 of 1961);

(b) "Chief Justice" means the Chief Justice of the High Court, and includes a Judge appointed under the Constitution to perform the duties of the Chief Justice;

(c) "Code" means the Code of Civil Procedure, 1908, (V of 1908) as amended from time to time;

(d) "Constitution" means the Constitution of India;

(e) "The Court" or "This Court" means the Delhi High Court;

(f) "First hearing" includes the hearing of a suit for settlement of issues and any adjournment thereof;

(g) "Interlocutory application" means an application in any suit, appeal or proceeding, already instituted in the Court, not being a proceeding for execution of a decree or order;

(h) "Judge" means the Judge of the Court;

(i) "Registrar" means the Registrar of the Court and includes any other officer of the Court to whom the power and functions of the Registrar under these Rules may be delegated or assigned;

(j) "Registry" means the Registry of this Court;

(k) "Taxing Officer" means the Taxing Officer appointed under Section 6 of the Court Fees Act and includes the Officer of the Court whose duty it is to tax costs of proceedings in the Court;

(l) All other expressions used herein shall have the meaning ascribed to them by the Code or the General Clauses Act, 1897 (10 of 1897), as the case may be.

5. **Steps to be taken in the Registry.**—Where by these rules or by any order of the Court, any step is required to be taken in connection with any suit, appeal or proceeding before the Court, that step shall unless the context otherwise requires be taken in the Registry.

6. **Period how calculated.**—Where a particular number of days is prescribed by these Rules or by or under any other law or is fixed by the Court for doing any act, in computing the time, the day from which the said period is to be reckoned shall be excluded, and if the last day expires on a day when the office of the Court is closed, that day and any succeeding days on which the Court remains closed shall also be excluded.

7. **Forms to be used.**—The forms set out in the Code with such modifications or variations as the circumstances of each case may require, shall be used for the purposes therein mentioned. Where no form required for any purpose is prescribed, a form approved by the Registrar may be used.

8. **How decree, order, writ etc. to run.**—Every decree, order, writ summons, warrant or other mandatory process shall run in the name of the Chief Justice and shall be signed by the Registrar or any other officer specifically authorised in that behalf, with the day, month and year of signing and shall be sealed with the seal of the Court.

9. **Official Seal.**—The official seal to be used in the Court shall be such as the Chief Justice may from time to time direct and shall be kept in the custody of the Registrar.

10. **Custody of the Records.**—The Registrar shall have the custody of the records of the Court and no record or document filed in any cause or matter shall be allowed to be taken out of the custody of the Court without the leave of the Court.

11. **Hours of sittings.**—Unless otherwise ordered by the Chief Justice, the Court shall hold its sittings on all working days from 10-00 A.M. to 1-00 P.M. and from 1-45 P.M. to 3-45 P.M.

12. **Office hours.**—The offices of the Court shall remain open daily from 9-30 A.M. to 4-30 P.M. Any urgent matter filed before 12-30 P.M. shall be put up before the Court on the following working day.

13. **Process and copying fee.**—In all proceedings on the Original Side of the Court process fee and copying fee shall be charged in accordance with the rules in force immediately before the appointed day fixed under Section 3 of the Delhi High Court Act of 1966.

14. **Court's power to dispense with compliance with the Rules.**—The Court may, for sufficient cause shown, excuse the parties from compliance with any of the requirements of these Rules and may give such directions in matters of practice and procedure as it may consider just and expedient.

15. **Application for the above purpose.**—An application to be excused from compliance with the requirements of any of the rules shall, in the first instance, be placed before the Registrar, who may without interfering or dispensing with any mandatory requirements of the rules, make appropriate orders thereon, or, if in his opinion, it is desirable that the application should be dealt with by the Court, direct the applicant, if the other party has entered appearance, to serve a copy thereof on the said party, and thereafter place the same before the Court on a convenient day for orders.

16. **Courts power to enlarge or abridge time.**—The Court may enlarge or abridge the time appointed by these Rules or fixed by any order enlarging time, for doing any act or taking any proceeding, upon such terms if any as the justice of the case may require, and any enlargement may be ordered, although the application therefor is not made until after the expiration of the time appointed or allowed.

17. The Court may at any time, either of its own motion or on the application of any party, make such orders as may be necessary or reasonable in respect of any of the matters mentioned in Chapter XXI of these Rules.

18. **Inherent power of the court not affected.**—Nothing in these Rules shall be deemed to limit or otherwise affect the inherent powers of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court.

19. **Micellaneous.**—Except to the extent otherwise provided in these rules, the provisions of the Civil Procedure Code shall apply to all proceedings on original side.

CHAPTER II

Exercise of Original Civil Jurisdiction

1. **Jurisdiction to be exercised by a/Judge/Single.**—Every suit coming before the Court in its Ordinary Original Civil Jurisdiction shall be tried and heard by a Single Judge.

2. **Reference to two or more Judges.**—(a) In any suit in which it appears that a substantial question of law as to the interpretation of the Constitution is involved, the determination of which is necessary for the disposal of the suit, the Judge may make a reference to that effect to the Chief Justice, who may thereupon constitute a Bench of two or more Judges for the determination of such question. The Bench so constituted shall return the suit to the Judge with a copy of its judgment on such question of law and the Judge shall on receipt thereof proceed to dispose of the suit in conformity with such judgment.

(b) Notice of the aforesaid reference shall be given to the Attorney General of India and to such other persons or authorities as the Court may deem fit.

(c) The Court hearing the suit may at any stage of the proceedings order that the Union of India shall be added as a defendant.

(d) The Attorney General of India, and where Union of India is added as a defendant in a suit under sub-clause (c) above, the Union of India shall not be entitled to or liable for costs unless the Court having regard to all the circumstances of the case for any reason otherwise orders.

3. **Power of the Registrar.**—The powers of the Court in relation to the following matters may be exercised by the Registrar:—

(1) Admission of plaints;

(2) Applications to amend the plaint, petition or subsequent proceedings where the amendment sought is formal;

(3) applications for commission to examine witnesses under O.XXVI, rule 4(1)(a) and (c) of the Code;

(4) attachment of property of absconding witnesses;

(5) inquiries directed by the Court as to the fitness of the persons to act as trustees and receivers;

(6) applications for leave of the Court to file a plaint when such leave is necessary;

(7) application under O.I, rule 8(i) for leave to sue or defend on behalf of or for the benefit of all having the same interest;

(8) applications for the admission or appointment of a next friend or guardian *ad litem* of a minor or a person of unsound mind or new next friends or guardians *ad litem;*

(9) applications for orders regarding issue of summons or notices and regarding service thereof;

(10) applications for fresh summons or notice and for short date summons and notices;

(11) applications for orders for substituted service of summons or notice;

(12) applications for transmission of process for service to another Court;

(13) application for permission to withdraw any Suit or application, by consent or where the other side has not appeared;

(14) applications for leave to file further or additional written statements;

(15) applications for return of documents under O.XIII, rule 9(i) of the Code; and applications for return of exhibits;

(16) applications for orders for discovery and for orders concerning the admission, production and inspection of documents;

(17) applications for leave to deliver interrogatories;

(18) applications for orders for the transmission of a decree with the prescribed certificates etc.;

(19) applications for the execution of a document or for the endorsement of a negotiable instrument under O.XXI, rule 34 of the Code;

(20) applications for examination of judgment-debtor as to his property under O.XXI, rule 41 of the Code;

(21) applications for discharge from custody for the non-payment of subsistence money;

(22) applications falling under section 52 of the Code;

(23) applications for leave under O.XXI, rule 50, sub-rule (2) of the Code except where liability is disputed;

(24) applications for the issue of proclamations of sale under rule 66, and for direction as to the publication thereof under rule 67 of O.XXI of the Court.

(25) applications for possession under O.XXI, rules 95 and 96 of the Code;

(26) applications for special directions to the officer concerned as to the service or execution of any process of the Court.

(27) applications for orders for withdrawal of attachment or for return of a warrant;

(28) applications for orders for payment of money realised in execution or otherwise deposited in Court including uncontested applications to share the assess realised under Section 73 of the Code;

(29) applications for commissions to examine witnesses under O.XXVI, rule 1 of the Code, unless the suit is on one of the lists of causes for the day.

(30) applications for extension of time under O.XXVII, rule 7 of the Code, or by a party in default for further time to file written statement or affidavit of documents;

(31) applications for statement of names and disclosure of partners' addresses and residence under O.XXX, rules 1 and 2 of the Code;

(32) applications for orders requiring a party to a suit or matter to produce and leave with the Registrar any document not in the English language in his possession for the purpose of being officially translated;

(33) applications for orders for the production of records or documents, or accounts filed in such records before any other Court;

(34) applications for the issue of a precept to another Court for the production of a record of such Court or of notice or summons to a Public Officer for the production of public records or registers;

(35) applications for the taxation and delivery of bills of costs;

(36) applications for production, inspection of a will or a copy thereof;

(37) applications under Order XXII of the Code for bringing on record the Legal Representatives of a deceased party;

Provided that no order of substitution or revivor shall be made by the Registrar—

(i) where a question arises as to whether any person is or is not a legal representative of the deceased party, or

(ii) where a question of setting aside the abatement of the cause is involved—

In such a case the Registrar shall after making an inquiry place the matter with his report and the findings before the judge in Chambers.

(38) applications for enlargement or abridgement of time except where time is fixed by the Court;

(39) applications for confirmation of sale and certificate of sale to purchaser of immovable property;

(40) other interlocutory applications directed by the Judge hearing the case to be placed for disposal before the Registrar; and such other applications as by these rules are directed to be so disposed of but not included in this rule;

(41) applications for particulars;

(42) applications for further and better statement of particulars under rule 5 of O.VI of the Code;

(43) applications for better statement of claim or defence.

4. **Appeal against the Registrar's orders.**—Any person aggrieved by any order made by the Registrar under Rule 3 may, within fifteen days of the making of such order, appeal against it to the Judge in Chambers. The appeal shall be in the form of a petition bearing Court fee stamp of the value of Rs. 2·65 Ps.

5. **Adjournments.**—The Registrar may, and, if so directed by the Judge in Chambers, shall at any time adjourn any matter and lay the same before the Judge in Chambers, and the Judge in Chambers may at any time adjourn any matter in Court.

6. **Delegation of the Registrar's Powers.**—The Chief Justice and companion Judges may assign or delegate to a Deputy Registrar or to any other officer any functions required by these Rules to be exercised by the Registrar.

7. **Disposal of matters by Judge in Chambers.**—The following matters may be heard and determined by a Judge in Chambers:—

(1) appeal from the order of the Registrar or a reference made by him or directed to be made by the Judge in Chambers;

(2) application for arrest before judgment, for attachment before judgment and for appointment of a receiver;

(3) applications by defendant where he pleads a set-off under rule 6 of O.VIII of the Code;

(4) applications by defendant for setting up a counter-claim and applications in relation thereto;

(5) applications by receivers, guardians and other relating to the management and disposal of the property;

(6) applications for leave under sub-rule (3) of rule 2 of O.II of the Code;

(7) applications under rule 4, O.II, to join causes of action in a suit for the recovery of immovable property;

(8) applications for stay of execution under rule 26(1) and (2) of O.XXI of the Code;

(9) applications for separate trials of different causes of action joined in one suit;

(10) applications for setting down for judgment in default of written statement;

(11) applications for amendment of pleadings and for enlargement of time to amend pleadings;

(12) applications to tax bills returned by the Taxing Officer;

(13) applications for review of taxation;

(14) applications for leave to defend under Chapter XV of these Rules;

(15) applications for execution of a decree or order, or for arrest of a judgment-debtor when such judgment-debtor does not appear on the day of hearing fixed under the notice issued or on such day as the hearing thereof may be postponed to, or by attachement or scale, with power to order issue of notice under Section 74 and 145 and under rules 2, 16, 22, 34(2), 37 or 66(2) of O.XXL of the Code.

CHAPTER III

Form of Pleadings

1. **Proceedings how written.**—(a) Every plaint, written statement, application petition and like presented to the Court:—

(i) shall be in English;

(ii) shall be fairly and legibly written, type written, lithographed or printed in double spacing on one side of standard petition paper with an inner margin of about four centimeters width on top and on the left side;

(iii) *Cause title.*—shall be instituted "in the High Court of Delhi" and shall state the jurisdiction (whether Original, Civil, Testamentary or Intestate or Matrimonial etc.) in which it is presented;

(iv) *Paragraphs.*—shall be divided into paragraphs numbered consecutively, each paragraph containing as nearly as may be a separate allegation.

(b) **Dates.**—Where Saka or other dates are used, corresponding dates of Gregorian Calendar shall also be given.

(c) **Names etc. of parties.**—Full name and parentage, description of each party and address and if such is the case the fact that a party sues or is sued in a representative character, shall also be set out at the beginning of the plaint, petition or application and need not be repeated in the subsequent proceedings in the same suit or matter.

(d) The names of parties shall bear consecutive numbers and a separate line should be allotted to the name and description of each party. These numbers shall not be changed and in the event of the death of a party during the pendency of the suit or matter, his heirs or representatives, if more than one shall be shown by sub-numbers. Where fresh parties are brought in, they may be numbered consecutively in the particular category, in which they are brought in.

(e) Every proceeding shall state immediately after the cause title the provision of law under which it purports to be made.

2. **Endorsements and verification.**—At the foot of every pleading, there shall appear the name and signature of the Advocate, if any, who has drawn it and also the name of a Senior Advocate, who may have settled it. Every pleading shall be signed and verified by the party concerned in the manner provided by the Code.

3. **Particulars to be stated in address for service.**—The address for service shall be filed with every initial pleading, petition or application on behalf of a party and shall as far as possible containing the following:—

(i) the name of the road, street, lane or Municipal or other number of the house;

(ii) the name of the town or village;

(iii) the post office or postal district; and

(iv) any other particulars necessary to identify the addressee.

4. **Initialling alteration etc.**—Every interlineation, erasure or correction in any pleading, petition or application or like document shall be initialled by the party or his recognised agent or advocate presenting it.

5. **Translation of documents.**—(a) No document in a language other than English shall be used for the purpose of any proceedings before the Court, unless it is accompanied by a translation in English,

(i) agreed to by both the parties; or

(ii) certified to be true translation by the counsel engaged or attending at the hearing; or

(iii) prepared by a translator appointed or approved by the court.

(b) Every document required to be translated shall be translated by a translator appointed or approved by the court.

CHAPTER IV

Presentation of plaint and other documents

1. **Presentation at the counter.**—All plaints, petitions, applications and documents shall be presented by the plaintiff, petitioner, applicant, defendant or respondent in person or by his duly authorised agent or by an advocate duly appointed by him for the purpose, at the filing counter. All such documents filed in Court shall be accompanied by an index in duplicate containing their details. The amount of Court fee affixed or paid on any such document shall also be indicated in the index.

Sufficient number of copies of the plaint, petition or application shall also be filed for service on the opposite party.

2. **Endorsement and Scrutiny of documents.**—(a) The officer in charge of the filing-counter shall endorse the date of receipt on the plaint, petition, application or proceedings and also on the duplicate copy of the index and return the same to the party. He shall enter the particulars of all such documents in the register of daily filling and thereafter cause it to be sent to the officer concerned for examination. If on scrutiny, the document is found in order, it shall be duly registered. Where a document is found to be defective, such document shall, after notice to the party filing the same, be placed before the Registrar. The Registrar may for sufficient cause return the said document for rectification or amendment to the party filing the same, and for this purpose may allow to the party concerned such reasonable time as he may consider necessary.

(b) Where the party fails to take any step for the removal of the defeat within the time fixed for the same, the Registrar may, for reasons to be recorded in writing, decline to register the document.

(c) Any party aggrieved by any order made by the Registrar under this rule may, within fifteen days of the making of such order, appeal against it to the Judge in Chambers.

3. **Service on the opposite party.**—(a) Where notice of an interlocutory application is issued by the Court, a copy of the application, the affidavit in support thereof (and if so ordered by the Court, of other documents filed therewith), if any, shall be served along with the notice on the other party.

(b) The aforesaid copies shall show the date of presentation of the original and the name of the advocate, if any, of such party.

4. **Registration of proceedings admitted.**—On admission, plaints, petitions and applications shall be registered in the appropriate registers and their number entered thereon.

5. **Ex-parte amendments.**—Amendments to pleading, which are made only for the purpose of rectifying some clerical errors may be made on an order of the Registrar without notice.

6. **Attestation of amendments.**—The attestation of any amendment under O.II rules 6 and 7, O.VI rules 16 and 17, O.VII rule 11 and O.XXI rule 17 of the Code shall, unless otherwise ordered by Court, be done by the Registrar.

The amendment of any plaint or other proceeding carried out under the orders of the Court shall unless otherwise directed by the Court also be attested by the Registrar.

7. **Registers to be maintained.**—The following Registers shall be kept on the original Civil Side by such ministerial officer or officers as the Registrar may, subject to any order of the Chief Justice, direct:—

(i) Register of rejected plaints;

(ii) Register of Civil Suits;

(iii) Register of documents, filed in Civil Suits;

(iv) Register of Miscellaneous applications;

(v) Register of Wills;

(vi) Register of decree received for execution from other Courts; and

(vii) Register of Execution Applications.

8. **Arrangement of record in pending matters.**—The record of a regular suit shall be divided into the following four parts:—

(i) main file;

(ii) miscellaneous application file;

(iii) process file; and

(iv) execution file.

9. **Contents of main file.**—The main file shall be kept in the following order:—

(i) dairy;

(ii) order sheet;

(iii) plaint together with any schedule annexed thereto;

(iv) written statement;

(v) any other pleadings;

(vi) memorandum of issue;

(vii) (a) oral evidence;

(b) evidence taken on commission; and

(c) documentary evidence.

(viii) application for reference to arbitration, the award of arbitrator, petition of compromise and report of the Commissioner and objections to the Commissioners report, if any;

(ix) judgment and decree; and

(x) copy of the judgment and of the decree of the Appellate Court or Courts, if any.

10. **Miscellaneous applications' File.**—In the miscellaneous applications file there shall be kept all petitions, affidavits, and other documents not specifically included in any other file.

11. **Process file.**—The process file shall contain—

(i) the index;

(ii) powers of attorney;

(iii) summonses and other processes and affidavits relating thereto;

(iv) applications for summoning witnesses;

(v) letters, etc., calling for records etc;

(vi) all other miscellaneous papers.

12. **Execution file.**—The execution file shall contain—

(i) the diary;

(ii) the execution application;

(iii) the order sheet;

(iv) all processes and other papers connected with such execution proceedings.

13. **Distribution to proper files.**—The splitting up of the record and the distribution of the papers into the proper files shall in all cases be done at the outset and shall be continued from time to time as and when they are received, papers in each file shall be paged separately.

14. **One file in miscellaneous applications.**—For applications there may be only one file with a title page prefixed to it. Immediately after the title page shall be filed the diary, the miscellaneous applications, the order sheet and then other documents.

15. **Diaries.**—Diaries shall be kept by the Reader in such form as may be prescribed. They shall be written legibly. The diary in the main file shall show a concise history of the suit of matter including the substance of the order passed on all interlocutory applications therein. The diary in execution proceedings shall contain a complete record of all proceedings in execution of a decree.

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16. **Order sheet.**—(a) The order sheet shall contain all orders passed by the court at any hearing.

(b) All orders shall be in English and signed by the Judge.

(c) The order sheet shall also contain reference to the application, return, report or other similar document with respect to which an order is made.

(d) Except in the case of such routine orders as "call for the record", "put up with the record", and orders made in chambers, orders shall not be written on applications, returns, reports and other similar documents.

17. **Removal of record from Court House.**—No member of the establishment shall remove any official paper or record whatever, from the Court house without the special sanction of the Registrar.

CHAPTER V

Vakalatnama

1. **Execution and filing of Vakalatnama.**—An Advocate on his filing a Vakalatnama duly executed by a party shall be entitled to act as well as to plead for the party in the matter and to conduct and prosecute all proceedings that may be taken in respect of such matter or any application connected with the same or any decree or order passed therein including proceedings in taxation and applications for review, execution and appeal in the High Court and to take all such other steps as he may be specifically authorised by the power of attorney.

2. **Certificate of fees.**—Every Advocate shall before the commencement of the final arguments in the suit or matter file a certificate showing the amount of fee paid with date of payment or agreed to be paid to him.

3. **Endorsement on Vakalatnama.**—No Vakalatnama shall be accepted unless it contains the following under the signature of the Advocate:—

(i) an endorsement in token of its acceptance with the date of acceptance; and

(ii) the address for service of the Advocate.

4. **Notice of determination of authority of Advocate.**—A party desiring to obtain an order for determination of the authority of his Advocate who has filed a Vakalatnama on his behalf in a suit or matter shall do so by application after first giving notice thereof to that Advocate, and the fact of such notice having been served shall be stated in the affidavit in support of such application.

5. **Notice of discharge to a client.**—An Advocate in a suit or matter desiring to obtain an order for his discharge, shall first give notice of his intended application for discharge to his client and the fact of such notice having been served shall be stated in the application.

Provided that an Advocate may be discharged by consent of the Advocate and the party by a letter addressed to the Registrar and signed by the Advocate and the party.

CHAPTER VI

Appearance by Defendant, Written Statement, Set Off and Counter Claim

1. **In default of appearance by defendant suit to be posted on short cause day.**—If on the day fixed for his appearance in the writ of summons the defendant does not appear and it is proved that the summons was duly served, the suit shall, whether the summons was issued for final disposal or not, be set down for final disposal on the next or some subsequent short cause day.

2. **Procedure when defendant appears.**—If the defendant appears personally or by an advocate before or on the day fixed for his appearance in the writ of summons:—

(i) Where the summons had been issued for final disposal, the suit shall be set down for final disposal on the next or subsequent short cause day;

(ii) Where the summons is for appearance and for filing written statement, the defendant shall file the written statement on the date fixed for appearance. A copy of the written statement shall be served on the plaintiff and the written statement shall not be accepted unless it contains an endorsement of service signed by such party or his Advocate.

3. **Extension of time for filing written statement.**—Ordinarily, not more than one extension of time shall be granted to the defendant for filing a written statement; provided that a second or any further extension may be granted only on an application made in writing setting forth sufficient grounds for such extension and supported, if so required, by an affidavit.

4. **Procedure where no written statement is filed by any defendant.**—If the defendant or all the defendants in a suit shall have failed to file his or their written statements within the time allowed under rules 2 and 3 or any time extended by order, suit shall be set down for final disposal on the next or subsequent short cause day. Should the defendant or one or more of several defendants then appear and show good cause for his or their default, he or they may be allowed to defend on payment to the plaintiff of such costs if any as may be awarded and the suit may be transferred to long causes or may be postponed.

5. **Service of copies of written statement and list of documents on the other side.**—No written statement or list of documents shall be filed without the leave of the Court unless a copy thereof has been previously served on each party or his advocate. Parties or their advocates served with such copies shall give a receipt therefor. Copies shall be authenticated by the signature or initials of the parties or their advocates on each page at the bottom of the left hand margin.

6. **Orders as to claims for set-off.**—Where a defendant pleads a set-off under O. VIII, rule 6 of the Code, the Court on the application of the plaintiff made in that behalf may at any stage of the proceedings and after hearing the defendant make an order directing that the claim for set-off be tried separately or make such other order as may be just.

7. **Counter-claim by defendant.**—(a) A defendant in a suit, in addition to his right of pleading a set-off underO. VIII, rule 6 of the Code may set up by way of counter claim against the claims of the plaintiff any right or claim, whether such counter claim sounds in damages or not.

(b) Subject to the provisions of rule 10, such counter-claim shall have the same effect as a cross-suit so as to enable the Court to pronounce a final judgement in the same suit, both on the original and on the counter claim.

8. **Counter-claim to be specifically pleaded.**—Where any defendant seeks to rely upon any grounds as supporting the right of counter claim he shall, in his written statement, state specifically that he does so by way of counter claim.

9. **Reply to counter-claim.**—When a counter claim is made in a written statement, plaintiff may deliver a reply to the counter claim within three weeks or within such further time as the Registrar may for sufficient cause allow.

10. **Orders on Counter-claim.**—Where a defendant sets up a counter claim, the Court on the application of the plaintiff made in that behalf at any stage of the proceedings and after hearing the defendant may make an order directing that the counter claim be tried separately or make such other order as may be just.

11. **Proceeding with the counter-claim where suit is stayed etc.**—Where in any case in which the defendant sets up a counter claim the suit of the plaintiff is stayed, discontinued or dismissed the counter claim may nevertheless be proceeded with.

12. **O.XX rule 19 to apply to decree in such suits.**—Sub-rules (1) and (2) of rule 19 of O.XX of the Code shall apply to the decree in a suit in which counter claim is made.

CHAPTER VII

Directions

1. **Setting down for directions.**—When the pleadings have been closed, the suit shall after fifteen days thereof be set down before the Registrar for directions:

Provided that any party may apply for directions before closing of the pleadings and the Registrar may grant or refuse such application.

2. **Issuing of directions.**—On the suit coming for directions before the Registrar, he shall so far as practicable, make such orders as may be proper with respect to the following matters:

Admission, discovery, interrogatories and inspection of documents.

3. **Appeal from Registrar to A Judge.**—Rule 4 of Chapter II shall apply in the even of any party wishing to have any matter on which directions have been given by the Registrar, under rules 1 and 2 of this Chapter, referred to the Court.

4. **Date for settlement of issued by Court.**—After the pleadings have been closed and the directions, if any, given, have been duly complied with, a date shall be fixed for settlement of issues by the Court.

CHAPTER VIII

Admissions, Denials, Framing of Issues and Examination of Parties

1. **Proceeding at the First hearing.**—On the date fixed for defendant's appearance, the parties or their advocate shall produce before the Court all the documents in their power or possession upon which they intend to rely. On the first hearing the Court shall ascertain from each party or his advocate whether he admits or denies such allegations of fact as are made in the plaint or written statement (if any) of the opposite party, and as are not expressly or by necessary implication admitted or denied by the party against whom they are made. The Court shall record such admissions or denials.

2. **Judgment at the first hearing.**—If on the first hearing, judgment is confessed by the defendant, then the Court shall proceed to judgment. If on that date the defendant appears and the plaintiff does not appear, the Court shall make an order that the suit be dismissed, unless the defendant admits the claim or part thereof, in which case the Court shall pass a decree against the defendant upon such admission, and where part only of the claim has been admitted, shall dismiss the suit so far it relates to the remainder.

3. **Examination of parties etc. at the first hearing.**—If at the first hearing the defendant does not admit the claim the Court shall examine any party appearing in person or present in Court, or any person able to answer any material questions relating to the suit by whom such party or his advocate is accompanied. The Court, may, if it thinks fit, put in the course of such examination questions suggested by either party.

4. The substance of the examination shall be reduced into writing and shall form part of the record, and where after such examination it appears that the parties are not at issue on any question of law or of fact, the Court may at once pronounce judgment.

5. **Disposal of the matter at the first hearing.**—(1) Where the parties are at issue on some question of law or of fact, the Court may frame issues, and if satisfied that no further argument or evidence than that the parties can at once adduce is required upon such of the issues as may be sufficient for the decision of the suit, and that no injustice will result from proceeding with the suit forthwith, may proceed to determine such issues, and, if the finding thereon is sufficient for the decision, may pronounce judgment accordingly.

(2) **Further Proceedings.**—Where the finding is not sufficient for the decision, the Court shall adjourn the matter directing the parties to file a list of witnesses which they propose to produce in support of their respective cases. The parties shall along with the said list file further documents, if any. They shall also indicate the particular fact or documents which is sought to be proved by the evidence of a witness. On the date so appointed, the Court shall after examining the said list and the particulars give further direction as to the hearing of the suit.

CHAPTER IX

Interlocutory Applications

1. **Form.**—Every interlocutory application shall be instituted in the suit or matter in which it is filed.

2. **Contents of applications.**—(i) Except where otherwise provided by these Rules or by any law for the time being in force, an interlocutory application:—

(a) shall contain only one prayer or one series of alternative prayers of the same kind;

(b) shall not contain any argumentative matter;

(c) shall be supported by affidavit stating clearly the grounds and the facts on which the application is based.

(ii) Copies of the application, affidavit and of such other documents annexed thereto as the Registrar may direct shall also be filed for being served on the Opposite side.

3. **Counter-affidavits etc.**—(i) Unless otherwise ordered by the Court, counter-affidavit shall be filed not less than four days before the hearing.

(ii) Not more than one affidavit in rejoinder may be filed without the leave of the Court. Such affidavit, unless otherwise ordered by the Court, shall be filed not less than two days before the date of hearing. Such affidavit shall be confined strictly to matters of reply.

(iii) No counter-affidavit and no affidavit in rejoinder shall be filed unless a copy thereof and copies of annexures thereto, if any, have been previously served on each party or his advocate. Parties or their Advocates served with such copies shall give a receipt therefor. Copies shall be authenticated by the signature or initials of the parties or their advocates at the end of the copy.

(iv) Except by leave of the Court, no affidavit in support of an application, no counter-affidavit and no affidavit in rejoinder beyond those which are filed and copies of which will annexures thereto are served in time as aforesaid shall be used at the hearing, or allowed on taxation.

(v) Where any affidavit, counter-affidavit or affidavit in rejoinder is not filed or served as aforesaid it shall be kept separately in the record of the case until leave of the Court has been obtained under sub-rule (iv).

CHAPTER X

COMMISSIONS

Commission to Examine Witnesses

1. **Parties to notify of Commission.**—(a) When a party to a suit or matter intends to apply for a commission to examine a witness, he shall notify to the Registrar his intention within ten days from the date of the settlement of issues, and thereupon unless otherwise ordered by the Court, the suit or matter, shall not be set down for final disposal.

(b) **Commission for viva voce examination.**—Applications for issue of commission for viva voce examination shall be made by a party within seven days of notifying his intention under rule 1(a) and shall be accompanied by an affidavit disclosing the nature of the evidence sought for from the witness.

(c) No application for the issue of such commission as aforesaid shall be entertained after the suit or matter has been set down for final disposal unless the court is satisfied that the application could not have been made earlier, and in that case the Court may make such order as to costs as it deems fit.

2. **Commissions on Interrogatories.**—(a) Application for the issue of commission to examine witnesses on interrogatories shall be made by a party within the time allowed by the Court, and shall be supported by an affidavit and the accompanied by interrogatories. Copies of such application, affidavit and interrogatories shall be served on the opposite party.

(b) If the opposite party objects to the issue of the commission, he shall, within seven days of the service on him of the aforesaid documents, file his objections. The application with the objections if any filed therein shall thereupon be placed before the Court for final orders.

(c) On the application being allowed, the opposite party unless otherwise ordered by the Court shall within ten days of the date of the order file cross interrogatories and serve copies thereof on the other party, who shall, within seven days thereafter, file re-interrogatories. The matter shall thereafter be placed before the Court for final orders.

3. **Final hearing may be fixed after return of commission.**—If the application referred to in rules 1 or 2 is granted, the matter may not be set down for final disposal before the return of the commission, except by order of the Court.

4. **Preparation etc. of commission.**—Commission shall be prepared by the Registrar who shall seal the same and annex thereto the interrogatories, cross-interrogatories, reinterrogatories and documents, if any, and shall enclose it (with directions that the same be returned to him when executed) in a sealed envelope.

5. **Commissions within local limits.**—Commissions for examination of a person within the local limits of the Court shall be executed by a Commissioner appointed by the Court.

6. **Examination de bene esse.**—Commissions for examination of witness *de bene esse* may be issued at any time notwithstanding anything hereinbefore contained in cases where it is not possible for the examination to be conducted by the Court.

7. **Return of Commission.**—(a) Every order for the issue of a commission of Letter of Request may appoint a date allowing sufficient time for its execution and return.

(b) If the Commissioner is unable to return the commission duly executed within the time fixed by the Court, the Court may extend the time or cancel the commission and may appoint another commissioner in his place.

8. **Deposition to be read over to and signed by the witness.**—The evidence shall be recorded as far as possible in the narrative and in the language in which it is given by the witness; where it is not possible to do so, it may be recorded in English. After taking down the deposition of any witness but before obtaining his signature thereon, it shall be distinctly read over and, when necessary, interpreted to the witnesses and thereafter left with the Commissioner who shall subscribe his name and date of the examination.

Commissions for Accounts etc.

9. **Commissioner for taking accounts etc.**—The Court may appoint a suitable person as Commissioner for taking accounts, making local investigations and effecting partition of immovable property.

10. **Registrar to send necessary proceedings to Commissioner.**—The Registrar shall furnish the Commissioner with such part of the proceedings as may be necessary.

11. **Commission for taking accounts how executed.**—(a) The Commissioner shall fix the period within which the statements of accounts and objections thereto are to be filed by the parties concerned.

(b) The Statement of account shall be in the form of a debtor and creditor account and shall be verified by the party concerned or his agent. The items on each side of the account shall be numbered consecutively and a balance shall be shown.

(c) The statement of objections shall specify the items to which objections are taken by reference to their numbers in the statement of account.

(d) The statement and objections shall also state (i) the grounds of each objection and (ii) the balance, if any, admitted or claimed to be due; and it shall be verified by the affidavit of the party concerned or his agent.

3. **Production of public document.**—(a) Every application for summons for production of public documents shall be supported by an affidavit stating—

(i) the document or documents the production of which is required;

(ii) the relevancy of the document or documents;

(iii) why the production of a certified copy of the same would not serve the purpose, and

(iv) in cases where the production of a certified copy would serve the purpose, whether application was made to the proper officer for a certified copy and the result of such application.

(b) The Registrar shall not issue such summons unless he considers the production of the original necessary and is satisfied that the application for a certified copy has been duly made and has not been granted. The Registrar shall in every case record his reasons in writing.

(c) Nothing in this rule shall apply to an application under Order 13 rule 10 of the Code for production of the record of any suit or proceeding.

4. **Return of original public record after its production in evidence.**—When public records are produced and put in evidence in original, the Court, unless it thinks it necessary to retain the original, shall direct a copy to be made at the expense of the applicant and shall return the original.

5. **Power to Court to summon public records suo motu.**—Nothing in rule 4 shall prevent the Court of its own motion from sending for public records or other documents in the custody of a public officer or Court if it thinks it necessary for the ends of justice. Costs for such summoning and of production of such records or documents shall be paid by such party as the Court directs.

CHAPTER XII

Adjournments

1. **Adjournments to be to a day certain.**—All adjournments shall be to a day certain. No suit or matter shall be adjourned sine die except for reasons recorded in writing.

2. **Adjournment granted only on good cause.**—No adjournment shall be granted except on good cause shown. The consent of parties shall not of itself be a good cause for adjournment.

CHAPTER XIII

Proceedings at the hearing of suits and upto and inclusive of Decrees

1. **Evidence, how taken.**—(a) Upon the hearing of any suit or matter the evidence of each witness shall be taken down by or in the presence and under the superintendence of the Judge, ordinarily in the form of a narrative.

(b) A party to a suit or matter in which deposition of a witness has been taken down in shorthand or typed to the dictation of the Judge shall be entitled to be furnished on payment of the prescribed fee with a typed copy of the transcript, provided that ordinarily a written application has been made at the commencement of the hearing to be so furnished with a copy.

2. **Any particular question and answer may be taken down.**—The Court may, of its own motion or at the request of any party or his advocate, take down or cause to be taken down any particular question and answer, or any objection to any question.

3. **Numbering of witnesses and documents.**—Depositions of witnesses of both sides and documents admitted in evidence shall be numbered in such manner as the Court may direct.

4. **Witnesses not to be present in Court during hearing of the suit.**—Witnesses other than the parties shall not, unless otherwise ordered by the Court, be present during the hearing of the suit or other matter in Court-room before their depositions have been recorded.

5. **Exhibits other than in English to be translated.**—Except by leave of the Court, no document not in English language, shall be read or received in evidence unless it is translated in English in accordance with the Rules.

6. **No compromise without leave of Court in pauper suits.**—Where a plaintiff has been permitted to sue in forma pauperis, the suit shall not be compromised without leave of the Court.

7. **Written judgment of two or more Judges how pronounced.**—When any suit or matter is heard by two or more Judges:

(i) If they have agreed to a written judgment, one of them may pronounce the judgment in the absence of the other or others.

(ii) if one or more of them has written a separate judgment, one of them may pronounce the judgment written by the other or others.

8. **Payment of costs a condition precedent for bringing a fresh suit.**—When a suit is allowed to be withdrawn with liberty to bring a fresh suit in respect of the same subject-matter, then unless the Court shall otherwise direct, the order shall be drawn up so as to make the payment of the costs of the suit a condition precedent to the plaintiff bringing a fresh suit.

9. **Settling of draft of decree.**—Where the Registrar considers it necessary that the draft of any decree or order should be settled in the presence of the parties or where the parties require it to be settled in their presence, the Registrar shall, by notice in writing, appoint a time for settling the same and the parties shall attend the appointment and produce the briefs and such other documents as may be necessary to enable the draft to be settled.

10. Where any party is dissatisfied with the decree or order as settled by the Registrar, the Registrar shall not proceed to complete the decree or order without allowing that party sufficient time to apply by motion to the Court.

11. **Copies of decrees to Collector in case of pauper costs.**—The Registrar shall cause copies of decrees to be prepared without delay for communication to the Collector in cases in which pauper costs are recoverable by Government.

12. **Errors how rectified after decree sealed.**—After a decree or order has been sealed, any application to rectify any inaccuracy other than a clerical or arithmetical error and to make it in accord with the judgment, shall be made to the Judge who passed the decree or order, or in the event of his absence, to any other Judge, and the Judge may after notice to the parties, when he deems it necessary amend the same so as to bring it into conformity with the judgment, or rectify such inaccuracy or error. Save as aforesaid no alteration or variation shall be made without a review of judgment and re-hearing under the provisions of section 114 and O.XLVII of the Code.

CHAPTER XIV

Suits by or against minors and persons of unsound mind

1. **Admission of next friend to bring a suit formal order unnecessary.**—When a suit is brought on behalf of a minor, the next friend shall make an affidavit, to be presented with the plaint in the suit, that he has no interest directly or indirectly adverse to that of the minor, and that he is otherwise a fit and proper person to act as such next friend. The age of the minor shall also be stated. No formal appointment of the person instituting the suit as next friend need be made.

2. **Next friend to file address for service.**—(a) The next friend shall file along with the plaint a memorandum in writing stating his address for service.

(b) If the next friend fails to file his address for service as aforesaid or within such further time as the Registrar may allow, the plaint shall not be admitted.

3. **List of all likely guardians ad litem to be filed.**—(a) In suits where the defendant is a minor, the Plaintiff shall file with the plaint a list of relatives and all other persons with correct addresses, who *prima facie* are most likely to be capable of acting as guardian for the minor defendant in the suit.

(b) A notice shall issue simultaneously to all such persons, single process fee being levied. Such persons shall be deemed to be unwilling to act as guardian *ad litem*, if, after service of notice, they fail to appear on the date fixed.

(c) If the persons specified in the list filed under sub-rule (1) are unwilling to act as guardian *ad litem*, the Registrar may, if there be more defendants than one and their interests are not adverse to the minor, appoint one of such defendants who may be willing to act as guardian *ad litem;* or may appoint forthwith one of the officers of the Court as such guardian *ad litem.*

4. **Address for service of guardian ad litem.**—Every guardian *ad litem* of a defendant other than an officer of the Court, shall, within seven days of the order of his appointment as such or within such further time as the Registrar may allow, file in Court a memorandum in writing stating his address for service. Failure on his part to do so may be deemed sufficient ground for removing him under rule II of Order XXXII of the Code.

5. **Application of rules 1 to 4 to persons of unsound mind and to appeals and application.**—The provisions contained in this Chapter so far as they may be applicable extend *mutatis mutandis* to persons adjudged to be of unsound mind and to persons who, though not so adjudged, are found by the court, on enquiry, to be incapable of protecting their interests when suing or being sued by reason of unsoundness of mind or mental infirmity. These provisions shall apply to appeals and applications connected therewith.

CHAPTER XV

Summary Suits

1. **Suits to which the chapter applies.**—The provisions of this Chapter shall apply to all suits upon bills of exchange, hundis or promissory notes.

2. **Notice to defendent.**—On the filing of the suit, notice shall be issued to the defendent calling upon him to obtain leave from the Court to appear and defend the suit within 20 days of the service of the said notice.

3. **Consequences of failure to obtain leave to defendent.**—The defendent shall not appear or defend the suit unless he has obtained leave from the Court to appear and defend; in default of his obtaining leave or of his appearance and defence in pursuance thereof, the allegations in the plaint shall be deemed to be admitted, and the plaintiff shall be entitled to a decree:

(a) for the principal sum due on the instrument and for interest calculated in accordance with the provisions of section 79 or section 80, as the case may be, of the Negotiable Instruments Act, 1881, upto the date of the institution of the suit, or for the sum mentioned in the summons, whichever is less, and for interest upto the date of the decree at the same rate or at such other rate as the Court thinks fit; and

(b) for such subsequent interest, if any, as the Court may order under section 34 of this Code; and

(c) for such sum for costs as may be prescribed:

Provided that, if the plaintiff claims more than such fixed sum for costs, the costs shall be ascertained in the ordinary way.

4. **When leave to defend to be given.**—The Court shall upon application by the defendant give leave to appear and to defend the suit, upon affidavits which disclose such facts as would make it incumbent on the holder to prove consideration, or such other facts as the Court may deem sufficient to support the application.

(b) Leave to defend may be given unconditionally or subject to such terms as to payment into Court, giving security, framing and recording issues or otherwise as the Court thinks fit.

5. **Written statement.**—When an order has been made giving leave to the defendant to defend a suit to which this Chapter applies, the defendant shall, within fourteen days from the date of such order, file his written statement unless the Court, orders the affidavit of the defendant to be taken as his written statement or allows a longer time for filing the written statement. The suit may be set down for directions upon a written statement being filed or upon such order being made as aforesaid.

6. **On default by defendant suit to be set down forthwith.**—Where the defendant makes default in filing his written statement or in complying with conditions which may have been imposed on him, within the time limited in the order or extended by the Court, the plaintiff shall be at liberty to have the suit set down for hearing forthwith, as if no such order had been made.

7. **Ex-parte order may be set aside on application.**—An ex-parte order giving leave to defend may be set aside or varied on the plaintiff's application, after notice to the defendant, but the Court shall refuse to issue the notice and reject the plaintiff's application if it appears that such application could not be allowed without going into the merits of the suit, or if the plaintiff has unduly delayed making such application.

8. **Decree may be set aside and leave to defend may be given.**—After decree the Court may, under special circumstances, set aside the decree, and if necessary stay or set aside execution, and may give leave to the defendant to appear to the summons and to defend the suit, if it seems reasonable to the Court so to do, and on such terms as the Court thinks fit.

9. **Bill hundi or note to be deposited in Court.**—In any proceeding under this Chapter the Court may order the bill, hundi or note on which the suit is founded to be forthwith deposited with an officer of the Court, and may further order that all proceedings shall be stayed until the plaintiff gives security for the costs thereof.

10. **Chapter applies to proceedings for recovery of expenses incurred in noting for non-acceptance or non-payment**—The holder of every dishonoured bill of exchange or promissory note shall have the same remedies for the recovery of the expenses incurred in noting the same for non-acceptance or non-payment, or otherwise, by reason of such dishonour, as he has under this Chapter for the recovery of the amount of such bill or note.

11. **Suits governed by the other provisions in other respects.**—Save as provided by this Chapter, the procedure in suits hereunder shall be the same as the procedure in suits instituted in the ordinary manner.

12. **O.37 C.P.C. to apply to the extent not inconsistents with the Rules.**—The provisions of Order 37 of the Civil Procedure Code so far as they are not inconsistent with the provisions contained in this Chapter shall apply to suits to which this Chapter applies.

CHAPTER XVI

Commercial Suits

1. **Commercial cases defined.**—Commercial suits include suits arising out of the ordinary transactions of merchants, bankers and traders; and amongst others those relating to the construction of mercantile documents, export or import of merchandise, affraightment, carriage of goods by land, sea or air insurance, banking and mercantile agency and mercantile usages.

2. **Plaint in such cases to be marked "Commercial" Suits.**—Where a plaintiff, on the presentation of the plaint, applies that his suit may be dealt with as a commercial suit, the Registrar shall if satisfied that the suit is a commercial suit and has been brought without undue delay, cause the plaint to be marked with the words "Commercial Suit" in addition to the usual endorsements.

Explanation.—A suit which has been brought within six months of the cause of action having arisen has been brought without undue delay.

CHAPTER XVII

Dates and Cause Lists

1. **Cause Lists.**—(a) On such day in the week as may be fixed by him, the Registrar shall sit to fix dates in suits, miscellaneous and interlocutory applications and other matters pending on the original side.

(b) Subject to the orders of the Court, matters fixed for final disposal on any day of the week shall be entered in the list for that day according to the date of their registration provided that procedence be given to:—

(i) part-heard matters; and

(ii) as between the suits of the same year to commercial suits.

(c) The cause-list shall be prepared under the directions of the Registrar and signed by him.

(d) If there be more Judges than one on the Original Side, a separate cause-list of the matters before each Judge shall be prepared in the manner aforesaid.

2. **Day for short causes.**—Short causes shall be set down for hearing on such date as may be appointed for the purpose.

3. **What are short causes.**—The following suits or matters shall be deemed to be short causes:

(1) Ex parte suits;

(2) undefended suits;

(3) suits to which Chapter XV applies;

(4) mortgage suits, rent suits, suits on bonds or acknowledgments;

(5) objections to commissioner's report;

(6) such other suits or matters as may, by special order of the Court, be directed to be tried as short causes.

Any other suit or matter shall be deemed to be a long cause.

4. **Fixing of dates for final disposal.**—Suits to which Chapter XV applies shall not be set down for hearing till the expiration of ten days from the date of service of summons. If an application for leave to defend is filed within those ten days, notice shall be given to the plaintiff or his advocate and the suit shall be set down for hearing of the application instead of for final disposal.

CHAPTER XVIII

Affidavits

1. **Proof of facts by affidavits.**—The Court may at any time, for sufficient reasons, 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, on such conditions as the Court thinks reasonable:

Provided that where it appears to the Court that either party bona fide desires the production of a witness for cross-examination and that such witness can be produced, an order shall not be made authorising the evidence of such witness to be given by affidavit.

2. **Evidence by affidavits.**—Upon any application evidence may be given by affidavit; but the Court may, at the instance of either party, order the attendance for cross-examination of the Deponent, and such attendance shall be in Court, unless the Deponent is exempted from personal appearance in Court or the Court otherwise directs.

3. **Title.**—Every affidavit shall be intituled in the cause, appeal or matter in which it is sworn.

4. **Form.**—Every affidavit shall be drawn up in the first person, and shall be divided into paragraphs to be numbered consecutively, and shall state the description, occupation, if any, and the true place of abode of the Deponent.

5. **Contents of affidavits.**—Affidavits shall be confined to such facts as the Deponent is able of his own knowledge to prove, except on interlocutory applications, on which statements of his belief may be admitted, provided that the grounds thereof are stated.

6. **Interpretation of affidavits.**—An affidavit requiring interpretation to the deponent, unless interpreted by any of the persons mentioned in Rule 7, shall be interpreted by an interpreter nominated or approved by the Court, if made within the jurisdiction of this Court, and if made elsewhere, shall be interpreted by a competent person who shall certify that he has correctly interpreted the affidavit to the Deponent.

Before whom affidavits are to be sworn.—Affidavits for the purposes of any cause appeal or matter before the Court may be sworn before a Notary or any authority mentioned in section 139 of the Code or before the Registrar of the Court, or before a Commissioner generally or specially authorised in that behalf by the Court. The authority attesting any such affidavit shall wherever the person is known to him, append a certificate to that effect on the affidavit and where the person affirming the affidavit is not known to the authority concerned, the certificate shall state the name of the person by whom the person affirming the affidavit has been identified.

Wherever an affidavit is affirmed by an illiterate person or a person not conversant with the English language, the authority concerned shall before attesting the same translate and interpret the contents of the affidavit to the person affirming the same and certify the said fact separately under his signature.

8. **Pardahnashin women.**—Where the Deponent is a Purdahnashin lady, unless she is known to the person attesting the affidavit, she shall be identified by a person to whom she is known and that person shall also prove the identification by a separate affidavit.

9. **Marking, dating and initialling on exhibits.**—Every exhibit annexed to an affidavit shall be marked, initialled and dated by the authority before whom it is sworn.

CHAPTER XIX

Receivers

1. **Application for appointment of Receiver to be by petition supported by affidavit.**—Every application for the appointment of a receiver shall be made in writing and shall be supported by an affidavit.

2. **Register of Receivers.**—On an order for the appointment of a receiver being drawn up and signed, an entry shall be made in a register to be kept for the purpose. A copy of the order of appointment shall be sent to the receiver.

3. **Receiver other than official receiver to give security.**—Where an order is made directing a receiver to be appointed, the person appointed, if not the Official Receiver, shall, unless otherwise ordered, first give security to the satisfaction of the Registrar for the due performance of his duties as receiver. Unless the Court otherwise orders, the Registrar shall take the personal bond of the receiver with such number of sureties as he may consider necessary. The amount of the bond shall be double the annual rental of the immovable property, or the value of the movable property which is likely to come into the hands of the receiver. Such annual rental or value shall be estimated after notice to the parties and the receiver and in case of disagreement the matter shall be placed before a Judge in Chambers for orders.

The sureties shall leave with the Registrar an address within the jurisdiction of the Court for service of any notice on them.

4. **Surety may point out omission or neglect of duty cast on receiver.**—If the security mentioned in rule 3 be furnished by the receiver by his executing a bond with a surety or sureties (including in the latter term a guarantee Company or Society), the surety or sureties shall be entitled, by an application to bring to the notice of the Court any act, omission or neglect of any duty cast on the receiver by law or any other circumstance, which would entitle the surety or sureties to be discharged from the obligation created by such bond and the Court may thereupon make such order and on such terms as it may think fit.

5. **Receiver to submit report.**—Unless otherwise ordered by the Court, the Receiver shall, within one week of the appointment, submit to the Court a detailed report regarding the property with an inventory of the property, account books, documents etc. taken charge of by him.

6. **Directions for investment of monies in the hands of the receiver.**—Unless otherwise ordered by the Court, the Registrar shall, in consultation with the parties, give appropriate directions for the investment of all monies received by a receiver. Ordinarily such monies shall be deposited in a scheduled Bank or invested in Government securities.

7. **Notice to surety of application effecting surety's risk.**—The surety or sureties mentioned in rule 4 shall be entitled to notice of any application to the Court, on the part of the receiver or any other party interested, relating to any property in the management or under the control of the receiver which may affect the risk undertaken by the surety or sureties under the security bond furnished by the receiver and the Court upon hearing the said surety or sureties may make such order as to his or their cost of appearance in such application as if may think fit

8. **Powers of a Receiver.**—In the absence of any order in that behalf every receiver of immovable property shall have all the powers specified in Order XI, rule I(d) of the Code, except that he shall not without the leave of the Court—

(a) grant lease, or

(b) bring suits, except suits for rent, or

(c) institute an appeal in any Court (except from a decree in a rent suit), where the value of the appeal is over Rs. 1,000; or

(d) expend on the repairs of any property in any period of two years more than one-fourth of the net annual rental of the property to be repaired, such rental being calculated at the amount at which the property to be repaired could be let out within fair state of repairs.

9. **Receivers' remuneration.**—The scale of remuneration of the Receiver shall, unless otherwise ordered by the Court in a particular case, be as under:—

(1) on (a) Rents recovered

(b) Outstandings recovered except as provided in item (2) below and

(c) Value realised on the sale of movable and immovable properties calcu ated or any one estate:

(i) On First Rs. 10,000	5 p.c.
(ii) Above Rs. 10,000 upto Rs. 20,000	3 p.c.
(iii) Above Rs. 20,000 upto Rs. 50,000	2 p.c.
(iv) Above Rs. 50,000 upto Rs. 1,00,000	1 p.c.
(v) Above Rs. 1,00,000	½ p.c.

(2) On outstandings recovered from a Bank or from a public servant without filing a suit:—

(i) Upto Rs. 1,00,000	1 p.c.
(ii) On any further sum exceeding Rs. 1,00,000	½ p.c.

(3) For taking charge of moveable property which is not sold on the estimated value 1 p.c.

(4) For taking custody of moneys 1 p.c.

(5) For taking custody of Government securities of stocks, shares, debentures, debenture-stock or other securities which are not sold on the estimated value 1 p.c.

(6) For any work, not provided for above, such remuneration as the Court on the application of the receiver shall think reasonable.

Whenever the properties are in charge of an official receiver the above fees shall be credited to Government revenue.

10. **Establishment and costs therefor to be detailed in the appointment order.**—The establishment, clerical or otherwise, required by a receiver, if any, and the cost thereof chargeable to the state or property of which he is appointed receiver shall, as far as possible, be detailed in the order of appointment or in subsequent order.

11. **No charge for additional establishment allowed.**—Unless otherwise ordered, no charge for establishment shall be allowed to the receiver.

12. **Receiver to file half-yearly accounts.**—Every receiver shall, unless otherwise ordered, file his half-yearly accounts in Court, the first of such accounts to be filed within one month after the expiration of six months from the date of his appointment, and every subsequent account within one month after the expiration of each succeeding period of six months, or in a case where the purpose for which the receiver was appointed has been carried out or completed before the expiry of six months from the date of appointment, within one month from the date of such carrying out or completion.

Form of Affidavit.—Every such account shall show the balance in hand, and if so what portion thereof is required for the purposes of the estate, and how much may be paid into Court or invested, and shall be verified by an affidavit.

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13. **Examining & vouching of accounts by Registrar.**—Every such account, before being submitted to the court, shall be examined and verified by the Registrar, who may for this purpose reuire the attendance of the receiver or his explanation or his evidence upon oath or affirmation, or the production of any document by him and receive within such time as he may appoint and dcide obections to the account and shall embody the result of his examination in a report.

14. **Appointment of date for passing accounts—Notice thereof.**—After the Registrar shall have submitted his report to the Court under rule 13, he shall obtain a date from the Court for passing such accounts, of which date notice shall be given to the persons interested including the sureties and to the receiver.

15. **Objections to report to be filed.**—Objections, if any to the report shall be filed in Court one week before the day fixed for the passing of the accounts or within such further time as may be allowed by the Court. They shall specify in a concise form the nature of the objections and shall be signed and verified.

16. **Passing of accounts by Court.**—Where no objections are filed, the Court shall if otherwise satisfied, pass such accounts. Where objections have been filed, the Court shall subject to rule 18 after hearing the objections make such order as it may think proper.

17. **Procedure of hearing of objections.**—The Court may, from time to time, adjourn the hearing of any objections or may refer them to an officer of the Court or to any other person, with such directions as the Court may deem fit.

18. **Auditing of difficult and complicated accounts.**—In any case where the accounts are difficult and complicated, the Court may order such accounts to be audited at the expense of the estate by a Chartered Accountant.

19. **Order as to payment of balance.**—The Court, on the passing of the Accounts, may make such order as to the payment of the balance, or any part thereof, either into Court or in such other manner as may seem proper.

20. **Consequence of Receiver's negligence to file accounts or pay the balance etc.**—Where any receiver neglects to file his accounts, or to pass the same or to pay the balance or any part thereof as ordered the matter shall be reported by the Registrar to Court, and the Court may, from time to time, when the accounts of such receiver are produced to be examined and passed, not only disallow, the remuneration therein claimed by such receiver but also charge him with interest not exceeding nine per cent per annum upon the balance, if any, so neglected to be paid by him during the time such balance shall appear to remain in the hands of such receiver.

21. **Consequence of default by receiver.**—Where any receiver fails to file any account or affidavit or to make any payment or commits any other default the receiver or persons interested or any of them, may be required by notice to attend before the Court to show cause why such account or affidavit has not been filed or such payment made or any other proper proceeding taken and thereupon the Court may give such directions as may be proper, including the discharge of the receiver and appointment of another and also the payment of costs by the defaulter.

22. **Rule 8 applicable to manager or guardian.**—Subject to the order of the Court, Rule 8 shall apply to a guardian of the person or estate of a minor and the manager of the estate of a lunatic appointed by the Court.

23. **Interim receiver.**—Unless otherwise ordered by the Court, the provisions of this Chapter shall apply *mutatis mutandis* to orders for appointment of interim receivers.

CHAPTER XX

Security Procedure

1. **Security Summons.**—Subject to any directions given by the Court to the contrary, where security is ordered to be given to the satisfaction of the Court or any other officer the party ordered to give security shall take out a summons and shall serve the same upon the opposite party wtihin 48 hours of the order if no time has been fixed by the Court for giving security or if time has been fixed for giving security; not less than one clear day before the expiry of the time so fixed.

The summons shall state the name and address of each surety to be tendered and the description of the property to be given as security.

2. **Production of title deeds, affidavit of justification, examination.**—Every person offering himself as surety, shall produce before the Court or officer concerned his title deeds and vouchers, and may be examined by him on oath or solemn affirmation, touching the value of his property, and the debts and liabilities to which it is subject. After being examined and allowed, he shall sign the requisite bond and shall deposit his title deeds and vouchers:

Provided that in cases where the amount of the bond does not exceed Rs. 5,000, the officer concerned and in other cases the Court may, on good cause shown, dispense with the deposit of title deeds and vouchers.

3. **Property in respect of which a surety may justify.**—The title deed may relate to immovable property situate beyond the limits of the jurisdiction of the Court, but shall in all cases be in the name of the proposed surety. A surety may give security by depositing movable property, such as deposit receipts, or Government Promissory Note.

4. **Who are not competent sureties.**—Unless the Court otherwise order, an advocate practising within the limits of the jurisdiction of the Court, a clerk of such advocate or an officer of the Court, shall not be accepted as surety to a bond.

5. **Security for costs.**—If a party is required to give security for costs, unless the Court otherwise orders, the penal sum in the bond shall not be less than one thousand rupees.

6. **Custody of securities and security bonds.**—All papers and records relating to the taking of security, including securities and security bonds, shall be kept by the Registrar in safe custody in his safe in the strong room after making an appropriate entry in a register to be maintained by him for the purpose.

CHAPTER XXI

Process etc.

1. **Service of Notice.**—(a) Except where otherwise provided by these Rules, or ordered by the Court, all summons, notices orders or other documents required to be given to or served on a party or person, who resides within the jurisdiction of this Court, shall be served on such party or person either personally or on his advocate.

(b) Service of any notice, order or other document upon a person, who resides outside the jurisdiction of this Court, but within the territory of India, may ordinarily be effected by posting a copy of the document required to be served in a prepaid envelope registered for acknowledgment addressed to the party or his agent empowered to accept service, at the place where the party or his agent resides or carries on business or personally works for gain.

(c) Notwithstanding anything hereinabove contained in rule 1(b) the Registrar may direct in a particular case or class of cases, that the service shall be effected in the manner provided by the Code for service of summons.

(d) Unless the contrary is proved, a document served by post shall be deemed to be served at the time at which it would be delivered in the ordinary course of post.

2. **Time for payment of process fee and consequence of non-payment.**—Process fees for the issue of summons, notice or other process and costs of advertisements shall be furnished to the Registrar:

(a) In case where the returnable date fixed is less than four weeks, within three days of the order; and

(b) In other cases within seven days from the order directing such summons; or

(c) Within such further time as may be allowed for the purpose by the Registrar.

If the plaintiff or applicant fails to take any step or where the plaintiff or applicant commits default in furnishing the process fee or in making such payment or it appears to the Registrar that he is not prosecuting the matter with due diligence, the Registrar shall call upon him to explain his default and if no explanation is offered, or if the explanation offered appears to Registrar to be insufficient, the Registrar may issue a summons calling upon the plaintiff or the applicant to show case before the Court why the plaint or the application should not be dismissed.

3. **Power to dismiss for non-prosecution.**—Upon such summons being issued, the Court may, after hearing the plaintiff, dismiss the suit for non-prosecution or give such other direction thereon as justice of the case may require.

4. **Full address to be given of persons on whom process to be served.**—Persons on whom processes are to be served or executed, shall be described therein fully, by a statement of the name, father's name and other particulars as will facilitate identification and service. In the case of service and execution of process in towns the name of the street, lane or section and the number of the house (if any) shall also be given.

5. **Summons for final disposal and settlement of issues.**—Summons shall issue for final disposal in short causes and for settlement of issues in long causes.

6. **Returnable date of summons.**—Unless otherwise ordered every writ of summons shall be made returnable as follows:—

(1) If the defendant or all the defendants reside within the jurisdiction of the Court, in four weeks from the date of the admission of plaint; and

(2) in all other cases, within such time as may be considered sufficient for the transmission, service and return of the summons.

7. **Expeditious issue of processes.**—Process for service or execution shall be made ready and issued expeditiously.

8. **Process to be served after identification of party.**—The serving officer shall serve all processes entrusted to him after due enquiry as to the identity of the persons on whom or the house or property where, the same is to be served:

Provided that if it appears to the Registrar that sufficient information cannot be given as to the identity and place of residence of the person whom process is to be served or as to the house or property where process is to be served or if the Registrar is satisfied from the affidavit of the serving officer or upon his examination on oath (if necessary) that the person or the house or property or the place of residence of the person aforesaid could not be identified after due diligence and enquiry, he may ask the party concerned to supply an identifier.

9. **Endorsement of identifier on the original process.**—If the serving officer is not personally acquainted with the person to be served, he shall, whenever possible obtain on the original process the endorsement by signature or thumb-impression of a respectable person of the locality identifying such person or place of residence or the house or property on which the process is served.

10. **Procedure where defendant refuses to accept service or cannot be found.**—Where the person to be served, or his agent, refuses to sign the acknowledgment or where the serving Officer, after using all due and reasonable diligence, cannot find that person and there is no agent empowered to accept service of the summons on his behalf, the serving officer shall affix a copy of the summons on the outer door or some other conspicuous part of the house in which that person ordinary resides or carries on business or personally works for gain, and shall then return the original to the Court from which it was issued, with a report endorsed thereon or annexed thereto stating that he has so affixed the copy, the circumstances under which he did so, and the name and address of the person (if any by whom the house was identified, and in whose presence the copy was affixed. He shall also obtain the signature of the person on the return, who identified the person or in whose presence the copy was affixed on the said house .

11. **Returns of service.**—(a) Every process serving officer shall immediately after completion of any duty connected with any process, record with his own hand upon the original process at the place of execution and in the presence of at least one respectable witness his report specifying the manner of execution

or the causes which prevented execution. Thereafter, he shall swear or affirm to the correctness of that report before an officer of the Court, duly authorised in this behalf and file the same in Court together with the process.

(b) Process serving officer must invariably note the date, hour and exact place of service each individual process.

(c) If the process is addressed to more than one person, the report shall describe the manner of service on each person and also the sequence in which the processes are served on different persons.

12. **Service by affixing to outer door.**—The serving officer shall make an affidavit as to the following matters:—

(1) the number of times and the dates and hours at which he went to the house;

(2) the attempts made by him to find the person to be served;

(3) Whether he had any and what, reason to suppose that such person was within the house or in its neighbourhood, or endeavouring to evade service; and

(4) whether any adult male member of the family of the person to be served was residing with him.

13. **Notice where summons is affixed to outer door.**—If a summons to defendant is affixed to the outer door of his house in the maner provided in rule 12, the serving officer shall affix thereto a notice that the person, so served, can upon an application to the Court, obtain a copy of the plaint and shall in his return state that he has done so and shall return the plaint to the Court.

14. **Inquiry as to sufficiency of service.**—The Registrar shall in all cases where the process has been returned and in which an appearance has not been entered on the day appointed therefor hold an inquiry as to the sufficiency of service of process.

Such inquiry may be adjourned, if necessary, from time to time. Affidavits and further affidavits may be received or evidence taken *viva voce* at such inquiry.

No matter shall be placed before the Court unless the Registrar is satisfied that the defendant or the opposite side has been duly served, wherever a defendant has been so served, but does not appear on the date appointed and the Registrar, after holding an inquiry a aforesaid, is satisfied that the defendant or the opposite side has been duly served, he shall report the matter to the Court and the Court shall pass such orders as it deems fit.

15. **Fresh Process not to issue until previous one returned.**—Unless otherwise ordered, a second or subsequent process shall not be issued until after the one previously issued has been returned.

16. **Registrar to execute or to cause to be executed process.**—The Registrar and, subject to his directions, any other officer of the Court shall execute or cause to be executed through the officers of the Court all processes including all warrants or orders for the delivery, attachment or sale of property in execution, or for the arrest or custody of any person, which may be entrusted to the Registrar for execution. They shall return all warrants and orders within the time prescribed, with an endorsement specifying the manner of execution or the causes which prevented execution. Such warrants and orders shall be filed in the record. A process service register shall be kept in the prescribed form.

17. **Noting of date on processes.**—The Registrar shall note on every process the date on which it was delivered to the process server.

18. **Service on the advocates of parties.**—Service of any process, notice, order or other document on the advocate of any party may be effected by delivering it to the advocate or by leaving it with a clerk in his employ at his place of business.

19. Except where the process, notice, order or other document has been served through the Registry, the party required to effect service shall file an affidavit of service along with such proof thereof as may be available stating the manner in which the service has been effected.

20. Where process, notice, order or other document has been served through another Court, the service may be proved by the deposition or affidavit of the serving officer made before the Court through which the service was effected.

CHAPTER XXII

Court Deposits and Payments

1. **Payment of money.**—(a) The Registrar and subject to his directions any other officer of the Court shall receive all monies paid into the Court and shall pay out all monies duly ordered to be paid out of Court.

(b) Money may be paid or deposited in Court by postal money order. In that case, the person making the payment shall send to the Registrar a statement containing full particulars regarding the intended payment or deposit.

2. **Notice of payment or deposit to judgment creditor or Collector.**—(a) A person paying money into or depositing property in the Court in part of full satisfaction of a decree or order shall give notice through the Court of such payment or deposit to the judgment-creditor.

(b) Where the decree directs payment of court-fees to Government under 0.33 rule 10 of the Code, no order shall be made on the application for payment of such money or delivery of such property without giving notice thereof to the Collector at the expense of the applicant.

3. **Delivery of securities jewellery or other valuables into Court.**—When jewellery or other valuables are brought into Court, three copies of a descriptive list thereof shall be presented and shall be checked and signed by the Registrar in the presence of the depositor. The jewellery or other valuables shall be placed in a box furnished with a lock and key to be provided by the Depositor. A copy of the list shall be kept in the box and the box shall then be locked and sealed with the seal of the Court. One copy of the list shall be given to the depositor and the third copy of the said list and the key of the box shall be retained by the Registrar. The box shall thereafter be kept in safe custody by the Registrar or in such other custody as the Court may direct.

4. **Application for payment of money etc.**—Every application for payment of money or delivery of property deposited in Court, shall be instituted in the suit or matter and shall also show the number of the execution application, if any pending, showing the right and interest of the party applying and the amount claimed.

5. **Applications to be checked.**—Applications to make or receive payments shall be duly checked by reference to the record of the suit or matter before submission for orders to the Registrar.

6. **Payment by money order, bank draft, etc.**—On the application of the decree-holder or other person entitled to any money deposited in Court and not expended for the purpose for which it was deposited, if there is no objection to the payment of money on the ground of attachment or otherwise, the Registrar may order that the amount, after making all necessary and lawful deductions, be sent to the applicant at his risk—

(i) by money order, or

(ii) by bank draft by registered post acknowledgment due; or

(iii) in any other manner specified by the applicant, which the Registrar approves:

Provided that before payment is ordered to be made under clause (ii) or (iii) the applicant shall submit a duly stamped receipt for the amount due in the form given below:

Form of Receipt

Received the sum of Rs. ..... (Rupees ..... only) from the High Court of Delhi bearing the amount deposited in the said Court in connection with.

..

(Stamp)

(Signature of the Payee)

Dated

7. **Written authority of client requisite for payment for Advocate.**—Unless otherwise ordered by the Court, on payment in excess of Rs. 1,000 shall be made to an advocate on behalf of his client without special authorisation in that behalf by the client in favour of the advocate.

Account books to be kept.—The following account books shall be kept:—

A. Book of receipts for money paid into Court.

B. Process-fee receipt book.

C. Register of deposit receipts, viz. register of sums received in Court in connection with suits or judicial proceedings and deposited with Government (to be kept in duplicate).

D. Register of deposit payments, viz. register of payments from sums received into Court in connection with suits or judicial proceedings and deposited with Government (to be kept in duplicate).

E. Files of applications for refund of lapsed deposits and of statements of lapsed Civil Courts deposits.

F. Register of attached property.

G. Register of money received on account of subsistence money of civil prisoners, expenses of witnesses and miscellaneous petty items required for immediate disbursement.

H. Register of payments on account of subsistence money of civil prisoners, expenses of witnesses and miscellaneous petty items required for immediate disbursement

I. Cash Book.

J. Ledger.

K. Bank or Treasury pass book.

L. Bank or Treasury cheque/voucher book.

M Register of receipts and of withdrawal of property left in the custody of the Registrar.

N. Such other registers as may be directed by the Chief Justice to be kept.

9. **Signing of cheques and checking of accounts.**—The Registrar or such other officer, as may be specifically authorised by the Chief Justice in that behalf, is authorised to sign cheques. He shall at least once a month call for the registers and accounts and satisfy himself that the entries have been carefully and properly made. When such inspection is made, he should note the fact in his own hand on the register or account inspected.

CHAPTER XXII

Taxation of Costs

1. **Taxing officer.**—The Registrar, or such other officer as the Chief Justice may appoint for the purpose, shall be the Taxing officer of the Court.

2. **Time for filing bill of costs.**—Each party shall within seven days from the date on which judgment is delivered or order is passed or within such further time as the Taxing Officer may allow, submit his bill of costs.

3. **Contents of the Bill of Costs.**—The bill of costs shall set out :—

(A) process-fee spent,

(B) expenses of witnesses,

(C) advocate's fee, and

(D) such other amounts as may be allowable under the rules, or as may be ordered by the Court as costs.

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4. **Notice for taxation.**—When a bill of costs has been lodged for taxation, two days' notice or such further time not exceeding seven days in aggregate as the Taxing officer may allow, shall be given to the opposite party:

Provided that no notice shall be necessary in any case when the defendant has not appeared in person or by his advocate or guardian.

5. **When expenses of witnesses may be included in costs.**—No expenses of witnesses other than those paid through the Court shall be included in the costs allowed.

6. **Taxation of costs.**—(a) Advocate's fee shall be taxed on the basis of a certificate filed under rule 2, Chapter 5, but not exceeding the scale prescribed in the Schedule appended to this chapter. Other costs shall be taxed according to the charges necessarily and actually incurred. These charges shall include in addition to other costs allowable under the rules, the costs of printing pleadings etc. for the use of the Court, the fees paid at the Registration office for searching and for obtaining copies of the necessary documents filed in Court, fees, if any, paid to the officers of the Court as prescribed by clause (d) of the said schedule and the costs of preparation of process taxed according to the scale prescribed.

(b) Unless the Court expressly directs otherwise the following costs shall not be deemed to have been incurred necessarily within the meaning of sub-rule (1) and shall not be taxed:—

(i) Court fee stamps on all applications dismissed or not allowed or not pressed;

(ii) Court-fee stamps on all unnecessary or defective applications or applications to suit the convenience of a party such as far adjournment of hearing, for time to file written or other statements or to take some steps for showing cause in case of any default or omission, for withdrawing a claim or for amendment of any pleading or petition;

(iii) expenses on affidavits improperly or unnecessarily filed;

(iv) expenses of filing and proving unnecessary documents or documents which the other party was not previously called upon to admit by notice or of exhibiting interrogatories unreasonably, vaxatiously or at improper length;

(v) process-fee for serving persons found by the Court to have been unnecessarily impleaded or the suit against whom has been dismissed, withdrawn or not prosecuted;

(vi) charges incurred in connection with the attendance of unnecessary witnesses; and

(vii) Retaining fee to an advocate.

7. **When an advocate appears for different parties in the same matter.**—Where an advocate appears for different parties in the same suit or matter, only one set of fees shall be allowed.

8. **First day's hearing fee in defended suits.**—In defended suits, the first day's hearing fee shall be allowed in full irrespective of the time taken at the said hearing.

9. **Refresher.**—No refresher shall be allowed unless the hearing has lasted for more than four and a half hours, and the taxing officers shall have discretion to reduce the refresher or to allow a refresher having regard to the duration of the hearing after the first four and a half hours.

10. **Advocate's fee when the suits compromised before it is set down for evidence or hearing.**—Where a suit is compromised before it is set down for evidence or for hearing, the fees to be allowed to an advocate, shall subject to the terms of the compromise be one-third of the amount specified in the schedule to this Chapter.

11. **Review of taxation only on notice to the opposite side.**—No application for review of taxation, unless the taxation was *ex-parte* shall be made except on the notice to the opposite side.

12. **No review of taxation of costs if bill of costs was not filed.**—Subject to any orders passed by the Court, if the bill of costs is not filed within time allowed under rule 2, the bill will be prepared by the taxing officer, and no application for review of taxation shall be allowed unless made before the decree is signed.

13. **What costs allowed after taxation.**—The only costs which shall be allowed after taxation shall be the costs of execution or of transmission of the decree to another Court.

14. **Meaning of "proportionate costs".**—Where "proportionate costs" or "costs in proportion" 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.

15. **Application to Court for review of taxation.**—Any party, who may be dissatisfied with the decision of the Taxing Officer as to any item or part of any item may, not later than fourteen days from the date of the decision or within such further time as the Court may allow, apply to the Court for an order to review the taxation as to the said item or part of any item, and the Court may thereupon after notice to the other side, if necessary, make such order as to it may seem just; but the taxation of the Taxing Officer shall be final and conclusive as to all matters which shall not have been objected to in the manner aforesaid.

16. **Hearing of such application.**—Such application shall be heard and determined by the Court upon the evidence which shall have been brought in before the Taxing Officer, and no further evidence shall be received upon the hearing thereof, unless the Court shall otherwise direct.

SCHEDULE

table of fees

A. —*In defended suits*:

(1) *To Junior Advocate*

(i) For drafting pleadings etc. including acting fees. .	2 1/2% the total value of the claim, or Rs. 750/- whichever is less.	
	First day	*Refresher*
(ii) For appearance at the hearing of the suit when assisting and not pleading himself	Rs. 200/-	Rs. 100/-
(iii) For appearance at the hearing of the suit and pleading himself.	Rs. 300/-	Rs. 150/-

(2) *To Senior Advocate*

For settling pleadings etc. (if allowed) .	Rs. 300

(3) *To leading Advocate*	*First day*	*Refresher*
For appearances at the hearing of the suit. . . .	Rs. 400/-	Rs. 200/-

NOTE 1.—At the hearing of a defended suit ordinarily the fees of not more than two advocates may be allowed.

NOTE 2.—The expression "Junior advocate" means an advocate other than a senior advocate.

Explanation.—'Acting' means filing an appearance or any pleadings or applications in any matter and includes appearances before the Registrar or any other officer in connection with, or in prosecution of any such matter, or any other act required or authorized by law to be done by a party either in person or by his duly authorised agent or by an advocate or attorney on his behalf.

B.—*In undefended suits*:

One-third of the above scale.

C—In any interlocutory application or execution proceedings or for any matter other than that of appearing, acting or pleading in a suit, such fee as the Taxing officer may allow having regard to the nature and importance of the proceedings or matter: provided, however, that in no case the amount allowed shall exceed Rs. 500.

D. *Fees to Officers of Court*:

(1) Fees of interpreter for explaining at other than the Court House, pleadings and other documents, whether not exceeding 20 folios	8·00
Where ever 20 folios, for every 10 folios or part thereof	2.50
(2) Fees for taking bonds and fees of commissioners for attesting affidavits or affirmations at any place other, than the Court's House.	
For the first affidavit, oath or affirmation or bond within the municipal limits or Delhi and Simla	16·00
For the first affidavit, oath or affirmation or bond, beyond such limits	24·00
For every affidavit, oath or affirmation or bond taken at the same time and place after the first, in the same suit, appeal or matter	8·00
(3) Fees of commissioners, for attesting affidavits, oaths, or affirmations at the Court House, for every affidavit, oath or affirmation.	2·00

CHAPTER XXIV

Proceedings in execution

1. **Interpretation.**—In this Chapter the word 'decree' includes order.

Application for Transmission

2. **Transmission of decree for execution.**—(a) An application for transmission of a decree to another Court for execution shall be in the form prescribed and shall specify the Court to which the transmission of the decree is sought and whether the decree has already been satisfied in part and if so to what extent. The same shall be supported by an affidavit. It shall also be accompanied by a certified copy of the decree or an application for the same.

(b) The Registrar shall transmit by registered post, at the cost of the applicant the certified copy of the decree together with the other ddcuments mentioned in Order XXI, rule 6 of the Code to the Court to which the transmission is sought in accordance with the provisions of rules 4 and 5 of O.XXI of the Code.

Application for Execution

3. **Application under O.XXI, rule 15 to be supported by affidavit.**—An application under rule 15 of O.XXI of the Code shall be in the prescribed form and supported by an affidavit.

4. **Checking and admission of execution petition.**—Applications for execution shall ordinarily be checked in the order in which they have been filed by reference to the Registrar of Civil Suits and all objections thereto, if any, shall be noted therein and then be submitted to the Registrar, for orders. All applications for execution, when admitted, shall be entered in the Registrar of execution applications.

5. **Procedure in execution appliaction under O.XXI rule 15.**—When an application is made by one or more of several joint decree-holders, unless a written authority signed by the other decree-holders for the applicant to execute the decree and to receive the money or property recovered is filed in Court, the Court or the Registrar, may give notice of the order, if any, passed for the execution of the decree to all the decree-holders who have not joined in the application and may also give notice of any application for payment or delivery to the applicant of any money or property recovered in execution.

6. **Procedure when cause not shown.**—Where execution is for arrest of a judgment-debtor and the judgment-debtor does not appear on the day of hearing fixed under the notice issued or on such other day to which the hearing thereof is postponed, the notice and the affidavit of service thereof shall be filed and the Registrar, shall thereafter, place the matter before a Judge in Chambers for orders.

7. **Registrar not to issue execution simultaneously against person and property.**—Execution shall not issue against the property of a judgment-debtor at once with the issue of execution against his person. But a judgment-creditor desiring to proceed against both simultaneously, shall apply to the Court and in case of such application being refused, shall not be allowed to include the costs thereof in his costs as against the debtor without the special order of the Court. But when a warrant for the arrest has not been executed, a warrant for attachment may, at the request of the judgment-creditor, be issued.

8. **Application for appointment of receiver in execution of decree.**—An application for the execution of a deree by the appointment of a receiver under section 51 and order XI, rule 1 of the Code to realise or otherwise deal with property under attachment shall be made to the Court, and such receiver shall, unless otherwise ordered, be subject to the rules of this Court, applicable to persons appointed as receivers of property in a suit.

MODE OF EXECUTION

Execution of Documents

9. **Copies of draft to be filed.**—The decree-holder shall file two copies of the draft referred to in Order XXI, rule 34(i) of the Code and two copies of the notice in the prescribed form together with the prescribed process fee for service thereof. One of the copies of the draft shall be served on the person directed to execute the document in the manner prescribed for service of summons on the defendant to a suit.

10. **Execution of document under Order XXI, rule 34(5).**—Unless otherwise ordered by the Court, a document shall be executed or a negotiable instrument endorsed under Order XXI, rule 35(5) of the Code by the Registrar.

Arrest

11. **Deposit with warrant of arrest.**—With every application for warrant of arrest before or after judgment there shall be deposited with the Registrar a sum of Rs. 5 for the intermediate subsistence of the judgment-debtor, pursuant to Order XXI, rule 39(i) to (4) of the Code.

Attachment and Sale

12. **Application of incumbrancer to be made a party to the suit or to join in the sale.**—An incumbrancer, not a party to the suit, may at any time before the sale apply to the Court to be made a party, or for leave to join in the sale; such order shall be made thereon in protection of his rights and as to costs as the Court shall deem fit.

13. **Receipt of attached property to be given.**—A bailiff attaching movable property shall, furnish to the judgment-debtor or other person, from whose possession the movable property is attached, a receipt in the form of a list of the said property signed by the said bailiff and take an acknowledgment to that fact on the warrant of attachment.

14. **Deposit of cost for removal or maintenance of property.**—Before making any order for the attachment of live-stock or other moveable property, or at any time after any such order has been passed, the Court or the Registrar, may require the person at whose instance the order of attachment is sought or has been made

to deposit in Court such sum of money as the Court or the Registrar may consider necessary:

(a) for the removal of the property to the Court premises or other appointed place and its maintenance, guarding and custody till arrival thereat;

(b) for the maintenance, guarding and custody of the property at the Court premises or other appointed place till it is sold or otherwise disposed of; and

(c) for the maintenance, guarding and custody of the property at the place at which it was attached or elsewhere.

In case of failure to deposit such sum within the time prescribed by the Court or Registrar, the Court or Registrar may either refuse to issue or may cancel the order of attachment, as the case may be.

15. **Account to be rendered on demand.**—An account of the expenses actually incurred shall, on demand being made on or before the date of the sale, be furnished to the attaching creditor and to the person whose property was attached. After hearing objections to the account, if any, made within three days of its receipt by a party, the amount that the Registrar finds to be properly due shall be deducted as first charge from the proceeds of the sale of the property and paid to the attaching creditor along with any balance of the deposit made by him.

16. **Restoration of attached property on payment of costs incurred.**—(a) If in consequence of the cancellation of the order of attahment or for any other reason the person whose property has been attached, becomes entitled to receive back the live-stock or other movable property attached, he shall be given a notice by the Registrar that he should take delivery of it within the time specified by the Registrar on payment by him of the charges, if any, found by the Court or the Registrar to have been properly incurred and which have not been defrayed or for the defrayal of which no money has been deposited by the attaching creditor.

(b) If he commits default in taking delivery of the property by failure to pay the requisite charges or otherwise, the Court may order that the property be sold by public auction and that after defraying the charges referred to in sub-rule (a), if any, and the expenses of the sale, the balance of the sale-proceeds be credited to his account.

Sale of Attached Property

17. **Notice regarding sale of guns and other arms, etc. attached.**—Whenever guns or other arms in respect of which licences have to be taken by purchasers under any law in force for the time being or any other articles in respect of which licences have to be taken under any law in force, are sold by public auction in execution of decrees, the Registrar shall give due notice to the District Magistrate concerned, or other appropriate officer, of the names and addresses of the purchaser and of the time and place of the intended delivery to the purchaser of such arms or other articles. No such arm or other article shall be delivered to the purchaser unless he holds a licence for the same.

18. **Immediate sale of moveable property.**—In the case of property to be sold under the proviso to rule 43 of Order XXI of the Code, if such property is in the Court premises in the custody of the Registrar, he may authorise an officer of the court to sell the same by public auction and may give such directions as to the date and time and place of sale and the manner of publishing the same as the circumstances of the particular case admit.

19. **Contents of sale proclamation.**—In addition to the particulars specified in sub-rule (2) of rule 66 of Order XXI of the Code, the sale proclamation shall contain a notice that only the right, title and interest of the judgment-debtor is to be sold. The title deeds or an abstract of the judgment-debtors title, if available, will be open for inspection at the office of the Registrar.

The proclamation shall, whenever such information is available, also state in whose possession and occupation the property is and the tenancy or terms on which any person is in occupation or possession.

20. **Appearance judgment debtor.**—(a) If the judgment-debtor appears before the Registrar pursuant to the notice issued, under Order XXI, rule 66(2) of the Code, the Registrar, shall examine him on any matter affecting his title to the attached property. The judgment-creditor may also examine him on any matter relating thereto. If the judgment-debtor fails to attend, the Registrar shall proceed *ex parte*.

(b) The Registrar may also exercise powers under Order XXI, rule 66(4). If any documents are produced relating to the attached property by any person, the same shall be left with the Registrar, and shall be subject to his directions both as to their custody pending the sale and their ultimate disposal, such directions being subject to appeal to the Court.

21. **Publication of proclamation.**—Whenever the sale of land or of a house or houses exceeding Rs. 10,000 in value or of movable property exceeding Rs. 10,000 in value is ordered, the Registrar shall, with the permission of the Court, advertise such sale in a local newspaper or newspapers.

22. **Copy of sale proclamation to be sent to Collector in case of sale of land.**—When any land or share of land is ordered to be sold in execution of a decree, the Court shall send a copy of the proclamation of sale issued under Order XXI, rule 67 of the Code to the Collector concerned.

23. **Arrest or sale on holidays.**—No arrest shall be effected and no sale shall be held in execution on Sundays or during holidays or vacation of the Court, except by leave of the Court or the Registrar.

24. **Leave to bid and reserved price.**—(a) An application for leave to bid by the decree-holder at the sale shall be supported by an affidavit giving reasons why the applicant should be permitted to bid.

(b) In cases in which the Registrar considers that the applicant should not be allowed to bid for less than a sum to be fixed, it shall be competent to the Registrar to give leave to bid at the sale only on condition that the applicant's bid shall not be less than the amount so fixed, which amount shall as far as practicable, be determined with reference to the market value of the property or of the lot or lots into which the property is divided for sale.

25. **Sale.**—On the day and at the time and place appointed for the sale, the proclamation of sale shall be read out before the property is put up for sale.

26. **Postponement of sale for want sufficient bidding.**—If there be no bid or the highest bid be below the reserved price (if any) or be deemed insufficient by the Registrar or other officer conducting the sale, he shall postpone the sale and record the reason for such postponement in the bidding paper.

27. **Postponement sale otherwise than under rule 26.**—The Registrar or other officer conducting the sale may for sufficient cause postpone the sale.* The costs of a postponement rendered necessary by the absence of the Registrar or other officer conducting the sale shall be costs in the cause. The costs of a postponement made at the request of the party or by reason of his conduct shall be borne by him.

28. **Bidding paper.**—The name of each bidder at the sale of property shall be noted on a paper to be called "The bidding paper", each bid shall be signed by the bidder and the amount of the bid shall be entered opposite his name. If there be no bid, the words "no bid" shall be written in the bidding paper opposite the property or, as the case may be, the number of the lot. If the highest bid be deemed insufficient, the words "not sold" shall be written opposite the property or the number of the lot. If the property be sold, the highest bid shall be inserted, opposite the property or the number of the lot, wherein the full name and address of the bidder be taken and his signature obtained and the purchaser shall write his full name opposite such entry and shall add his address and occupation. All notices thereafter served at the address so given shall be deemed to have been duly served on the purchaser.

29. **Agent to produce Authority.**—A person purchasing for another as his duty authorised agent shall produce his authority in writing at the time of bidding, and sign the bidding paper as such, giving the full name, address and occupation both of himself and his principal. All notices thereafter served at either of the addresses given shall be deemed to have been duly served.

30. **Declaration of purchase.**—If the highest bid be equal to or higher than the reserved price (if any), the Registrar or other officer conducting the sale shall make an entry in the bidding paper to the following effect:—

"I declare.....to have been the highest bidder for the purchase of the property above setforth (or of lot No.) for the sum of Rs. ....."

31. **Report of sale.**—Upon the completion of the sale the Registrar or other officer conducting the sale shall file in Court his report of the sale.

32. **Time for confirming sale.**—A sale of immovable property shall not be confirmed until after the expiration of 30 days from the date thereof.

GURU DATTA,
Registrar.

IndiaCode

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