

Gujarat High Court Rules, 1993

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APPENDIX 1 :- APPENDIX I

Gujarat High Court Rules, 1993

In Suppression of the Bombay High Court Appellate Side Rules, 1960 as made applicable to this High Court and as amended from time to time, the Honourable the Chief Justice and Judges of the High Court of Gujarat are pleased to make the following Rules: (1) Title-These rules shall be Cited as "The Gujarat High Court Rules, 1993. " (2) These rules shall come into force with effect from the date of publication in the Gazette.

PART 1 PART I

CHAPTER 1 Jurisdiction of Single Judges and Benches of the High Court

1. Jurisdiction Ordinarily Exercised By Division Court Of Two Judges :-

The Civil and Criminal Jurisdiction of the Court shall, except in cases where it is otherwise provided for by any law in force or by these rules, be exercised by a Division Court consisting of two or more Judges.

2. Matters To Be Disposed Of By A Single Judge :-

Save as otherwise expressly provided by any law in force or by these rules; a Single Judge may dispose of the following matters:

I. Civil

(1) Appeals from Original Decrees in Suits where the value of the subject matter of the suit does not exceed 2[Rs. 20,00,000/-] or is incapable of valuation.

(2) Appeals under Special or Local Acts where the value of the subject matter before the trial Court or Tribunal or other authority does not exceed 2[Rs. 20,00,000/-] or is incapable of valuation.

(3) Appeals in proceedings under the Guardians and Wards Act, 1890 and the Hindu Minority and Guardianship Act, 1956.

(4) Appeals under Section 144, Civil Procedure Code, 1908.

(5) Appeals under the Hindu Marriage Act and other Matrimonial enactments.

(6) Appeals from Appellate Decrees.

1. Notification No. C-2002/93 dt. 30.3.1993, published in Guj. Govt. Gaz. , Ext. Ord. , Pt. IV-C, dt.24.6.1993, Pg. 26

2. Notification No. C-2002/93 dt. 20.04.2012

(7) Appeals from orders under Section 104 and Order XLIII, Rule 1 of the Civil Procedure Code, 1908.

(8) Appeals relating exclusively to costs or installments.

(9) Appeals arising out of the Land Acquisition References, the value of the subject matter of which does not exceed 2[Rs. 20,00,000/-] except where the valuation in an allied matter to be heard with the former exceeds 2[Rs. 20,00,000/-].

(10) Applications under Articles 225 of the Constitution of India except: -

(1) those where vires of any provision of a statute are challenged.

(2) those for issue of writs of Habeas Corpus and also those for issue of appropriate directions, order or writs in respect of orders of deportation.

(3) those where awards under the Industrial Disputes Act (India Act (XIV) of 1947) concerning revision of wages or wage structure of a class or classes of an employees in an industry are challenged.

(4) those arising under the Acts specified below: -

(a) The Customs Act (India Act LII of 1962).

(b) The Central Excises & Salt Act (Act I of 1944).

(c) Taxing statutes such as the Income Tax Act (India Act No. XLIII of 1961) The Wealth Tax Act, 1957 (India Act No. 27 of 1957) the Gift Tax Act, 1958 (India Act No. 18 of 1958). The Gujarat Sales Tax Act, 1969 (Act No. 1 of 1970) etc.

(d) The Land Acquisition Act (Act 1 of 1894).

(e) The Import and Export Control Act (Act XVIII of 1947).

(11) Matters Pertaining to Preventive Detention Laws.

(12) Applications under Article 227 of the Constitution of India except those arising from the decisions under the Industrial Disputes Act (India Act XLV of 1947), concerning revision of 1. Substituted vide Notification No. C-2002/93 dt. 5.4.1995, pub. in Guj. Govt. Gaz. , Pt. IV-C, dt. 25.5.1995, p. 218.2. Notification No. C-2002/93 dt. 20.04.2012. wages or wage structure of a class or classes of the employees in an Industry. The Customs Act (India

Act LII of 1962). The Central Excise and Salt Act (Act I of 1944) and Taxing Statutes

(13) Applications for the exercise of the Courts revisional jurisdiction under section 115 of the Civil Procedure Code, 1908, or under Section 25 of the Provincial Small Causes Courts Act, 1887 or under any Special or Local Law.

(14) Applications under the Companies Act, 1956 and proceedings there under

(15) Applications under any Local or Special Acts not otherwise specifically provided for.

(16) Applications under the Guardians and Wards Act, 1990, the Hindu Minority and Guardianship Act, 1956, and other enactments relating to minors or under Clause 17 of the Letters Patent.

(17) All applications (except applications under Article 228 of the Constitution of India) for transfer of suits, appeals or other proceedings pending for trial or disposal in any Civil Court subordinate to the High Court or over which the High Court has power of superintendence, to the High Court or to another Court subordinate to or under the superintendence of the High Court.

(18) Applications for consent decrees or orders under order XXIII, Civil Procedure Code, 1908 in the matters which can be disposed of by the Single Judge.

(19) All applications or matters incidental to or interlocutory or arising out of or relating to appeals or applications which are pending or proposed to be filled in the High Court, and which can be disposed of by a Single Judge.

(20) All applications or proceedings incidental to or arising out of or relating to applications for leave to appeal to the Supreme Court or appeals to the Supreme Court after the grant of leave to appeal by the High Court or of special leave by the Supreme Court except cancellation of certificate of fitness granted by the High Court.

(21) All matters referred to in rules 12 and 13 of Chapter 11 and the matters referred by the Registrar.

(22) Except as otherwise provided in any law in force all references under the Civil Procedure Code except References under provision to Section 113 and Order XXVII-A of the Civil Procedure Code.

(23) Revision of Orders passed by the Registrar, Joint Registrar, Addl. Registrar, Deputy Registrar or Assistant Registrar.

(24) All Civil proceedings transferred or withdrawn to this High Court from subordinate Courts except proceedings withdrawn under Article 228 of the Constitution, which can be tried by a Single Judge.

(25) All matters pending registration where in office objections are not removed within the prescribed time.

II. Criminal

(1) 1[Appeals against conviction 3[(except in which a sentence of imprisonment has been imposed for a period exceeding 10 (ten) years or for life or with death)]; appeals against acquittal, where the offence, with which the accused was charged, is one punishable with a sentence of fine only or with a sentence of imprisonment upto 10 (ten) years or both.]

(2) 2[xxx]

(3) Appeals against orders relating to disposal of property and orders directing payments of compensation expenses and/or fees.

(4) Appeals against order under Section 360, Criminal Procedure Code, 1973, Section 93 of the Bombay Prohibition Act, 1949, Bombay Probation of Offenders Act, 1938, or any other enactment or provision relating to probation of offenders.

(5) Appeals under Section 94 of the Bombay Children Act, 1948 and under Section 93, of the Saurashtra Act, 1954.

(6) Appeals under Section 341(i) of the Criminal Procedure Code, 1973.

1. Substituted vide Notification No. C-2002/93 dt. 20.04.2012. 2. Deleted vide Notification No. C- 2002/93 dt. 20.04.2012. 3. Substituted vide Notification No. C-2002/93 dt. 24.07.2012.

(7) Appeals or Revision Applications against orders passed under Chapter VIII Code of Criminal Procedure, 1973.

(8) Applications for the exercise of the Courts Revisional Jurisdiction under section 401 of the Criminal Procedure Code, 1973 and the disposal of cases of which record is called for an examination of Criminal Returns or otherwise.

(9) Applications for the exercise of the Courts revisional jurisdiction under any other statute. (10) Applications under Section 482 of the Criminal Procedure Code, 1973.

(11) All applications (except applications under Article 228 of the Constitution of India) for transfer of cases, Appeals or other proceedings pending for trial or disposal in any Criminal Court subordinate to the High Court or over which the High Court has power of superintendence, to the High Court Superintendence of the High Court.

(11-A) Applications under Article 227 of the Constitution of India.

(11-B) Applications under Article 226 of the Constitution of India except those specified in sub-rule (10) of part 1 Civil of rule 2

(12) Applications for bail or stay not arising out of or relating to any

appeal, except appeals referred to in clause (i).

(13) Applications for excuse of delay in or extension of time for making deposit for transcript record in Criminal Appeals to the Supreme Court.

(14) All miscellaneous applications including applications for bail or stay arising in or out of or relating to matters, falling under this rule.

(15) All Criminal proceedings transferred or withdrawn to this High Court from subordinate Courts except proceedings withdrawn under Article 228 of the Constitution.

(16) All applications or proceedings incidental to or arising out of or relating to applications for leave to appeal to the Supreme Court or of appeals to the Supreme Court after the grant of leave to appeal by the High Court or of Special Leave by the Supreme Court except cancellation of certificate of fitness granted by the High Court.

(17) Parol, Furlough, Jail Petitions and Externment Matters.

3. Matter To Be Dealt With By A Single Judge During Vacation & Holidays :-

A single Judge may during Vacation or Holiday or when Court are not in Session, issue notice interim stay, interim injunction, bail or other interim relief in any matters not falling under Rule 2 above which are of an emergent nature.

4. Rule May Be Issued By A Single Judge In Application Of The Nature Of Habeas Corpus :-

A single Judge may grant rule nisi in any application of the nature of Habeas Corpus, but he shall not pass any final order on the application.

5. Section 5 :-

(1) A single Judge may refer any matter before him or question arising in such matter to a division bench of two Judges, or a larger bench.

(2) A Division Bench of two Judges may refer any matter before it or any question arising therein or any question referred to it under sub-rule (1) above to a Larger Bench.

6. Powers Of Chief Justice To Order Hearing By A Larger Bench :-

Notwithstanding anything contained in these rules, the Chief Justice may by a special or general order direct that any matter or class of matters be placed before a Division Bench or a Special Bench of two or more Judges. 1. Inserted vide Notification No. C-2002/93 dt.

5.4.1995, pub. in Guj. Govt. Gaz. , Pt. IV-C. dt. 25.5.1995. P. 218.

CHAPTER 2 Powers of the Registrar, Deputy Registrar and Assistant Registrar

7. Powers And Duties Of The Registrar, Deputy Registrar And Assistant Registrar In Connection With Admission Of Proceedings :-

The Registrar, the Deputy Registrar or the Assistant Registrar shall admit to the Registrar all memorandums of appeals, applications or cross-objections, which are presented within the prescribed time, are duly stamped, are accompanied by the prescribed copies and comply with all the other requirements of the law and these rules.

8. Refusal Of Registration Of Matters Not Brought In Conformity With Rules :-

When any matter presented in the Court is not brought in conformity with the requirements of the law and these Rules within the time prescribed or extended by the Registrar may pass an order refusing to admit the matter to the Register.

9. Revision Of Orders Of Registrar :-

Any party aggrieved by an order under Rule 8 may within 15 days from the date of the said order apply to the Court for revision of such order by a regular stamped application.

10. Conversion Of A Matter Of One Kind Into Another May Be Ordered By Registrar :-

Applications or notes for conversion of a revision application into an appeal or vice-versa or an appeal of one kind to another may be disposed of by the Registrar.

11. Amendments May Be Allowed By Registrar :-

Application for amendment of the memorandum of appeal or application for adding parties or grounds may be disposed of by the Registrar.

12. Matters Which May Be Dealt With By Registrar :-

In addition to the powers conferred upon him by the other rules and subject to such limitations as may be prescribed therein the Registrar may dispose of the following:

(a) Applications for orders under order XLI, rules 5, 6 and 10 of the Code of Civil Procedure

(b) Applications for correction of memorandum of appeals or applications as regards the description of the parties as majors or

- minors, Applications or notes for amendment of memorandum of appeals by correction of clerical or arithmetical mistakes, or deletions of names of parties.
- (c) Uncontested Applications to appoint or discharge a next friend or guardian ad-litem of minor or a person of unsound mind, except in cases of appeal to the Supreme Court, and to amend the record accordingly.
 - (d) Applications for the issue of notice to the proposed guardians or next friends of minors or lunatics.
 - (e) Applications for issue of a fresh notice or ordering a particular method of service of notice on a respondent.
 - (f) Applications for orders for substituted service.
 - (g) Applications for fresh notice where there is delay in presenting the application.
 - (h) Applications for entering on the record the names of the legal representatives of the deceased parties which are presented in time and in which there is no contest.
 - (i) Applications for leave to continue the proceeding under order XXII, Rule 10 of the Code of Civil Procedure.
 - (j) Notes filed by Advocates for calling for or sending back records and proceedings.
 - (k) Letters of Request or requisitions by subordinate Court for records and documents.
 - (l) Notes filed by Advocates for orders regarding withdrawal of appearances in cases which are yet to be notified on the weekly Board.
 - (m) Applications or notes for translations including notes and applications for excuse of delay in or for extension of time for presenting such applications or notes.
 - (n) Notes for extension of time for excuse of delay in payment or process fees, printing of translation charges etc. not paid within the prescribed time.
 - (o) Notes for excuse of delay in filing of affidavits or copies required by these rules or dispensing with the filing of such affidavits or copies of the proceedings are otherwise filed in time.
 - (p) Applications for certified copies in cases where such copies are not ordinarily granted without the permission of the Court.
 - (q) Requests for extension of time by lower Courts for certifying the record and proceedings with paper books in Civil and Criminal Cases.
 - (r) Request for extension of time in cases remanded for further evidence or findings on issues, except in cases where the date of

hearing is fixed by the court.

(s) Notes for extension of time in furnishing the security ordered by the Court.

(t) Notes for withdrawal of appeals or cross-objections.

(u) Notes by the office for additional deposits for the preparation of the transcript regard for purposes of appeal to the Supreme Court or notes by Advocates for reduction of the amount of deposit.

(v) Applications of notes for the return of documents on the record of or filed in any proceeding in the High Court.

(w) Applications to present an appeal or application as legal representatives of a deceased party or to present an appeal of application against the legal representatives of a deceased party when such representatives are not on record in the Lower Court.

(x) Applications or notes for withdrawal of appearances or deposit or withdrawal of moneys, or refund of court fees, or withdrawal of appeals or applications, or for consent decrees or order under Order XXIII, Civil Procedure Code, 1908.

13. Powers And Duties Of The Registrar :-

The Registrar may also:

(a) determine all questions relating to Court fees except there that are required to be dealt with by the taking officer appointed under the Court Fees Act;

(b) determine all matters regarding service or non-service, or defective service of any notice, or as to mode of service;

(c) sign all decrees, writs, judgments and orders by the Court;

(d) adjudicate on all refunds under these rules or under the Court Fees Act and under the notifications if any, issued there under;

(e) adjudicate on all disputes regarding the assessment of process fees;

(f) issue notice in all matters which are not required to be placed for preliminary hearing before the court;

(g) pass orders for placing before the court with the appeal or other substantive proceedings, applications to add additional ground in the memorandum of appeals or petitions or to additional evidence at the hearing.

(h) issue notices in applications for substitution of names in appeal to the Supreme Court;

(i) issue notices to the parties in references made to the High Court;

(j) exercise all the powers of the Court under Order XLV, Rule 8 of Code of Civil Procedure;

(k) fix another date in cases where the party served by affixing under Order VII, rule 22 or order VIII rule 12 read with order VII rule 22 of the Code of Civil Procedure has not appeared either through an advocate or personally on the returnable date and order the notice or process to be sent to the party by Registered post prepaid for acknowledgment.

(l) order payment of interest accruing on Government Promissory Notes deposited as security deposit under order XLV, rule 7 of the Civil Procedure Code or the Supreme Court Rules and to order the refund of any unexpended balance under order XLV, rule 12 of the Code of Civil Procedure;

(m) direct from time to time the deposit of funds for the conduct of the proceedings on behalf of minor respondents or opponents for whom guardians ad-litem have been appointed by the Court.

(n) order payment or refund according to the orders or directions of the Court of monies paid or deposited in this Court.

(o) order refund of such amounts from monies paid or deposited in this Court for any purpose which have not been utilised;

(p) call for reports from subordinate Courts regarding valuation of any property in respect of any proceeding in the High Court for the purpose of assessing the valuation for Court fees, stamp duty, costs, etc.

(q) decide whether filing of more than one copy of Judgment in case where two or more suits have been disposed of by common Judgment be dispensed with.

14. No Matter Under Rules 12 And 13 Should Be Placed Before Court Unless Ordered By The Court Or :-

(i) No matter falling under Rule 12 or 13 of this Chapter shall, without the permission of the court or unless referred by the Registrar under sub-rule (ii) of this rule, be placed before the Court.

(ii) The Registrar may, if he so deems fit, refer any matter falling under Rule 12 or 13 of this Chapter to the Court for orders.

15. Registrar Not To Extend Time Or Excuse Delay Exceeding Sixty Days :-

Subject to the provisions of the other rules, the period of time which may be extended or of delay which may be excused by the Registrar for or in doing anything which is required to be done by the rules in a particular time, shall not exceed sixty days.

16. Delegation Of Powers To Deputy Registrar, Special Officer Or Assistant Registrar :-

The Registrar may, with the previous permission of the Chief Justice, delegate any of the powers mentioned in rules 7 to 15 to Deputy Registrar, the Special Officer, or the Assistant Registrar.

17. Revision Of Orders Of Registrar, Deputy Registrar, Special Officer Or Assistant Registrar :-

Any orders passed by the Registrar, the Deputy Registrar, the Special Officer or the Assistant Registrar, under rules 10 to 15 above or any other rules shall be subject to revision by a single Judge upon a motion of the party aggrieved.

18. Powers Under Section 152, Civil Procedure Code :-

The Registrar, the Deputy Registrar, the Special Officer, the Commissioner for Taking Accounts or the Assistant Registrar may exercise all the powers of a Court under Section 152 of the Civil Procedure Code in respect of their own orders.

19. What Officers Can Administer Oaths :-

(1) The Registrar, the Deputy Registrar, and the Assistant Registrar may Administer oaths and solemn affirmations to deponents making affidavits.

(2) The Court Sheristedars may administer oaths and solemn affirmations to the witnesses deposing before the Court.

(3) Any Officer, not below the rank of Section Officer, as may be specially empowered by the Honourable the Chief Justice, may also administer oath and affirmation to deponents making affidavits.

20. Rules Applicable To All Applications Other Than Memorandum Of Appeals :-

The above rules apply mutatis mutandis to all applications and the term "appellant" shall include "applicant" or "petitioner" and the term "respondent" shall include "opponent".

21. Registrar Includes "Additional" Registrar And Joint Registrar :-

The word "Registrar" wherever it occurs in the High Court Rules shall include "the Joint Registrar" and "the Addl. Registrar". 1. Inserted vide Notification No. C-2002/93 dt. 18.6.1994, pub. in Guj. Govt. Gaz. , Pt. IV-C.

PART 2 PROCEDURE AND PRACTICE

CHAPTER 3 Affidavits

22. Entitling Of Affidavits :-

Every affidavit to be used in the High Court shall be entitled "In the High Court of Gujarat".

23. Entitling Of Affidavits Relating To Proceeding Pending In High Court :-

An affidavit relating to a proceeding pending in this court shall be entitled "In the matter of (state the proceeding and its number) and shall bear the short title.

24. Entitling Of Affidavits In Respect Of Cause Not In High Court :-

If there be no cause in the court, the affidavit shall be entitled "In the matter of the petition of."

25. Statement Of Facts To Be Divided Into Paragraphs And Numbered :-

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

26. Affirmation By Deponent From Knowledge And Belief :-

The deponent shall state in form of declaration with paragraphs or portions of his affidavit, he swears or solemnly affirms to from his own knowledge and what paragraphs or portions, he swears or solemnly affirms to on his information and belief and what paragraphs or portions, he swears or solemnly affirms to containing submissions of law.

27. Language If Not Known, Document Be Interpreted By Translation Department :-

(i) The officer administering the oath of affirmation for the purpose of affidavits shall satisfy himself that the language in which the affidavit is sought to be made is known to the deponent.

(ii) If the language is not known or understood by the deponent, the officer administering the oath or affirmation shall, where the deponent is represented by an advocate, require the said Advocate to certify in writing below the affidavit that the contents of the affidavit are interpreted to the deponent in a language known to him,

(iii) Where the party is not represented by an Advocate, the officer administering the oath or affirmation shall direct a translator from

Translation Department to interpret the contents of the document to the deponent on the payment of such fees as may be prescribed. The Translator interpreting the document shall certify below the document that its contents have been interpreted to the deponent in a language known to him.

(iv) When the officer administering the oath or affirmation is satisfied that the languages of the document is known or understood by the deponent, or when the advocate or the translator certified that the contents have been interpreted to the deponent in a language known to him, the oath shall be administered and the affidavit completed by the signature of the deponent below the declaration on oath in the presence of the Officer, and the certification by the Officer of the administration of the oath.

28. Identity Of Deponent :-

The officer, before administering oath or affirmation and certifying the affidavit, shall satisfy himself as to the identity of the deponent who shall be either known to the officer personally or identified before him a person whom he personally knows. The manner in which the identification is made shall be certified by the Officer administering the oath.

29. Oath To Be Administered Under Oaths Act :-

Subject to the provisions of Rule 26, all oaths in any judicial proceedings shall be administered according to the appropriate form given in the Schedule to the Oaths Act, 1961.

CHAPTER 4 PRESENTATION OF APPEALS AND APPLICATIONS

30. Presentation Of Proceedings :-

All matters which are to be instituted in the High Court shall be presented in the office of the [Registrar General]¹ to such person as the [Registrar General]¹ may by special or general order authorise ordinarily between [10:30 A. M. to 4:00 P. M.]² Matters presented on the last day of limitation, matters requiring urgent orders of matters presented by parties in person, may be accepted after [4:00 P. M.]² upon an order in that behalf made by the Assistant Registrar. Matters requiring urgent circulation for the next day should ordinarily be filed in the office before [2:00 P. M.].²
1[Substituted vide High Court Notification No. C. 2002/93, dated 24/10/2008. 2[Substituted vide High Court Notification No. C. 2002/93, dated 12/03/2010. 31. Presentation of proceedings in person by parties. - The presentation of any matter or proceedings

by the person not represented by an Advocate shall be made by such person personally.

31. A Norms For Presentation Of Proceedings In Person By Parties :-

(1) A Committee of two Officers of the Registry, who are working on deputation from the State Judicial Service, to be nominated by the Honourable the Chief Justice, shall scrutinise the matter/proceedings filed by Party-in-Person so as to ensure that the Party-in-Person has complied with the requirements of the Gujarat High Court Rules, 1993, and shall certify that the Party-in-Person is Competent to assist the Court in person.

(2) In case of a Party, who wishes to defend his matter/proceedings in person as respondent / opponent, the above Committee shall ensure and certify that such person is Competent to assist the Court in person.

(3) (a) If the certificate is not issued in both the cases mentioned at Norm No. (1) and (2) and the party-in-person is lawfully entitled to be referred to the High Court Legal Services Committee in accordance with law, the same will be referred to the Committee for offering legal services to the concerned litigant.

(b) If the concerned litigant is not entitled under law to get assistance of Legal Services Committee, he will be asked to appoint a lawyer to represent his case.

(4) The Party-in-Person shall give an Undertaking that he shall maintain decorum of the Court and shall not use objectionable and unparliamentary language during the course of hearing in the Court.

(4)(A) These Rules will not apply, if the concerned Court before whom the concerned litigant wants to move the matter, permits such litigant to appear in person. Provided further that these norms will not apply in cases of applications for temporary bail, parole, furlough and habeas corpus.

(5) The Party-in-Person shall file his matter/proceedings with the leave of this Honourable Court by filing an application in this behalf.

(6) If the Party-in-Person fails to abide by his Undertaking as above, Contempt Proceedings may be initiated against him or/and appropriate costs be imposed on him. "]

31A. Norms for Presentation of proceedings in person by parties :-

(1) A Committee of two Officers of the Registry, who are working on deputation from the State Judicial Service, to be nominated by the Honourable the Chief Justice, shall scrutinise the matter/proceedings filed by Party-in-Person so as to ensure that the Party-in-Person has complied with the requirements of the Gujarat High Court Rules, 1993, and shall certify that the Party-in-Person is Competent to assist the Court in person.

(2) In case of a Party, who wishes to defend his matter/proceedings in person as respondent / opponent, the above Committee shall ensure and certify that such person is Competent to assist the Court in person.

(3) (a) If the certificate is not issued in both the cases mentioned at Norm No. (1) and (2) and the party-in-person is lawfully entitled to be referred to the High Court Legal Services Committee in accordance with law, the same will be referred to the Committee for offering legal services to the concerned litigant.

(b) If the concerned litigant is not entitled under law to get assistance of Legal Services Committee, he will be asked to appoint a lawyer to represent his case.

(4) The Party-in-Person shall give an Undertaking that he shall maintain decorum of the Court and shall not use objectionable and unparliamentary language during the course of hearing in the Court.

(4)(A) These Rules will not apply, if the concerned Court before whom the concerned litigant wants to move the matter, permits such litigant to appear in person. Provided further that these norms will not apply in cases of applications for temporary bail, parole, furlough and habeas corpus.

Provided further that this Rule will not apply to an Advocate having registration of the Bar Council, who intends to appear in person.

32. Presentation Of Proceeding By Advocate :-

The presentation of any matter or proceeding on behalf of a party by an Advocate shall be made by such person personally or by another advocate on his behalf or by his recognised clerk.

32A. Section 32A :- (1) The presentation shall be in the Form prescribed as Appendix A hereto with the Advocates Checklist, Appendix B hereto, duly completed and signed by the advocate himself. A vakalatnama presented separately may be presented in Form C.

(2) The matter presented shall be registered and numbered subject

to compliance with the requirements.

(3) Notwithstanding anything to the contrary contained in these rules, no matter will be circulated for urgent orders, if it is-

(i) not with the above duly completed presentation Form A and Check List B;

(ii) not within limitation;

(iii) not with proper Court fees;

(iv) without-

(a) the full and proper Index, Chronology of Dates, Events and Documents;

(b) Formulated points;

(c) List of citations;

(d) Vakalatnama duly signed;

(e) English translation of accompaniments to appeal or application; unless the Court has by a written order on an application of the advocate, suspended/dispensed with for a definite time, the requirements of Sub-rule (3) The advocates shall comply with the requirements within such definite time, failing which the matter shall stand dismissed for non-prosecution, and ad-interim relief if any, granted, or any other order made, shall stand vacated automatically, unless the time granted earlier is extended on a fresh application.

(4) The presentation form, the check list and other forms may be added and/or modified by orders of the Chief Justice from time to time.

(5) The aforesaid Appendix A, B and C be placed at the end of the Chapter IV (and re-numbered the said three pages as page Nos. 27-A, 27-B and 27-C, respectively.)

(6) The provisions contained in Rule 32A shall also apply mutatis mutandis to criminal matters.

33. Production Of Vakalatnama By Advocate :-

An Advocate presenting an appeal or application shall (a) produce a Vakalatnama signed by the appellant or petitioners authorising him to do so and accepted by the Advocate in writing under his signature or (b) when he has appeared on behalf of the appellant or petitioner in the lower court, file memorandum of appearance signed by him stating that he was an advocate on record appearing on behalf of the appellant or petitioner and that he is authorised to present the appeal or application or (c) make a statement in writing that he has been authorised by the appellant or petitioner to

present the appeal or application with an undertaking to produce a regular Vakalatnama with in 2 weeks from the date of presentation. The address of the advocate shall be stated in such Vakalatnama, memorandum of appearance or statement in writing and any subsequent change in the Advocates address during the pendency of the appeal or application presented by him shall immediately be communicated by the Advocate to the Office. Communications sent by post by the office to the said address shall be presumed to have been received by the Advocate. It would not be necessary for an Advocate to file fresh Vakalatnama if he has filed the same in the lower court/courts on behalf of respondent/opponent provided he files a note of appearance in the concerned appeal in the High Court.

Explanation: -A separate Vakalatnama 1[* * * *] shall be filed in each of several connected proceedings notwithstanding that the same advocate is retained by the party in all the connected proceedings.

34. Vakalatnama To Bear Endorsement Of Acceptance By Advocate :-

Every Vakalatnama specified in rule 34 shall, before it is filed in the Court, bear an endorsement of acceptance signed by the Advocate concerned.

35. Power Of Attorney To Be Produced :-

When an appeal or application or other proceeding is presented by or on behalf of a person purporting to act as a power of attorney on behalf of a party, the power of attorney shall be produced at the time of presentation and file a certified copy of the said power of attorney with an appeal or application or other proceedings as the case may be.

36. Memoranda Of Proceedings By Advocates To Be In English :-

Memoranda of appeals or Application presented by Advocates shall be in the English language.

37. Memorandum Of Proceedings By Party May Be In Gujarati Or English :-

A memorandum of an appeal or application presented by a party personally shall be either in Gujarati or in English. APPEALS

38. Certified Copies Of Judgments Or Orders And Decrees Of Lower Courts To Accompany Appeals :-

Every memorandum of appeal shall be accompanied by certified copies of (a) the decree or order and (b) judgment under appeal and in the case of an appeal from an appellate decree also by certified copies of (a) the decree or order (b) Judgment of the trial court and (c) of the grounds of the appeal, and cross-objections, if any, in the lower appellate court 3[and (d) Pleading of the parties and the documents on which the reliance is placed shall also be supplied, alongwith such appeals, no documents shall be referred which is not produced alongwith the appeal].

39. Simple Copies To Accompany Appeals :-

When presenting any appeal, an additional typed copy or 4 [Clear legible] zeroxed copy of memorandum of the appeal, and in appeals which are required to be placed before a Division Bench, a set of typed copies of the judgments of the Lower courts paged in accordance with the certified copies, shall be supplied. [1 & 2 Deleted vide Notification No. C-2002/93 dt. 8.5.1995, pub. in Guj. Govt. Gaz. , Ext. Ord. , Pt. IV-C. , 22.5.1995(w. e. f. 5.6.1995).] [3 & 4 Added vide Notification No. C-2002/93 dt. 8.5.1995, pub. in Guj. Govt. Gaz. , Ext. Ord. , Pt. IV-C. ,22.5.1995 (w. e. f. 5.6.1995).]

40. Memorandum Of Appeal Or Cross-Objections To Show And Explain Value Of The Claim :-

The value of the claim in appeal or in cross-objections shall be shown in the memorandum of appeal of cross-objections at the time of the presentation of such memorandum and it shall, where necessary, be stated how the valuation has been arrived at.

41. Difference In Valuation In Lower Court And In High Court To Be Explained :-

When the court fee paid on, or the valuation stated in the memorandum of appeal differs from that paid or stated in the Lower Court, the difference shall be accounted for in foot-note to the memorandum of appeal at the time of the presentation of such memorandum and the party or the Advocate shall also at the same, time furnish all information and material necessary to explain the difference.

42. Accompaniments To Appeals In Execution Proceedings :-

Appeals in execution proceedings shall, in addition to the accompaniments prescribed, be accompanied by certified copies of application for execution and the decree or orders under execution

unless the filing of such copies is dispensed with by the Court.

43. Accompaniments To Appeals From Orders :-

Appeals from orders under Section 104 and Order XLIII, rule 1 of Code of Civil Procedure shall, in addition to the accompaniments stated above, be accompanied by certified or ordinary copies of all other relevant documents on which the appellants wish to rely, unless such copies or any of them are dispensed with by the court.

CIVIL REVISION APPLICATIONS

44. Accompaniments To Civil Revision Applications :-

(1) Every application in exercise of the revisional jurisdiction of the High Court shall be accompanied by a certified copy of the judgment and decree or order complained of, and if the order sought to be revised is an appellate decree or order or an order in a revision Application, by certified copies of the decree or order and judgment of the trial Court and grounds of appeal or revision application and cross objections, if any, in the lower appellate or revisional Court. 1[Pleadings of the parties and the documents on which, reliance is placed shall also be supplied alongwith such applications. No documents shall be referred which are not produced alongwith the application].

(2) Every application in exercise of the revisional jurisdiction of High Court directed against orders passed in summary suits on summons for judgment shall, in addition to accompaniments to be filed under Rule 44(1), be accompanied by copies of the plaint, affidavit in reply and affidavit-in-rejoinder if any, such copies shall be certified to be true copies by the advocate for the petitioners and by the party in person, if the petitioner is not represented by an Advocate.

45. Statements Of Facts In Revision Applications To Be Supported By Affidavits :-

Every fact stated in an application for the exercise of the revisional jurisdiction not set out in the order or judgment sought to be revised shall be supported by an affidavit.

46. Period Of Limitation For Revision Applications :-

(i) Applications for the exercise of the revisional jurisdiction of the High Court for which no period of limitation is prescribed by any law, shall be presented within 90 days from the date of the decree or order sought to be revised.

(ii) The provisions of Sections 4, 5 and 12 of the Limitation Act, 1963, shall apply to the Revision applications mentioned in sub-rule (i) above.

47. Accompaniments To Revision Applications Against Interlocutory Orders :-

Revision applications against interlocutory orders shall, in addition to the accompaniments prescribed in rule 44 be accompanied by copies of all other relevant documents on which the applicant wishes to rely, unless such copies or any of them are dispensed with by the court.

APPLICATION FOR REVIEW

48. Accompaniments To Review Applications :-

(i) Every application for review shall be accompanied by a typed copy of the judgment and decree or order sought to be revised, and in a case where a review application is required to be heard by a Division Bench by two sets of two such copies which shall be certified to be true copies by the Advocate for the applicant and by the party in person if the applicant is not-represented by an advocate.

(ii) When an application for review proceeds on the ground of discovery of fresh matter or evidence, the documents, if any, relied upon, shall be annexed to the application, with a list in Form No. 5, in Appendix H, Schedule I of the Code of Civil Procedure, together with an affidavit setting forth the circumstances under which such discovery has been made.

CIVIL APPLICATIONS

49. Affidavits In Respect Of Applications Other Than Revision Applications And Registrars Power To Dispense With Affidavits :-

(i) All Civil Applications shall be supported by affidavits.

(ii) The Registrar may by general or special order dispense with affidavits in particular cases, or particular classes of cases, except in Special Civil Applications under Articles 226, 227 and 228 of the Constitution.

GENERAL

50. Provision Of Law Under Which Appeal Made To Be Stated :-

The provision of law under which an appeal or application is made

shall be stated prominently at the top of the memorandum of appeal or application at the time to its presentation.

51. Parties In Appeals And Applications :-

(i) All parties to the proceedings from which the appeal or application arises shall ordinarily be made parties to the Appeal or Application. If any such party is not made a party to the appeal or application, an explanation in this regard shall be made in a foot note below the memorandum of appeal or application.

(ii) If any person who is not a party on the record of the proceedings in the Lower court, is made a party to an appeal or application against any decree or order in such proceedings, the appeal or application shall be accompanied by a regular stamped application supported by affidavit for making such person a party to the appeal or application.

(iii) The provision of Sub-rule (ii) above, shall apply where the legal representatives of any party who has died pending the presentation of the appeal or application were not brought on the record of the proceedings in the Lower court but are made parties to the appeal or application.

52. Registrars Power To Dispense With Supply Of Certified Copies Of Judgments, Orders Or Decrees :-

The Registrar may dispense with the filing of certified copies of judgments, orders or decrees which are required to be filed under these rules when such copies or the original thereof are already on the record of the High Court.

53. English Translation To Be Supplied When Prescribed Accompaniments Are Not In English :-

When any of the accompaniments to an appeal or application are not in the English language, typed copies of translations of such accompaniments 1[****] except decrees certified to be true translations by the Advocate or by an authorised translator shall be annexed there with.

54. Neat Copies To Be Supplied When Original Accompaniments Are Hand Written Or Illegible :-

If any of the original documents or certified copies presented with an appeal or application are hand written or not legibly typed, clear and neatly typed copies thereof shall be supplied with the memorandum of the appeal or application.

55. Documents Or Copies Produced Or Supplied By Advocates Or Parties To Be Neatly Typed And Clearly Legible :-

(i) All memoranda of appeals and applications, affidavits, copies and notes supplied by the Advocates or parties, whether for the use of the court or for service on opposite parties, shall be neatly typed on durable foolscap paper leaving a margin of 2 inches, whenever copies are supplied, such copies shall correspond page to page with the original.

(ii) In every Court matter, i. e. appeals/Civil revision applications/ review applications/Civil applications (other than revision applications), the appellant/petitioner/or applicant as the case may be shall file a sheet of a copy of title of respective appeal memo/petition/or application etc. in duplicate.

56. Office May Refuse Illegible Or Badly Typed Copies And Judgments :-

The office may refuse to accept any such papers which are not typed and prescribed or which do not conform to the requirements of Rule 55 above and such office objection shall be removed or complied within time prescribed in the rule.

57. Statement Of Registered Addresses Of Opposite Parties :-

Every memorandum of appeal or cross-objections or application arising from a suit or proceeding to which the Code of Civil Procedure applies, shall set out in the title the last Registered Addresses of the Opposite parties i. e. the addresses for service given by opposite parties in the Court below under the provisions of Rules 19 to 24 of Order VII or Rules 11 and 12 of Order VIII Civil Procedure Code.

58. Appellant Or Applicant To State His Registered Address :-

The appellant, the applicant or the respondent filing cross-objections shall state in the memorandum of appeal or application or crossobjection his address at which service of notices, at summons copies or other process may be made on him. Such address shall be deemed to be his Registered address under the provisions of Rules 19 to 24 or Order VII and Rules 11 and 12 of Order VIII of Code of CM1 Procedure.

59. Certificate From Mamlatdar To Accompany When

Exemption From The Court Fee Claimed :-

When any memorandum of appeal or cross-objections or application, or Vakalatnama or certified copy is presented by or on behalf of a person who claims exemption from payment of court fees or processfees on the ground that he belongs to a Scheduled Tribe exempted from payment thereof under any Government Notification, he shall produce at the time presenting it a certificate from the Mamlatdar or other competent authority certifying that he belongs to such Scheduled Tribe:

Provided that when such a certificate has been produced in the Court below he may produce a certified copy thereof.

60. Separate Civil Application For Excuse Of Delay In Presentation, To Accompany Memorandum Of Appeal Or Cross-Objections :-

When a memorandum of an appeal or cross-objection or revisional application is presented beyond the time prescribed for the presentation thereof by any law or rule for the time being in force, a regular stamped application for excuse or delay setting out the grounds on which the delay is sought to be excused shall be made. Such an application shall be supported by an affidavit.

61. Statement As To Previous Appeal Or Application In The High Court :-

A party or Advocate presenting a memorandum of crossobjection or application shall state therein whether any other appeal or memorandum of cross-objections or application has been filed by him in respect of the same matter and if filed, how that appeal or memorandum of cross-objections or application has been disposed of and how the appeal or cross-objections presented is competent.

62. Application Or Amendment To Be Accompanied By Particulars :-

Every application or note for amendment of the memorandum of appeal, cross-objections or application shall be accompanied by a typed draft stating precisely the amendment sought to be made.

CHAPTER 5 PROCEDURE AFTERPRESENTATION, REMAND OF OFFICE OBJECTIONS, ETC.

63. Cancellation Of Stamps :-

The stamps on all appeals, applications and other documents presented in the office shall be cancelled on the date of presentation or within a reasonable time from the date of

presentation, but invariably before the document is filed or registered.

64. Inquiry Regarding Sufficiency Of Court Fees :-

When the court fee paid on an appeal is found to correspond with the court fee paid and accepted in the court below, no further enquiry need be made unless from the paper filed with the appeal, or on account of any amendment of the law relating to court fees, it appears that the court fee has not been correctly assessed on the appeal and that a stamp of different amount is required on the appeal.

65. Procedure For Examination Of Proceedings By Office Before Registration :-

(i) Every Civil Appeal or Application or Memorandum of crossobjections filed in any appeal shall be examined by the office as soon as possible after it is presented and the examination shall be completed within ten days from the date of presentation, provided that, in respect of the matters presented in the first week on the re-opening of the High Court after the summer vacation, the examination may be completed within twenty one days of the date of presentation.

(ii) When the office finds that such appeal or application or memorandum of cross-examinations is incomplete or that there are other objections to the registration of the same, the office shall, as soon as the examination is complete, prepare in duplicate a memorandum of all such objections. Where the objection relates to the valuation of the claim in any memorandum of appeal or cross-examinations or in any application, or to the court fee to be paid thereon any copy of a document presented therewith, the office shall state what in its opinion is the correct valuation and what is the correct amount of court fee payable.

(iii) (a) When the duplicates of the memorandum of objections prepared under sub- rule (ii) above in any matters are ready, the office shall within two days put up on the Notice Board a notice showing all such matters by their Stamp number, the District form which each matter arises and the name of the Advocate appearing in each matter. The notice shall bear the date on which it is out on the Notice Board and require the Advocates concerned to take delivery of the duplicates of the memorandum or objections from the office and to remove the objections with in 15 days from the date of the Notice. The date of the notice shall be prominently noted in the presentation form. A copy of the notice shall be

supplied to the Gujarat High Court Advocates Association. The posting of the notice on the Notice Board shall be deemed to be sufficient notice thereof to the Advocates and the parties. Save as otherwise provided in these rules all the office objections shall be removed within 15 days from the date of the notice.

(b) A party not represented by an advocate presenting a memorandum of appeal, cross objections or application shall give an undertaking in writing on the presentation form to attend the office on a day stated by the office for receiving a copy of the memorandum of office objections. The office shall keep the duplicate copy of the memo of office objection ready and deliver it to the party if he attends on the stated day. If the party fails to attend on the day stated, the office shall immediately put up a Notice as prescribed in clause (a) of the Rule and the same obligations and consequences shall follow on the putting up of the notice as are specified in the said clause (a).

(iv) (a) If the advocate does not remove the office objections within the time prescribed under sub-rule.

(iii)(a) of this rule, the office shall place the matter before the court not later than a week after the expiry of the said period.

(b) The Court may grant extension of time for or excuse delay in removing office objections having regard to the provisions of the Order XLI Rule 11A of the Code of Civil Procedure.

(v) When the last day for removing any office objections falls during a vacation, it shall be removed on or before the reopening day after the vacation.

66. Office Objections Regarding Filing Of Decree Of Order For Valid Presentation :-

The office shall note in particular whether a copy of the decree or order against which an appeal or application is presented and which is a necessary accompaniment for the valid presentation of the appeal or application is presented within the period of limitation prescribed for such an appeal or application. If the office finds that such a copy is not presented within the period of limitation prescribed for an appeal or application, the office shall make a note of objection that such appeal or application showing sufficient cause as contemplated by Rule 60 has been presented, it shall issue notice in the manner prescribed in Rule 65 (iii) (a) above. Such objection shall be dealt with in the manner prescribed in Rule 67 below.

67. Procedure In Regard To Office Objection As To

Limitation :-

(i) When an appeal, application or memorandum of crossobjection is presented after the expiry of the period of limitation specified therefore, shall be accompanied by separate application for condonation of delay.

(ii) If objection is raised by the office to the registration of an appeal or application or memorandum of cross objections on the ground of its being beyond time, a separate regular stamped application for excusing delay in presenting the same shall be made within 15 days from the date of the notice under Clause (a) or as the case may be, clause (b) of sub-rule (iii) of Rule 66 above, or where the duplicate of the office objections has been delivered to the party in person under clause (b) of the said sub-rule (iii) from the date of receipt thereof by him, failing which the office shall place the matter before the court for orders not later than a week after the expiry of period prescribed under sub-rule (iv) (a) of Rule 65.

(iii) Notwithstanding that the objection as to delay in filing the matter has not been finally decided, the party or Advocate shall be required to remove all other objections within the time specified in sub-rule (iii) of rule 65.

(iv) If no application for excuse of delay or note for revision of the Registrars order is filed within 15 days from the date of the order of the court under sub-rule (iii), the matter shall without any delay, be placed for orders before the Registrar and the Registrar shall pass orders refusing to Register the matter.

(v) When an application for excusing delay is made under any of the provisions of this Rule, the Appeal or application shall be registered provided no other objection survives.

68. Procedure In Cases Of Objection Relating To Deficiency Of Court Fee :-

(i) When notice has been given under sub-rule (iii) of Rule 65 of objection in regard to valuation or deficiency of court fee to be paid on any memorandum of appeal or crossobjections or on any application or with the application, the party or the Advocate shall, unless, he accept the correctness of the office objection, state in writing endorsed on the date of the notice under clause (a) or as the case may be clause (b) of sub-rule (iii) of Rule 65 above or where the duplicate of the office objections has been delivered to

the party in person, under clause (b) of the said sub-rule (iii) from the date of the receipt thereof by him that he disputes the same.

(ii) If the endorsement of the dispute is not made within the time specified in sub-rule (1), the office objections relating to valuation and court fee shall be deemed to have been accepted by the party or Advocate concerned, unless the Registrar, on a regular application, duly stamped made within 15 days from the expiry of the period prescribed in sub-rule (i), excuses delay and grants leave to dispute the said office objections.

69. If No Dispute Payment Of Deficit Court Fee :-

If the party or the Advocate accepts or is deemed to have accepted the correctness of the office objection regarding court fee and valuation, he shall remove the same within the time specified in rule 65, and if the deficit court fees is not paid or the valuation is not corrected, as the case may be, within the time specified, the procedure prescribed in Chapter XII shall be followed.

70. Dispute Regarding Court Fee To Be Referred To The Taxing Officer :-

(i) If the party or the Advocate make an endorsement as prescribed in Rule 68(i) or is granted leave by the Registrar under Rule 68 (ii) or by the Court to dispute the correctness of the office objections, the dispute shall be referred to the Taxing Officer, for his decision within seven days or the endorsement or the leave granted by the Registrar or the court as the case may be. However that the party or the advocate, shall remove all objection except that relating to court fee and valuation within the time specified in Rule 65, failing which the procedure prescribed in Chapter XII shall be followed. .

(ii) When a matter has been referred to the Taxing Officer under sub-rule (i) above and he decides that there is a deficiency in the court fee paid or defect in the valuation, stated, the party or his advocate shall, if the decision is not disputed, pay the deficit court fee or rectify the valuation according to the decision of the Taxing Officer within 15 days from the date on which the said decision is communicated to such party or Advocate. Any decision of the Taxing Officer adverse to the Government revenue in any matter in which Government is not the disputing party shall be communicated to the Government Pleader immediately.

(iii) When a party or an Advocate disputes, and intends to apply in Revision against the decision of the Taxing Officer, under section 5(2) of the Bombay Court Fees Act, 1959, he shall within 15 days

from the date of the communication of the said decision of the Taxing Officer, state in writing that he is filing an application for revision thereof. If no such writing is given within the said period of 15 days, it shall be deemed that the decision of the Taxing Officer is accepted and the matter shall be dealt with accordingly.

(iv) When an application for revision of the Taxing Officers decision has been made, it shall be notified for hearing before the Court within 10 days from the date of its filing and the deficit court fee, if any, payable under the orders of the Judge deciding the said application, shall be paid and the valuation rectified within 4 weeks from the date of the order of such time as the Judge may allow.

71. Registrar To Refuse Registration When Deficit Court Fee Not Paid In Time :-

If in the case contemplated in sub-rules (ii), (iii) and (iv) of rule 70 above, the deficit court fee is not paid or the valuation not rectified within the time prescribed or enlarged under Sec. 148 of the Code of Civil Procedure, the appeal, memorandum of cross objections or application shall be placed within seven days before the Registrar for orders and the Registrar shall pass orders refusing registration of the appeal, cross-objections or application under Rule 8 of Chapter II of these Rules.

72. Re-Examination On Conversion Of Nature Of Proceeding :-

When a proceeding of one kind-is, before it is admitted to the register, converted into a proceeding of another kind under the order or with the permission of the court or the Registrar the office shall prepare a fresh memorandum of objection in regard to the converted proceeding, as if the converted proceedings was presented on the date of its conversion and the procedure prescribed under Rules 65 to 71 above shall apply to such converted proceeding:

Provided that no office objections shall be taken to the converted proceeding on the ground that on the date of its conversion it was barred by limitation.

73. Refund Of Excess Or Exempted Court Fee :-

(i) If while assessing the court fee payable in accordance with the preceding rules, or the Court Fee Act or the law for the time being in force relating to court fee, it appears that stamp of a greater value than is required has been affixed to the memorandum of

appeal, cross objections or application, a refund certificate for the excess shall, after obtaining the order of the Taxing Officer, be granted to the party or the Advocate concerned before admitting the matter to the appropriate register.

(ii) If as a result of one kind or proceeding being converted into another under the order or with the permission of the court or Registrar, a lower Court, fees becomes payable on the converted proceeding, a refund certificate for the amount of difference in the amount of court fee paid on the original proceeding and that payable on the converted proceeding shall, after obtaining the order of the Taxing Officer, be granted to the party or the Advocate concerned before admitting the converted matter to the appropriate register.

(iii) if it is found that in any case a party entitled to any statutory exemption in respect of court fee has paid any court fee, which the party was exempted from paying, a refund certificate for the amount of court fee covered by the exemption shall, after obtaining the order of the Taxing Officer, be granted to the party or the Advocate concerned before admitting the matter to the appropriate register.

(iv) When a matter in which a refund certificate should have been issued under sub-rules (i), (ii) and (iii) above, has been registered before the issue of the refund certificate, the Registrar may on a note filed by the party or the Advocate concerned, issue the necessary refund certificate on the Taxing Officer certifying that the refund is admissible under this rule.

(v) No refund certificate for a sum less than Rs. 10/- shall be granted under this rule in any one case.

(vi) Whenever a refund certificate is granted in respect of the whole or a part of any court fee, a statement of the amount refunded shall be endorsed under the signature of the Registrar on the document to which such stamps is affixed.

74. Registers For Classes Of Proceedings :-

The office shall maintain a separate register for each of the following classes of proceedings for each calendar year: -

- (1) First Appeals.
- (2) Second Appeals.
- (3) Letters Patent Appeals.
- (4) Appeals from Orders.
- (5) Civil Revision Applications.
- (6) Special Civil Applications under Articles 226, 227 and 228 of the

Constitution.

(7) Civil Applications for interlocutory orders.

(8) Miscellaneous Civil Application.

(9) Civil References.

(10) Proceedings under the Companies Act.

(11) Register of cases withdrawn before registration or in which registration is refused or which are dismissed for default or non-prosecution before registration.

(12) Presentation and Stamp Register.

(13) Register of Affidavits.

(14) Register of process fees and printing charges.

(15) Register of Applications for taking down simple copies and for search.

(16) Register of refund of court fees, process fees and printing charges.

(17) Register of sale proceeds of prints.

75. Registration Of Proceedings :-

When all office objections are removed, order shall be taken from the Assistant Registrar for admission of the matter to the file after which the matter shall be immediately entered in the appropriate register. Such matters shall be entered in the register and shall be numbered in accordance with the serial numbers of the sequence of the entries in the register.

76. Registration Of Appeals Under Special Acts :-

Appeals presented under Special Acts, such as the Indian Succession Act XXXIX of 1925, the Guardians and Wards Act, VIII of 1890 etc. shall be registered in the ordinary way as First or Second Appeals, as the case may be. The office shall, however, permanently note on the title sheet and farad the name of the Act or Acts under which the appeal or application is filed which shall also be entered in the register.

77. Section 77 :-

78. Removal Of Objections In Matters Registered :-

(i) Notwithstanding anything contained in these rules, when any matter placed before the Court under rule 77 above, is admitted, the office shall notify all the office objections within 7 days from the date of the order of the court admitting the matter and the advocate or party shall remove all the objections within 15 days from the date when the same are notified. If any interim relief is granted by the Court in such matter, the Office shall prepare the

memorandum of office objections and notify the office objections forth with and in any case not later than the day next after the day of the order of the Court and the Advocate or party shall remove all office objections within 15 days from the date of such notification, failing which the matter shall be placed before the Court which may extend time for removal of office objection, dismiss the matter for want of prosecution or discharge the stay, injunction or other interim relief granted or pass such other order as it may deem proper.

(ii) When no interim relief has been granted by the Court in any such matter, and if office objections are not removed within the time permitted, the procedure prescribed in Chapter XII shall be followed.

(iii) If any matter placed before the Court under rule 77 above is summarily dismissed by the Court, all office objections excepting the objection relating to court fees or valuation for Court fees may be waived by the Registrar.

79. Return Of Papers When Registration Refused :-

Whenever registration of any appeal, memorandum of cross-objections or application is, for any reason refused by the Registrar, or the appeal, memorandum of cross objections or applications dismissed for default or allowed to be withdrawn before it is registered, the papers, excepting the memorandum of appeal, cross objections or application and Vakalatnama, may, on the request of the advocate or the party who presented them, be returned after making an entry in the Register of cases withdrawn before registration or in which registration is [1. Deleted vide Notification No. 2002/93. dt. 8.5.1995. Pub. in Guj. Govt. Gaz. , Ext. Ord. , Pt. IV-C, dt. 22.5.1995 (w. e. f. 5.6.1995).] refused. The remaining papers shall be sent to the Record room and classified as C paper for destruction in due course.

80. Recovery Of Deficit Court Fees Matters Registered Subject To Office Objection Summarily Dismissed :-

(i) When any matter registered subject to office objections under rule 77 above is summarily dismissed, any deficit court fee found to be payable therein shall be paid within the time prescribed in rules 69 and 70 in this chapter, or within such time as the Court may, on a regular application filed in this behalf, grant for payment of the same.

(ii) If the deficit court fee is not paid with in the time prescribed

above, if any, on a certificate of the Registrar, be recovered as an arrear of land revenue from the appellant or applicant with the permission of the Chief Justice.

(iii) If deficit court fee is not paid, despite undertaking given by the advocate as provided in Rule 77, the matter shall be placed before the Court for appropriate action.

CHAPTER 6 APPEALS UNDER CLAUSE 15 OF THE LETTERS PATENT

81. In All Letters Patent Appeals, The Following Paper Shall Be Filed :-

1. Memorandum of Appeal and a copy thereof; and
2. Two sets each containing copies of-
 - (a) Judgment of the High Court,
 - (b) Memorandum of Appeal, Petition or Application before the High Court as the case may be, and
 - (c) Judgment of the subordinate Court, if any:

Provided that if any of the document referred herein above has already been included in a print copies of the same may not be supplied.

82. Appeals To Be Placed Before Division Bench For Admission :-

Appeals under clause 15 of the letters patent including appeals arising out of the provisions of Companies Act, 1956 shall be placed for preliminary hearing before division Bench.

83. No Fresh Vakalatnama Where Advocate Appeared In Original Proceeding :-

An advocate who appeared in the original hearing may appear in Letters Patent Appeal without filing fresh Vakalatnama.

84. Provision Of Order Xli, Cpc And Rules Re: Regular Appeals To Apply To Letters Patent Appeals :-

Except as otherwise provided in this Chapter, the provisions of order XLI of the Code of Civil Procedure and the rules herein contained applicable to regular appeals shall apply to Letters Patent Appeals.

CHAPTER 7 Processes, Process fees, Printing charges, Security for costs, and other procedure after admission - Check?

85. Taxing Of Process Fees :-

The office shall tax process fees (and also printing charges),

- (a) within 7 days from the date of the order directing notice or rules to issue, in ordinary cases,
- (b) immediately on the removal of office objections, in matters admitted subject to office objections, and
- (c) immediately on the passing of the order by the Court in matters where exparte interim orders are passed, or in matters where the court has ordered Notice or Rule to be heard on a day or within a specified time fixed by the Court.

86. Payment Of Process Fees Supply Of Copies Of Memorandum Of Appeal And Petition And Communication Of Stay Orders Etc :-

- (i) The appellant or the applicant shall pay the process fees:
 - (a) Within 15 days from the date of the order directing notice or rule in ordinary cases.
 - (b) Within 3 days from the date of the removal of the office objections, in cases where the matter has been admitted subject to office objections, and
 - (c) Immediately on the passing of the orders in matters where orders of the nature referred to in rule 85(c) are passed.
- (ii) In cases where process fees have been taxed before the office objections are removed, the taxing shall be subject to revision by the office after the office objections have been removed, and the excess paid, if any, shall subject to Rule 97 below, be refundable, and the deficiency, if any, shall have to be made good by the appellant or the applicant or his advocate within 3 days from the date of the revised taxation by the office.
- (iii) In Appeals, Civil Revision Applications, and other substantive applications, the appellants or applicants shall, alongwith process fees and also the postal charges for service of notice by Registered Post Acknowledgment due and within time prescribed for the payment thereof, supply as many copies of Memorandum of Appeal or Application together with copies of Affidavits, if any, as there are respondent or opponents. The Registrar may, if in the circumstances of the case consider service by Registered Post A. D. as unnecessary or in any other appropriate case, dispense with payment of postal charges for service of copies by Regd. Post A. D. and grant leave to file lesser number of copies.]
- (iv) Except in matter where exparte interim orders have been communicated by writ or otherwise or in matters where the rule is made returnable on a date or within a period specified by the

Court, the Registrar may grant time or excuse delay not exceeding 15 days in expedited or short notice matters and 30 days in other matters. If the process fees are not paid or copies are not supplied within the time granted the procedure prescribed in Chapter XII shall be followed.

(v) In matters where *ex parte* interim orders have been communicated by writ or otherwise, or in matters where the rule is made returnable on a date or within period specified by the Court, the Registrar may condone delay not exceeding 3 days in payment of process charges and supply of requisite copies for service. If the process fees are not paid or requisite copies for service in such cases are not supplied within three days, the matter shall, be placed before the Court immediately.

(vi) No communication of any *ex parte* interim order shall, unless otherwise ordered by the Court, be sent by writ or otherwise to the lower Court, Tribunal or authority or to the opposite party unless the requisite process fees are paid.

(vii) In matters referred to in rule 85 (c), the office shall, as soon as process fees are paid and requisite number of copies for service are supplied, issue notices or writs immediately, irrespective of whether the office objections have been removed or not.

87. Date Of Hearing In Notice To Respondent Or Opponent

:-

Subject to such general or special order as may be made by the Registrar, the date to be entered in the notice to a respondent or an opponent as the earliest possible date of hearing shall unless otherwise ordered by the Court, be not less than three months from the date of issue of the notice in First Appeals, two months in Second Appeals and one month in Short Notice or Expedited matters.

88. Service Of Notice On Respondent Residing In Ahmedabad City :-

In any proceeding when a respondent or opponent is to be served within the Municipal limits of Ahmedabad City, the notice may be served upon him or his agent empowered to accept the service, either by Registered Post Acknowledgement Due or by speed post or by such Courier services as are approved by the High Court or by any other means of transmission of documents which includes fax message or electronic mail service or personally through the Registrar, Small Causes Court, Ahmedabad. Provided that the service of notice under this rule shall be made at the expenses of

the concerned party.

89. Service Of Notice On Respondents Outside Ahmedabad City :-

Notices for service outside the Municipal limits of Ahmedabad City may be sent direct to the Subordinate Court and not through the District Court 2[or may be served by Registered Post Acknowledgement Due or by speed post or by such Courier services as are approved by the High Court or by any other means of transmission of documents which includes fax message or electronic mail service].

90. Notices To Be Addressed To The Registered Address Of The Party To Be Served :-

Notice in appeals and applications arising from proceedings to which the Code of Civil Procedure applies, and in which the parties have supplied their registered addresses, shall be sent to the Registered Addresses of the parties to be served.

90A. Notices To Be Given To The Party For Service :- The Court may, in addition to the service of notice under Rule 88 and 89, on the application of any party, permit such party to serve the notice on the other side]. [1,2 &3. Substituted, Added & Inserted vide Notification No: 2002/93. Dt. 28/8/2003. Pub. in Guj. Govt. Gaz. , Ext. Ord. , Pt. IV-C, dt]

91. Procedure When Notices Returned Unserved, Or Served By Affixing :-

(a) If a notice to a respondent or opponent is returned unserved, or is returned served by affixing at the registered address, the following procedure shall be adopted. The office shall on the first working day of the week, place on the Notice Board under the signature of the Assistant Registrar a list showing the notices that have been returned unserved and those that have been returned served by affixing at the registered addresses.

The list shall state: -

- (i) the number of the proceeding,
- (ii) the name of the Advocate for the appellant or applicant,
- (iii) the name of the person whom the notice has been returned unserved or served by affixing, showing the designation as opponent or respondent, and where he is reported to be dead, a

statement to that effect,

(iv) the date on which the unserved notice was received in the office,

(v) Deleted.

The publication of this list on the Notice Board shall be deemed to be sufficient intimation to the appellant or applicant, as the case may be, of non-service or of service by affixing the notice. A copy of the list shall be given to the Advocate Association for its use.

(b) Within one month of the publication of the list mentioned above in case of an unserved notice the Advocate or party shall file a regular stamped application for issue of fresh notice at a different address but where the notice is served by affixing he shall supply postal stamps to cover the postal and registration charges.

(c) Delay in taking action under sub-rule (b) of this rule, may be excused by the Registrar up to a maximum of 15 days in expedited or short notice matters and of 30 days in other matters and if no application is made or postal stamps supplied within such period, the procedure prescribed in Chapter XII shall be followed.

(d) In cases where a notice is returned unserved reporting the death of the party to be served and where no action is taken to bring the heirs of the deceased party on record within 90 days from the date of the publication of the list under this rule, the matter shall be placed before the Registrar for orders regarding the abatement of the appeal or application as against deceased party.

92. Name Of The Respondent Or Opponent Struck Off When No Action Taken By An Advocate To Serve Notice :-

When process fees for service of notice on respondent or opponent are not paid or when no action is taken within the time prescribed when the notice is returned unserved or served by affixing and the Advocate states in writing that he does not desire to take any action for issue or re-issue of notice, the matters shall be placed before the Registrar who may order that the name of such respondent or opponent be struck off.

93. Kind Of Applications To Bear Process Fee In Addition To The Prescribed Court Fees :-

The following application shall bear in addition to the Court fee prescribed for such applications, the prescribed process fee for service of rules or notice on the parties concerned: -

(1) Application for fresh notice.

(2) Application for appointment of a guardian ad litem or substitution of a next friend of a minor or lunatic.

(3) Application for service as majors on parties shown as minors.

94. Refund Certificate In Respect Of Unutilised Or Excess Stamps :-

In cases where the stamps paid for process fee remain unutilized either because the service of the notice has become unnecessary owing to the voluntary appearance of the party to be served or for some other reason, and in cases where by mistake stamps of a greater value than necessary have been affixed by way of process fee, a refund certificate shall be granted to the party or his Advocate entitling him to the refund of the value of the stamps or the excess stamps, as the case may be:

Provided

(i) the amount to be refunded is not less than Rs. 10/-and

(ii) a note or motion for refund is made before the final disposal of the case concerned:

Provided further that such unutilized or excess Court fee may be utilized for the purpose of process fee for any other process in the same proceedings. PRINTING

95. Printing Of Appeal Paper Book And Supply Of Copies Where Printing Is Disposed With :-

(i) In appeals other than those mentioned in sub-rule (11) below, the title-sheet, the substance and the grounds of appeal in this Court together with any note as valuation made by the Advocate or the party below the memorandum of appeal, and the judgment of the lower court (and in the case of appeals from appellate decrees, the grounds of appeals from appellate decrees, the grounds of appeal or cross-objection, if any, in the lower appellate court and the judgment of the trial Court) shall be got printed in the order mentioned. Cross objections in appeals in which printing is required shall also be printed and shall be placed immediately after the grounds of appeal in this Court.

(ii) Printing shall be dispensed with in Appeals from Order, Appeals under the Special Act and expedited specially fixed Appeals.

(iii) The Registrar may dispense with the printing of formal judgments, in group matters where the reasons are given in the judgment in the main matter and in Cross appeals or Joint appeals, where the judgment is to be printed in the main appeal. Notwithstanding the printing of the formal judgment being dispensed with under this Rule or filing of certified copy of the judgment being dispensed with under any other Rule, full printing

charges of Rs. 75/- shall be levied from the appellant in each appeal other than the appeal in which the main judgment is printed. The office shall indent for the printing of sufficient number of copies in the main matter for being supplied to all the parties in group Appeals.

(iv) The court may on the motion of any party dispense with printing in appeals in which the printing is prescribed by this rule. In appeals where the printing has been dispensed with by the order of the court and in appeals where printing is not prescribed under these rules, the appellant shall unless otherwise ordered by the Court supply to the office four typed paper books containing the paper specified in sub-rule (1) in the order therein mentioned, provided that where sets of paper books have been supplied by the appellant in a Letters Patent Appeal either at the stage of admission or after the grant of certificate under the Letters Patent, he shall not be required to file any further paper books under this clause. The office shall prepare three separate copies of title sheets, the substance and the grounds of appeal together with the grounds of cross objection if any, for the engrossing of the decree and the Farad. On payment of Rs. 25/- the paper books and the copies shall be typed on the thick bond paper and supplied within two months of the order directing notice to issue or the order dispensing with printing or within such time as the court may direct.

(v) Where printing is dispensed with by an order of the Court on the motion of the respondent the Court may direct the respondent to furnish the paper books and copies referred to in sub-rule (iv) in which case the party so directed will supply the paper books and the copies in the manner and within the time mentioned in sub-rule (iv).

(vi) The party concerned shall in addition furnish to each of the Advocates appearing for the opposite parties a copy of the paper book neatly typed on foolscap paper, and where the opposite parties appear in person, deposit in the office such copies for the use of each of the opposite parties.

(vii) Delay in complying with sub-rules (iv) to (vi) may be excused by the Registrar up to a period of one month in case of expedited matters and two months in other matters. If copies of the paper books are not supplied within this time, the procedure prescribed in Chapter XII shall apply.

96. Costs Of Printing, Payment Of Costs, Consequences Of Failure To Pay :-

(i) The appropriate party shall, within 15 days of the date of the order directing the issue of notice or of the date of admission, as the case may be, pay in Court Fee-Stamps for cost of printing Rs. 75/- per appeal and Rs. 25/- per memorandum of cross-objections.

(ii) The registrar may grant time or excuse delay not exceeding 15 days in expedited matters and 30 days in other matters and if the printing charges are not paid within this time, the procedure prescribed in Chapter XII shall apply.

(iii) If the amount in court-fees stamps as specified in subrule (i) is paid by a party and the memorandum of appeal and the judgments of the lower Court are, for any reason, not subsequently printed, or the amount paid is found to be in excess of what is required to be paid under the Rules, the Registrar shall, on a note or motion in that behalf by such party or his Advocate, grant to him a refund certificate enabling him to recover the value of such court fee stamps or such excess court fee stamps, as the case may be, provided that such note or motion is made before the final disposal of the appeal.

The printing charges paid by a party shall be included in his bill of costs except when the whole or a part of the charges is refunded or is liable to be refunded under this rule.

When the whole or part of the printing charges or a part thereof is refunded or liable to be refunded, the office shall suitably amend the taxation of the printing charges and the bill of costs shall be prepared according to such amended taxation of the printing charges.

(iv) Seven copies of the papers specified in sub-rule (i) of rule 94 of this Chapter shall be got printed if there is only one respondent or only one set of respondents having the same interest. One additional copy shall be got printed for each additional respondent or set of respondents having the same interest. The respondents represented by a common advocate shall be deemed to have the same interest and the respondent not represented by an advocate shall be deemed to have a separate interest for the purpose of this rule.

(v) Each party or set of parties having the same interest shall be entitled to one copy of the print free of cost.

(vi) If the value of the subject matter in an appeal exceeds Rs. 20,000/- and if the appellant or appellants, or the respondent or respondents, have engaged two or more advocates two copies instead of only one copy shall be got printed for the appellant or

appellants or the respondent or respondents, as the case may be, and shall be supplied free of cost.

(vii) The papers to be printed in an appeal shall not be sent for being printed until the expiry of one month from the date of service of the notice on the sole respondent or on the respondent who is served last, if there are more than one respondent.

(viii) If more than one copy of the print, or two copies of the print, as the case may be, required to be supplied free of cost under the provisions herein above, are required by an advocate representing a party or parties, or by a party not represented by an advocate, an intimation in writing as to the number of the additional copies required shall be given to the Registrars office by the party or the advocate concerned before the papers required to be printed are sent to the Director, Government Printing and Stationery. The required number of additional copies shall then be got printed and each of the additional printed copies shall be charged for, in court fee stamp, at the rate of Rs. 2/- per printed page.

97. Parties Supplying Paper-Books Entitled To Costs Where Printing Is Dispensed With :-

Where printing has been dispensed with and the paper books and copies have been supplied, either under the rules or by the order of the court, the costs of preparing the same computed at the rate of 25 paise per folio of 100 words inclusive of costs of all the copies and costs of paper shall be included in the bill of costs of that party supplying them. Provided that such party has supplied to the office of a memorandum of such costs before the final disposal of the appeal.

98. Supply Of Additional Paper Books On Reference To A Larger Bench :-

(i) When an appeal or application is referred to a Division Bench of two Judges or a Special Bench or Full Bench of three or more Judges, the appellant or applicant or his advocate shall, furnish to the office the necessary additional sets of typed copies of the paper-book for the use of the Division Bench, Special Bench or Full Bench, as the case may be, within two weeks of the date on which it is so referred except where the requisite number of printed copies are available.

(ii) The Registrar may extend the time for supplying such additional copies or excuse delay in supplying the same for a period not exceeding two weeks where copies are not supplied with in the

time prescribed in sub-rule (i) or extended under this sub-rule, the matter shall be placed before the Court for orders.

(iii) The costs of preparing extra copies under this rule shall be computed at the rate prescribed in rule 97 and including in the bill of costs of the appellant or applicant on his supplying a memo of such cost before the final disposal of the appeal or application.

99. Supply By Applicants Copies Of Formal Applications To Opposite Parties :-

When a party or his advocate in any matter which has been admitted presents any application, note, affidavit or counter affidavit, he shall supply the necessary number of copies thereof for the use of the court and shall also get copies thereof served on the advocates for the other parties and in a case where the party has put in an appearance in the matter but is not represented by an advocate, on such party.

100. Security For Costs To Be Deposited With Nazir :-

When party has been ordered to furnish security for costs, such security shall be furnished either in cash or by the deposit and transfer of Government securities or other approved securities for the amount ordered by the Court. Such cash or security shall be deposited with the Nazir.

101. Rules Regarding Security For Costs Deposited With The Nazir :-

In the case of money deposited with the Nazir as security for costs under Order XLI, Rule 10 Civil Procedure Code, the following rules shall be observed:

I. When a deposit of money has been made by the appellant by way of security for costs, any surplus in excess of the secured costs shall be returned to the appellant or his Advocate, as soon as the bill of costs has been prepared and the decree issued.

II. Deposit unclaimed for ten years after the date of the final decree shall be credited to Government.

III. For the purpose of these rules, the Advocate, who represented the depositor in the appeal, shall be entitled to receive the refund (i) as a matter of course, within one year from the date of final decree, or (ii) on making a statement in writing that his client is alive and that he still represents such client, if more than a year has elapsed from the date of final decree.

IV. If a depositor dies after the decision of the appeal, or application in which the deposit is made, it shall not, if in excess of

Rs. 200/- be returned to the person claiming to be his legal representative unless he establishes his right thereto by letters of administration, probate or a succession certificate. If the deposit is not in excess of Rs. 200 /- the Registrar may return it to the person claiming to be the legal representative of the depositor on the production of such evidence as the Registrar may deem sufficient.

V. Depositors of sums over Rs. 500 /- should be advised to, and may, purchase and deposit, instead of cash, Government Securities of like value so as to avoid loss of interest.

VI. A list showing all money in deposit as security for costs shall be published on the Notice Board once a year on the first day of July.

102. Service Of Cross-Objections On The Appellant Or Corespondents :-

Any party or his Advocate presenting. any Cross-objections under Order XLI, Rule 22 of the Code of Civil Procedure shall cause to be served a copy thereof on the Advocate for the appellant or co-respondent, if any, if such appellant or co-respondent is represented by an Advocate, An appellant or co-respondent affected by such cross-objection who is not represented by an Advocate shall be served with the notice of the cross-objections together with a copy of the objections in the manner prescribed for service of notices and the procedure prescribed in this regard for appeals shall apply mutatis mutandis to cross objections.

103. Notification Of Findings On Issues :-

When issues in any appeal have sent down to the lower court, the receipt of the findings from the Lower court shall be notified on the Notice Board and a copy thereof shall be sent to the Secretary of the Advocates Association. The parties may file objections to such findings within ten days from the date of such notification. If objections to the findings are not filed by any party within the time aforesaid, court may on a regular stamped application extend time for the filing of the objections.

104. Notice Of Restoration To File When Rule Nisi Made Absolute Exparte :-

Whenever a rule nisi has been made absolute in the absence of the opposite party, and the effect of such order is to bring the case on the file again, a notice of the date fixed for hearing shall be given to the opposite party.

105. Writ Calling For Record And Proceeding And Notifications Of Their Receipt :-

(i) In Appeals and applications other than those referred to in sub-rule (ii) and in revision applications from decrees or orders in cases which have been finally disposed of in the lower Courts, the office shall call for the record and proceedings as soon as notice has been ordered to issue.

(ii) In the case of appeals from, orders, Appeals arising from Miscellaneous proceeding and Revision Applications other than those mentioned in sub-rule (i), the records and proceedings of the lower Court shall not be called for by the office, unless the Court of its own motion, or on application of a party, has ordered them to be sent for.

(iii) The receipt of the record and proceedings in the office shall be notified on the Notice Board as soon as the same are received.

CHAPTER 8 SEARCH AND COPIES

106. Contents Of Search Applications :-

An application for search shall bear the Court fee stamp of the prescribed value and shall state precisely the number of the proceedings of the record of which the search is sought; and if the application is for the search of a register prescribed by these rules, the description of and the year of the register.

107. Search In Presence Of Officer And Hours Of Search :-

The search shall be made in the presence of an officer of the Court between the hours of 12.00 noon and 5.15 p. m. on working days.

108. Application For Search By Third Party To Be Supported By A Affidavit :-

An application for search presented by a third party shall state the grounds on which the search is required. The application shall be supported by an affidavit unless it is signed and presented by an advocate for such party. The application may be rejected if the grounds there of are considered insufficient.

109. Assistant Registrar To Deal With Search Applications :-

All application for search shall be dealt with by the Assistant Registrar.

110. Applications For Supply Of Documents For Copies :-

(i) On an application bearing court fee stamps of 20 paise in that behalf the original papers in the record of any Civil or Criminal proceedings may be supplied to the Government Pleader or the Parties or their agents or advocates for the purposes of taking copies, provided that the papers are kept under the control and

supervision of an officer of the Court provided further that not more than single application.

(ii) Documents shall be made available for taking copies during the hours prescribed above for taking search.

CHAPTER 9 Preparation of Paper Books and Translations for Paper Books

111. Contents And Arrangement Of Paper Books In First Appeals :-

(i) Paper Books of regular First Appeal shall contain the items arranged serially in the order stated below: -

(1) Print or typed copies as specified in Chapter VII, Rule 95.

(2) Roznama.

(3) Pleadings.

(4) Interrogatories and their replies, if any, unless dispensed with by the Court.

(5) Examination of parties for framing issues, if any.

(6) Deposits of witnesses.

(ii) Items Nos. (2) to (6) shall be prepared in the District Court at the costs of the appellants. Item no. 1 shall be prepared in the High Court as prescribed in the rules. If any of the documents in items Nos. 2 to 5 is in Gujarati, the paper book may include the same in Gujarati.

(iii) In addition to the items prescribed in sub-rule (i), the paper books of regular first appeals, shall contain such other documents which the parties to the appeal may desire to rely on, or refer to at the hearing of the appeal.

(iv) The documents referred to in sub-rule (iii) shall be arranged serially according to the serial number of the exhibits, where, however, the documents consist of correspondence they shall be arranged in chronological order.

112. Contents And Arrangement Of Paper Books In Second Appeals :-

(i) Paper books of regular second appeals shall contain the items arranged serially in the order stated below: -

(1) Print or typed copies as specified in Chapter VII, rule 97.

(2) Pleadings when ordered to be included by the Court.

(ii) Both these items shall be prepared in the High Court at the costs of the appellant as prescribed in these rules.

(iii) In addition to the above items in sub-rule (i) the paper book of the regular second appeal shall contain also such other documents as the parties to the appeal may desire to rely on, or refer to, at the hearing of the appeal.

(iv) The documents referred to in sub-rule. (iii) shall be arranged serially according to the serial number of the exhibits, where, however, the documents consist of correspondence, they shall be arranged in chronological order.

(v) The appellant shall supply for the inclusion in the paper books the requisite number of copies of translations of documents at item No. (2) in sub-rule (i) and the appellant or the respondents as the case may be, shall supply the requisite number of copies of translations of documents referred to in sub-rule (iii). In case of English document, the appellant or respondent, as the case may be, shall supply the requisite number of copies for inclusion in the paper books.

113. Paper Books In Proceeding Other Than Regular First And Second Appeals :-

(i) Except as otherwise provided in these rules, the paper book of every proceedings other than regular First and Second Appeals shall ordinarily contain papers arranged in the following order: -

(1) Judgment or order of the trial court.

(2) Judgment or order of the lower Appellate Court.

(3) Grounds of appeal together with the cross-objections, if any, in the lower appellate court.

(4) Documents which the parties to the proceeding may desire to rely on or refer to, at the hearing of the proceeding.

(ii) The rules regarding the arrangement of the paper book and supply of the copies of translations and English documents, applicable to regular first and second appeals, shall apply mutatis mutandis to such proceedings.

114. Translations And Copies Of English Documents Required To Be Furnished By Parties :-

The appellant or the applicant, as the case may be, shall cause to be translated or copies for the paper book if the documents be in English, not only the documents on which he relies in support of his case, but also the documents on which. the court below, has relied in holdings against him on those issues on which the finding are challenged by him. Translations or Copies for Paper Books.

115. Filing Of Notes For Official Translation Or Lists Of Documents Proposed To Be Privately Translated Or Copied For Paper Books And Supply Of Such Notes Or Lists To Opposite Parties :-

Within two months of the notification of the receipt of the record in regular first Appeals, fifteen days in short notice and expedited matter and one month in other cases, the appellant or applicant or his advocate shall file

(a) a note for official translation of documents to be included in the paper book and a list of documents which he intends to get privately translated for inclusion in the paper book, and

(b) a list of documents in English, copies of which he intends to include in the paper book. Copies of the note and lists shall be furnished forthwith by the appellant or applicant or his advocate to each of the respondents or opponents or his advocate who has put in his appearance. In cases where a respondent or opponent has not put his appearance, the appellant, or applicant, or his advocate shall deposit in the office, sufficient number of copies for being supplied to each such respondent or opponent. The office shall supply copies of the note and lists to the respondents or opponents immediately on their putting in their appearance and the dates on which the copies were supplied to each of them shall be noted on the docket sheet. Within a week of the receipt of copies of the note and the lists in short notice and expedited matters and within a month in other cases, the respondent or opponent or their advocates shall file similar notes and lists and furnish copies thereof forthwith to the appellant or applicant. In cases where the appellant or applicant or his advocate does not file the note or the list of documents for translation, a respondent or opponent or his advocate desiring to rely on any document at the hearing shall within three months in regular first appeals, one month in short notice and expedited matters and two months in other cases from the date of notification of the receipt of the record or within one month from the date of filing his appearance, whichever is longer, file a note or list of such documents as the case may be. The Registrar may grant time or excuse delay for a period of two months in regular first appeals and ordinary matters and one month in short notice and expedited matters. Where any party does not file the note or the list of documents for translation or for inclusion in the paper book within the time specified above or allowed by the Registrar, no request for official translation shall be granted except by an order of the court. Where the appellant or

applicant does not file, the note or list of documents referred to at item Nos. 3 and 4 of rule 113 (i) and item 2 of rule 114 (i) within the time specified above, or allowed by the Registrar the delay shall be dealt with in accordance with the procedure prescribed in Chapter XII.

116. Parties To State Clearly Exhibit Numbers Of Documents To Be Translated Officially Or Portion Thereof And Deposit Of Estimated Translation Charges :-

(i) Notes for official translations shall clearly state the EXHIBIT number and portions of documents the translation of which are required. The portions of the documents required to be translated shall be initialed.

(ii) Where documents included in lists for private translation are not intended to be translated in whole the portion intended to be translated shall be clearly indicated in the list.

(iii) Notes for official translation filed by parties in person or advocates who do not personally undertake to pay translation charges shall be referred to the Senior Translator for estimating translation charges including the charges for the requisite number of typed copies of the translations. Such party or advocate shall, within 15 days from the date of the receipt of the intimation regarding the estimated charges from the Senior Translator deposit the estimated charges:

Provided that no such deposit shall be required to be made if any advocate in his note for translation personally undertakes to pay the translation charges.

(iv) The work of translation shall not be commenced unless deposit is made or an undertaking is given.

117. Rules Of Translation Charges, Official Translation By Translators Department Or Special Translators, Payment Of Translation Charges :-

(i) All official translations shall be charged for at the rate or 1[Rs. 15.00 per page and Rs. 7.50 for half of the page] which shall include the charges for supply of Five typed copies of translation, one original copy and four carbon copies and at the rate of 1[Rs. 1.50 per page] for each extra carbon copy required by the Advocate or a Party concerned:

Provided that no such charges shall be payable in criminal appeals and applications by an accused in jail, who is not represented by an

Advocate and in the case or memorandum of appeal or cross-objections filed by a party in person. All official translation will be made, whenever possible, by the Translators office and when that is not possible, by a Special Translator who shall be either a retired Translator of such advocate as may be authorised by the Chief Justice. In case of congestion or work in the Translators office and likelihood of delay in furnishing of translation, the Registrar may, instead of assigning the translation work to that office, assign it, on payment of the prescribed charges, to the Special Translator appointed by him for the purpose. The Registrar in such cases may further direct that the work of translations shall be completed and the translations with necessary typed copies supplied within the time fixed by him.

(ii)(a) The total amount of translation charges payable by any party or his Advocate shall be computed and certified by the Senior Translator when the translation is done in the translation Department or by the Superintendent of the Civil, Criminal or Supreme Court Branch as the case may be, when the translation is done by a Special Translator. .

(b) The Senior Translator or the Superintendent concerned shall serve an intimation on the party or his Advocate to deposit the translation charges in the Nazirs office within a week of the receipt of the intimation.

When the estimated charges of costs of translation have been deposited by the party or his Advocate, shall be given an intimation only for payment of the excess amount, if any, when the total amount of translation charges is in excess of the amount deposited. When the amount of translation charges is less than the amount deposited, the excess amount of the deposit shall be refunded to the party or his Advocate.

(c) The party or advocate shall deposit the translation charges of the excess amount payable for translation charges, as the case may be, within one week of the receipt of the intimation. The Registrar may extend time for or condone delay in making the deposit for a period not exceeding 15 days. If the translation charges are not paid within the time prescribed or within the time extended by the Registrar under this rule, the procedure prescribed in Chapter XII shall be followed.

(d) The translation charges shall be credited to Government when the translation work is done in the Translation Department and paid to the Special Translator if the translation is done by the Special Translator.

(iii) When any document is officially translated, any order of the Court endorsed thereon shall be typed or got typed by the Translations Department, or the Special Translator as the case may be, on the translations the party concerned being charged for the typing work at the rate of 1[Rs. 2.00 per page].

117(A). The prescribed rates for the translations and typing shall be increased at the rate of 5% every year, commencing from 1st April of each year.

118. Time For Filing Private Translation: Supply Of Copies For Use Of Court And To Opposite Parties :-

Except as otherwise provided in these rules private translations in first appeals shall be filed by the parties within two months of the date on which their respective lists are filed as provided in rule 117 above. In short notice and expedited matters, the translations shall be filed within 15 days, and in other cases within one month, of the aforesaid date. Such private translations shall be signed by the advocate in token of their correctness. Private translations shall not be accepted for inclusion in the paper books after the period prescribed by this rule, without the order of the Registrar who may extend the time for filing such translations or excuse delay for a period of two months, fifteen days and one month respectively in regular first appeals, short notice and expedited matters, and other cases and if not supplied within the time prescribed or extended by the Registrar under this rule, the procedure prescribed in Chapter XII shall be followed. Two type written or printed copies of such translations shall be supplied to the Registrars office. One type written copy or printed copy shall also be supplied to each party who has put in his appearance or his advocate. Where the advocate appears for more than one party, he will be entitled to receive only one copy of the translations.

The advocate at the time of filing translations shall also file therewith a statement signed by him the number of folios of 100 words of the translation supplied by him, costs shall be allowed for the translations at the same rate as that prescribed for official translation. The costs of the translations and their copies shall be included in the bill of costs only if the Advocates concerned have filed necessary statement as regards relies at the time of filing the translations and their copies as required above or within such further time as the Registrar may grant on a written application made to him in that behalf. If no such application is made before the hearing of the appeal, the costs of such translations shall not

be shown in the bill of costs unless otherwise directed by the court, at the hearing of the appeal.

119. Filing Of Copies Of English Documents And Supply Of The Same To Opposite Parties :-

The last proceeding Rule shall extend and apply to copies of English documents included or intended to be included in the Paper Books. The cost thereof shall be taxed at the rate of 0.50 ps. per folio of 100 words.

120. Copies Of Map Or Plan To Be Supplied For Translation :-

Any party applying for official translations of the entries on a map or plan shall furnish to the office at least five copies of tracing made to scale of such map or plan omitting only the entries to be translated.

CHAPTER 10 COURT SITTINGS WARNEDLIST, WEEKLY AND DAILY BOARD

121. Transaction Of Judicial Business In Five Terms :-

Unless otherwise ordered by the Chief Justice, there shall be five terms in each Calendar year for the transaction of Judicial work by the Court viz. . two terms between the re-opening after the Winter Holidays and the commencement of the Summer Vacation; two terms between the re-opening after the Summer vacation and commencement of the Diwali vacation and one term between the re-opening after the Diwali Vacation and the commencement of the Winter Holidays. The duration of each term shall be in the discretion of the Chief Justice.

122. Sitting List :-

(i) The Registrar shall, before the commencement of a term, prepare under the orders of the Chief Justice, a Sitting List showing the number of Division, Courts, the names of the Judge or Judges sitting in each Division Court. The sitting list shall be put up on the Notice Board as far as possible one week before the commencement of the term.

(ii) Notwithstanding anything contained in the sitting list, the Chief Justice may, if he deems fit, constitute special Benches or change the sittings during the term.

123. Preparation Of List Of Ready Matters :-

(i) All pending matters which are ready and transferred to the Board Department shall be placed on the list of ready matters which shall be prepared every year by the Board Department before the end of the Summer Vacation after physical verification of the matters pending in the Board Department. A separate list shall be prepared for each class of cases and in each class short notice or expedited matters shall be separately shown as a distinct sub-class. In such class or sub-class matters required to be placed before a Division Bench and those which are to be placed before a single Judge shall be separately shown. Separate lists shall be prepared year wise according to the year in which the matter was admitted to the Register and numbered; and the list for each year and class shall be separately bound. Each list shall be prepared in duplicate and the duplicate list shall be available for inspection of parties, Advocates or their clerks. For the purposes of these rules, short notice matters shall include: -

- (a) Appeals under Special Acts.
- (b) Appeals against preliminary decrees.
- (c) Appeals under Section. 144 of the Civil Procedure Code.
- (d) Appeals from decrees and orders of the City Civil Court.
- (e) Petitions under Articles 226, 227 and 228 of the Constitution.
- (f) Applications for the exercise of the Civil revisional jurisdiction of the Court.
- (g) Applications for transfer of proceedings.
- (h) Applications for leave to appeal to the Supreme Court or under the Letters Patent.
- (i) Disciplinary proceedings.
- (j) Contempt proceedings.
- (ii) Matters shall be placed on the list of ready matters strictly according to the sequence of the serial number in each sub-class.
- (iii) At the end of every month the matters which are ready and transferred to the Board Department during the course of the month shall be notified on the Notice Board and added to the list of ready matters in its appropriate class or sub-class. Such added matters shall take their place in the list according to their serial number in each class or sub-class.
- (iv) A matter in the list of ready matters which for any reason becomes unready, shall be removed from the list.

124. Warned List For The Term :-

(i) From the lists of ready matters, a warned list of matters liable to be placed on Daily Board of Divisional Courts for each term shall be

prepared and notified on the notice board at least one week prior to the commencement of the term for which it is prepared and notified.

(ii) The Warned List shall contain sufficient number of matters of each class or sub-class, sufficient for the Division Courts during the term. Matters shall be placed on the Warned list strictly according to the sequence of the Serial numbers in each class or sub-class.

(iii) Matters referred to a Division Bench or full Bench or ordered to be placed before a Special Bench shall be included and shown separately in the Warned List, if they are ordered by the Chief Justice to be heard during the term for which the Warned List is prepared.

(iv) Matters shown in a Warned List which have been disposed of, shall be struck off as and when they are disposed of.

(v) The balance of any previous warned lists remaining at the end of any term with such additions as are necessary, shall constitute and be notified as the warned list for the next term; provided that a consolidated warned list incorporating the balances of the previous lists, if any, together with the necessary added matters shall be notified for the first term of each year.

(vi) If, for any reason, the number of matters notified in any class or sub-class in the Warned List is during the course of the term considered to be insufficient for the term, the Chief Justice may direct, additional matters in the class or sub-class to be notified and added to the Warned List for the term.

125. Daily Board :-

(i) From the Warned List, a Daily Board for which Division Court in the sitting list for the term, shall be prepared in accordance with the class or sub-class of work assigned to the Division Court in the sitting list.

(ii) Matters shall be placed on daily board strictly according to the sequence of serial numbers of the matters.

(iii) The daily board shall be notified on the notice board, on the working day previous to the day for which the daily board is notified.

126. Daily Board For Matters Referred To Division Bench Or Full Bench :-

(i) Matters referred to a Division Bench shall be placed on daily board in accordance with directions of the Senior Judge on the Bench in which such referred matters are allotted in the sitting list.

(ii) Matters referred to a Full Bench or ordered to be placed before a Special Bench shall be placed on the Daily Board in accordance with the directions of the Chief Justice.

127. Powers Of Chief Justice And Court In Placing Matters On Board :-

Nothing in rules 124,125 and 126 in this Chapter shall apply to cases or classes of cases which are specially ordered by the Chief Justice or the court to be placed on the Daily Board.

128. Procedure For Making Motions Other Than For Adjournments :-

(i) The Registrar may order any matter on the Warned List to be withheld from the Daily Board for a period not exceeding one week in expedited or short notice matters and two weeks in other cases, from the date of the order; provided that

(a) all the parties in such matter consent and

(b) the matter is not included in the Daily Board prepared for the next working day.

(ii) Save as provided in sub-rule (i) every application or motion for adjournment of the hearing of any matter on the Warned List or Daily Board shall be made to the Court.

129. Procedure For Making Motion Other Than For Adjournment :-

No motion other than for the postponement of a case on the Daily Board shall, except by leave of the Court, be made, unless notice thereof shall have been given to the Registrar and the opposite party before 4.30 P. M. of the working day previous to the day on which the motion is proposed to be made. The notice shall state the Court in which and the day on which the motion is intended to be made.

130. Position Of Adjourned Matters On Day And Weekly Boards :-

(i) Any matter adjourned by the Court to a date in the same week shall be retained in its place on the Daily Board with a note stating the date to which it is adjourned.

(ii) When a matter on the Warned List is adjourned for a period exceeding one week a note shall be made on the Warned List indicating the date to which it is adjourned.

131. Notification Of Matters Granted Ex-Parte By Registrar

:-

The office shall place on the Notice Board every Monday the list of matters in which ex parte orders are made by the Registrar or the Deputy Registrar.

132. Hearing To Be Stayed For Non-Attendance Of Advocate Owing To Illness Or Other Causes :-

(i) When an Advocate is prevented from attending the Court on any day by reason of illness, he shall send an intimation in writing in this regard to the Registrar who shall cause the intimation to be circulated to all the Courts Sheristedars for their information. The heading of the case in which such advocate is engaged may be adjourned for the day provided that such advocate is the only advocate representing the party. This subrule shall apply only where intimation of illness is filed only for one day. If an advocate is prevented -by reason of illness from attending the Court for more than one day, he may file a note praying for leave, of absence as provided in sub-rule (ii).

(ii) When an advocate is prevented from attending the Court for a period exceeding one day by reason of illness or other sufficient cause, he shall send a note praying for leave of absence. The Administrative Judge may, grant leave for such period not exceeding one week as he may deem proper or may refuse such leave. The cases. in which such advocate is the only advocate representing the party shall stand adjourned during the period of leave. Such cases shall however, retain their place on the Daily Board with the necessary note as to the date to which such cases are adjourned. Noting in this sub-rule shall apply to Criminal Cases, Special Civil Applications and matters specially fixed for hearing or expedited by the order of the Court and matters on the daily Board.

133. Withdrawal Of Appearance By Advocate :-

(i) An advocate may with the leave of the court withdraw his appearance if his client has instructed him to that effect or if he has duly intimated to the client his inability to represent him. Leave of the Court shall be sought within a week of the advocate receiving the clients instructions or the client receiving the Advocates intimation, as the case may be. The Advocate shall file in the former case the letter, if any, received from the client. The Court

may grant leave to the advocate to withdraw his appearance on such terms and conditions as it may deem proper.

(ii) The Registrar may exercise the power of the Court in sub-rule (i) where leave to withdraw is sought in a case which is not on the Daily Board of the Warned List.

(iii) Where leave to withdraw has been granted by the Court or the Registrar a notice to the party concerned shall be sent.

134. Intimation Of Case Being Brought On Board To Be Given To A Party Not Represented By Advocate :-

When a case in which a party who has put in his appearance is not, represented by an advocate is to be brought on the daily board, an intimation of a definite date of hearing shall be given to such party, if such party has supplied to the office his address and necessary stamps to cover postage and registration. The date so intimated shall be noted on the daily board of the court and the case shall as far as possible be taken up for hearing on such date.

135. Preparation Of Arrears List :-

(i) The office shall, on physical verification of all pending matters, prepare before the end of the summer vacation a list of all matters which are in arrears. The list shall be prepared in the same manner as prescribed for the list of ready cases. A duplicate copy of the arrears list shall be available for inspection by parties or advocates or their clerks.

(ii) The following matters shall be deemed to be in arrear -

(a) In the case of First Appeals, two years after their registration.

(b) In the case of Second Appeals and Letters Patent Appeals, one year after their registration.

(c) In the case of Civil Revision applications, appeals from Orders, Writ petitions, Civil References and Short Notice matters, six months after their Registration.

(d) In the case of expedited matters, six months after the date of order of expedition.

(iii) Matters which become in arrears during the course of the month shall be added to the arrears list according to their class or sub-class.

CHAPTER 11 JUDGMENT AND DECREE

136. When Judgment To Be Taken As Ready :-

(i) A judgment delivered by the Court, when initialed as well as signed by the Judge or Judges below the entire text of the

judgment or order, be regarded as the final judgment from which copies could be supplied to the parties or their advocates.

(ii) When a copy of the judgment is signed by the Judge or Judges, as provided in sub-rule (i), the original judgment shall be regarded final for all purposes and such original judgment shall be preserved permanently in well bound year wise volume. The pages of such volumes shall be numbered serially.

(iii) When a note for speaking to the minutes of a judgment has been filed under Rule 137 below, no copy of the judgment shall be prepared until the said note has been finally disposed of.

137. Procedure When Advocate Wishes To Keep Judgment Before The Court For Speaking To Minutes :-

Whenever an Advocate wants a judgment to be kept before the Court for speaking to the minutes, he shall file a note in the office showing the points on which he wants to speak to the minutes and he shall also serve a copy thereof on the Advocate for the other side.

138. Procedure For Preparation Of Decrees :-

When a judgment initialed by the Judge or Judges delivering it is received in the office, the office shall:

(i) Prepare the draft of the decretal order on the Farad and also the draft of the bill of costs. The draft decretal order and the draft of bill of costs together with the copy of the judgment shall be sent to the Advocates Room for the approval of the Advocates, concerned and a notice in that behalf also be put up in the Advocates room.

(ii) If the draft decretal order and the draft bill of costs prepared by the office is approved by the Advocate the Advocate shall attest them in token of their approval.

(iii) If the Advocate do not approve the draft decretal order, or the draft bill of costs, they shall put in their notes of objection stating specifically the grounds of their objection after serving a copy thereof on the other side.

(iv) If the Advocates require any clarification or correction in the judgment, they shall put in their notes for speaking to the minutes on the Judgment stating specifically the clarification or correction sought therein after serving a copy of the note on the other side.

(v) If the Advocates fail to attend or to file their objections to the draft decretal order or draft bill of costs or to file a note for speaking to the minutes of the Judgment within fourteen days from the date on- which the matter was sent to the Advocates Room and notified as above, or at least the same in token of their approval,

the office shall prepare the decree and the final copy of the judgment which shall be signed by the Deputy Registrar and the bill of costs shall be finalised and signed by the Deputy Registrar and the Taxing Officer.

(vi) After the decree and the bill of costs are signed as prescribed in sub-rule (iv) above, no motion for amendment of the decree or bill of costs or for speaking to minutes on the judgment shall be entertained except on a regular stamped Application filed in that behalf. The Deputy Registrar, may, however, correct clerical or arithmetical errors in decree or order which are brought to his notice.

139. Fresh Decretal Draft When Judgments Corrected :-

(i) When any correction is made in the, judgment by the court on speaking on the minutes, such correction shall be carried out in the judgment approved and initialed by the Judge or Judges delivering it and when made shall be initialed by them in token of their approval.

(ii) When such correction affects decretal order, the draft decretal order shall be suitably amended and circulated for approval of the advocates as prescribed in rule 3 above.

140. Objection To Draft Decretal Order And Bill Of Costs :-

Objections to the draft decretal order shall be decided by the Deputy Registrar and objections to the bill of costs by the Taxing Officer, after hearing the Advocates or the Parties, if necessary. Any Advocate or party dissatisfied with the decision of the Deputy Registrar or the Taxing Officer shall immediately file a note for placing the matter before the Court for revision of the impugned order. When such a note is filed, the decree or the bill of costs, as the case may be, shall not be signed until the decision of the Court.

141. Date Of Decree :-

The decree shall ordinarily bear the date on which the judgment of the High Court was pronounced. The decree shall also show the date on which it is signed by the Deputy Registrar.

142. Supply Of Stamp Paper For Decree Which Is Required To Be Engrossed On Such Paper :-

(i) All matters in which the question of liability of the decree for payment of stamp duty is likely to arise, shall be referred by the office to the Taxing Officer. The Taxing Officer shall decide whether

the decree is liable for stamp duty and also determine, if there are sufficient materials on the record the quantum of stamp duty payable. If, in the opinion of the Taxing Officer, there are not sufficient materials on the record to determine the quantum of stamp duty, he may direct the appellant or his Advocate to deposit the amount of the prescribed fee for obtaining adjudication from the Collector regarding the stamp duty payable under the Bombay Stamp Act as applicable to Gujarat State. Such amount shall be deposited within 30 days from the date of the order of the Taxing Officer.

(ii) When the Taxing Officer decides that the decree is liable to payment of stamp duty and also decides the question of stamp duty payable, the party liable to pay the stamp duty or his Advocate shall supply the necessary stamp paper for engrossing the decree within one month from the date of the decision of the Taxing Officer. If the decision of the Taxing Officer is disputed, the party disputing it shall, within 15 days from the date of the decision of the Taxing Officer, deposit the prescribed fee for obtaining adjudication from the Collector.

(iii) In the matters which are referred for adjudication of the Collector, the necessary stamp paper shall be supplied by the party liable to pay the stamp duty within one month from the date of intimation given by the office of the receipt of the adjudication from the Collector.

(iv) Any party interested in the decree may pay the entire stamp duty by supplying in full the necessary stamp paper. If the party so required, the matter may thereafter be placed before the Court for orders or directions regarding apportionment of the stamp duty and the payment of the proportionate shares to the party who has supplied the said stamp paper. Such order or directions shall, unless otherwise directed by the court, be incorporated in the decretal order of the proceeding.

(v) The Registrar may extend the time prescribed in sub-rules (i) to (iii) above or excuse delay for a period not exceeding 15 days in respect of adjudication fees and one month in respect of supply of stamp paper.

(vi) If the adjudication fee or stamp paper is not supplied within the time prescribed above or within such further time as may be allowed by the Registrar, the papers shall be filed without any decree being drawn up.

(vii) If after the papers are filed under sub-rule (vi) above, any party desires that the decree should be drawn up, he shall present

a regular stamped application in that behalf. The Courts on that application may, if it thinks fit and subject to such conditions and terms as to costs or otherwise, as it may deem proper, order the decree to be drawn up.

CHAPTER 12 PROCEDURE IN CASES OF DEFAULTS

143. Delay To Be Excused Only On Regular Application :-

When no action is taken by the party or Advocate within the time prescribed in these rules and within the time which the Registrar could have granted, without a Regular Application under the rules, no further request for excuse of the delay or extension of time for taking the necessary action shall be entertained except on a regular stamped Application filed in that behalf. Such Application shall be supported by an affidavit, explaining the reasons for the delay.

144. Registrar May Condone Delay On Regular Stamped Application Or Refer To Court For Orders :-

Where no action has been taken by the _ party or the advocate within the time specified in Rule 143 the matter shall forthwith be placed before the Registrar for orders. The Registrar, may grant time for making an application for excuse of delay or extension of time. Where such an application is made within the time specified in Rule 145 or within the further time granted by the Registrar under this Rule, the Registrar may on such application grant further time or excuse delay not exceeding 30 days in an expedited matter and 45 days in a non-expedited matter. If no such application is made or if made is rejected, the Registrar shall direct that the matter be placed before the, Court for dismissal for default, or other appropriate orders consequential on the default, provided that if the delay is in regard to removal of office objection under Chapter V of these rules in matters which are not registered, the Registrar shall pass an order refusing registration of such matter under Rule 8 of Chapter II of these Rules.

145. Powers Of Court In Matters Placed Before It Under Rule 2 Above :-

When a matter is placed before the Court under rule 144, the Court may, if it so deems fit, grant time of, making an application under this Chapter or revise any order of the Registrar rejecting an application under this Chapter or dismiss the matter for default or pass such other orders as may be appropriate having regard to the nature of the default.

146. Powers Of Court In Applications For Excuse Of Delay :-

When an application under this Chapter is made before the Court, the Court may reject it, or grant time or excuse delay on such terms and conditions as to costs or otherwise as it may deem fit.

147. Court May Dismiss For Default If No Application Made Within Time :-

When no application under this Chapter is made within the time allowed by the Court or such an application is rejected, the Court may dismiss the matter for default or pass such other orders as may be appropriate having regard to the nature of the default.

148. Rules In This Chapter To Apply To All Cases Of Delay :-

The rules in this Chapter shall apply to all cases of delay unless otherwise specifically provided elsewhere in these rules.

CHAPTER 13 CERTIFIED COPIES

149. Contents Of Application For Certified Copies :-

(i) Every application for a certified copy shall bear the prescribed court fee stamp and shall state whether the copy is required for private use or otherwise. It shall be stated in the application whether the copy is required urgently or in the ordinary course.

(ii) Applications for certified copies for purpose other than private use shall be accompanied by the requisite court fee stamp prescribed for certified copies under the Court fee act.

(iii) Application for certified copies of documents liable to stamp duty under Article 26 of the Schedule I of the Bombay Stamp Act, 1958, shall be accompanied by a general stamp paper of the requisite denomination.

150. Deposit To Be Made Along With Application :-

Application for certified copies of any judgment decree or order shall be accompanied by an initial deposit of Rs. 5/-, Rs. 4/- and Rs. 1/- respectively for ordinary copies and double the said amount for urgent copies.

151. Parties To Proceedings Entitled To Copies; Application By Third Parties To Be Accompanied By Affidavits :-

Copies of documents in any Civil or Criminal proceeding and copies of judgment of the High Court shall not be given to persons other than the parties thereto without the order of the Assistant Registrar. Applications for copies of documents or judgment made by third parties shall be accompanied by an affidavit stating the grounds on which they are required, provided that such affidavit

shall be dispensed with in case of applications made by or on behalf of the Government of the Union, the Government of any State or the Government of any foreign State.

152. When Additional Deposits For Copies To Be Made :-

After the original papers are received in the copying Section, the office shall estimate the copying charges and call upon the applicant or his Advocate to deposit such additional charges as may be necessary to make good the estimated charges and the work of copying shall commence only after the additional charges have been deposited and the other requirement prescribed under these rules have been complied with.

153. Ordinary Copies To Be Furnished Within Ten, And Urgent Copies Within Five Working Days :-

An ordinary copy shall be supplied within ten days from the date when the requirements regarding the deposit of estimated charges, affidavit etc. are complied with or the original becomes ready for a certified copy being supplied, whichever is later. An urgent copy shall be supplied within five working days from such date, unless the Deputy Registrar orders it to be supplied at an earlier date. Application for copies of Judgments which are required to be sent for printing.

154. Supply Of Typed Copies Of Judgments Required To Be Sent To The Press For Printing :-

(i) Notwithstanding that judgments are required to be sent for printing, typed copies of all such judgments shall be supplied on applications for urgent copies of such judgments or applications for ordinary copies made before the judgment is sent to the press. :

(ii) When an application for an ordinary copy of a judgment is made after the judgment has been sent to the press for printing, a certified copy prepared from the press shall be supplied as soon as the printed Judgment is received from the press, provided that notwithstanding the printed copies of the judgment have not been received, the applicant, if he so desires, shall be permitted to have prepared a copy of the final judgment at his own cost and require it to be certified as a true copy in conformity with the provisions of Rule 155 below.

154(A) Supply of certified and uncertified copies. -

(1) As soon as the judgment and order is signed, the personal Assistant of the concerned Judge would compare and correct the copies which are required to be submitted to the office. After

comparison and correction, he would authenticate them as true copy under his own signature, such authenticated copies shall be certified by the Assistant Registrar and, if there are more applicants, then the authenticated copies shall be get either xeroxed or typed.

(2) Subject to such directions as the Chief Justice may give, any party to the proceedings or his advocate may obtain uncertified copies of evidence, judgment and order passed by the Court by applying in writing for the same at or before the time of dictating evidence, judgment and order. Fees for supply of such copies shall be charged as under: -

(a) If only one party applies Rs. 1.50 per page.

(b) If two or more parties apply for copies simultaneously. Rs. 1.00 per page, per party.]

154(B). The prescribed rates for certified and uncertified copies shall be increased at the rate of 5% every year, commencing from 1st April of each year.] 1. Substituted vide High Court Notification No. C. 2002/93, dated 30.10.2009 2. Inserted vide High Court Notification No. C. 2002/93, dated 30.10.2009 CERTIFICATION OF PRIVATE COPIES

155. Private Copies May Be Certified As True Copies :-

Copies of the Judgments or any documents on the record in any Civil or Criminal Proceeding in this Court may, on orders of the Assistant Registrar, be certified as true copies upon an application made in that behalf, provided that the copies ought to be certified are neatly typed on good paper. In such cases, only the comparing fees shall be levied according to the scale of fees prescribed.

156. Certified Copies To A Detenue Or Externee :-

Where a detenue detained under the Preventive Detention Act or an Externee externed under the provisions of Sections 55 to 63AA of the Bombay Police Act, files an application under Article 226 of the Constitution of India for issue of a direction, order or writ and such application is rejected by the High Court, such detenue or externee, if he desires to have a certified copy of the judgment or final order of the High Court, shall, on applying for such copy, be furnished therewith provided that he pays for the same, unless the Court for special reason, on an application made in that behalf not later than 30 days from the date of Judgment or order as the case may be, thinks fit to furnish it free of cost.

CHAPTER 14 PROCESS FEES, COPYING AND COMPARING FEES

157. Process Fees To Be Charged In The High Court :-

The following fees shall be levied for serving and executing processes issued by the High Court in its appellate jurisdiction: -

Table of Fees Chargeable in respect of processes Where the subject-matter in dispute:

Does not exceed Exceeds For every process not Rs. 500/- Rs. 500/- otherwise provided for Rs. 5-00 Rs. 7-50 Rs. 5-00

Notes:-(1) The fees above prescribed are to be charged for each individual ordered to be served with process. When one individual is to be served in more than one capacity e. g. , personally and also as guardian of a minor or minors only one fee is to be levied. Where process is to be issued for service at more than one place simultaneously against any one individual, an additional fee is to be levied for each place in which process is to be served.

(2) Where process has to be issued in foreign territory, a sum sufficient to cover the fees in that territory must be paid.

(3) In case of injunction, the fees to be charged shall be at double the above rates.

158. Exemption To Members Of Schedule Tribes From Payment Of Process Fees :-

The members of the Schedule Tribes specified in Schedule below are exempted from payment of process fees so long as exemption granted to them by the State Government in respect of process fees continues. Schedule (Members of Scheduled Tribes exempted from payment of the process fees.)

1. Baroda.
2. Bavacha, Bemcha.
3. Bharwad (in the Necess of the Forests of Alech, Baroda and Gir.)
4. Bhil, Bhil Garasia, Dholi, Bhil, Dungri Bhil, Dungri Garasia, Mewasi Bhil, Raval Bhil, Tadvil Bhil, Bhagalga, Bhtala, Pawra, Vasava.
5. Charan (in the Necess of the Forests of Alech, Baroda and Gir.)
6. Chaudhri (In Surat and Valsad Districts)
7. Ghodhra.
8. Dhanka, Tadvil, Tetaria, VaM.
9. Dhodia.
10. Dubla, Talavia, Halpati.
11. Gamtl, Gamta, Gavlt, Mavchi, Padvil.
12. Gond, Raygond.
13. Kathodi, Kathkari, Dhor Kathodi, Dhor Kathri, Son Kathodi, Sonkatkari. _ . _

14. Kokna, Kokni, Kukna.
15. Koli (In Kutch district)
16. Koli Dhor, Tokra Koli, Kolcha.
17. Kunni (in the Dang district)
18. Naikda, Nayaka, Cholivala, Nayaka, Kapadia Nayaka, Mota Nayaka, Nana Nayaka.
19. Padhar.
20. Pardhi, Advichincher, Phanse Pardhi (excluding Amreli, Bhavnagar, Jamnagar, Junagadh, Kutch, Rajkot, and Surendranagar district)
21. Pardhi (in Kutch district)
22. Patelia.
23. Pomla
24. Rabari (in the Necess of the Forests of Alech, Baroda and Gir).
25. Rathawa.
26. Siddi (In Amreli, Bhavnagar, Jamnagar, Junagadh, Rajkot and Surendranagar districts)
27. Vaghri (in Kutch district)
28. Varli
29. Vitola, Kotwalia, Barodia.

II. COPYING AND COMPARING FEES

159. Copying And Comparing Fees :-

The following fees shall be charged for copying and comparing:-
Ordinary

- (a) For copying and comparing Rs. 3.00 per page, inclusive of paper charges.
- (b) For copying documents in tabular form. Rs. 2.00 per page, inclusive of paper charges. Urgent
- (c) For copies of documents for or papers at (a) and (b) above.
 - (i) Rs. 2.00 Court fees stamp in addition to the prescribed court fees stamp on the application.
 - (ii) half of the fees in addition to the fees prescribed above.
- (d) For comparing private copies produced for certification. Rs. 3.00 per page.]

159(A). The prescribed rates for copying and comparing shall be increased at the rate of 5% every year, commencing from 1st April of each year.]

III. Fees for Search.

160. Search Fees :-

The following fee shall be charged for search: -

- (a) Of the records of a case. Rs 1 per day.

(b) Of registers prescribed under the rules. Rs. 1 per each register
IV. Fees for Administering Oath and interpreting Affidavits

161. Fees For Administering Oath And Interpreting Of Affidavits :-

The following fees shall be charged for administering oaths and interpreting affidavits: -

- (a) For administering every oath or solemn affirmation. Re. 1
- (b) For interpreting affidavits of service of notice to parties. Re. 1
- (c) For interpreting affidavits in other cases and for interpreting portions etc. 50 p. per folio of 100 words.

CHAPTER 15 DESTRUCTION OF RECORDS

162. Section 162 :-

Unless otherwise ordered by the Court, all original documents including translations and copies of judgments, decrees, orders and other papers, which are not required to be preserved, shall be returned to the party producing them after the expiry of the period for filing an appeal or if an appeal is filed, after the disposal of the appeal. The rest of the papers shall be marked, classified and arranged in files for the purpose of dispatch to the Record room as prescribed below.

163. Section 163 :-

- (i) The papers which are required to be preserved permanently shall be marked A and kept in file A.
- (ii) The papers which are required to be preserved for 30 years shall be marked B and kept in file B.
- (iii) The papers which are required to be preserved for 5 years shall be marked C and kept in file C.
- (iv) The papers which are required to be preserved for 1 year shall be marked D and kept in file D.

164. Section 164 :-

- (i) The following papers shall be permanently preserved:
 - (1) All Judgments (including interlocutory judgments), decrees and final orders of the High Court in all substantive matters except orders summarily dismissing appeals or applications.
 - (2) All registers of appeals and applications including Special Civil Applications.
 - (3) Such papers, in cases of historical, sociological or scientific

value, as in the opinion of the Registrar should be permanently preserved.

(4) Judgments, Decrees and final orders of the Supreme Courts in cases decided by the Gujarat High Court.

(5) Files containing original judgments signed or initialed by the Judges.

(ii) The following papers shall be preserved for 30 years:

(1) Judgments and/or orders of High Court summarily dismissing appeals and applications.

(2) Judgments and/or orders of the High Court in application for leave to appeal to the Supreme Court or leave to appeal under the Letters Patent.

(3) Paper Books or prints in cases in which a sentence of death or imprisonment for life is passed.

(4) Writs communicating final orders in all substantive application.

(5) Farad Files, except farads of applications for interlocutory orders and applications necessary for the progress of the main proceedings.

(6) Findings of the lower Courts on issues called for by the High Court.

(iii) The following papers shall be preserved for 5 years: -

(1) Paper books other than those specified above in matters heard by the High Court.

(2) Application for interlocutory orders, applications necessary for the progress of the proceedings and application for certificate for leave to appeal to the Supreme Court.

(3) Applications for transfer, bail or stay of proceedings.

(4) Farads and Orders made by the High Court in interlocutory applications mentioned in items 2 and 3 above.

(5) Reports called for from the Lower Courts.

(6) Writs communicating final orders to the Lower Courts in interlocutory matters.

(7) Original memoranda of appeals, and cross-objections and original revision applications, references and applications for review.

(8) Applications under Articles 226 and 227 of the Constitution.

(9) Printed copies of the transcript record of the Supreme Court.

(10) Ferists and receipts of Records and Proceedings by the Lower Courts.

(11) Copies of Judgments of lower courts or Tribunals against which appeals or applications have been made to the High Court (Which are not returned).

(12) Writs sending down issues.

- (13) Objections to findings on issues called for by the High Court.
- (14) All papers in matters in which registration is refused or which are rejected or dismissed for defaults or withdrawn before admission to the Register.
- (15) Decisions of the Taxing officer kept in the proceedings.
- (16) Originals of Translations kept with the papers.
- (17) Used receipt books pertaining to deposits received from the advocates and parties for certified copies as per rule 152 of these rules.
- (18) Used receipt books pertaining to additional charges received from the advocates and parties for certified copies as per rule 152 of these rules.
- (iv) The following papers shall be preserved for 1 years:
 - (1) Writs communicating interlocutory orders of the High Court to the Lower Courts.
 - (2) Applications for issue of processes, etc.
 - (3) Applications for stay of execution of orders passed by the lower courts.
 - (4) Applications for bail.
 - (5) Presentation Forms.
 - (6) Examination Memos.
 - (7) Vakalatnamas.
 - (8) Orders appointing Advocates in Criminal matters.
 - (9) Notices and Returns thereto.
 - (10) R. & P. writs including requests for extension of time for certifying R. & P.
 - (11) Requisitions for printing.
 - (12) Notices of receipt of findings.
 - (13) Correspondence relating to Jail petitions.
 - (14) Writs for bail, arrest, stay, production of accused in courts and other interlocutory orders.
 - (15) Press copies of the records of the Lower Courts.
 - (16) Office copies of the refund certificates issued.
 - (17) Office notes and orders.

165. Section 165 :-

The periods prescribed above for the preservation of the record shall be computed from the date of the final decision of the case and in case of appeal to the Supreme Court, from the date of the final decision of the Supreme Court.

166. Section 166 :-

All files pertaining to any particular case shall be kept in one bundle

bearing the number of the proceedings. Each file shall be accompanied by a list of the papers filed therein.

167. Section 167 :-

A register in the form given below shall be maintained showing the numbers and years of appeals and other cases received in the Record Room of which the records are to be destroyed. The entries for each year shall be signed by the Record Keeper and the Assistant Registrar: -

168. Section 168 :-

Notice shall be publicly given on the Court Notice Board that parties leave documents and papers with the records of case at their own risk and that they are liable to be destroyed in accordance with the rules for the destruction of records.

169. Section 169 :-

The destruction of records shall be carried out in the Summer Vacation each year. The records, save and except those marked D and kept in File D should, if they cannot be conveniently burnt, be torn into very small pieces and made quite incapable of use again as documents. The fragments should be sold to the highest bidder, and the proceeds credited to Government. The record marked D and kept in file D should be torn into very small pieces and made quite incapable of use again as documents. The fragments should be sold to the highest bidder or disposed of in accordance with the directions that may be issued by the Honourable the Chief Justice from time to time.

CHAPTER 16 References to the High Court under the Civil Procedure Code and the Presidency Small Cause Court Act.

170. Cases To Be Forwarded To Registrar :-

In all references the statement of the case shall be signed by the Judge making it and shall state the provision of law under which the Reference is made and the full names and addresses of the parties to the proceeding in which the reference is made. It shall be forwarded with four copies of the same along with all the necessary papers to the Registrar, High Court of Gujarat, Ahmedabad.

171. Number And Title To Be Entered In Register :-

The statement of the case shall be numbered as a Reference and entered in the Register of Civil References showing the Court making the reference, the no. of the suit or proceeding in the said Court, the names of the parties therein & the provision of law under

which it is made which shall also be prominently noted on the docket sheet of the reference.

172. Date Appointed For Hearing To Be Notified :-

The Registrar shall issue the usual notices of the date of hearing, which shall be four weeks from the date of issue of notice to the parties. A copy of the statement of the case shall be supplied to each party or his Advocate putting in his appearance in the Reference or where the parties exceed four, four of the principal parties as may be determined by the Registrar.

173. Copies Of Judgment To Be Sent To Small Causes Court

:-

The Registrar shall, after disposal of the Reference, forward to the Court making the reference, a certified copy of the judgment or order of the High Court.

CHAPTER 17 Applications under Articles 226, 227 and 228 of the Constitution and Rules for issue of Writs and Orders under the said Articles.

174. Applications For Issue Of Writ Of Mandamus Prohibition Quowarranto & Writ Of Certiorari :-

Every application involving the jurisdiction of the High Court under Articles 226, 227, & 228 of the Constitution of India shall be by petition addressed to the Honble the Chief Justice and Judges of the High Court. The grounds on which the reliefs are sought shall be clearly stated in the petition which shall be arranged in suitable paragraphs consecutively numbered. The reliefs sought should be set out at the end of the petition. The full names, official designation, if any, and the full addresses of all the parties to the petition for service of any process shall be stated in the petition. In every such petition, the petitioner or where there are more than one petitioner, the petitioners, shall state whether he or any of the petitioners have filed any application or any other proceeding in the Supreme Court, High Court or any other Court in respect of the same matter, and how that application or proceeding has been disposed of. The petition shall be signed either by the Petitioner or the Petitioners, as the case may be, or by his or their advocate. In case the petitioner or petitioners, as the case may be, sign it, it shall also be countersigned by his or their advocate.

Note: -Where a person signs the petition in a capacity other than his individual capacity, such as public officer, guardian of a minor, partner of a firm, power of attorney holder, Director, Secretary or

Principal Officer of a Company or Corporation etc. , he shall indicate the capacity in which the signs unless it has been signed on behalf of the petitioner by his advocate. Every petition under this rule shall be supported by an affidavit by the petitioner or one of the petitioners or by a person acquainted with the facts of the case. The deponent shall state what paragraphs or portions of his petition he swears or solemnly affirms to from his own knowledge and what paragraphs or portions he swears or solemnly affirms to on his own belief, stating the grounds of such belief. If the petitioner or any of the petitioners makes an application to the Supreme Court in respect of the same matter on any question arising therein, during the pendency of the petition in the High Court, he shall forthwith bring this fact to the notice of the High Court by filing an affidavit in the case and shall furnish a copy of the same to other side. The court may adjourn the hearing of the petition made to it pending the decision of the Supreme Court in the matter.

175. Writ Petition In Representative Capacity :-

When the petitioner in a petition under this chapter desires to file the petition in a representative capacity on any of the grounds mentioned in Order I, Rule 8 of the Code of Civil Procedure, he shall alongwith the petition file a separate stamped application for this purpose seeking permission of the Court in this behalf. If the court, grants such application, the procedure prescribed in Order I Rule 8 of the Code of Civil Procedure shall apply mutatis mutandis to the petition as if such petition was as suit.

176. Accompaniments To Writ Applications :-

(i) The applicant shall annex to his application, the certified copy of the Judgment and/or order of the lower Court or Tribunal impugned in his petition or the authenticated copy of such judgment and/or order sent to him by the Tribunal and shall also file certified copies of other Judgments and/or orders, affidavits or documents upon which he relies or their simple typed copies. Such simple typed copies shall be authenticated by the petitioners advocate as true copies and where the petitioner is not represented by an advocate, he shall file an affidavit showing that such simple copies, annexed by him, are true copies. He shall file alongwith the application, a duplicate copy of the application with the said annexures for the use of the Court. Both the original and the duplicate copy with the prescribed annexures shall be on bond paper or durable paper duly paged and indexed.

(ii) If any of the copies referred to in sub-rule (i) are not in English,

the advocate who represents the petitioner shall furnish its official translation or translation certified by him to be true, in case the Court directs him to furnish such translation. Where the petitioner appears in person he shall, in such a case, either furnish an official translation or translation supported by his affidavit affirming it to be true.

(iii) In a petition against the order of an Election Tribunal, the petitioner shall, in addition to the annexures and accompaniments specified above, supply a typed copy of the memorandum of the Election Petition.

(iv) Alongwith application shall be annexed concise statement of the facts of the case in proper sequence. A list of dates of the relevant events leading up and concerning the litigation in chronological order shall be given in the said statement.

177. Examination Of Writ Applications :-

(i) The office shall examine the petition as expeditiously as possible and in any case complete the examination within six days from the date of filing.

(ii) Notwithstanding anything contained in any other rules, when the office finds that any petition filed under this chapter is incomplete, or that there are other objections, the office shall, as soon as the examination is completed, affix on a Special Notice Board a notice specifying that the duplicate of the office objections is ready and requiring the same to be removed within three weeks from the date of the notice.

(iii) An entry of the date of affixing on the Special Notice Board as above shall be made on the presentation form of the petition. The advocate for the petitioner or the petitioners, as the case may be, shall remove all office objections, within three weeks from the date on which the office objections are notified as above, failing which the matter shall, without delay, be placed before the Court for orders.

178. Summary Dismissal Or Rule Nisi :-

The court may either summarily dismiss the petition or order a rule nisi to be issued against the respondent against whom it is sought, as it thinks fit. Any rule so granted shall not be made returnable within less than 15 days after the service thereof on the respondent, unless otherwise directed by the court.

179. Section 179 :-

(1) If the Court grants a rule, it may make such interim or

interlocutory order in the case, either unconditionally or upon such terms and conditions as the Court thinks just, as the nature and circumstances of the case may require.

(2) A copy of the petition with annexures prescribed in Rule 176 shall be served on each respondent with the notice of the Rule Nisi unless such respondent has been served with such copy with the notice of an order as to interim relief issued by the Court.

(3) When notice of the order as to interim relief is issued before the issue of the notice of the Rule Nisi a copy of the petition with the prescribed annexures shall be served with such notice.

(4) When an order as to interim relief is issued on a separate application in that behalf, a copy of such application shall be served with the notice of the order of interim relief on the respondent which shall be in addition to the copy of the main petition unless such copy has already been served on the respondent.

180. Section 180 :-

(1) (i) In cases where no interim or interlocutory relief has been granted by the Court, the process fee shall be paid and as many typed copies of the petition with the annexures as prescribed in Rule 176 as there are respondents shall be supplied by the petitioner or his Advocate within fifteen days from the date of the order of issue of the Rule Nisi in the petition.

Provided that (i) in cases where the Court has *ex parte* granted any interim or interlocutory relief, whether on the main petition or on any application for such relief, process fees for issue of the writ and notice or order of interim relief shall be paid and requisite number of copies of the petition or Application, if any, as prescribed in rule 181 above shall be supplied immediately.

(ii) In cases falling under proviso to sub-rule (i) the order of interim relief unless otherwise ordered by the Court shall be communicated by writ unless the process fees are paid and copies are supplied and the addresses for service of the notices are given.

(iii) Where the members of any Tribunal against whose decision or order the application is made are made party respondents to the application as such, only one typed copy of the application with the prescribed annexures may be supplied for service on the said members of the Tribunal collectively, and service of a copy on the Registrar of the Tribunal if he is appointed, or any one of them shall be deemed to be service on all.

(2) When the process fees are not paid and/or requisite number of

copies of the application are not supplied within the time prescribed above, the application shall be placed, without delay, before the Court for orders.

181. Service Of Rule Nisi :-

The service of the Rule Nisi or the Notice of the application for return shall along-with the orders as to interim relief be effected on the respondent in the manner prescribed in Order V of the Civil Procedure Code for the service of summons upon a defendant in a suit.

(ii) When a Public Officer, whose office is situated in the local limits of the City of Ahmedabad is to be served in his official capacity with the rule nisi notice with process issued in a proceeding under this Chapter, service may be effected by delivering or tendering a copy thereof to such officer or any subordinate of such officer not lower in rank than a Superintendent or a Head Clerk in his office, and obtaining the signature of such officer or his subordinate on the original in token of receipt of the same.

182. Answer To Rule Nisi :-

An answer to the rule nisi showing cause against such petition shall be made by filing an affidavit in the office of the Registrar and by serving a copy thereof upon the petitioner or his advocate, as the case may be, at least two days before the returnable date of the rule.

183. Service Of Rule Nisi On Other Parties :-

The Court may in its discretion at any time before a final order is made on the petition, order the rule nisi to be served on any party likely to be affected by any order which the Court may make in the matter. The provisions contained in the preceding rules relating to service of the rule and filing of an affidavit in reply shall apply to such a case.

184. No Further Affidavits Allowed :-

No further affidavit or affidavits shall be filed by any party except with the leave of the Court.

185. Adjournment Of Examination Of Witnesses :-

If cause be shown or answer made upon affidavit putting in issue any material question of facts, the court may allow oral testimony of witnesses to be taken and for that purpose may adjourn the hearing of the rule to some other date. In such case either party may obtain summons to witnesses, and the procedure in all other

respects shall be similar to that followed in a suit.

186. Procedure In Case Of Difference Of Opinion Between Judges :-

In case of difference of opinion between the Judges composing the Division Bench, the point of difference shall be decided in accordance with the procedure referred to in Section 98 of the Civil Procedure Code.

187. Costs :-

The costs of all petitions, applications, motions and orders made under this chapter shall be in the discretion of the Court.

188. Rules In Other Chapters Apply :-

Subject to the rules in this Chapter, the rules in the other Chapters shall apply mutatis mutandis to petitions and applications under this Chapter; provided that all cases involving delay or extension of time beyond the time prescribed in the rules or by the court shall be placed before the court for orders.

EXECUTION OF ORDERS

189. Drawing Up Of Order Including Costs :-

Every order passed on a petition under Article 226 of the Constitution, including any order as to costs, shall be drawn up as if it were a decree and shall be executable as a decree in the manner provided in the Code of Civil Procedure. Applications under Section 82, C. P. C.

190. Execution Of Order Of Decree On Original Side :-

Any order in a petition under Article 226 of the Constitution may on an application in that behalf subject to the provision of Section 82 of Civil Procedure Code be transferred under section 39 of the Code of Civil Procedure to any Civil Court for execution.

191. Application For Transmission Of Order Or Decree To Original Side For Execution :-

(i) Every application for transmitting the order to a Civil Court under the preceding rule shall bear the requisite court fee stamp and shall be accompanied by a certified copy of the order. It shall be supported by an affidavit of the applicant.

(ii) Applications under the above sub-rule shall be heard and disposed of by the Registrar.

(iii) The Registrar, when transmitting the order, shall send all the documents necessary to be sent under the provisions of Order XXI,

rule 6 of the Code of Civil Procedure and such other documents as he may deem necessary to the Court to which the order is transmitted for execution. Such documents may be sent directly by registered post to the court concerned.

192. Notice Under O. XXI R. 22. C. P. C :-

(i) Where the provisions of Order XXI, Rule 22 are applicable, notice there under shall be issued by the court to which the order is transmitted under the preceding rule.

(ii) Such court shall determine all matters arising out of or in relation to the execution of the order transmitted for execution.

193. Reference To Court For Orders In Case Of Doubts :-

In case of doubt or difficulty in regard to any application under rules 189 to 192 the Registrar may refer such application to the court for orders.

194. Execution Of Orders Under Article 227 :-

An order made by the High Court under Article 227 of the Constitution shall be executable in the same manner in which the order made by the Court or Tribunal against which the application under Article 227 has been made could have been executed under the law.

CHAPTER 18 Cases for Confirmation of a Decree under the Indian Divorce Act, IV of 1869

195. Hearing Of Cases Under Sections 17 & 20 Of The Act :-

Cases for confirmation of a decree received from a District Judge under Sections 17 and 20 of the Indian Divorce Act, IV of 1869, shall not be heard by the High Court till after the expiry of six months from the pronouncing of such decree.

196. Paper Books :-

Four typed copies of all the material papers in reference under the Act shall be prepared in the District Court at the cost of the petitioner for inclusion in the paper books for the use of the Court.

197. Confirmation Of Decrees :-

After the period of six months mentioned above has expired, the decree may be confirmed, even though no application for that purpose has been made to the Court, or the party appears at the hearing.

198. Person Wishing To Show Cause Against District Judges Decrees May Appear Before High Court :-

Any person wishing to show cause against the confirmation of the District Judges decree on the ground that the decree has been obtained by collusion or by reason of material fact not being brought before the court, or because of any change of circumstances since the passing of the decree such as, that the parties have resumed the relations of husband and wife, or that the petitioner has died, shall, if the court so permits, enter an appearance in the proceedings before the High Court and file affidavits setting forth the facts upon which he relies, certified copies of the affidavit shall be serve upon the party or the Advocate of the party in whose favour the decree has been pronounced.

199. Affidavits By Parties :-

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

CHAPTER19 Appeals References and Applications under the Income Tax Act, 1961 and other Acts Reference to be forwarded to the High Court

200. Reference To Be Forwarded To The High Court :-

(i) All reference under Section 256 of the Income Tax Act, 1961, shall be forwarded to the Registrar of the High Court.

(ii) When the Appellate Tribunal refers a case to the High Court, it shall give notice of that fact to the party at whose instance the reference has been made.

200A. Section 200A :- The provisions of this Chapter in so far as they apply to References shall apply mutatis mutandis to Income Tax Appeals unless in any manner inconsistent with the provisions newly added and the provisions of Sec. 260-A of the Income Tax Act.

201. Form And Contents Of Statements Of Cases :-

(i) The Statement of the case by the Appellate Tribunal shall be typed on one side on substantial white paper and set forth, in suitably numbered paragraphs, all the relevant facts and

proceedings chronologically arranged according to the sequence of dates. It shall indicate the precise question or questions of law referred to the High Court. Reference shall be made to all such documents as may be necessary to enable to Court to decide the question and copies of such documents or relevant extracts there from shall be annexed to the statement.

(ii) Two simple copies of the statement with the prescribed annexures and the memorandum of addresses of the parties to the reference for service of notice or other process shall be forwarded with the statement of the case.

202. Registration And Title Of Reference :-

(i) When a reference from the appellate Tribunal is received, it shall be immediately examined, and, if it complies with the requirements of the rules, be entered in a separate Register for Income Tax Reference and numbered.

(ii) The reference shall be entitled: -

" In the High Court of Gujarat at Ahmedabad"

* Income Tax Reference No. of 19.
. "In the matter of Reference No.
. of. Dated.
. by the Income Tax Appellate Tribunal" "In the matter
..... "

Assessee /Commissioner of Income Tax Applicant

Versus

Commissioner / Assessee. Respondent

N. B: - The person at whose instance the reference is made shall be shown as Applicant and the other party is Respondent.

202A. Registration And Title Of Appeal :-

(i) When an appeal is received, it shall be immediately examined and if it complies with the requirement of the rules, be entered in a separate Register for Income Tax Appeals and numbered.

(ii) Every memorandum of appeal shall be accompanied by certified copies of the following:

(a) Order passed in appeal by the Appellate Tribunal.

(b) Order in respect of which the Appellate Tribunal was approached.

(c) Order in the original proceedings.

(d) Memorandum of appeal before the Tribunal and the authorities below it, and,

(e) Return along with enclosures if any, relating to the relevant

previous year/s.

203. Notice To The Parties :-

(i) When the reference has been numbered, notices thereof shall forthwith be issued to the parties. A copy of statement of the case shall be annexed to each notice. The notice issued to each part shall require him to file within 15 days from the date of the receipt of the notice, memorandum of his correct address if it differs from that supplied with the statement of the Case.

(ii) The memorandum of address supplied by any party under sub-rule (i) above or, if he fails to supply it, the memorandum of address supplied under rule 2(2) shall be deemed to be the registered address of the party and any notice, documents or copies which are required to be served upon such party shall be deemed to have duly served, if sent to him by registered post on such address.

204. Supply Of Paper Books :-

The applicant shall within two months from the date of service of notice upon him supply to the office of the Registrar, 4 copies of the Paper Books as prescribed in Rule 205 below, if the applicant is the Commissioner and 6 copies if the applicant is the assessee and 2 copies in the former and 4 copies in the latter case shall be supplied free of costs to the assessee or the Commissioner, as the case may be.

204A. Supply Of Paper Books For Appeals :- The appellant shall, within four weeks of the date of the admission of the appeal, file two additional true and identical sets for the Court plus additional sets equivalent to the number of respondents but subject to a minimum of four sets, of the memorandum of appeal and other documents referred to in Rule 202A(ii) as well as other relevant documents to be relied on, in a paper book form]

205. Form And Contents Of The Paper Book :-

(1) The Paper Book shall be typed on one side only on good white paper with double spacing and shall be properly paged and indexed.

(2) The Paper Book shall contain transliterations of documents in English and translations in English of documents not in English and shall include, in the order mentioned below: -

- (i) The Statement of the case.
- (ii) The order of the Appellate Tribunal under section 254 of the Act.
- (iii) The order of the Appellate Assistant Commissioner.
- (iv) The order of the Income Tax Officer.
- (iv) Copies of relevant documents or their translations annexed or referred to in the statement of the case or objections to the statement of the case chronologically arranged.
- (3) When the reference is made pursuant to the order of the High Court on an application under section 256(2) of the Act, a copy of the application, and reply thereto, and the orders of the Court thereon shall be included in the Paper Book.
- (4) When the case is referred back to the Tribunal by the High Court under section 258 of the Act, a copy of the amended statement of the case shall be included in the Paper Book.
- (5) The Registrar, may, with. the consent of the parties, dispense with any of the items or any part of the items required to be incorporated in the Paper Book in the reference.

206. Application Under Section 256/(2) Of The Act :-

- (i) Application under section 256 (2) of the Act shall be in the form of a petition and shall set forth precisely the questions of law upon which the Appellate Tribunal is required to make a reference to the High Court.
- (ii) An application under section 256 (2) of the Act shall be accompanied by: -
 - (i) The order of the Appellate Tribunal refusing to state the case;
 - (ii) The order of the Appellate Tribunal under Section 254 (1) of the Act.
 - (iii) The order of the Appellate Assistant Commissioner,
 - (iv) The order of the Income Tax Officer and
 - (v) The other relevant papers on which the petitioner wants to rely in support of his petition.

207. Applicability Of Chapter Xvii :-

The Rules in Chapter XVII applicable to applications under Articles 226 and 227 of the Constitution, shall subject to the rules in this Chapter, apply mutatis mutandis to applications under Section 256 (2) of the Act.

208. Power Of Registrar To Condone Delay :-

The Registrar may condone delay or grant time for a period not exceeding one month beyond the time prescribed for doing

anything which is required to be done within a prescribed time under these rules.

209. Service Of Notices Or Copies On Advocates :-

Notices or copies in any proceeding under this Chapter to be served on any party may be served on the Advocate or Attorney representing such party and such Advocate or Attorney shall be bound to accept service thereof.

210. Listing On The Warned List And Daily Board :-

(i) As soon as References and applications under these rules are ready, they shall be notified on the Warned List and shall be posted for hearing on the Daily Board on such date as the Chief Justice may order.

(ii) Any party who is not represented by an Advocate or Attorney, shall be given notice on Court service of the date fixed for hearing: but posting on the Warned List & Daily Board shall be deemed to be sufficient notice to any party represented by an Advocate or Attorney.

211. Costs Of Paper Books To Be Costs In The Cause :-

(1) The costs of the Paper Book supplied by any party shall be costs in the cause and may be allowed to any party, provided he has presented a statement of the costs stating the number of Folios typed (one folio consisting of 100 words) and the total costs of the Paper Book, computed as prescribed below, before the case is posted on the Daily Board. If the statement of costs is not presented before the matter is posted for hearing on the Daily Board, the costs shall not, unless otherwise observed by the Court, be included in the Bill of Costs.

(2) The costs of the paper books shall be computed at the rate of 25 ps. per folio of 100 words inclusive of all the copies supplied.

212. Fees Paid Under Section 256 (1) Of The Act :-

When costs in a Reference are ordered to be paid by the Commissioner to the assessee, the fee of Rs. 100/- paid by the assessee, under section 256(1) shall unless otherwise ordered by the Court, be added to the costs payable by the Commissioner.

213. Chief Justice To Appoint The Bench :-

1[Tax Appeals] reference and Applications under this Chapter shall be heard by a Division Bench of two Judges appointed by the Chief Justice.

214. Applicability Of These Rules To Proceedings Under

Other Acts :-

The Rules relating to Income tax Act 1961, shall with necessary modifications and adaptations, apply to similar 1[Appeals and] Reference Applications under other Acts including: -

- (i) The Estate Duty Act, 1953.
- (ii) The Expenditure Tax Act, 1957.
- (iii) The Gift Tax Act, 1958
- (iv) The Wealth Tax Act, 1957.
- (v) The Excess Profits Tax Act, 1940.
- (vi) Super Profit Tax Act 1963.
- (vii) The Bombay Stamp Act, 1958.
- (viii) The Bombay Sales Tax Act, 1959 and/or the Gujarat Sales Tax Act, 1969.

215. Procedure When Reference Made Without Application

:-

When a Reference is permissible and is made under any Act without an application in that behalf by a party, the appropriate authority in the Government Department concerned shall, for the purpose of these rules, be deemed to be the person at whose instance, the Reference has been made.

216. Registrar Includes Other Empowered Officers :-

The term Registrar in these Rules, shall include any officer who may be appointed by the Chief Justice to exercise the powers and perform the functions of the Registrar under these rules.

CHAPTER 20 APPEALS UNDER SPECIAL ACTS**217. Hearing Of Appeals By Division Bench :-**

All appeals under the Special Acts required to be filed in High Court shall be registered as First Appeals and shall be dealt with according to the procedure prescribed for first appeals under the Special Acts and/or Rules made there under and in absence of any such prescription in the Special Acts shall be governed by the procedure prescribed in these Rules in relation to the regular First Appeals under the Code of Civil Procedure.

CHAPTER 21 RULES UNDER THE BANKING COMPANIES ACT X OF 1949**218. Definitions :-**

In these rules, unless the context or the subject matter otherwise requires-

(a) "Act" means the Banking Companies Act, 1949 (Act X of 1949), as amended from time to time.

(b) "Company" means a Company to which the provisions of the Act apply;

(c) "Registrar" means the Registrar of the High Court, Appellate side, for the time being;

(d) "Liquidator" means the Court Liquidator appointed under section 38A (1) of the Act, or any person duly performing his functions.

219. Presentation And Hearing Of Application Under Part Iii Or Iiia Of The Act :-

An application under Part III or Part III -A of the Act in respect of a Banking Company shall be filed in the office of the Registrar. The application shall be signed and verified in the same manner as a plaint and shall be supported by an affidavit. It shall be heard by a single Judge who may reject it summarily or pass such orders and give such directions as he may deem proper including direction for notice of the application being given to such person or persons as may seem to him likely to be affected by the proceedings.

220. General Heading :-

Application under Part III or Part III-A of the Act shall be instituted In the matter of the Act and In the matter of Banking Company and where necessary in the matter of the Act under which the Banking Company has been ordered to be wound up.

221. Application Of Rules Under The Act :-

Save as otherwise provided for in these rules, the rules framed by this High Court under the Indian Companies Act, 1913, and the Companies (Court) Rules, 1959, framed by the Supreme Court, shall with necessary modifications and adaptations apply to proceedings under the Act.

222. General Duties & Powers Of Special Officer :-

Without prejudice to the generality of the powers of the Court under Section 37(3) of the Act. : -

(a) A Special Officer appointed under Section 37(3) of the Act shall furnish security in such amount as may be ordered by the Court.

(b) He shall generally have all the powers and shall take all the steps to do all the things necessary or expedient to protect the rights and interests of all creditors and share-holders of the Bank, and to conserve and ensure the proper disposition, according to law, of the assets of the Bank.

(c) The Special Officer may be empowered to represent the Company in proceedings before any Court, Tribunal or Public Officer.

(d) The Special Officer may apply to the Court for such directions as he may deem necessary.

(e) The Special Officer shall, where his duties so require, maintain proper accounts. ?

(f) The Special Officer shall be paid such remuneration as may be determined by the Court, which shall be paid, unless the Court otherwise directs, from the assets of the Company.

(g) The Special Officer shall continue to supervise the affairs of the Bank until he is removed from office, or the term of his appointments terminates or until the Company resumes business or until a Liquidator is duly appointed to wind up the business of the Company.

223. Inspection Of Report Of Reserve Bank Of India :-

No person other than the parties to the proceedings, the Special Officer and the Liquidator, shall be entitled to inspection of any report made by the Reserve Bank of India, or be entitled to receive a copy thereof without an order of the Court.

224. Notice Of Application :-

Where a notice is directed to be given to any party, it shall be served together with a copy of the application shall not be heard until 14 days after the service of the notice, unless the Judge otherwise directs. The applicant shall supply the requisite number of the application for service.

225. Application In Winding Up To Be Made By Petition :-

Applications for the determination of all questions of priorities and all other questions whatsoever, whether of law or fact, which may relate to or arise in the course of the winding up of the Company, shall be made by petition. The petition shall contain a statement of facts relied on and the nature of relief asked for. The petition shall be signed and verified in the same manner as a plaint and shall be supported by an affidavit.

226. Notice Of Petition :-

Petitions mentioned in the last preceding rule shall be presented to the Judge for the time being dealing with the proceedings for the winding up of the Company or to such other Judge as the Chief Justice may direct. The Judge shall direct notice of the petition to be given to the respondent or such person or persons as may seem

to him likely to be affected by the proceedings. Such notice shall be served together with copy of the petition, and the petition shall not be heard until 14 days after service of the notice, unless the Judge otherwise directs. The petitioner shall supply the requisite number of copies for service.

227. Affidavits In Answer :-

An answer to the petition mentioned in rule 231 shall be made by filing an affidavit and a copy thereof shall be furnished to the petitioner or his attorney or his Advocate at least two clear days before the returnable date of the notice.

228. Direction For Hearing Of Petition :-

On the date fixed for the hearing of the petition, the Court may proceed to hear the petition or give such directions as it may think proper as to discovery and inspection, examination of witness in Court or in Chamber, taking of evidence by affidavit or otherwise and generally for the speedy determination of the petition.

229. Transfer Of Suits And Proceeding To High Court :-

When the Liquidator submits to the Court a report under section 45 C(2) of the Act, he shall apply to the Judge for the time being dealing with the proceedings for the winding up of the Banking Company or to such other Judge as the Chief Justice may direct, for directions as to the parties to whom notice may be given and the date and time for holding an inquiry whether or not the suits and proceedings mentioned in the report should be transferred to the High Court. The notice shall contain particulars of the suit or proceedings in which the party may be concerned and require him to appear and show cause why it should not be transferred to the High Court. The notice shall ordinarily be served 14 days before the date appointed for holding the inquiry.

230. Affidavits In Reply :-

Any respondent desiring to oppose the transfer of the suit or proceeding to the High Court shall file an affidavit and furnish a copy thereof to the Liquidator or his Attorneys or Advocate at least two clear days before the returnable date of the notice.

231. List Of Debtors :-

When the Liquidator files in the Court a list of debtors under section 45-D (2) of the Act, he shall obtain an appointment from the Judge for the time being dealing with the proceeding for the winding up of the company or from such other Judge as the Chief Judge as

may direct, to settle the same and shall give notice in writing of such appointment to every person mentioned in such list. The notice shall contain such of the particulars mentioned in the list of debtors as are applicable to such person. In case any variation or addition to such list is made by the Liquidator, a similar notice in writing shall be given to every person to whom such variation or addition applies. All such notices shall be served four weeks before the date appointed to settle such list, variation or addition.

232. Service Of Notice :-

Service of notice upon the debtors shall be effected by sending the notice through the post by a registered letter or if the Judge so directs, under certificate of posting. The notice shall be addressed to the party to his known address or place of abode and such notice shall be considered as served at the time the same ought to be delivered in due course of delivery by the Post Office and notwithstanding the same may be returned by the Post Office.

233. Affidavit In Reply :-

If the debtor desires to show cause against the inclusion of his name in the list of debtors, he shall file an affidavit and furnish a copy thereof to the Liquidator or his Attorneys or Advocate at least seven days before the day appointed for the settlement of the list.

234. Settlement Of List Of Debtors :-

On the date fixed for settlement of the list of debtors, the Court may settle the list or such part thereof as it may think proper. If the Court is of the opinion that it is not immediately possible to adjudicate upon any particular debt mentioned in the list, it may give such directions as it may think proper as to discovery and inspection, examination of witnesses in Court or in Chambers, taking of evidence by affidavit or otherwise and generally for the speedy adjudication of the debt. The Court may in a special case refer the Liquidator to a regular suit.

235. Liquidator To Report If He Contests Claim Of Depositors :-

If the Liquidator desires to contest a claim shown in the books of the Company as due to a depositor on the ground that there is reason for doubting the correctness of any particular entry in the books, he shall make a report to the Judge for the time being dealing with the proceedings for the winding up of the Company or to such other Judge as the Chief Justice may direct stating his reason for doubting to correctness of such entry, and If, upon such

report; the Court is satisfied that there is prima facie reason for doubting the correctness of the entry, the Judge may cause notice to be given to the depositor concerned to come in and prove his claim.

236. Register Of Suits In Winding Up Matters :-

Suits in respect of claims made by or against any Company in liquidation including claims by or against any of its branches in India, which are filed in or transferred to the High Court under the Act, shall be entered in a separate list to be maintained by the office of the Registrar and shall be treated as expedited suits. If such suits have been filed before the date of the order for winding up, the Liquidator shall furnish to the Registrar a list of such suits.

237. Hearing Of Suits And Connected Matter :-

All suits referred to in the preceding rule and all matters and proceedings connected with the suits shall be heard by the Judge for the time being dealing with the proceedings for the winding up of the Company or by such other Judge as the Chief Justice may direct.

238. Procedure In Such Suit :-

The Judge shall, save as otherwise provided in these rules follow the procedure prescribed having regard to the nature of the suit. Summary procedure shall be followed for summary suits and regular procedure for other suits, provided that in regular suits the following procedure shall be followed: -

Within 10 days of the service of the writ of summons or such longer period as the Judge may direct on the application of the plaintiff in that behalf, the plaintiff shall take out a summons for directions, and the Judge shall give such directions, as he may think proper, as to filing the written statement, set off or counter-claim, if any, or points of defence, discovery, inspection examination of witnesses in Court or in Chambers, taking of evidence by affidavit or otherwise and generally for the speedy determination of the suit.

239. When Proceedings Not Transferred Court May Request Expedition Of The Same :-

If any proceeding pending in any Court is not transferred to the High Court under section 45- C(3), the Judge for the time being dealing with the proceedings for the winding up of the Banking Company or such other Judge as the Chief Justice may direct, may issue directions to the Registrar, to write a letter of request to the Court in which a proceedings is pending requesting that the

proceeding may be disposed of as expeditiously as possible.

240. Application For Inspection Of Records :-

The Reserve Bank of India may apply to the Judge for the time being dealing with the proceedings for the winding up of the Company or to such other Judge as the Chief Justice may direct for permission to inspect the records of the Company or of the High Court in the matter of the Company and such permission may be granted by the Judge in his direction.

241. Presentation Of Complaint And Issue Of Process :-

Proceedings under section 45-J of the Act shall commence with a complaint being presented by the Liquidator to such Judge as the Chief Justice may direct. On presentation of the complaint the Judge may issue a summon or a bailable or nonbailable warrant against the accused and shall fix a date for the trial, or may, if he thinks fit, postpone the issue of process for compelling the attendance of the person complained against and may direct an enquiry or investigation to be made by the Inspector General of Police or by such other person as he thinks fit or may dismiss the complaint as he may, in his discretion, think fit.

242. Process In Criminal Cases :-

All complaints shall be filed in the Office of the Registrar and all processes shall issue from his Office.

243. Offences Triable Summarily :-

- (i) Offences punishable under the Indian Companies Act, 1956 (Act I of 1956), or under the Act with imprisonment for a term which does not exceed two years or with fine which does not exceed one thousand rupees may be tried in a summary way,
- (ii) An offence triable under section 45-J (2) of the Act jointly with the offences mentioned in this rule may also be tried summarily, provided that it is punishable with imprisonment for a term which does not exceed two years or with fine which does not exceed one thousand rupees.

244. Procedure In Summary Trials :-

- (i) Where an offence triable under section 45-J (i) is tried summarily the procedure provided in the Code of Criminal Procedure for the trial of summons cases shall, so far as it is not inconsistent with the provisions of the Act be applicable. Where, however, the offence to be tried summarily under section 45-J(i) is

tried jointly with offence under Section 45-J(ii) the procedure provided in the Code of Criminal Procedure for the trial of warrant cases shall be applicable; provided that it shall not be necessary to adjourn the case under section 246(1) of the Code of Criminal Procedure before requiring the accused to enter upon his defence or inquiring of him whether he wishes to further cross examine any witness whose evidence has been taken.

(ii) Procedure in non-summary trials, where the offences under section 45-J are not summarily triable, the procedure provided in the Code of Criminal Procedure for the trial of warrant cases shall, so far as it is not inconsistent with the provisions of the Act, be applicable.

245. Bail :-

The Court may at any time grant bail to the accused on such terms as it thinks proper.

246. Accused Person To Be A Competent Witness :-

Any person against whom a complaint is filed by the Liquidator under the Act shall be competent witness for the defence and may give evidence on oath in disproof of the charged made against him or any person charged together with him at the same trial; provided that-

(a) he shall not be called or examined as a witness except with his consent.

(b) his failure to give evidence shall not be made the subject of any comment by the prosecution or give rise to any presumption against himself or any person charged, together with him at the same trial, and

(c) he shall not be asked, and if asked shall not be required to answer, any question tending to show that he has committed or been convicted of any offence other than the offence with which he is charged or is of bad character, unless -

(1) The proof that he has committed or been convicted of such offence is admissible evidence to show that he is guilty of the offence with which he is charged, or

(2) He has personally or by his Advocate, asked questions to any witness for the prosecution with a view to establish his own good character, has given evidence of his good character or the nature or conduct of the defence is such as to involve any witness for the prosecution, or,

(3) He has given evidence against any other person charged with the same offence.

247. Summoning Of Witness :-

(i) The party applying for the summons to a witness in Civil or Criminal proceedings shall, before the summons is granted, pay into the Court such a sum of money as will be sufficient to defray the travelling and other expenses of the person summoned in passing to and from the Court and for one day's attendance in accordance with the scale prescribed in the Gujarat Payment by Government of Expenses of Complainants and witnesses (Attending Criminal Courts) Rules, 1978.

(ii) The witness shall, if obliged to attend for more than one day, be entitled before giving his evidence, to claim from the party by whom he shall have been summoned, his expenses at the rates specified in sub-rule (i) for each additional day that he may be required to attend.

(iii) Applications for the issue of summons may be granted by the Registrar.

248. Recording Of Evidence :-

(1) Upon the hearing of any suit or proceeding transferred to the High Court or proceedings whether civil or criminal under the Act, in the High Court, the evidence of the witness shall be taken down in writing in the language of the High Court by or in the presence and under the superintendence of, the Judge or one of the Judges or by the Commissioner appointed by the Court from the panel of Commissioners prepared by the High Court, ordinarily not in the form of question and answer, but in that of a narrative, and the notes so taken shall be sufficient for all purposes and shall form part of the record:

Provided that the Court may, while appointing a Commissioner under this Rule, consider taking into account such relevant factors as it thinks fit.

(2) The Court may by general or special order fix the amount to be paid as remuneration for the service of the Commissioner.

(3) The provisions of Rule 15 to 18-B or Order - XXVI of the Code of Civil Procedure, 1908, in so far as they are applicable, shall apply to the issue, execution and return of such commission under this Rule.

249. Compounding Of Offences :-

All offences triable under Part III-A of the Act may be compounded with the leave of the Court.

250. Supervision Of Compromise Or Arrangement :-

Where an order under section 153 of the Indian Companies Act, 1913 (Act VII of 1913), or under section 391 of the Companies Act (1 of 1956), sanctioning a compromise or arrangement in respect of a Company is passed, the Judge may direct the Liquidator or any other person to supervise the carrying out of the compromise or arrangement and to make a report to the Court in regard thereto.

251. Recovery Of Dues As Arrears Of Revenue :-

When the Court grants under section 45T-(3) of the Act for recovery of any amount found due to the company, the Liquidator may apply to the proper Revenue Authorities to recover the said amount as an arrears of land revenue.

CIVIL APPEALS

252. Appeal To High Court To Be Heard By Division Bench :-

(i) Subject to provisions of sections 45-N(l) of the Act, an appeal shall lie from an order or decision of a Judge in a Civil Proceeding under the Act of the High Court.

(ii) The Appeal shall be heard by a Division Court consisting of two Judges or more than two Judges if the Chief Justice so directs, other than the Judge whose decision is appealed from.

253. Form And Applicability Of High Court Rules :-

(i) Except in so far as otherwise provided in these rules, the appeal shall be in the form prescribed for regular First Appeals; and the Gujarat High Court Rules, 1891 with regard to the First Appeals shall, with necessary modifications and adaptations, apply to the Civil Appeals under the Act.

(ii) In addition to the printing charges prescribed, the appellant shall, within 15 days from the date of the admission to the Register of the appeal, deposit the typing charges for the preparation of five paper-books, as estimated by the office. The rate chargeable for typing will be Rs. 1 per page inclusive of five copies, in addition to the charges at the rate of three naya paise per foolscap paper. Any amount in excess of the estimated cost deposited by the Appellant shall be paid when the paper-books are ready.

(iii) The office shall give intimation to the appellant or his Advocate or Attorneys when the paper-books are ready stating, where necessary, the additional amount which he is required to pay.

254. Period Within Which Appeal And Copies Should Be

Filed :-

The appeal shall be filed within 20 days from the date of the decree or order appealed from. The memorandum of appeal need not be accompanied by a copy of the judgment, decree or order appealed from, but such copies of the judgment, decree must be filed before the date fixed for hearing.

255. Short Notice Matters :-

All appeals under the Act shall be classified and dealt with as short notice matters under these Rules.

CRIMINAL APPEALS**256. Appeal Against Any Order Made Under Section 45-J :-**

(i) Any person convicted on a trial held by the High Court in the exercise of its jurisdiction under section 45-J of the Act may appeal to the High Court.

(a) against the conviction on any ground of appeal which involves a matter of law only.

(b) with the leave of the appellate Court or upon the certificate of the Judge who tried the case that it is a fit case for appeal, against the conviction on any ground of appeal which involves a matter of fact only, or a matter of mixed law and fact, or any other ground which appears to the Appellate Court to be a sufficient ground of appeal, and

(c) with the leave of the Appellate Court, against the sentence passed unless the sentence is one fixed by law.

(ii) The Liquidator may appeal to the High Court against any order of acquittal on any ground of appeal which involves a matter of law only.

257. Appeal To Be Disposed Of By Division Bench :-

An appeal under the preceding rule from the decision of a single Judge shall be heard and disposed of by a Division Court consisting of at least two Judges, other than the Judge whose decision is appealed from.

258. Period Within Which Appeal To Be Filed :-

An appeal under the last preceding rule shall be filed within 30 days from the date of the order appealed from.

259. Application For Certificate :-

An application to the Judge who tried the case for a certificate that it is a fit case for appeal shall ordinarily be made orally at the end

of the trial, or for special reasons to be stated in the petition, by petition giving the grounds on which such certificate is sought and showing that the period of limitation for the appeal has not expired.

260. Contents Of Memorandum Of Appeal :-

The memorandum of appeal shall be made in the form of a petition in writing giving the grounds of objection numbered consecutively, and the grounds upon which the leave, if any, of the Appellate court is sought. It shall also show that the appeal is within time, and shall be accompanied by a certified copy of the judgment and the sentence or order of the Court, and also of the certificate of the Judge who tried the case that it is a fit case for appeal, when such certificate has been given.

261. Paper Books :-

(i) Appeal paper-books shall be typewritten, and the appellant shall supply five copies of the paper-book within four weeks from the date of admission of the appeal or within such time granted by the Court.

(ii) The appeal paper-book shall contain the following papers: -

Part-I

(1) Complaint.

(2) Charge or charges against the accused in the trial Court.

(3) Notes of evidence including statement of the accused.

(4) Judgment including sentence or order.

(5) Certificate of the Judge who tried the case, if any.

(6) Order of the Appellate Court granting leave, if any.

(7) Memorandum of appeal.

(8) Order admitting the appeal.

(9) Such other papers as may be deemed necessary by the Registrar.

Part - II

Exhibits

Within six weeks of the admission of appeal except where the time has been extended by the Court, the appellant shall file two or more copies of the appeal paper-book as may be required by the Registrar in his office, and shall furnish two copies to the respondent.

262. Applicability Of High Court Rules :-

Save as otherwise provided in these rules, the rules of the High Court Appellate side, in respect of criminal appeals shall apply to

criminal appeals under the Act.

263. Application For Bail :-

Application for bail shall ordinarily be made to the Appellate Court at the time of admission, provided that a copy of the application shall be served on the Prosecutor at least 48 hours before the motion for the bail is made. Miscellaneous

264. Filing Of Appeals :-

All appeals-Civil or Criminal, shall be filed in the office of the Registrar and shall be accepted, if within time, and are other wise in conformity with the rules.

265. Procedure Regarding Appeals Which Are Beyond Time

:-

When an appeal civil or criminal appears to the office to be beyond time, it shall be returned to the party or his Advocate, unless it is accompanied by a separate application for excuse of delay or the party or his Advocate applies for it to be placed before the Court for orders.

266. Application For Excusing Delay :-

An application for excusing the delay in presenting the appeal shall be filed within a fortnight of such return. Such application shall be placed before the Court for orders as soon as practicable.

267. Removal Of Office Objections :-

All other office objections shall be removed by the party or his Advocate within 14 days from the date of service of the office objection.

268. Removal Of Office Objections Within Specified Time :-

(i) Where any party is required under these rules to do anything in regard to an application, appeal or otherwise within a specified time and he fails to do so, the Registrar may, on sufficient cause shown, excuse any delay not exceeding one month.

(ii) Any delay exceeding one month shall be treated prima facie as failure to prosecute diligently, and the delay may be excused only by order of the Court.

269. Appeal Not Prosecuted Diligently To Be Placed Before Court :-

Where an appellant, after the admission of an appeal, does not prosecute the appeal diligently the appeal shall be placed before

the Appellate Court for orders. The Appellate Court may dismiss the appeal or pass such orders as it may deem fit.

270. Applicability Of Civil Procedure Code, And Criminal Procedure Code :-

The provisions of the Code of Civil Procedure and Code of Criminal Procedure unless inconsistent with these rules, shall apply mutatis mutandis to civil and criminal proceedings or appeals under these rules.

CHAPTER 22 Rules under the Representation of People Act, 1951

271. Definitions :-

In these rules unless the context otherwise requires:

- (a) "the Act" shall mean the Representation of the People Act, 1951;
- (b) "the Code" shall mean the Code of Civil Procedure, 1908;
- (c) "the High Court" shall mean the High Court of Gujarat at Ahmedabad;
- (d) "the Judge" shall mean the Judge of the High Court of Gujarat at Ahmedabad who has been assigned by the Chief Justice under sub-section (2) of Section 80-A of the Representation of the People Act, 1951. for the trial of Election petitions.

The Election Petition

272. Petition :-

(i) Every application invoking the jurisdiction of the High Court under section 80A of the Representation of the People Act, 1951, shall be by petition addressed to the Honourable the Chief Justice and Judges of the High Court.

(ii) The petition shall comply with the provisions of sections 81, 82, 83 and 84 of the Act and the grounds on which the relief are sought shall be clearly stated in the petition which shall be arranged in suitable paragraphs consecutively numbered. The relief sought should be set out at the end of the petition.

(iii) The full names and the full addresses of all the parties to the petition for service of any process shall be stated in the petition. In addition to the permanent residence and addresses of the respondent the present address of the respondent at which service of the notice may be effected, shall be stated in the petition.

273. Annexures To The Petition :-

The petition and the document to be annexed thereto shall be

either printed or typewritten neatly and legibly with sufficient space between lines on strong and durable foolscap size paper or other paper similar to it in size and quality and with an inner margin of not less than 5 cms. The following documents shall be annexed to the petition viz. (i) Vakalatnama, (2) List of Documents upon which petitioner relies and (3) Copies of Schedules or Annexure. The petition and the aforesaid documents shall be stitched together book wise in the following order-

(1) Petition; (2) Vakalatnama; (3) List of Documents upon which the petitioner relies, and (4) Copies of Schedules or Annexure. Dates and sums occurring in the petition shall be expressed in figures and the sums also in words. When Indian dates are given the corresponding Gregorian Calendar (English) Dates shall always be added.

274. Translation :-

(i) The petitioner shall annex to his petition typed copies of all relevant documents which are in English or, where any of such documents are not in English, typed copies of translations in English of such documents.

(ii) Any translation, other than official translation, annexed to the petition shall be either certified to be true by the Advocate for the petition or supported by a affidavit of the petitioner affirming that it is a true translation.

275. Statement To The Limitation :-

Every election petition shall in addition to the contents required by the Act, contain a statement as to the date of election of the returned candidate or in there be more than one returned candidates at the election and the dates of their election are different, the later of the two dates and shall also show that the election petition is within time as prescribed in Section 81 of the Act.

276. Process Fees For Summons To Respondents :-

The petition, in addition to the court fees prescribed therefore, shall bear court fee stamp of process fees for service of summons on all the respondents at the rate of Rs. 2.50 for each respondent to be served. The petition shall as required under Section 81 (3) be accompanied by as many copies as there are respondents and every such copy shall be attested by the petitioner under his own signature to be true copy to the petition.

277. Time For Presentation :-

The petition shall be presented in the office of the [Registrar General]¹ or to such person as the [Registrar General]¹ may, by general or special order authorise, ordinarily between 10:30 A. M. to 4:00 P. M. ² The petition presented on the last day of limitation and the petition requiring any urgent orders may be accepted after 4:00 P. M. ² upon an order in that behalf passed by the Assistant Registrar.

278. Presentation In Person :-

The presentation of petition by the petitioner, not represented by an Advocate, shall be made by the petitioner in person.

279. Presentation By Advocate :-

The presentation of any petition on behalf of a party represented by a Advocate shall be made by-such Advocate personally or by another Advocate on his behalf or by his recognised Clerk.

280. Vakalatnama To Be Filed :-

The Advocate presenting the petition, shall produce Vakalatnama signed by the petitioner authorising him to do so and accepted by the Advocate in writing under his signature or the Advocate shall make a statement in writing that he has been authorised by the petitioner to present the petition, with an undertaking to produce a regular Vakalatnama within two weeks from the date of presentation. The address of the Advocate shall be stated in such Vakalatnama, petition or written statement and any subsequent change in the Advocates address during the pendency of the petition shall immediately be communicated by the Advocate to the Office. Communication sent by post by the Office at the said address, shall be presumed to have been received by the advocate.

281. Endorsement On Vakalatnama :-

Every Vakalatnama specified in Rule 285 shall before it is filed in Court bear an endorsement of acceptance signed by the Advocate concerned or by any other Advocate for him provided the former acknowledge and ratifies the acceptance of the appointment within four days from the date of its being filed in the Court.

282. Registration Of Petition :-

(i) Immediately after the petition is presented the date of presentation shall be endorsed thereon and the petition shall be entered in the special register maintained for the registration of

election petitions.

(ii) After the petition is presented, the party or Advocate or his recognised clerk shall give an undertaking to attend the office on the third day from the date of the presentation to remove office objections, if any.

(iii) After the petition is presented and registered, the office shall intimate the fact of the filing of the petition to the Election Commission in Form No. 1.

283. Examination Of Petition :-

The office shall examine the petition with a view to see whether it is in conformity with the requirements of law and rules applicable to the same, and if it is not in conformity with law and rules, raise objections which should be removed by the party or the Advocate concerned. The office shall complete the examination within two days after filing of the petition and shall bring the office objections to the notice of the party or the Advocate on the date fixed for attendance under rule 282(ii) and such objections shall be removed, subject to the orders of the Court, if any, within three days thereafter.

284. Petition To Be Placed For Orders If Objection Not Removed :-

Immediately after the expiration of time fixed for the removal of objections, the petition shall be placed before the Judge for appropriate orders.

285. Petition To Be Placed For Orders After Removal Of Office Objections :-

(i) After the removal of office objections, the petition shall be placed before the Judge for consideration as to whether the petition is liable to be dismissed under section 86(1) of the Act. If the petition is not dismissed under section 86(1) of the Act, the Judge shall direct issue of summons upon the respondent; and the summons shall be issued to the respondent to appear before the High Court on the date fixed and answer the claim or claims made in the petition.

(ii) The summons to the respondent to appear and answer shall be in Form No. 2 with such variations as the circumstances of the case may require.

(iii) A copy of the petition shall be served upon the respondent along with summons.

(iv) The summons shall require each respondent to file written statement in answer to the petition. The written statement shall be either printed or typewritten neatly and legibly with sufficient space between lines on strong and durable foolscap size paper or other paper similar to it in size and quality duly paged and indexed together with typed copies of such documents as the respondent desires to rely upon and if such documents are in Gujarati, together with typed copies of translation of such documents in English and shall be filed within 21 days of the date of service of summons upon him or within such further time as the court may allow.

(v) The respondent shall also be required to serve a true copy of the written statement together with all annexure on the petitioner or his Advocate, on or before filing the same in the office.

(vi) Unless otherwise ordered every writ of summons shall be made returnable within three weeks from the date of the order of the Judge or within such time as the Judge may fix in that behalf.

(vii) The summons shall be served in the manner prescribed for service of summons and notices in the Code of Civil Procedure read with these Rules.

(viii) The summons shall be marked Very urgent and shall be accompanied by a letter to the Officer directed to effect service of the summons to serve the same immediately.

286. Summons :-

All writs of summons, rule, order, warrant and other mandatory processes shall be sealed with the seal of the Court and shall have and bear attestation of the Chief Justice or Acting Chief Justice, or in the vacancy of the said office, of the Senior most of the Puisne Judges, and shall be made out and signed by the Registrar or such other officer as he shall from time to time direct, but in every case the date of signing shall be set down.

287. Sealing :-

The seal of the court shall not be affixed to any writ of summons, warrant, rule, order or other mandatory process unless the same be signed by the Officer whose duty it is to prepare and make out the same and unless the name of the party or his Advocate be subscribed thereunto together with the day of the month and year when the same shall issue from such office.

288. Service Of Summons :-

(i) A writ of summons need not be served on a respondent

personally if his Advocate undertakes in writing to accept service and to file Vakalatnama.

(ii) Where an Advocate undertakes in writing to accept service and to file Vakalatnama on behalf of more than one respondent to the petition, it shall be sufficient to take out and serve only one summons on the said Advocate on behalf of all the respondents represented by him.

(iii) When an Advocate has filed Vakalatnama for a party to the petition, he shall accept service, on behalf of his client, of all process issued, in the petition until he is discharged.

289. Unserved Summons :-

(i) When any writ of summons is returned unserved, the petitioner or his advocate shall move the Registrar by a regular Civil Application for the issue of amended summons or fresh summons, as the case may be, within one week from the date when it is returned unserved, or within such further time not exceeding three weeks as the Registrar may allow.

(ii) The office shall on due payment of the process fees within the time prescribed in sub-rule (i) above issue a fresh or amended summons and cause it to be served.

290. Application Of Rules To Written Statements :-

Rules 272 to 283 as to petitions shall, mutatis mutandis, apply to written statements, the words petition and the petitioner therein being read for the purpose of this rule as though they were written statement and respondent.

291. Recriminatory Statement :-

When a recriminatory statement is filed under section 97 of the Act, the party concerned shall give notice to the High Court of his intention to give evidence in Form No. 3 and shall serve copies of the notice and the recriminatory statement and particulars upon all other parties to the petition or their Advocates.

292. Content Of Written Statement :-

Each written statement shall, by way of list or schedule, refer to any documents not then filed by which it is intended to be supported, specifying such as are in the English language such as are in a language other than English and such as are translated according to the practice of the Court.

293. Summons For Directions :-

(i) After all the respondents have filed their written statement, within the time prescribed or within such time as may be extended by the Judge, the petitioner shall, within seven days from the time when the pleadings are closed or deemed to be closed, take out a summons for directions returnable in not less than seven days. The summons shall be in Form No. 4 with such variations as the circumstances may require and shall be addressed to and served upon all parties to the petition. The summons shall be taken out for directions in respect of pleadings, interrogatories, particulars, admission of documents and facts, lists of witnesses, discovery, inspection and production of documents, fixing a date for setting issues and for trial of any issues as preliminary issue, fixing a date for hearing of the petition and such other matters as may in the circumstances of the case be expedient.

(ii) The pleadings shall be deemed to be closed when the written statement of the respondent is filed or where there are several respondents, and some only have filed the written statement, the pleadings shall be deemed to be closed when the time for filing the written statements of other respondents has expired.

(iii) If the petitioner does not take out a summons for directions in accordance with sub-rule (i) above, the respondent may take out such summons within a period of one week thereafter, and if the Respondent fails to do so, the petition shall be placed on board for appropriate orders.

294. Right To Apply On Service Of Summons For Directions

:-

Any party to whom the summons for directions is addressed, shall as far as practicable, apply at the hearing of the summons for any order or direction which he may desire as to any matter capable of being dealt with on an interlocutory application in the petition and shall not less than 3 days before the hearing of the summons, serve on the other parties a notice in writing specifying those orders and directions in so far as they differ from the orders and directions asked for by the summons.

295. Directions On Summons For Directions :-

At the time of hearing of the summons for directions, directions shall be given by the Judge, fixing the date for (i) filing of affidavits of documents by the petitioner and the respondents within seven days from the date of hearing of the summons for directions, (ii) for completing discovery and inspection of documents by all the parties

within seven days from the date of filing of affidavits of documents, and (iii) for filing copies of all documents by all the parties within seven days after the completion of discovery and inspection.

296. Settlement Of Issues :-

After affidavits of documents are filed and discovery and inspection are completed and copies of all documents are filed the petition shall be placed on the board for settlement of issues on Monday following the date on which copies of documents are filed.

297. List Of Witnesses :-

Within seven days of the settlement of issues, each party shall file a list of his witnesses and pay the process fees & travelling allowance, the diet allowance & local conveyance allowance for those persons who are required to be summoned.

298. Summoning Of Witnesses :-

Parties shall apply for the issue of witness summonses sufficiently in time for attendance of the witnesses after service. The parties may also produce witnesses without a summons on the date of hearing, provided, they have filed a list of the same as required under Rule 302. Parties may also with the leave of the Court examine other witnesses.

299. Process Fees For Summoning Witnesses :-

Process fees to be paid, shall be the same as provided in the table under rule 159 of these rules.

300. Allowances To Witnesses :-

A party applying for a witness summons for a witness shall be required to deposit at the time of applying for the summons a sum sufficient to cover the travelling allowance, the diet allowance and the local conveyance allowance for the witness according to the scale given under rule 301. Payment shall be made to the witness out of the amount so deposited after the witness has given evidence or is discharged by the Judge.

301. Rates Of Allowances :-

Travelling allowance for the journey from the place of residence to the place where evidence is required to be given and back to the place of residence, diet allowance and local conveyance allowance shall be paid to the witnesses according to the rates prescribed in paragraphs 63 to 66 of the Civil Manual, 1960, Volume I. Such witnesses in Class I or Class II mentioned in paragraph 63 of Chapter VII of the Civil Manual shall, in addition, be entitled to

tanga or taxi fare to and fro from their residence each day if their residence is at a distance exceeding one mile from the court house and if not provided with a conveyance by the party requiring his evidence; and if coming for the purpose of attending the court only. Similarly, each witness of Class III or Class IV shall under similar circumstances be entitled to bus fare to and fro from the court house to his residence.

302. Publication Of Order :-

As soon as an order is passed by the Judge, under sub-section (2) of section 109 or under clause (b) of sub-section (3) of section 110, or under sub-section (2) of section 112, or under section 116 directing any matter to be published in the official gazette, or otherwise than in the official gazette, the office shall get the same published at the cost of such of the parties as the Judge may direct in that behalf. The matter directed to be published in the official gazette shall be published in the State Govt. Gazette, or the Gazette of India, as the case may be.

303. Summoning A New Party :-

The Judge may in his discretion at any time before a final order is made on the petition, order the summons in Form no. 2 to be served on any party likely to be affected by any order which the Judge may make in the matter and the provisions contained in these rules relating to service of summons and filing of written statement in reply to the petition shall apply mutatis mutandis.

304. No Further Affidavit Or Written Statement :-

No further affidavit or affidavits or written statement shall be filed by any party except with the leave of the Judge.

305. Final Order And Intimation Thereof :-

As soon as an election petition is dismissed by the High Court under sub-section (1) of section 86, or the same has been finally disposed of on merits as provided for under sections 98 and 99 or the High Court passes an order under sub-section (i) of section 116-B, the office shall draw up the final order within three days of the date of the decision and shall intimate the order or the decision of the High Court (i) to the Election Commission, and (ii) the Speaker or the Chairman as the case may be, of the House of Parliament or of the State Legislature concerned and thereafter, as soon as possible, it shall also forward to the Election Commission an authenticated copy of the Judgment and the formal order of the Court. The Office shall also report to the Election Commission when an election petition is

allowed to be withdrawn under section III after orders are passed in that behalf by the High Court. Where an election petition abates and no attempt has been made for substituting another person for continuing the said petition as provided under section 116 and the Judge passes a final order treating the petition as abated, the office shall also report to the Election Commission.

306. Index Of Proceedings :-

A diary of index of proceedings showing the course of the election petition from the beginning to the end in chronological order shall be maintained in each election petition, as far as possible, in the form prescribed in paragraph 27 of the Civil Manual, 1960 issued by the High Court.

307. Register Of Applications :-

All applications in each election petition shall be separately recorded in a Register maintained for the purpose, containing the following columns: -

When an application is filed, the same shall be placed before the Judge as part of the election petition for passing necessary orders.

308. Applications How To Be Styled :-

Applications made to the Court in a pending election petition shall be styled as "Application in the Election Petition No.

309. Advocates Fees :-

(i) The Advocates fee shall be Rs. 500, when the petition under the Act is contested and finally decided by the Court, provided that the Judge hearing the petition may, in his discretion having regard to the labour involved in the preparation of the case or the complexity of the issues arising therein or for other sufficient reason, allow higher fees, in any particular case.

(ii) The costs of all uncontested petitions, summonses for directions, and all applications, made under this Chapter, shall be in the discretion of the Judge.

(iii) The Judge may award such quantified or lump costs to any party as he may deem fit having regard to the circumstances of the case.

(iv) The Judge may direct that the costs awarded to the respondents or any of them, should be paid out of the security deposit made by the petitioner under section 117 of the Act and may pass such other order regarding the disposal of the security deposit as he may deem fit.

310. Drawing Of Orders :-

Every order passed on a petition under the Act including an interlocutory order, shall be drawn up by the Advocate concerned and filed in the office within seven days of the order.

311. Security For Costs :-

The security for costs shall be paid in cash. The amount shall be deposited with the Nazir during the hours in which the cash business of the office is conducted. The amount so deposited shall be credited to the Civil Court Deposit Account. Immediately after receipt of the amount of deposit in cash, or as soon as thereafter but not later than the day following, the Nazir shall credit the amount of deposit into the treasury in the personal ledger account of the Register. The Nazir shall be permitted to withdraw out of the amount so deposited, such amount from time to time as may be required for defraying expenses required to be incurred in the petition or for payment of allowances to witnesses or costs to any of the parties.

Where, pending the trial of election petition, costs are directed to be paid or deposited by a party, other than the petitioner, and who has not deposited any amount as security for costs, the amount of such costs shall be similarly deposited with the Nazir. The amount so deposited will be credited into the treasury in the personal ledger account of the Registrar, in similar manner, and out of the same, the Nazir shall be permitted to withdraw such amount as may be required from time to time for defraying expenses to be incurred or for payment of costs to a party to whom the same is ordered to be paid.

A separate account shall be maintained for each election petition and a separate Ledger Folio shall be opened in respect of each party, and all receipts and payments made on behalf of the party shall be entered in it. Receipts shall be issued by the Nazir for all amounts received from the parties. If required, the Nazir shall be permitted to retain cash of Rs. 100 (One hundred only), on hand in each election petition

312. Application Of Rules In Chapter Xxix :-

All rules of the High Court applicable to the preparation of the transcript of the record for the use of the Supreme Court in an appeal to that Court arising from a decree of the High Court in a Civil appeal shall apply mutatis mutandis to the preparation of the transcript of the record for the use of the Supreme Court in an appeal to that Court arising from a decision of the High Court in an

election petition, subject, however, to the provisions of the Act and the rules which the Supreme Court may make in that behalf.

313. Application Of Other Rules :-

Where no specific provision is made in that Act, the Code or the above rules, the rules in order Chapter of these Rules and the Rules of the Bombay High Court (on its original side) 1957, in their application to suit, shall apply mutatis mutandis to petitions, applications, summons and all other proceedings under the Act, provided that all applications for condonation of delay or extension of time beyond the time prescribed in the rules or by the Court, shall be placed before the Judge for orders.

FORM NO. 1

BEFORE THE HIGH COURT OF GUJARAT AT AHMEDABAD

Election Petition No. of 19..
.

Petitioner (s).

Versus

Respondent (s).

Calling in question the Election to the House of the People/Council of States/Legislative Assembly/Legislative Council. OF Respondent(s) No. FROM the. Constituency Presented to the High Court on the. of 19. Registrar.

FORM NO. 2 Rule 285 Summons to answer Petition under Rule 290 of the Election Rules and Sec. 27, Order V Rules 1, 5, 7 and 8, and Order VIII Rules 9 of the Code of Civil Procedure

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD ORIGINAL JURISDICTION

Election Petition No. of 19..
. PETITIONER(S)

Versus. RESPONDENT(S)

Petition presented to the day of 19. This petition will appear on the board of the Judge hearing Election Petition and will be heard according to its priority in that Court but if postponed on the day fixed for hearing will take its turn in the general arrears list. You are required to file a written statement of your defence within 21 days of the date of service of this summons upon you and serve a copy on the petitioner or his Advocate on or before filing the written statement in the High Court in default where of the petition will be set down to be heard as undefended and you will be liable to have an order passed against you. (State names of respondents

and their Advocates). Greeting:

Whereas the above named Petitioner. has filed a petition in this Court against you the above-named respondent, a copy of which is enclosed herewith and whereof the following is a concise statement, viz: -

You are hereby summoned to appear in this Court on the.
. day of or 19. at eleven O'clock in the forenoon, in person or by an Advocate of this Court and able to answer the claim or claims made in the petition, and all material questions relating to the petition, or who shall be accompanied by some other person able to answer all such questions to answer the above named petition, and you are hereby required to take notice that in default of your appearance on the day before mentioned, the petition will be heard and determined in your absence;

Witness. Chief Justice at.
. Ahmedabad aforesaid, this. day of.
. 19. Sealed.

The. day of. 19.

For Registrar.

FROM NO. 3

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD.

Election Petition No. of 19.

Notice under Section 97 of the Act and Rule 291 of the High Court Rules PETITIONER

Versus

. RESPONDENT

To

The Registrar, High Court, Ahmedabad.

Sir,

I, *Respondent No. *Returned Candidates, do hereby give Notice that I intend to give evidence at the trial of the above petition to prove that the election of the candidates, in respect of whom the declaration Us claimed in the above petition, would have been void, if he had been the returned candidate and a petition had been presented calling in question his election.

I hereby deposit Rs. 2,000 as security for costs as required under Section 97 read with section 117 of the Act and undertake to give such further security for costs as this Honourable High Court may direct.

Be pleased to take on file the statement and particulars required under Section 83 of the Act which are enclosed herewith. Copies of

the statement and particulars are served upon all the parties to the petition.

Date this. day of. 19.

Advocate for the Respondent.

No.

(Signature)

Respondent No.

* Strike out if not required.

FORM NO. 4

Rule 293 Summons for directions.

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

ORIGINAL JURISDICTION

Election Petition No. of 19.. . . .

. PETITIONER(S)

Versus RESPONDENT(S).

Let all parties concerned attend before the Sitting Judge in Chambers on the. day of. at.

. . . O'clock in the Noon, on the hearing of an application

on the part of the petitioner/the respondent to show cause why an order for direction should not be made in this petition as follows: -

(a) That the petitioner and/or the respondent shall be ordered to file affidavit of documents within 7 days from the date of this order.

(b) That the petitioner and/or the respondent do give inspection of all documents to each other or their respective Advocates within 7 days from the filing of the affidavit of documents.

(c) The petitioner and/or the respondent do file in this court typed copies of all documents within 7 days of the completion of discovery and inspection of documents.

(d) That the petitioner and/or the respondent be ordered to disclose the following further particulars and interrogatories.

(e) That the petitioner and/or the respondent be ordered to file list of witnesses within 7 days of the filing of copies of documents.

(f) That the petition be placed on board on.
. . . for settlement of issues and on. for final hearing.

(g) For such other orders as the nature and circumstances of the case may require.

Dated the. day of. 19.

CHAPTER 23 APPEALS UNDER COMPANIES ACT, 1956 (ACT I OF 1956)

314. Filing Of Appeals :-

All appeals under Section 10-F of the Companies Act, 1956 (Act 1

of 1956) shall be filed in the office of the Registrar and shall be dealt with in accordance with these Rules.

315. Definitions :-

In these rules, unless the context otherwise requires

- (a) "Act" means the Companies Act of 1956.
- (b) "certified copy " means the original copy of the order received by the party or a copy (including an easily readable Photostat copy) thereof duly authenticated by office of the Company Law Board.
- (c) CLB means the Board of Company Law Administration constituted under the Act.
- (d) "Form " means a form appended to these rules.
- (e) "prescribed" means prescribed by or under these rules.
- (f) words and expressions not defined in these rules shall have the meaning respectively assigned to them in the Act.

316. Rules Applicable To Appeal, Under Section 10-F Of The Companies Act :-

(a) All appeals under Sec. 10-F of the Companies Act, 1956 (Act of 1956) shall be filed in the office of the Registrar and shall be heard and disposed of by a Division Bench as may be appointed by Honble Chief Justice from time to time.

(b) the rules applicable to regular appeals shall, except in so far as they are not inconsistent with these Rules apply to appeals under Sec. 10-F of the Companies Act

(c) A memorandum of appeal along with necessary accompaniments in duplicate copies shall be presented in the prescribed form before the Registrar or any other officer authorised in this behalf.

(d) A memorandum of appeal, if filed within one month from the date of the Company Law Boards order, shall be accompanied by simple copy of the order of the Company Law Board duly certified to be true copy by the advocate of the appellant. If the appeal is filed after one month from the date of the Company Law Boards order, the appeal shall be accompanied by certified copy of the order of the Company Law Board.

Provided that the Court may permit the hearing of appeal without such certified copy in a special case on condition of the certified copy being supplied within a specified period.

(e) If the Registrar or the authorized officer is of the view that appeal is not filed within the period of limitation, he shall make a note to that effect and direct the appellant or his advocate to file a

separate application for condonation of delay which may be presented before the court.

(f) The memorandum of appeal shall be in two parts; having Paper-book Part I and Paper-book Part II.

(g) The appellant or his advocate shall, within two months of the notification of the receipt of the record, or within such further time not exceeding one month as the Registrar may allow, supply as many copies of the paper-books as are necessary for the use of the Court and for being supplied to the respondents.

317. Form And Contents Of Paper-Book :-

(a) The paper-book shall be neatly typed with a margin of two inches on uniform foolscap paper or its nearest equivalent in the metric size and shall be duly paged and indexed. It shall be properly bound in a handy volume or volumes.

(b) The typing of the paper-book will be clear and legible and all the documents should be typed in double-space on single side of the paper.

(c) The paper-book No. I shall contain the following papers and documents in the order indicated below.

(1) Memo of appeal along with the affidavit in support, if any.

(2) impugned order of the Company Law Board.

(3) any other documents which may be relevant.

(d) The paper-book No. II shall contain the following documents:

(1) The index and list of documents with particulars and page No, on the file of the CLB in the case in which appeal is preferred.

(2) Written statements or replies, as the case may be, with affidavits in support, if any.

(3) Supplementary statements, if any, further and better statements and particulars, counter-statements to written statements, replies, if any, with affidavits in support, if any.

(4) Evidence on affidavits, if any.

(5) Deposition of witnesses, if any.

(6) Copies of documents exhibited before the CLB.

(7) Copies of any other documents or papers on the record of the CLB which the appellant proposes to refer to or rely upon at the time of hearing of the appeal.

(e) If the appellant fails to supply paper-books as aforesaid, the Registrar may place the appeal before the Court for passing appropriate orders.

318. Appellant To Supply Bills Of Costs Of Paper-Book :-

The appellant shall, along with the paper-books or within such time not exceeding one month as the Registrar may allow in this behalf supply a statement showing the total number of folios computed at 100 words per folio and the total number of folios of translations, if any, included in the paper-book and also submit his bill of costs for the typing and translation computed at the rates prescribed for copies and translations in the rules applicable to regular appeals.

319. Respondent To Supply His Paper-Books And Bill Of Costs Of Paper-Book :-

The office of the High Court shall, as soon as the paperbooks are received, supply copies thereof to the respondent. If any respondent desires to rely upon documents or papers which are not included in the paper-book supplied by the appellant, he shall, within 15 days from the receipt of such paper-book, or within such further time as the court may allow, supply his paper book with the requisite number of copies thereof containing translations, as the case may be, of the documents or papers on which he wishes to rely. Such respondent shall also supply to the Registrar in the same manner as the appellant a statement as to the number of folios and the bill of costs for the preparation of his paper-book.

320. Appellants Advocate To Supply Copies Of Paper-Books To The Respondent :-

The appellants advocate shall supply at least 3 days before the date of hearing to each respondent as many copies of paper book as he shall have applied for on payment by him of expenses for preparation of the paper-book as directed by the Registrar in this behalf.

320A. Professional Costs :- Notwithstanding anything contained in Chapter XXXI of The Gujarat High Court Rules, 1993, the Advocates Fees in appeals under section 10-F of the Companies Act, 1956, unless the Court otherwise directs, shall be computed as follows:-

(a) A basic fee of Rs. 250/- shall be allowed in addition to a fee at the rate of Rs. 300/- per day of hearing irrespective of the value of the subject matter involved in the appeal. A part of the day shall be counted as a full day for the purpose of computing the fees.

(b) In cases where more Advocates than one have filed their appearances and have also appeared at the time of hearing, it shall be permissible to allow fees for two advocates. In such cases the fees for the second Advocate shall be computed at the rate of Rs.

200/- per day, a part of the day of hearing being counted as a full day.

FORM OF APPEAL UNDER SECTION 10-F OF THE ACT BEFORE THE HIGH COURT OF GUJARAT AT AHMEDABAD

Original Jurisdiction Appeal No. of.

. Appellant

v/s. Respondent

1. Designation and address of the authority passing me order appealed against.
 2. Number and date of the order appealed against.
 3. Date of communication of a copy of the order appealed against.
 4. Address to which the notices may be sent to the appellant.
 5. Address to which the notices may be sent to the respondent.
 6. Whether the appellant wishes to be heard in person?
 7. Reliefs claimed in appeal. Statement of facts Grounds of appeal
- Signature of the advocate Signature of the of the appellant, if any. appellant.

VERIFICATION

I the appellant do here by declare that what is stated in para. is true to the best of my knowledge, paras. is true to my information derived from the record of the case which I believe to be true and the rest are the legal submissions.

Verified today, the. day of. Signature of the advocate, Signature of the if any. appellant.

CHAPTER 24 APPEALS UNDER SECTION 73 OF THE COPYRIGHTS ACT, 1957 (ACT XIV OF 1957)

321. Division Bench To Hear Applications Under Copyright Act :-

All Appeals under section 73 of the Copyrights Act shall be filed in the Office of the Registrar and shall be heard and disposed off by a Division Bench.

322. Rules Regular Appeals To Appeals Under The Act :-

The rules applicable to regular appeals shall, except in so far as they are inconsistent with the Rules in this Chapter, apply to appeals under section 73 of the Copyright Act.

323. Appeal Under The Act Classified As Short Notice Or Expedited Matters :-

Appeals under section 73 of the Copyright Act, 1957 shall, for the purposes of the Rules, be classified as short notice or expedited matters and dealt with accordingly.

324. Appellant To Supply Copies Of Paper-Book For Use Of Court And Respondents :-

The appellant or his Advocate shall, within one month of the notification of the receipt of the record, or within such time not exceeding one month as the Registrar may allow, supply as many copies of the paper book, which shall be in the form and with the contents specified below, as are necessary for the use of the Court and for being supplied to the respondents.

325. Arrangement Of Paper-Book Which Should Be Neatly Typed Paged And Indexed :-

The paper-book shall be neatly typed with a margin of two inches on uniform foolscap paper and shall be duly paged and indexed. It shall be properly bound in a handy volume or volumes. It shall contain transliterations or copies of the documents or papers which are in English, and translations in English of documents or papers in any other language, of the following papers or documents in the order mentioned below:-

1. Memorandum of appeal in the High Court;
2. Copy of the judgment, final decision or order of the Copyright Board under Appeal;
3. Petition, complaint or application before the Board;
4. Written statement or petition of objection or reply as the case may be;
5. Supplementary statements, further and better statements, replies if any;
6. Depositions of witnesses, if any;
7. Copies of documents exhibited before the Board which have been referred to by the Board in the decision under appeal;
8. Copies of any documents rejected by the Board where its rejection is a ground of appeal or cross objections;
9. Copies of any other document on the record which the appellant wishes to refer or rely on at the hearing of his appeal.

326. Appellant To Supply Bill Of Costs Of Paper-Books :-

The appellant shall, along with the paper-books or within such time not exceeding one month as the Registrar may allow in that behalf, supply a statement showing truly and correctly the total number of folios computed at 100 words per folio in the paper book and also

the total number of folios of translations, if any included in the paper-book and also submit his bill of costs in regard to the typing and translation charges computed at the rates prescribed for copies and translations in the rules applicable to regular appeals.

327. Respondents To Supply His Paper-Books And Bill Of Cost Of Paper-Books :-

The office shall, as soon as the paper-books are received, supply the copies thereof to the respondent and the respondent shall, if he desires to reply upon any documents or papers which are not included in the paper-book supplied by the appellant, within 15 days from the receipt of such paperbook or within such time not exceeding 15 days as may be granted by the Registrar, supply his paper-book with the requisite number of copies thereof, containing the translations and transliterations, as the case may be, of the document or papers on which he wishes to rely. The respondent shall also supply a statement as to the folios and the bill of costs in regard to the preparation of his paper-book to the Registrar in the same manner as prescribed for the appellant.

328. Costs Of Paper-Books To Be Included In Bills Of Costs :-

The costs of the paper-book, on verification of the bills relating thereto supplied by the parties, be included in the bills of costs of the respective parties, provided that they have supplied statements of folios and their bills as prescribed in these Rules.

CHAPTER 25 Revision Applications Under Section 5 (2) Of The Bombay Court Fees Act, 1959

329. Form And Accompaniment Of Application For Revision Of Taxing Officers Decision :-

An application for revision of the decision of the Taxing Officer under section 5(2) of the Bombay Court Fees Act, XXXVI of 1959, shall be addressed to the Honourable the Chief Justice and shall be accompanied by a typed copy of the decision sought to be revised. An extra set of the application and the decision shall be supplied for service on the Government pleader or the opposite party as the case may be.

330. Parties To The Application :-

When a Revision Application under this Chapter is filed by the appellant or the application, the opposite party shall, unless otherwise directed by the Court, be the Government Pleader.

Provided that where the application is filed on the behalf of the State, the opposite party shall be the appellant or applicant. Where the State itself is the appellant or applicant in the proceeding in which the decision sought to be revised is made, the opposite party may be the Government Pleader as the officer appointed by the Government of Gujarat under Section 5(2) of the Bombay Court Fees Act, 1959.

331. Disposal Of Application :-

Such application shall be placed" before the Chief Justice or a Judge appointed by him under section 5(2) of the Bombay Court Fees Act, 1959 who may either reject it summarily or dispose it of on merits after issuing notice to the Government Pleader and to such other person as he may deem fit.

332. Costs To Be In Discretion Of Court :-

The costs of an application under Rule 1 shall be in the discretion the Court.

CHAPTER 26 CRIMINAL BUSINESS

333. Presentation Of Proceedings :-

All criminal matters shall be presented in the office of the Registrar to such person as the Registrar may be special or general order authorise.

334. Proceedings To Contain Statement That No Such Proceeding Had Been Filed Before :-

Every appeal or application shall contain a statement that no appeal or application in the same matter has previously been filed. If the appellant or applicant states that an appeal or application has previously been filed, he shall also state how such appeal or application has been disposed of and how the present appeal or application is competent.

335. Application For Bail To Be Served On Government Pleader :-

In every application for grant of bail, a copy of application shall be served upon the Government Pleader in cases arising from the Ahmedabad City area at least 24 hours before the application is heard by the Court and in cases from the mofussil 48 hours before such hearing.

REGISTERS

336. Registers For Classes Of Proceedings :-

Separate registers for the following classes of cases shall be maintained: -

1. Appeals
2. Revision Applications
3. Confirmation Cases
4. References
5. Miscellaneous Applications, and
6. Applications under the Constitution.

337. Registration Of Proceedings :-

Immediately on the presentation of any Criminal Proceeding in this Court by an Advocate, or party in person, or on receipt of the same through jail, or otherwise, it shall be entered in the appropriate register subject to office objections, if any. Entries in the Registers shall be made serially according to the date of presentation or receipt.

338. Joint Appeal Or Application By Persons Affected By Same Judgment :-

All persons aggrieved by a judgment or an order passed in criminal case, whose interests are not in conflict, may join in one appeal or application for revision, and one copy of the judgment or order complained of shall be sufficient.

339. Examination Of Proceedings By Office :-

Every appeal or application shall be examined by the office as expeditiously as possible, and the examination shall be completed within six days from the date of filing, except in matters in which the sentence is six months or less and the accused is in custody, in which case the examination should be completed not later than the day next after presentation or receipt of the appeal or application.

340. Office Of Notify Objections, And Their Removal By Advocates Or Appellants :-

When an appeal or an application (other than an appeal or an application from jail) is incomplete or defective, the Office shall, notwithstanding anything contained in any other rules, affix on a special Notice Board a notice specifying the office objections. An entry of the date of the notification as above shall be made on the presentation form.

(ii) The Advocate or the appellant or applicant concerned, as the case may be, shall remove the office objections within fourteen days from the date of the notification of the office objections failing which the matter shall, without delay, be placed before the Court

for orders.

341. Notifications Of Receipt Of Record :-

The receipt of the record of the lower Court shall be notified on the Notice Board immediately.

342. Notice Where Property Is Returned To Person Not Party To Original Proceeding :-

The Notice of appeal or other proceeding shall be given to the person in whose favour the Court below has made an order under Section 250 or 451 of the Criminal Procedure Code, 1973:

Provided that no case, in which the accused is in jail shall be considered to be unready and kept back merely because the complainant or the person in whose favour the order has been passed is not served.

343. Procedure If Any, Notice Cannot Be Served :-

If the service of any notice cannot be effected within three months from the date of its issue, the matter shall be placed before the court with the relevant reports of the authorities affecting service explaining why the notice could not be served. The Court may pass such orders as it deems fit.

CONFIRMATION CASES

344. Procedure In Regard To Preparation Of Confirmation Cases For Hearing :-

Immediately on receipt of the reference for confirmation of a sentence of death, the office shall issue notice to the District Magistrates concerned and immediately make a requisition for printing within three weeks, 35 copies of the paper-book including the memo of appeal, if any, by the condemned prisoner. The paper-books shall be printed in the form prescribed for paper-books by the Supreme Court. Immediately after the receipt of the printed paper-books, an order shall be taken from the Senior Judge on the Bench hearing Criminal appeals for placing Confirmation Case on Board for hearing. Notwithstanding anything contained in these rules, the Confirmation case together with the Appeal, if any, shall be placed on the top of the Daily Board subject to a part heard case, if any, as ordered by the Senior Judge. One copy of the printed paper-book shall be supplied free of charge to the Government Pleader and one copy free of charge to the Advocate appearing for the condemned prisoner. If the Government Pleader or the Advocate for the condemned prisoner requires additional copies, each additional copy shall be paid at the rate of 25 paise

per page and Rs. 1/-per plan or map and the amount payable shall be collected by means of court fee stamps affixed to the application for such copies. In every case where the High Court confirms the sentence of death or passes sentence of death, the Court shall arrange to supply immediately the certified copy of the judgment free of cost where accused applied for such copy or not.

345. Accompaniments To Appeals And Applications :-

Every appeal and application shall be accompanied by the certified copy of the judgment or order appealed from or applied against including the certified copy of the judgment of the trial Court where an application is against the appellate or revisional order of the Sessions Judge. When the order complained of is that of a Sessions Court having jurisdiction over more than one revenue district, the memorandum of the proceeding shall show the revenue district in which the original proceeding was instituted.

346. Documents Or Copies Produced Or Supplied Lay Advocates Or Parties Be Neatly Typed & Clearly Legible :-

All memoranda of appeals and applications, affidavits, copies and notes supplied by the Advocates or parties, whether for the use of the Court or for service on opposite parties, shall be neatly and clearly typed on thick, durable foolscap paper bearing a margin of 2 inches and shall be clearly legible. The copies shall correspond with the original. Nothing in this rule shall apply to appeals or applications from Jail.

347. Supply Of Additional Set Of Copies Where Proceedings Are To Be Heard By Division Or Full Bench :-

In an appeal or application other than that received from Jail, the appellant or the applicant or the applicant or his Advocate, shall file at the time of the presentation of the appeal or application, an additional set of typed copies of the memorandum of appeal judgment and any other annexures in all cases where such appeal or application is required to be heard by a Division Bench of two Judges. In case of a reference to a Full Bench of three or more Judges the appellant or applicant or his advocate shall supply the requisite number of copies of the use of the Full Bench.

348. Registrar May Dispense With Copies Of Judgment In Subsequent Proceedings :-

Where an appeal or application for revision preferred before the High Court is accompanied by the requisite number of copies of judgments, the Registrar may dispense with copies of judgments in

any subsequent appeal or application for revision presented by any party against the same judgment.

APPEALS AGAINST ACQUITTALS.

349. Procedure Re-Appeals Against Acquittals By Private Parties :-

(i) Every application for special leave under Section 378(4) of the Code of Criminal Procedure, 1973, shall be accompanied by certified copies of the judgment or judgments, as the case may be, of the trial or appellate court. The applicant shall file along with the application two typed copies of (1) the application, and (2) the judgment or judgments of the Court or Courts concerned. The Registrar may condone delay not exceeding seven days in the filing of two typed copies with accompaniments.

(ii) The application shall set out the grounds on which special leave to appeal from the order of acquittal is sought.

(iii) As soon as the application is presented, the office shall issue notice to the Government Pleader of the presentation of such application and the application shall be placed for hearing before the court 90 days after the date of service of the notice. The notice shall be accompanied by a copy of the application with accompaniments where such copy is supplied at the time of presentation. Where such copy is not supplied at the time of presentation such copy shall be served on the Government Pleader as soon as it is supplied.

(iv) If the Government does not file an appeal from the said order of acquittal under section 378 of Code of Criminal Procedure, 1973, within 90 days from the service of notice under the preceding sub-rule, it shall, if ready, be placed before the Court for hearing, It shall not, however, unless otherwise directed by the Court, be placed before the Court before the expiry of the said period of 90 days.

(v) If the Government files an appeal within the period of 90 days the application for special leave and the Government appeal against acquitted shall be placed simultaneously before the Court for hearing.

Nothing in this rule shall be deemed to enlarge the period of limitation for any appeal filed by the Government.

(vi) If the leave is granted the appellant shall file his Memorandum of appeal within the period prescribed under the Limitation Act, 1963 and on such memorandum of appeal being filed the Session

Court shall be required to prepare five or more copies of Paper-Books.

350. Notice In Appeals Against Acquittals To District Magistrates And Public Prosecutors, And Intimation By Them Whether Accused In Jail :-

When an appeal against an order of acquittal is admitted, notice shall be given to the District Magistrate concerned, who shall be required to inform the High Court whether the accused is in Jail, and if so, in what jail he is confined.

Preparation and supply of paper-book

351. Matters In Which Paper-Books To Be Prepared :-

Papers books for the use of the High Court with the contents as prescribed in para 314 of Chapter XVII of Criminal Manual, 1977, shall be prepared in the following cases: -

- (1) All appeals including appeals against acquittal
- (2) Reference or applications for enhancement of sentence where rule has been issued by the High Court.

352. Record To Be Printed In Certain Cases :-

The Record of the case shall, unless otherwise ordered by the Court, be printed in the following cases: -

- (1) An appeal by Government against an order of acquittal of an offence under Section 302 of the Indian Penal Code.
 - (2) An appeal against an order of acquittal in respect of any other offence where the number of accused is more than four and the record of the case is in the opinion of the Registrar very heavy.
 - (3) An application for revision filed by Government for enhancement of sentence passed for an offence under Section 302 of the Indian Penal Code.
 - (4) An appeal in which a notice has been issued by the Court for enhancement of sentence passed in respect of an offence under Section 302 of Indian Penal Code.
- (ii) Where the record is required to be printed, only one typed copy of the paper book typed on one side of the paper shall be called for from the lower Court.
- (iii) The office shall make a requisition for printing within 3 weeks of 35 copies of the paper-book which shall be printed in the form prescribed for paper books by the Supreme Court.

353. Supply Of Paper Books :-

- (i) The Government Pleader shall be supplied free of charge one copy of any paper-book, whether typed or printed.

(ii) The advocate appearing for the accused whether appointed by the Court or appointed by the Deputy Registrar under Rule 360 shall be supplied free of charge one copy of the Paper Book whether typed or printed in -

(1) Appeal against acquittal,

(2) Appeals where notice of enhancement of sentence is issued by the Court, and

(3) In Reference or application for enhancement of sentence.

(iii) In all other cases paper books shall be supplied on payment of the following charges:-

(7) for typed paper-books at the rate of Rs. 2.00 per page.

(8) For printed paper books at the rate of Rs. 1.50 per page; and

(9) For each map or plan at the rate of Rs. 5.00 per page of map.]

353(A). The prescribed rates for supplying paper books shall be increased at the rate of 5% every year, commencing from 1st April of each year.]

(iv) Additional paper-books if available may be supplied to the Government Pleader or the advocate for the accused on payment of the charges prescribed in sub-rule (iii) of this rule.

(v) The charges for paper books levied under this rule shall be recovered in the form of court fee stamps which shall be affixed to the application for copies.

(vi) Notwithstanding anything contained in the rules in this chapter, the Court may where it thinks fit, direct that the accused or his advocate be supplied with a copy of the paper book free of charge.

Special procedure for appeals and application received from jail

354. Accompaniments To Jail Appeals And Applications :-

(i) All appeals and applications received from Jail shall be accompanied by a copy of the register of petition duly filled in by the Jail Superintendent and certified copies of the Judgments and orders as prescribed for appeals and applications for revision under those rules.

(ii) No additional copies for the use of the Division Bench or full Bench shall be required to be supplied when the appeal or application is sent from Jail.

(iii) If the memorandum of appeal or application is not in English, it shall be translated in the Translators Office 1[only if so required or ordered by the Court]. Four typed copies of the translations shall be prepared in that office.

(iv) In every appeal received from the Jail under Sec. 383 of Code

of Criminal Procedure, 1973, a note shall be made by the office for information of the Court hearing criminal appeal stating -

(1) that the period allowed for preferring Appeal expired on a particular date; and

(2) that the order regarding production of accused from custody in Court on the date of hearing of the appeal should be passed or not. Special procedure for application for transfer.

355. Procedure For Transfer Applications :-

An application for transfer of a criminal case shall, as soon as it is presented, be placed before the Court for order subject to office objections, if any. The party or his advocate shall remove all office objections within a week from the date of the said office objections being notified on the Notice Board. If the party or his Advocate fails to remove the said office objections within the said time, the matter shall be placed before the Court for such orders as the Court thinks fit.

BOARDS

356. When A Case Becomes Ready :-

Unless otherwise ordered by the Court, a case shall not be considered as ready until the expiry of a week from the date of notification of the receipt of the Record.

357. Cases To Be Set Down For Hearing On Monday :-

Criminal cases shall ordinarily be set down for hearing on the first working day of the week on which day they shall have precedence over other cases.

358. Preparation Of Weekly Board :-

Subject to orders of the Court regarding special circulation, weekly Boards for criminal cases shall be prepared every Wednesday and the final Boards shall be prepared and notified on the following Friday. At the end of each day, the matters disposed of by the Court or Courts during the course of the day shall be struck off from such Boards.

TRANSLATIONS

359. Translations Or Notes For Translations :-

(i) Notes for translations or where translations are prepared by Advocates, such translations shall be filed within a week of the date of notification of the receipt of the Record.

(ii) Notes filed by advocates for translations shall be accompanied

by an undertaking to pay the translation charges as soon as the translations are ready.

(iii) The charges for translation and the mode of recovery of translation charges shall be the same as prescribed in Rule 119(i) of these Rules.

Appointment of Advocates for Undefended Accused.

360. Appointment Of Advocate For Undefended Accused At Government Costs :-

An advocate shall be appointed at the cost of the State by the Deputy Registrar for an accused who is not represented by any advocate in the following cases: -

(1) Confirmation cases.

(2) Appeals against acquittal.

(3) Proceedings involving a sentence of death.

(4) References under section 385 of the Criminal Procedure Code, 1973, Appeals and revision applications for enhancement of sentence.

(5) Appeals from Jail where a notice for enhancement of sentence has been issued.

(6) Appeals from Jail where notice has been ordered to issue by the Court.

(7) Applications from Jail where a notice for enhancement of sentence has been issued.

(8) Applications by the State or other proceedings for enhancement of sentence:

Provided that in proceeding not involving a sentence of death, no advocate shall be appointed at the cost of the State to defend the accused when he is not in jail unless the District Magistrate concerned reports that the accused is not financially in a position to engage an advocate at his own cost or fails to make any report before the proceeding is notified for hearing.

Explanation: -The appointment of an advocate, whether by the appellant or applicant himself or by the Deputy Registrar under this rule, to represent the appellant or applicant in any appeal or application for revision against an order of conviction and sentence passed against him, shall be deemed to extend to references, notices or applications for enhancement of such sentence, referred to in items 4,5,7 and 8 of this sub-rule and no separate appointment of an advocate to represent the appellant or applicant in such reference, notices or application shall be necessary.

(ii) The appointment of an advocate under sub-rule (i) above shall

be made in good time to enable him to be ready for conducting the case, and as far as possible, on Wednesday preceding the week for which the case is notified for hearing. Even if the accused afterwards appoints an advocate of his own choice, the advocate appointed by the Deputy Registrar shall be allowed his fees for the case. In such a case, the paper book supplied to the advocate appointed by the Deputy Registrar shall be made available to the advocate appointed by the accused, but not without payment of charges prescribed under Rule 353 (iii) above.

361. Advocates Fees When Appointed At State Costs :-

The fees of the advocate appointed at the cost of the State to defend an accused shall be on such scales as the Government may from time to time prescribe.

362. Registrar Power To Enhance Fees :-

The Registrar may increase the fee payable to the advocate in a case upto Rs. 50/- having regard to the complicated nature of the case, heavy labour and time involved in its preparation and conduct. Production in Court of an accused in Jail Custody.

363. Production Of Accused In Jail At The Hearing If He So Desires :-

If an accused who is in Jail desires to remain present in Court at the time of his case is heard, the Deputy Registrar, shall obtain from the Court an order under the Prisoners (Attendance in Courts), Act, 1955 directing the Officer in charge of the Jail for the production of the accused at the hearing of the case in the following cases: -

1. Appeals against acquittal.
2. Cases in which notice of enhancement of sentence has been issued.
3. Cases where the Court considers the presence of the accused desirable or necessary:

Provided that in every case of Appeal by accused from Jail (i.e. the Jail Appeal), the Deputy Registrar shall obtain the orders from the Court for production of the accused at the time of hearing of appeal filed by him.

Payment of Road and Diet money, etc. to Accused and Witnesses.

364. Payment Of Expenses To Accused Acquitted Or Discharge :-

The Registrar may give to any person produced in custody before the Court and acquitted or discharged or set at liberty by the Court,

the requisite money for meeting the railway, steamer, or bus fare for journey to his place of ordinary residence in India and daily expenses: Provided-

(a) That the amount given on account of daily expenses shall not exceed the rate of Rs. 2/- per day for the number of days which in the opinion of the Registrar will necessarily be occupied in such journey.

(b) That the amount of Railway, Steamer or Bus fare shall be of the lowest class.

Note: The Registrar may delegate the powers under this rule to the Deputy Registrar.

365. Travelling And Daily Allowances To Witnesses :-

Any person summoned as a witness in any case in the High Court shall be paid travelling and daily allowance on the same scale as in prescribed in the Rules in the Gujarat Payment by Government on Expenditure of Complainants and Witnesses (Attending Criminal Cases) Rules, 1978.

CHAPTER 27 Rules under Section 96 of the Code of Criminal Procedure, 1973

366. Form And Contents Of Applications :-

(i) Every application under Section 96 of the Criminal Procedure Code, 1973 shall be by petition addressed to the Honourable the Chief Justice and the Judges of the High Court. The interest of the petitioner in the publication in respect of which order of forfeiture has been made and the grounds on which the order of forfeiture is sought to be set aside shall be stated in the petition which shall be suitably arranged in paragraphs consecutively numbered. The relief sought shall be set out at the end of the petition. In every such petition the petitioner or where there are more than one petitioner, the petitioners shall state whether he or any of the petitioners have filed any proceeding in the Supreme Court, any High Court or any other Court in respect of the same matter and how that application or proceeding has been disposed of.

Note: Where a person signs the petition in a capacity other than his individual capacity, such as public officer, guardian of a minor, partner of a firm, power of attorney holder, Director, Secretary or Principal Officer of a Company or Corporation etc. he shall indicate the capacity in which he signs. Every petition under this rule shall be supported by an affidavit by the petitioners or one of the

petitioners or by a person acquainted with the facts of the case. The deponent shall state what paragraphs or portions of his affidavits he swears or solemnly affirms to from his own knowledge and what paragraphs or portions he swears or solemnly affirms to from his own knowledge and what paragraphs or portions he swears or solemnly affirms to on his belief, stating the grounds of such belief. If the petitioner or any of the petitioners makes an application to the Supreme Court in respect of the same matter on any question arising therein during the pendency of the petition in the High Court, he shall forthwith bring this fact to the notice of the High Court by filing an affidavit in the case and shall furnish a copy of the same to the other side.

367. Title Of Petition :-

The petition shall be instituted "in the matter of the (name or description of) book, document, or newspaper" as the case may be.

368. Accompaniment To The Petition :-

All documents or copies thereof in proof of the interest of the petitioner in the subject matter of the order of forfeiture under Section 95 of the Code of Criminal Procedure, 1973, the book, paper or document which is-forfeited and such other documents or copies on which the petitioner wishes to rely shall be annexed to the petition,

369. Supply Of Additional Set Of Petition With Annexures :-

An additional set of the petition with copies of annexures shall be filed alongwith the petition which shall be presented in the Criminal Department of the Office.

370. Examination & Removal Of Office Objections :-

The office shall complete the examination and put up the objections on the Notice Board within three days from the date of presentation and the petitioner shall remove all the office objections within seven days from the date they are put up on the Notice Board failing which the matter shall immediately be placed before the Court for orders.

371. Notice To Be Served On State Government :-

As soon as the office objections are removed, the office shall issue a notice addressed to, the Secretary of the Government of Gujarat, in the Home Department and a copy of the petition with its annexures shall be served along with the notice.

372. Estimate Of Translation Charges To Be Prepared And

Served :-

Immediately after the removal of office objections the Senior translator shall prepare an estimate of the cost of translations of any documents of papers which are not in English. An intimation of the estimated translation charges shall be served upon the petitioner or his advocate who shall deposit the said estimated charges within seven days from the service of the intimation. The translations shall be completed as soon as possible after the deposit is made and in any event not later than seven days from the date of deposit. As soon as the translations are ready, they shall be supplied forthwith to the petitioner who shall pay additional charges if any and acknowledge receipt of the translations in writing.

373. Preparation Of Paper Book :-

(i) The petitioner shall within thirty days from the date of receipt of translations under the preceding rule supply 15 printed copies of the paper book to the office.

(ii) The printed paper books shall be in the form and manner prescribed for printed paper book in appeals to the Supreme Court.

(iii) The contents of the paper book shall be arranged in the following order: -

1. The petition
2. Notice of forfeiture under Section 95 of the Code of Criminal Procedure, 1973 or other document which the subject matter of the order of
3. The book, newspaper of forfeiture.
4. Papers produced in proof of the petitioners interest in the subject matter of the forfeiture in the chronological order.
5. Other documents in chronological order.

374. Costs Of Printing And Translations To Be Included In Bill Of Costs :-

(i) The costs of printing shall be allowed in Bill of Costs of the petitioner on the production of the Bill and receipt of the charges from the Press. Provided the costs to be allowed shall not be in any case exceed the amount computed at the rate of Rs. 10/-per page of the printed paper-book.

(ii) The costs of translations shall be allowed in the Bill of Costs.

375. Order Of The Chief Justice Reformation Of Special Bench & Fixed Date Of Hearing :-

As soon as the printed paper books are supplied the petition shall

be placed before the Chief Justice who will pass orders constituting a Special Bench of three Judges and appoint a day for hearing and determination of the petition which shall be notified on the Notice Board.

376. Application Of Other Rules :-

The rules applicable to the Taxation of Costs in Writ Petitions shall apply to petitions under this Chapter.

377. Execution Of Orders :-

The procedure prescribed in these rules for execution of orders of the High Court on Writ Petitions shall apply mutatis mutandis to the execution of orders on petitions under this Chapter.

CHAPTER 28 RULES FOR THE ISSUE OF WRITS OF HABEAS CORPUS, ARTICLE 226 OF THE CONSTITUTION OF INDIA

378. Presentation Of Application :-

(i) An application by or on behalf of persons for order shall be presented in the Criminal Department of the office. The application shall set forth particulars in regard to the name and designation of the authority or persons passing the order of detention or the authority of person in whose custody the detenu is, full particulars as to the place of detention and the grounds upon which the relief is sought. The application shall be supported by an affidavit. The applicant or his advocate shall along with the application file a typed copy of the application with annexures for the use of the court.

(ii) Where any interim relief is sought, a copy of the application shall be served on the Government Pleader, High Court before the presentation of the applications.

379. Annexures To Be Filed With The Applications :-

The applicant shall annex to his application a copy of (1) the order of detention, if any, (2) his representation if any, against the said order, (3) any reply to the said representation, and (4) such other document as he desires to rely upon.

380. Issue Of Rule Nisi :-

(i) If the Court is of opinion that a prima facie case for granting the application is made out, a rule nisi shall be issued calling upon the person or persons against whom the order is sought to appear on a day to be named therein to show cause why such order should not be made and at the same time if the courts so directs to produce in

Court the body of the person or persons alleged to be illegally or improperly detained then and there to be dealt with according to law.

(ii) A copy of the application shall be served with the notice of the rule nisi.

(iii) When a rule nisi is issued by the Court, the application shall, within three days of the order granting rule, supply as many copies of application as are necessary for service on each of Respondents.

381. Order On Hearing Of Rule :-

On the returnable day of such rule or on any day to which the hearing thereof may be adjourned, if no cause is shown, or if cause is shown and disallowed, the Court shall pass an order that the person or persons improperly detained shall be set at liberty or delivered to the person entitled to their custody, If cause is allowed, the rule shall be discharged.

382. Service Of Writs :-

Where the place of detention is known, the High Court writ shall be served on the Jailor with a copy to the detaining authority. Where the place of detention is; not know, the writ should be served upon the detaining authority. But an attempt should be made by the office to find out where the place of detention is, and if the place is ascertained, then a copy of the writ shall be served upon the Jailor.

383. Costs Of Rule In Discretion Of Court :-

(i) In disposing of any such rule, the Court may, in its discretion, make an order for the payment by one side or the other of the costs of the rule.

(ii) The order as to costs may be executed" in the manner prescribed for execution of orders on writ petitions under Article 226 of the Constitution.

384. Procedure As To Evidence To Be Recorded :-

The court may, if necessary, itself record evidence or direct a Court of Sessions or a Magistrate to take evidence as provided in Section 391 of the Criminal Procedure Code.

385. Procedure In Case Of Difference Of Opinion :-

In case of difference of opinion between the Judges composing the Division Court, the procedure laid down in Section 392 of the Code of Criminal Procedure shall be followed.

386. Service On The Government Pleader Or Respondent :-

Nothing in the Rules in this Chapter prescribing supply of typed copies of the application with annexure for the use of the Court or for service on the Government Pleader or respondents or requiring the application to be supported by an Affidavit shall apply to an Application sent by the detenu from Jail or other places of detention.

CHAPTER 29 Appeals to the Supreme Court

387. Certificate Of Witness :-

Upon the Court granting leave, the office shall issue certificate in form of Schedule A.

388. Service Of Notice Of Judgment :-

Upon an intimation by the Supreme Court regarding the presentation of Memorandum of appeal before it as well as payment of amount of security for the costs of the respondents and for the preparation of the Transcript record by petition, the office shall -

- (a) cause notice of the lodgment of the petition of appeal to be served on the respondent personally or in such manner as this Court may be rules prescribe; and
- (b) as soon as the notice as aforesaid is served, send a certificate as to the date on which the said notice was served.

389. Transmission Of English Record And Deposit Of Its Costs :-

If the entire record is in English language the office shall transmit, at the costs of the appellant the original record as it is to be Supreme Court. The appellant shall deposit its costs within 15 days from the date of service of the notice issued to him for that purpose.

390. Transmission Of English Transcript Where Record Is Not In English :-

Where the proceedings from which the appeal arises were in courts below in language other than English the office shall within 6 months from the date of the service on the respondent of the notice of petition of appeal transmit to the Supreme Court in triplicate a transcript in English of the Record proper of the appeal to be laid before the Supreme Court, one copy of which shall be duly authenticated. The provisions contained in rules 15 to 20 of Order XV of the Supreme Court Rules, 1966, shall apply to the

preparation and transmission to the Supreme Court of the said transcript record.

391. Revocation Of Leaves :-

If no intimation is received from the Supreme Court regarding the lodgment of Petition by the Appellate within the prescribed time the matter shall be placed before the Court for orders regarding revocation of leave after giving notice to the Advocate or the party.

392. Service Of Notice Upon Advocate Sufficient :-

Where a party has been represented at the hearing of the appeal by an Advocate, service of notice, in the following cases on the Advocate shall be deemed sufficient notice; and unless his vakalatnama has been cancelled with the sanction of the Court, such Advocate shall accept service of the notice: -

- (a) Notice for settling Index under rule 401;
- (b) Notice of transmission of the transcript record to the Supreme Court when an appeal is printed under supervision of this Court: Provided that if the Advocate served with the notice unable to communicate it to the party concerned he shall inform the office in writing and thereupon the office shall obtain orders of the Registrar to serve the notice on the party concerned through a Court or by Registered post.

393. Notice Of Arrival Or Record And Its Inspection List Of Documents To Be Filed, Settlement Of Index :-

(i) As soon as the original record of the case is received in office, the office shall give notice to the parties of the arrival of the original record in the prescribed form in Schedule B of this Chapter and shall also inform them by the said notice that they may inspect the record and extract all necessary particulars there from.

(ii) The appellant shall within four weeks of the service upon him of the notice referred to in sub-rule (1), file a list of the documents which he proposes to include in the Transcript Record, a copy whereof shall be served on the respondent. The respondent may within three weeks of the service on him of the said list file a list of such additional documents as he considers necessary for the determination of the appeal. Failure of the appellant to file a list without applying for extension of time shall be reported to the Court.

(iii) After the expiry of the time fixed for the filing of the Additional list by the respondent, the office shall place the matter on the

Registrars Board for the settlement of list of document to be included in the Transcript record any shall give notice thereof in the prescribed form in Schedule B-I to the parties who have entered appearance. In settling the list the Registrar, as well as the parties concerned, shall endeavour to exclude from the record all documents that are not relevant to the subject matter of the appeal and generally to reduce the bulk of the records as far as practicable.

394. Omission Of Documents From Or Their Inclusion Of Its Script Record :-

(i) It shall be in the discretion of the Registrar to omit from the transcript any documents- which have not, within the time specified, been expressly asked for by the parties.

(ii) If the Advocate fails to attend or to settle the list of documents to be included in the record of the Supreme Court Appeal, the Registrar shall place the matter before the Court without further delay. Any costs incurred on such account shall be borne in such manner as the Court may direct.

(iii) If the parties agree as to the documents to be omitted such documents shall not be translated or transcribed.

(iv) If either party expressly asks for translation or inclusion of any document, and the application is granted the circumstances shall be noted in the Transcript Record.

395. Note To Be Made In Respect Of Objections By The Respondent :-

Where the respondent objects to the inclusion of a document on the ground that it is not necessary or is irrelevant and the appellant nevertheless insists upon its inclusion, a remark shall be made in the list of the documents to be included in the Transcript Record stating that the respondent has objected to the inclusion of the document and that it has been included at the instance of the appellant.

396. Inclusion Of Documents Objected To By The Appellant :-

Where the appellant objects to the inclusion of a document on the ground that it is not necessary or is irrelevant and the respondent nevertheless insists upon its inclusion, the Registrar, if he is of opinion that the document is not relevant, may direct that the said document be copied out at the expenses of the respondent and

require the respondent to deposit within such time as he may prescribe, the necessary charge thereof, and the question of the costs thereof shall be dealt with by the Supreme Court at the determination of the appeal. If the respondent makes a default in depositing the charges the document in question shall be excluded from the Transcript Record.

397. Estimate Of Costs :-

The office shall as soon as possible thereafter prepare an estimate for the costs of the preparation of the triplicate copies of the records and the transmission thereof to the Supreme Court including the charges for the translation and typing.

398. Notice To Deposit Costs :-

The office shall thereafter call upon the petitioner by notice in writing to deposit the estimated amount of costs for the preparation of the triplicate typed copies of the record within one month from the date of the notice.

399. Preparation Of The Record For Supreme Court :-

As soon as the amount is deposited by the petitioner, the office shall proceed with the work of translation and typing, so as to prepare the triplicate copies within a period of six months from the date of the service on the respondents of the notice of petition of appeal or such further time as may be extended by the Supreme Court at the request of the High Court. If the petitioner make a default, the default shall be reported to the Supreme Court.

400. Translation :-

The translations required for the Transcript Record shall be made by the Translation Department.

401. Estimate Of Translation Charges :-

(i) A fee of Rs. 16/- shall be charged for estimating the translation charges. The Registrar shall however have power to reduce the amount of this fee in appropriate cases.

(ii) If, after having due regard to the amount of deposit made under rule 406 and the number of documents to be translated for the purpose of inclusion in the transcript record, the office deems it necessary to obtain an estimate of the translation charges prior to the actual entrusting of the work of translation, the Translation Department shall certify the necessary estimate within 15 days after the documents to be translated are determined and specified.

402. Translations Not To Be Made Again If They Are Already There :-

Any part of the record which may have been officially translated for the purpose of the hearing of the matter in the High Court, shall not be translated over again, unless otherwise ordered by the Court.

403. When Depositions Need Not Be Translated :-

The deposition of witnesses in the regional language shall not be translated in cases in which the notes of the substance of the depositions are taken in English by the Lower Court, unless either one or both the parties desire and show sufficient cause to the Registrar that particular deposition or depositions should be translated.

404. Procedure For Translation :-

The parties on each side shall be invited from time to time to inspect such translations and in cases of disagreement, the points in dispute, which must be stated in writing, shall be submitted within two weeks to the Translator for clarification. The translations in dispute shall be examined and authenticated by the Translator or such other person as the Chief Justice may from time to time appoint in that behalf, and shall be filed with the record of the case.

405. Fees For Translation :-

(i) A fee of Rs. 15.00 per page and Rs. 7.50 for half of the page for translation and an additional fee of Rs. 3.00 per page for examination and authentication, if any, shall be levied.]

(ii) The fees for translation, except when the translation is done by the Court Translators out of office hours or by other persons with the permission of the Chief Justice, and the fees for examination and authentication shall be credited to Government.

406. Record To Be In Triplicated :-

The triplicate copies of the Record proper shall be prepared under the supervision of this Court in accordance with the rules as set out in schedule C below and the parties may submit any disputed question arising in connection therewith, to the decision of the Court and it shall give such directions thereon as the justice of the case may require.

407. Practice As To Translations And Paper Books :-

Save as herein provided, the practice as to translations and paper-

books shall be regulated by such office rules as the Chief Justice and Judges may from time to time make.

408. Fees For Preparing Transcript Record :-

For preparing the record, fees shall be charged at the following rates:-

- (1) Preparation of Index. Rs. 2.00 per page.
- (2) Copying & comparing of documents for the preparation of the Press copy including examination - Rs. 3.00 per page.
- (3) Head notes to documents in the transcript Record. - Rs. 2.00, each document.
- (4) Certifying a copy of the record by the Registrar when the record is printed under supervision of this Court. - Rs. 2.50 per page.
- (5) Examination of proof. - Re. 1.00 for every printed page.
- (6) For preparing copies of documents (other than tabulated statements and accounts) taken from Computer/xerox, a fee at the rate of Rs. 2.50 and Re. 1.00, respectively, per page, shall be charged.
- (7) For preparing legible copies taken from Computer/xerox, a fee at the rate Rs. 2.50 and Re. 1.00, respectively, per page, shall be charged.
- (8) Preparing copies of tabulated statements and accounts. - Rs. 2.00 per page.
- (9) Preparing Computer/xerox copies of above, a fee at the rate of Rs. 2.50 and Re. 1.00, respectively, per page, shall be charged.
- (10) Preparing lithographed or printed copies. - Rs. 1.50 for each copy.
- (11) Preparing photographed copies or maps. - Actual charges.
- (12) Printing paper book. - Actual charges.
- (13) Preparing list of documents not included in the Transcript Records. - Rs. 2.00 per page.]

408(A). The prescribed rates for translation charges and transcript record including photocopy, typed copy etc. shall be increased at the rate of 5% every year, commencing from 1st April of each year.
]

409. Application Of The Supreme Court Rules To The Printing Of The Record :-

If in any matter, the Supreme Court directs the High Court to undertake the preparation and printing of the Transcript Record, the same shall be prepared in accordance with the relevant provisions of the Supreme Court Rules, 1966.

410. Additional Deposit Of Costs :-

In the course of the preparation of the Transcript Record, the office shall, from time to time make close scrutiny of the expenditure incurred in that behalf. If at any stage, the office deems it necessary to call for an additional deposit, the same shall be notified to the appellant, who shall be required to deposit it within the specified time, failing which the matter shall be placed before the Court for orders.

411. Procedure In Case Of Default :-

If the party fails or omits to take necessary steps with the diligence for the preparation of the Transcript Record, the default shall be reported to the Supreme Court as soon as possible. Provided however, in cases where the parties have failed to present the memorandum of appeal before the Supreme Court within the stipulated time, the matter shall be placed before the Honourable Court for such orders as may be deemed fit and proper including the revocation of leave and cancellation of certificate.

412. Names Of Parties To Be Set Out In Full :-

The names of all the parties shall be set out in the petition for leave to appeal to the Supreme Court, on the certificate granting leave, and on the inside title page of the paper book.

413. Dispatch Of Record To The Supreme Court :-

When the triplicate copies of the record are made ready the Registrar shall, at the expenses of the appellant transmit to the Registrar of the Supreme Court all the three copies one of which shall be duly authenticated.

414. Printing Of Record By High Court :-

In case when the record is printed under the supervision of the High Court, the office shall-

(i) at the expense of the appellant transmit to the Supreme Court such number of copies as the Supreme Court may direct, or, in the absence of any special direction in this behalf, 20 copies of such record, one of which shall be certified to be correct by the Registrar by signing his name on, and initialing, every eighth page thereof and by affixing there to the Seal of this Court.

(ii) give notice of the dispatch of the record to the parties.

(iii) send to the Supreme Court a certificate as to the date or dates on which the notice under the preceding clause (ii) has been served.

415. Procedure In Case Of Death Of A Party :-

When at any time during the pendency of the appeal before the Supreme Court, the record becomes defective by reason of the death or the change of status of a party to the appeal or for any other reason, the parties shall take such steps as may be necessary by filling proper application in the Supreme Court.

416. Consent Decree Or Withdrawal Of Appeal :-

An appellant who has obtained a certificate from the High Court may, at any time prior to the filing of the Memorandum of appeal before the Supreme Court, obtain consent decree or order or withdraw the appeal on such terms as to costs and otherwise as the Court may direct.

CRIMINAL APPEALS.

417. Application Of Other Rules Mutatis Mutandis :-

So far as may be applicable the rules in this Chapter shall with the necessary modifications and adaptations apply to the criminal appeals.

SCHEDULE-A

FORM

(Rule387)

Certificate of Fitness (Suo Motu Grant of certificate of fitness)

In the High Court of Gujarat at Ahmedabad Appellate Side (Coram: _____) This Court/while passing or making a judgment/decreed/final order dated _____of 19 ____ from original/Appellate Decree/order preferred against the judgment and decree/order dated the__of____19 ____ on the file of the _____is of the opinion that the case herein involves a substantial question of law, of general importance which needs to be decided by the Supreme Court. This Court doth certify under A r t . _____of the Constitution of India that _____Witness_____ Esquire, Chief Justice at Ahmedabad aforesaid this _____day of _____One Thousand Nine Hundred and _____. By order of the Court This day of 19. _____.

SCHEDULEB

(Rule 393)

Notice of the parties to file list of Documents and Additional list of Documents.

Appeal No. _____of 19 _____ Appellant before the Supreme Court Versus. Respondent before the Supreme Court To

Take notice that the original record of the matter between the

parties stated above is received in this Office and therefore you may inspect the said record and extract such particulars there from as you may think to be necessary. You (the appellant) are hereby informed that you should file a list of the documents which you propose to include in the Transcript Record within four weeks of the service upon you of this notice and serve a copy thereof on the respondent or his Advocate and on your failure to do so without applying for extension of time, the default shall be reported to the Court. You (the respondent) are hereby informed, that you may, within three weeks of the service upon you of the list of document proposed to be included in the Transcript Record by the Appellant, file a list of such additional documents as you may consider to be necessary for the determination of the appeal. If no such list of additional documents is filed within the prescribed period, it will be presumed that you do not want to file any list and the matter, shall be placed on the Registrars Board for the settlement of list of document to be included in the appeal.

This. day of. 19.

Additional Registrar

SCHEDULE-B-1

(Rule 393(iii))

Notice to the Advocate or the parties to settle the list of documents to be included in the Record of the Supreme Court Appeal

Appeal No. of 19.. . . .

Appellant before the Supreme Court

Versus

Respondent before the Supreme Court. Take notice that the time for filing the Additional list of documents by the respondent having expired, the matter shall be placed on the record of the Registrar for settlement of the list of documents to be included in the record of the Supreme Court appeal on any day convenient to him after a week from the date of service of this Notice.

This. day of. 19.

Additional Registrar

SCHEDULE-C

(Rule 406)

Rules as to printing of Records

(First Schedule of the Supreme Court Rules, 1966)

1. The Record in appeals to the Supreme Court shall be printed in the form known as Demy Quarto on both sides of paper with single spacing.

2. The size of the paper used shall be such that the sheet when

folded and trimmed will be about 29.7 Cm. in length and 21 Cm. in width.

3. The type to be used in the text shall be Pica type, but Long Primer shall be used in printing accounts, tabular matters and notes. Every tenth line shall be numbered in the margin.

4. Record shall be arranged in two parts in the same volume, where practicable, viz: -

Part I:- The pleadings and proceedings, the transcript of the evidence of the witnesses, the judgment, decrees etc. of the Courts below, down to the Order admitting the appeal.

Part II:- The exhibits and documents.

5. The Index to Part I shall be in chronological order, and shall be placed at the beginning of the volume. The Index to Part II shall follow the order of the exhibit mark; and shall be placed immediately after the Index to Part I.

6. Part I shall be arranged strictly in chronological order, i. e. in the same order as the Index.

7. The document in Part-I shall be numbered consecutively. The documents in Part II shall not be numbered apart from the Exhibit mark.

8. Each document shall have a heading which shall consist of the number of exhibit mark and the description of the document in the Index, without the date.

9. Each document shall have a heading which shall be repeated at the top of each page over which the document extends viz:-

(a) Where the case has been before more than one Court, the short name of the Court shall first appear. Where the case has been before only one court, the name of the Court need not appear.

(b) The heading of the document shall than appear consisting of the number and the description of the documents in the index, with the date, except in the case of oral evidence.

(c) In the case of the oral evidence "Plaintiffs evidence" or "Defendants evidence" shall appear next to the name of the Court and than the number in the Index and the witnesss name, with "Examination", "Cross- Examination" or "Reexamination" as the case may be.

INDEX II

The word "Exhibit" shall first appear and next to in the exhibit mark and the description of the document in the Index with the date. Sufficient space shall be left after the heading to distinguish it from the rest of the matter printed on the page.

10. The parties shall agree to the omission of formal and irrelevant

documents, but the description of the documents may appear (both in the index and in the Record), if desired, with the work "not printed" against it. A long series of documents, such as, accounts, rent-rolls, inventories etc. shall not be printed in full, unless counsel so advises, but the parties shall agree to short extracts being printed as specimens.

11. In cases where maps are of an inconvenient size or unsuitable in character, the appellant shall, in agreement with the respondent prepare maps drawn properly to scale and of reasonable size, showing as far as possible, the claims of the respective parties in different colours.

CHAPTER 30 MISCELLANEOUS

418. Expiry Of Prescribed When Court Is Closed :-

Whenever the High Court is closed on the last day of the period prescribed by any of those rules for doing a thing, the same be done before the close of the next working day, whether the rules specifically so provides or not.

CHAPTER31 Rules made by the High Court of Gujarat under the Advocates Act

419. Section 419 :-

419 to 425 and Schedule to these Rules stand repealed by High Court Notification No. C. 3001/2012, dated 31.07.2012, published in Government Gazette, Vol. LIII, No. 32, dated 09.08.2012] Rule under Section 34

420. Section 420 :-

421. Section 421 :-

422. Section 422 :-

423. Section 423 :-

424. Section 424 :-

425. Section 425 :-

426. Definitions :-

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

(i) "Advocate" shall include a partnership or a firm of advocates.

(ii) "Bar Council" shall mean the State Bar Council of Gujarat.

427. Appearance By Filing Vakalatnama :-

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

Provided that where an advocate has already filed an appointment in any proceeding, it shall be sufficient for another advocate, who is engaged to appear in the proceedings merely for the purpose of pleading to file a memorandum of appearance or to declare before the Court that he appears on instructions from the advocate who has already filed his appointment in the proceedings;

Provided further that nothing herein contained shall apply to an advocate who has been requested by the Court to assist the Court amicus curiae in any case or a proceeding or who has been appointed at the expenses of the State to defend an accused person in a criminal proceeding.

Explanation: -A separate appointment or a memorandum of appearance shall be filed in each of the connected proceedings, notwithstanding that the same advocate is retained by the party in all the connected proceedings.

428. Mode Of Appearance By Advocate Not On The Roll Of Advocates Maintained By The Bar Council Of Gujarat :-

An advocate who is not on the roll of advocates of the Bar Council shall not act in such Court, unless he files an appointment alongwith an advocate who is on the Roll of the Bar Council and who is ordinarily practicing in such Court; but such Advocate who is not on Roll of Advocates of the Bar Council shall be permitted to appear and plead in such Court if he appears with or is instructed by an advocate who is enrolled by the Bar Council and who has filed an appointment.

429. More Than One Advocate To File A Joint Vakalatnama Or Separate Vakalatnama :-

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

430. Mode Of Acceptance Vakalatnama By Firm Of Advocates :-

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

431. Advocate To State His Address On Vakalatnama :-

An advocate at the time of acceptance of his appointment shall also endorse on it his address, which address shall be regarded as one for service within the meaning of rule 5 of Order 3 of the Code of Civil Procedure, 1908; Provided that where more than one advocate accepts the appointment, it shall be sufficient for one of them to endorse his address, which address shall be regarded as one for service within the meaning of rule 5 of Order 3, C. P. Code.

432. An Advocate May Instruct Another To Appear :-

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

433. Extent Of Appearance By Vakalatnama In Civil And Criminal Cases :-

(1) In civil cases, the appointment of an advocate, unless otherwise limited, shall be deemed to be in force to the extent provided in that behalf by Rule 4 of Order 3 of the Code of Civil Procedure, 1908.

(2) In Criminal cases, the appointment of an advocate, unless otherwise limited, shall be deemed to be in force until determined with the leave of the Court by writing signed by the party or the Advocate, as the case may be, and filed in Court or the advocate dies, or until all proceeding in the case are ended so far as regards the party.

(3) For the purpose of sub-rule (2), a case shall be deemed to mean every kind or enquiry, trial or proceeding before a Criminal Court whether instituted on a police report or otherwise than on a police report and shall include: -

(i) An application for bail or reduction, enhancement or cancellation of bail in the case,

(ii) an application for transfer of the case from one Court to another,

(iii) an application for stay of the case pending disposal of a civil proceeding in respect of the same transaction out of which the case

arises,

- (iv) an application for suspension, postponement or stay of the execution of the order or sentence passed in the case,
- (v) an application for the return, restoration or restitution of the property as per the order of disposal of property passed in the case,
- (vi) an application for leave to appeal against an order or acquittal passed in the case,
- (vii) any appeal or application for revision against any order or sentence passed in the case,
- (viii) a reference arising out of the case,
- (ix) an application for review of an order or sentence passed in the case or in an appeal, reference or revision application arising out of the case,
- (x) an application for making concurrent sentence awarded in the case or in an appeal, reference, revision or review applications arising out of the case,
- (xi) an application relating to or incidental to or arising in or out of any appeal, reference, revision or review application arising in or out of the case (including an application for leave to appeal to the Supreme Court).
- (xii) any application or act for obtaining copies of documents or for the return of articles or documents produced or filed in the case or in any of the proceeding mentioned hereinbefore.
- (xiii) any application or act for obtaining the withdrawal or the refund or payment or out of the moneys paid or deposited in the court in connection with the case or any of the proceedings mentioned herein before (including moneys paid or deposited for covering the costs of the preparation and the printing of the Transcript Record or Appeal to the Supreme Court).
- (xiv) any application for the refund of or out of the moneys paid or recovered as fine or for the return, restitution or restoration of the property forfeited or confiscated in the case or in any appeal reference, revision or review application arising out of the case as per final orders passed in that behalf.
- (xv) any application for expunging remarks or observations in the judgment in the case or any appeal, reference, revision or review application arising out of the case, and
- (xvi) any application or proceedings for sanctioning prosecution under Chapter XXVI of the Code of Criminal Procedure,1976, or any appeal or revision application arising from and out of any order passed in such an application or proceeding:

Provided that where the venue of the case is shifted from one Court (Subordinate or otherwise) to another, the advocate filing the appointment referred to in sub-rules (1) and (2) in the former Court shall not be entitled to appear, act or plead in the latter Court, unless he files or has filed a memorandum signed by him in the latter Court that he has instructions from his client to appear, act and plead in that Court.

434. Bar Against Appearance Of Certain Advocates In Certain Case :-

(1) Except when specially authorised by the Court or with the consent of the party, no advocate, who has advised in connection with the institution of a suit, appeal or other proceedings or has drawn up pleadings in connection with such matter, or has during the progress of any suit, appeal or other proceeding appeared, acted or pleaded for a party, shall, unless he first gives the party whom he has advised or for whom he has drawn up pleadings, appeared, acted or pleaded, an opportunity of engaging his services, appear or act or plead in such suit, appeal or other proceeding or in an appeal or application for revision arising there from or in any matter connected therewith for any person whose interest is in any manner in conflict with that of such party:

Provided that the consent of the party may be presumed if he engages another advocate, to appear, act or plead for him in such suit, appeal or other proceedings without offering an engagement to the advocate whose services were originally engaged by him or on his behalf.

(2) Where it appears on the face of the record that the appearance of an advocate in any proceeding for any party is prejudicial to the interest of the other party on account of the reasons mentioned in sub-rule (1) above, the Court may refuse to permit the appearance to be filed or cancel such appearance if it has already been filed, after giving the said advocate an opportunity of being heard.

435. Form Of Vakalatnama Be Filed By A Firm Or Advocates :-

(a) When a firm or partnership of Advocates is appointed to appear on behalf of any party, the appearance or Vakalatnama as the case may be, shall bear on its the name of the firm or partnership and the names of partners constituting the same.

(b) The appointment of a firm or partnership of Advocates may be

accepted by any partner on behalf of the firm.

(c) No such firm or partnership shall be entitled to appear, act or plead in any Court unless all the partners thereof are entitled to appear, act or plead in such court.

(d) The name of the firm or partnership may contain the names of the persons who were or are members of the partnership but of no others.

(e) The name of all the members of the firm shall be recorded with the Registrar of the High Court and/or the District Judge, as the case may be, and the Bar Council, and the names of all the partners shall also be set out in all professional communications issued by the partners of the firm.

(f) The firm of advocates shall notify to the Registrar of the High Court and/or the District Judge, as the case may be, and the Bar Council, any change in the composition of the firm or the fact of its dissolution as soon as may be from the date on which such change occurs or its dissolution takes place.

(g) Every partner of the firm of advocates shall be bound to disclose the names of all the partners of the firm whenever called upon to do so by the Registrar of the High Court, the District Judge, the Bar Council any Court or any party for or against whom the firm or any partner thereof has filed the appointment or memorandum of appearance.

(h) In every case where a partner of the firm of advocates signs any document or writing on behalf of the firm he shall do so in the name of the partnership and shall authenticate the same by affixing his own signature as partner.

(i) Neither the firm of advocates nor any partner thereof shall advise a party to appear, act or plead on behalf of a party in any matter or proceeding where the opposite party is represented by any other partner of the firm or by the firm itself.

436. An Advocate Not To File His Vakalatnama Without The Consent Of One Who Is Already On Record :-

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

437. Correction Of Clerical Errors :-

An advocate may correct any clerical error in any proceedings with

the previous permission of the Registrar or an officer of the Court specifically empowered in this behalf by the Court obtained on a memorandum stating the correction desired.

438. Debarred Advocate Not To Appear :-

No advocate who has been debarred or suspended or whose name has been struck off the Roll of Advocates shall be permitted to act as a recognised agent of any party within the meaning of Order 3 of the Code of Civil Procedure, 1908.

438A. No Advocate/Advocates Shall Go On Strike For Any Reason :- Strike by Advocate/Advocates shall be considered interference with the Administration of Justice, and an appropriate action, including order barring them from practicing in any Court within the State shall be taken against the defaulting Advocate/Advocates.

439. Advocates In Contempt Not To Appear :-

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

440. Uniform Dress For Advocates :-

Advocates appearing before the court shall wear the following dress:

(1) Advocates other than lady advocates:

(a) Black buttoned up coat (chapkan, achakan or Sherwani), Barristers gown and bonds, or

(b) Black open collar coat, white shirt, white collar, stiff or soft, with Barristers gown and bands,

(2) Lady Advocates: - Regional dress of subdued colour or colours with Barristers gown and bonds.

TAXATION OF ADVOCATES FEES

441. Following Rules To Apply :-

The amount of Advocates Fees to be taxed in the bill of costs in regard to any party represented by an Advocate in any suit, Appeal, Application or proceeding shall be computed and taxed in accordance with the following rules.

442. Fees In Cases Where There Are More Than On Advocates :-

(i) When a party has engaged more than one Advocate in any

contested suit, appeal, application or proceeding to which rule, of Schedule A of this Chapter applies and the value of the subject matter of which exceeds Rs. 10,000/-, he shall be allowed fees of 2 Advocates in the bill of costs; provided that the Court may, having regard to the circumstances of the case, direct that fees to two advocates may be taxed in proceedings to which this rule does not apply.

(ii) The provisions of this rule shall not apply to Summary Suits under Order XXXVII of the Code of Civil Procedure, 1908 where leave to defend is refused or where the defendant is absent, to bills of costs of any persons prosecuting or defendant, any suit, appeal, application or proceeding in forms pauperis and unless otherwise ordered by the Court, to Short Causes in the City Civil Court and to case other than those specified in this rule.

443. Separate Set Of Costs For Separate Advocates Representing Different Parties :-

(i) When a party or a set of parties, has engaged separate Advocate such party or a set of parties, shall subject to such directions as may be given by the Court under subrules (ii) to (iv) below, be allowed a separate set of costs allowing advocates fee at the full amount allowable under these rules

(ii) When several parties or set of parties, though represented by separate Advocates have a common, interest, the Court may direct that the costs of such parties or sets of parties shall be - taxed in one set.

(iii) When several parties or sets of parties having different interests are represented by different advocates, the Court may direct that Advocates fees allowed to each party or set of parties shall be taxed on the value of the interest of each such party or set of parties in the subject matter of the case.

(iv) When several parties or sets of parties having different interest are represented by the same Advocate, the Court may direct separate sets of costs such directions as it may deem proper under sub-rule (iii) above.

444. Advocates Fees In Cases Under The Companies Act :-

Advocates fees in proceedings under the Companies Act, 1956, shall be allowed in accordance with the Scale prescribed by the Supreme Court in the "Companies (Court) Rules, 1959".

445. Minimum Costs To Be Allowed In Certain Cases Where

They Have Not Been Quantified :-

When the High Court awards costs in any matter without specifying the amount or the scale thereof and the amount thereof is not prescribed under any Act or rule, a sum of Rs. 100/- shall be allowed as the Advocates fee.

446. Cross Objections To Be Treated As Separate Appeals :-

For the purposes of these rules any cross objection filed under Rule 22 of Order XLI of the of the Civil Procedure Code shall be treated as a separate Appeal.

447. Power Of The Court To Allow Fees Higher Than The Maximum :-

Notwithstanding anything contained in Rules in this Chapter including Schedule A, the Court may having regard to the circumstances of the case, allow a higher fee if the maximum allowable under the Rules is, in its opinion inadequate or, for sufficient cause, order that a lower fee or no fee at all may be taxed as Advocates fee.

SCHEDULE A

Rules for computing the Advocates fee.

1. (a) In suits which decide on the merits the real dispute between the parties;

(b) In appeals from decrees (including preliminary decrees) other than appeals from execution proceeding, which decide on the merit the real dispute between the parties;

(c) In applications, proceeding or appeals which decide on the merits the real dispute between the parties under the - Indian Succession Act, XXXIX of 1925, excepting applications or appeals falling under sub-clauses (2) and (3) of clause (e) of Rule IX.

(ii) Land Acquisition Act, I of 1894.

(d) In cases under sub-section (2) of section 41 of the Arbitration 1940, which decide on the merits the real dispute between the parties; the amount of the Advocates fee shall be computed on the amount or value of subject matter in the dispute in the suit, appeal, application or proceeding at the rates specified below:] If the amount of value of the subject matter in dispute does not exceed Rs. 5.000/- at 10 per cent. If such amount or value exceeds Rs. 5000 but does not exceed Rs. 10,000 on Rs. 5,000 as above and on the remainder at 7-1/2 per cent. If such amount or value exceeds Rs. 10,000 but does not exceed Rs. 20,000, on Rs. 10,000 as above and on the remainder at 5 per cent. If such amount or value exceeds Rs. 20,000 but does not exceed Rs. 50,000 on Rs.

20,000 as above and on the remainder at 2 per cent. If such amount or value exceeds Rs. 50,000, but does not exceed Rs. 1,00,000 on Rs. 50,000 as above and on the remainder at 1 per cent. If such amount or value exceeds Rs. 1,00,000, on Rs. 1,00,000 as above and on the remainder at 1 /2 per cent. Exception: -The amount of Advocates fee in a suit, appeal, application or proceedings between landlord and tenant shall be calculated on the amount or value of the claim for the purposes of Court-fee and not on the amount or value of the claim for the purposes of jurisdiction: Provided that the amount may, at than discretion of the Court be calculated on the amount or value of the claim for the purposes of jurisdiction when the Court is of opinion, having regard to the labour involved in the preparation of the case, or to the complexity of the issue arising therein, that the higher rate of valuation is appropriate.

Explanation: A suit which is compromised or in which the claim is admitted shall be deemed to be decided on the merits for the purposes of this rule where such compromise or admission is made after the recording of the evidence in the suit has commenced.

II. (a) In suits, appeals, applications and proceeding referred to in Rule I above, in which the real dispute between the parties is not decided on merits.

(b) In Summary Suits, under OrderXXXVII of the Code of Civil Procedure, 1908 where leave to defend is refused or where the defendant does not appear.

(c) In suits the claim is which in admitted before the recording of evidence has commenced although time for payment or installments are asked for.

(d) In Short Causes, Commercial Causes arid Long Causes in the Ahmedabad City Civil Court in which no written statement is filed.

(e) In all other proceeding other than applications for interlocutory reliefs or orders or applications necessary for the progress of a suit, appeal or other substantive proceedings and which are not otherwise provided for in these rules or any other law and rules in force, the amount of Advocates fee to be allowed shall be 1/4 of that payable according to the rates prescribed in Rule I.

III. In any suit, appeal or petition where the subject matter is incapable of valuation or of which the value cannot be ascertained from the materials on record, the Advocates fee shall be such amount as the Court in its discretion may award, and, in the absence of any orders directions from the Court, shall be Rs. 100.

IV. The fee of an Advocate in any material suit or petition or any

appeal in such suit or petition, shall ordinarily be Rs. 75/- for undefended cases. In contested cases an Advocates fee shall be taxed at such amount ordinarily not exceeding Rs. 500 as may be ordered by the Court and in the absence of any orders in that behalf by the Court at Rs. 200.

V. Advocates fee in cases under Section 20 of the Arbitration Act, 1940, shall be taxed at such amount or on such scale as the Court may direct, and in the absence of any such direction at Rs. 100.

VI. In execution proceedings, the Advocates fee to allowed shall subject to the provisions of Part XII be 1/4 of the fee calculated at the rates specified in Rule 1 on the amount or value of the relief or money claimed in application to execute the decree such fee shall be chargeable on the first application and on every subsequent contested application.

VII. The Advocates fee shall be Rs. 250/- in an application made under Art. 226 of the Constitution and Rs. 150/- in an application made under Art. 227 of the Constitution: Provided that the Court hearing such application may having regard to the labour involved in the preparation of the case or the complexity of the issue arising therein or for any other sufficient reason, allow higher fees.

VIII. In references under the Income Tax Act, Estate Duty Act, Gift Tax Act, Expenditure Tax Act, Sales Tax Act and other Taxing statutes, the Advocate fee shall ordinarily be Rs. 300; provided that the Court may award a higher amount not exceeding Rs. 1000 when in its opinion, a higher fees should be allowed.

IX. (a) In any reference made to the High Court under Section 113 of the Code of Civil Procedure Act V of 1908.

(b) In any application the High Court under Section 115 of the Said Code.

(c) In any application to High Court under Section 25 of the Provincial Small Cause Courts Act, DC of 1887.

(d) In any application for the exercise of the High Courts revisional jurisdiction in Civil Matters.

(e) In all applications or appeals under: -

(1) The Guardians and Wards Act VIII of 1890.

(2) Part X of the Indian Succession Act, XXXIX of 1925.

(3) Part VII of the Indian Succession Act, XXXIX of 1925.

(4) The Indian Trust Act, II of 1882.

(5) The Provincial Insolvency Act, V of 1920.

(6) Any other special or Local Act. a sum of Rs. 100 shall be allowed as the Advocates fee.

X. Where a Commission is issued under the orders of the Court in a

suit, Appeal, Application or Proceedings, such fee as the Court may in its discretion order and in absence of any such order, a fee of Rs. 75 per day, shall be allowed in addition to the fees prescribed under these rules; provided that no fees shall be allowed for appearing before a Commissioner, if the Court when issuing the Commission Certifies that the presence of an Advocate before the Commissioner is not necessary.

XI. In any Civil Application in the High Court not provided for under these Rules, the Advocates fee shall unless otherwise ordered by the Court be Rs. 100 for contested and Rs. 50 for uncontested application.

XII. Unless otherwise prescribed in these rules or any other law or rule for the time being in force, the Advocates fee payable in any Civil Suit, Appeal (including an Appeal from execution proceeding), Application or proceeding other than execution proceedings, shall not be less than:

(a) Rs. 100 in the High Court

(b) Rs. 50 in District Court

(c) Rs. 50 in the Court of Civil Judge, subject to the provision of clause (d) and the proviso below.

(d) Rs. 30 in the Court of Civil Judge in suits of the nature cognizable by a Court of Small Causes or in the Court of a Mamlatdar under the Mamlatdars Courts Act II of 1906: Provided that suits by a superior holder for the recovery of his dues in the Court of a Civil Judge shall be governed by clause (b) and not by clauses (c), unless in the opinion of the court the suit involves questions of a complicated nature affecting title to land.

XIII. The fee prescribed in these rules shall be taken to be the remuneration for Advocates services until the final decree or order in the suit, application, reference proceeding is passed.

CHAPTER 32 ADVOCATES CLERKS

448. Meaning Of Expression, "Recognised Clerk" :-

The expression "recognized clerk" means a clerk employed by an Advocate and permitted to have access to the High Court and the Courts subordinate thereto which his employer is authorized to practice and to the offices attached thereto.

449. Advocates May Employ Two Or More Clerks :-

Two or more clerks of an advocate may be recognized if the extent of practice necessitates their employment. Special care should be taken to see that this condition is satisfied in the case of Advocates

of less than ten years standing.

450. Register For Recognised Clerks :-

The Registrar shall maintain in the following form a register of all recognized clerks registered in the High Court:

REGISTER OF RECOGNIZED CLERKS OF ADVOCATES

Sr. No.	Name	Fathers Name	Residence	Date of Registration	Name or Names of Advocates under Whom employed	Date of removal from the register with cause of removal in brief	Remarks
1	2	3	4	5	6	7	8

451. Application By Advocate For Recognition Of Clerks :-

(i) Every application for recognition shall be made by an Advocate by a letter addressed to the Registrar in the following form: -

"I pray that (name)_____son of_____aged _____ resident of _____may be recognized as a clear. I have made due enquiries with regard to the character and qualifications of the candidate, and certify that in my opinion he is a fit and proper person to be recognized as an Advocates clerk under the rules made by the High Court of Gujarat at Ahmedabad. I also certify that he will be employed bonafide in my service for clerical work. "

(ii) The application shall state the Advocates standing at the Bar, the name or names of the recognized clerks, if any, already in his service and the educational qualification of the person proposed to be employed as a recognised clerk.

452. Qualification For Recognition :-

No person shall be registered as a recognised clerk unless he has passed the S. S. C. Examination or equivalent examination and unless the Registrar is satisfied that he has sufficient knowledge of Gujarati and English and he is otherwise a fit person to be recognized Advocates Clerk.

453. Mukhtyar Not Admitted :-

No person, shall be admitted or continued as a recognized clerk, if he is or acts as, a recognized agent (Mukhtyar), either under a special or general power of attorney of any person other than the Advocate or the Advocates by whom he is employed.

454. Access To High Court Office :-

No clerk employed by an Advocate shall be allowed access to any of the offices of the High Court, unless he is a recognized clerk.

455. When Recognised Clerk Can Act On Behalf Of Advocate :-

A recognised clerk may act on behalf of his masters client in all matters of formal nature which do not require the personal attendance of an Advocate.

456. Recognised Clerk To Give Receipts For Money Received From Clients :-

When a recognized clerk receives any money from his masters client, he shall give to the client a receipt for the amount received for e. g. memorandum of appeal, process fees, advocates fee etc. The details shall be set out separately either in the receipt itself or on a separate piece of paper attached to it.

457. Removal Of Recognized Clerk :-

The Registrar, for reasons to be recorded in writing, and after hearing the clerk in his defence, if he so desires, may order the removal of any recognised clerk and strike off his name from the Register; and on the passing of such order, the clerk shall cease to be a recognized clerk.

458. Recommendation For Registration :-

No person removed under the preceding rule shall be recommended for registration by any Advocate or be registered, unless he has been declared to be eligible for registration under next rules.

459. Re-Instatement After Removal By Registrar :-

The Registrar may at any time revise the order passed by him under Rule 457, and may for reasons to be recorded in writing, re-instate the person removed or declared him eligible for registration.

460. Advocate Ceasing To Employ Recognized Clerk To Inform Registrar :-

Whenever an Advocate ceases to employ a recognized clerk, he shall immediately notify the fact to the Registrar stating briefly the reasons why he ceased to employ him. On receipt of the information, the necessary entry shall be made in Register. If the reasons stated by the Advocates for ceasing to employ any such clerk discloses any mis-conduct, the Registrar, may take action under Rule 402 above.

Secretaries Act, 1980 (Act No. 56 of 1980)

461. Case Under Sec. 21 Of The Act To Be Filed In Registrars Office :-

A case (hereinafter in this Chapter referred to as a "Reference") received by this High Court under Sec. 21 of the Company Secretaries Act, 1980 (hereinafter in this Chapter referred to as the "Act") shall be filed in the office of the Registrar and shall be numbered as a Reference and entered in a separate Register.

462. Appeal Or Revision Application Under Sec. 30 Of The Act To Be By Petition :-

An Appeal or a Revision Application under Sec. 30 of the Act shall be made by petition. [1 Inserted Chapter XXXII-A, with Rules 461 to 469 and Appendixes A, B & C vide Noti. No. C.2002/93 dated 8.12.1998 (w. e. f. 23.11.1998).]

463. Appeal Or Revision Application To Be Filed In Registrars Office :-

An Appeal or a Revision Application under Sec. 30 of the Act shall be filed in the office of the Registrar and shall be numbered as an appeal or a Revision Application under the Act and entered in a separate Register.

464. In A Reference Under Sec. 21 Of The Act, Council To Forward Papers To The Court :-

(1) The Council of the Institute of Company Secretaries of India (hereinafter in this Chapter referred to as the "Council") shall, in a Reference forwarded by it to the High Court under Sec. 21 of the Act file in the office of the Registrar the findings of the Council and forward along with it the Report of the Disciplinary Committee and all other relevant papers which were before the Council and the Disciplinary Committee and, in particular, the following documents:

-

- (a) Complaint or information.
- (b) Written statement of Defence.
- (c) Depositions of witnesses together with Exhibits.
- (d) Notes of the hearing before the Disciplinary Committee and the Council.

(2) The Council shall furnish to the Registrar, the postal addresses of all persons on whom notices are required to be served under Sec. 21(6) of the Act and of the person who has made the complaint.

(3) The Council shall furnish to the Registrar two extra copies of all the papers mentioned in Sub-rule (1).

465. Fixing Date Of Hearing And Issue Of Notice :-

When a Reference, Appeal or Revision Application is filed in Court the Registrar shall fix a date for the hearing of such Reference, Appeal or Revision Application and shall forthwith issue Notices as per appendices "A", "B" and "C" hereunder, as the case may be.

466. Service Of Notices :-

(a) In the case of a Reference under Sec. 21 of the Act, Notices shall be sent to (1) the Members of the Institute concerned (2) the Council and (3) the Central Government.

(b) In the case of an Appeal under Sec. 30 of the Act, Notices shall be sent to the Council.

(c) In the case of a Revision Application under Sec. 30(2) of the Act, Notices shall be sent to the Council and to the Member of the Institute concerned.

(d) The Court may, at any time, direct that Notice of the Reference, Appeal or Revision Application be sent to the person, who has made the complaint.

In all cases, Notices shall be sent by registered post at the addresses supplied by the Council and shall be served not less than one month before the date fixed for the hearing of the case.

467. In Appeal Or Revision Under Sec. 30 Of The Act, Council To Forward An Papers To This Court On Being Served With Notice :-

In an Appeal on Revision Application, under Sec. 30(1) of the Act, the Council shall, on being served with Notice of the Appeal or Revision Application, forward to the Registrar, within two weeks from the date of service, the findings of the Council and all other documents mentioned in Rule 464(1) and the extra copies referred in Rule 464(3).

468. Cases To Be Heard By A Bench Of Two Judges :-

Reference, Appeals and Revision Applications under the Act shall be heard by a Division Bench of not less than two Judges to be nominated by the Chief Justice.

469. Copy Of Final Order To Be Sent To Council :-

The Registrar shall send to the Council a certified copy of the final order passed by the High Court in every Reference, Appeal or Revision Application. Note. -The following are the Appendices-"A",

"B" and "C" under Rule 465 of these Rules.

Appendix-A In the High Court of Gujarat at Ahmedabad Reference No. of 19. (Under the Company Secretaries Act, 1980) Notice under Sec. 21, of the Company Secretaries Act, 1980 (Rule-465) In the matter of Company Secretaries Act, 1980 (Act No. 56 of 1980); And In the matter of.

. a Member of the Institute of Company Secretaries of India. To,

(1). Member of the Institute of Company Secretaries of India.

(2) The Secretary of the Council of the Institute of Company Secretaries of India;

(3) The Secretary to the Ministry of Finance, Union Government, New Delhi.

Whereas the Council of the Institute of Company Secretaries of India has filed in this Court its findings dated the.

. day of. 19. in the above

Reference; Now Take Notice that the Reference will be placed for hearing before a Division Bench of this Court on the.

day of. 19. at 11 O'clock in the

forenoon, when you are required to appear either in person or by an Advocate entitled to practise in this Court; And Take Further

Notice that in default of your appearance either in person or by an Advocate, the Reference will be heard and determined in your

absence. Dated this. day of. 19.

. Registrar Sealer The. day of. 19.

Advocate for.

APPENDIX-B

In the High Court of Gujarat at Ahmedabad Appeal No. of 19.

(Under the Company Secretaries Act, 1980) Notice under Sec. 30 of the Company Secretaries Act, 1980. (Rule 465)

In the matter of the Company Secretaries Act, 1980 (Act No. 56 of 1980) And In the matter of. a

Member of the Institute of Company Secretaries of India.

. Appellant.

To,

The Secretary of the Council of the Institute of Company Secretaries of India. Whereas the Appellant above named has filed

in this Court an Appeal against the Order dated the.

. day of. 19. of the Council of the

Institute of Company Secretaries of India. You are required to

forward the Registrar within two weeks from the date of service of this Notice upon you, the findings of the Council and all the other documents mentioned in Rule 464(1) of the Rules of the High Court and the extra copies referred to in Sub-rule (3) of the said Rule; and Now Take Notice that the Appeal will be placed for hearing before a Division Bench of this Court on the. day of. 19.. at 11 O'clock in the forenoon, when you are required to appear either in person or by an Advocate entitled to practise in this Court. And Take Further Notice that in default of your appearance either in person or by an Advocate, the Appeal will be heard and determined in your absence. Dated this. day of. 19. Registrar Sealer
The. day of. 19. Advocate for.

Appendix-C

In the High Court of Gujarat at Ahmedabad Revision Application No. of 19.. . . . (Under the Company Secretaries Act, 1980) (Rule 465)

In the matter of the Company Secretaries Act, 1980 (Act No. 56 of 1980); And In the matter of.
. a Member of the Institute of Company Secretaries of India.
. Applicant. To

(1). Member of the Institute of Company Secretaries of India.

(2) The Secretary of the Council of the Institute of Company Secretaries of India. Whereas the Applicant abovementioned has filed in this Court a Revision Application against the Order dated. day of. 19.. of the Council of the Institute of Company Secretaries of India.

**And Whereas you are hereby required to forward to the Registrar within two weeks from the date of service of this Notice upon you, the findings of the Council and all the other documents mentioned in Rule 464(1) of the Rules of the High Court and the extra copies referred to in Sub-rule (3) of the said Rule; and Now Take Notice that the Revision Application will be placed for hearing before a Division Bench of this Court on the. day of 19. at 11 O'clock in the forenoon, when you are required to appear either in person or by an Advocate entitled to practise in this Court; And Take Further Notice that in default of your appearance either in person or by an Advocate, the Revision Application will be heard and determined in your absence. Dated this. day of. 19. Registrar Sealer

The. day of. 19. . . . Advocate for.
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****This para is to be inserted only in the Notice to be sent to the Secretary of the Council of the Institute of Company Secretaries of India.]**

APPENDIX 1

APPENDIX I

An Act For Establishing High Courts Of Judicature In India Act of Parliament, 24 and 25 vic. , Cap. 104 Received The Royal Assent. 6th August, 1861 (REPEALED BY SECTION 130 OF THE GOVERNMENT OF INDIA ACT 15) Be it enacted by the Queens Most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the Authority of the same, as follows: -

1. High Court may be established in the several residencies of India. -It shall be lawful for her Majesty, by Letters Patent under the Great Seal of the United Kingdom to erect and establish a High Court of Judicature at Fort William in Bengal for the Bengal Division of the Presidency of Fort William aforesaid, and by like Letters Patent to erect and establish like High Courts at Madras and Bombay for those Presidencies respectively. Such High Courts to be established in the said several Presidencies at such time or respective times as to Her Majesty may seem fit, and the High Court to be established under any such Letters Patent in any of the said Presidencies shall be deemed to be established from and after the Publication of such Letters Patent in the same Presidency, or such other time as in such Letters Patent may be appointed in this Behalf.

2. Constitution of High Courts. - The High Court of Judicature at Fort William in Bengal and at the Presidencies of Madras and Bombay respectively shall consist of a Chief Justice and as many Judges, not exceeding Fifteen, as Her Majesty may from time to time think fit and appoint, who shall be selected from - 1st - Barristers of not less than five years standing; or 2nd - Members of the Convenanted Civil Services of the not less than Ten years standing, and who shall have served as Zillah Judges, or shall have exercised the like Powers as those of a Zillah Judge for at least Three years of that period, or, 3rd - Persons who have held judicial Office not inferior to that of Principal Sudder Ammen or Judge of a Small Cause Court for a period of not less than Five years; or, 4th - Person who have been Pleaders of a Court for a period of not less than Ten Years, if such Pleaders of a Sudder Court shall have been admitted as Pleaders of a High Court:

Provided that not less than One-third of the Judges of such High Courts respectively, including the Chief Justice, shall be Barristers, and not less than One-third shall be Members of the Convenanted Civil Service.

3. Certain existing Judges herein named to be the First Judges of the High Court. - Provided always, that the persons who at the Time of the Establishment of such High Court in any of the said Presidencies are Judges of the Supreme Court of Judicature and permanent Judges of the Court of Sudder Dewanny Adalat or Sudder Adalat of the same Presidency shall be and become Judge of such High Court without further Appointment for that purpose; and the Chief Justice of such Supreme Court shall become the Chief Justice of such High Court.

4. All the Judges of the High Courts established under this Act shall hold their Offices during Her Majestys Pleasure: Provided that it shall be lawful for any Judge of a High Court to resign such Office of Judge to the Governor-General of India in Council or Governor in Council of the Presidency in which such High Court is

established.

5. Precedence of Judges of High Court. -The Chief Justice of any such High Court shall have Rank and Precedence before the other Judges of the same Court and such of the other Judges of such Court as on its Establishment shall have been transferred thereto from the Supreme Court shall have Rank and Precedence before the Judges of the High Court and transferred from the Supreme Court, and, except as aforesaid, all the Judges of each High Court shall have Rank and Precedence according to the Seniority of their Appointments, unless otherwise provided in their Patents.

6. Salaries etc. of Judges of the High Court. -Any Chief Justice or Judge transferred to any High Court from the Supreme Court shall receive the like Salary and be entitled to the like Retiring Pension and Advantage as he would have been entitled to for and in respect of Service in the Supreme Court, if such Court had been continued, his service in the High Court being reckoned as Service in the Supreme Court; and; except aforesaid, it shall be lawful for the Secretary of State in Council of India to fix the Salaries, Allowances, Furloughs, Retiring Pensions, and (where necessary) Expenses for Equipment and Voyage of the Chief Justice and Judge of the several High Courts under this Act, and from Time to Time to alter the same: Provided always, that such Alteration shall not affect the Salary of any Judge appointed prior to the Date thereof.

7. Provision for vacancy of office of the Chief Justice or other Judges. -Upon the happening of a vacancy in the Office of Chief Justice, and during any absence of a Chief Justice, the Governor-General in Council or Governor in Council, as the case may be, shall appoint One of the Judges of the same High Court to perform the Duties of Chief Justice of the said Court to perform the Duties of Chief Justice of the said Court until some Person has been appointed by Her Majesty to the Office of Chief Justice of the same Court, and has entered on the Discharge of the Duties of such Office, or until the Chief Justice has returned from such Absence; and upon the happening of a vacancy in the Office of any other Judge of any such High Court and during any Absence of any such Judge, or on the Appointment of any such Judge to act as Chief Justice, it shall be lawful for the Governor-General in Council, or Governor in Council, as the case may be, to appoint a Person, with such qualification are required in Person to be appointed to the High Court, to act as a Judge of the said High Court, and the Persons so appointed shall be authorised to sit and to perform the Duties of the Judge of the said Court until some Person has been appointed by Her Majesty to the Office of Judge of the same Court, and has entered on the Discharge of the Duties of such Office, or until the absent Judge has returned from such Absence, or until the Governor-General in Council or Governor in Council, as aforesaid, shall see Cause to cancel the Appointment of such acting Judge.

8. Abolition of Supreme Court and Sudder Courts. -Upon the Establishment of such High Court as aforesaid in the Presidency of Fort William in Bengal the Supreme Court and the Court of Sudder Dewanny Adalut and Sudder Nizamut Adalut at Calcutta in the same Presidency shall be abolished: And upon the Establishment of such High Court in the Presidency of Madras the Supreme Court and the Court of Sudder Adalut and Foujdarry Adalut in the same Presidency shall be abolished: And upon the Establishment of such High Court in the Presidency of Bombay the Supreme Court and the Court Sudder Dewanny Adalut and Sudder Foujdarry Adalut in the same Presidency shall be abolished. And the Records and Documents of the several Courts so abolished in each Presidency shall become and be Records and Documents of the High Court established in the same Presidency.

9. Jurisdiction and power of High Courts. -Each of the High Courts to be established

under this Act shall have and exercise all such Civil, Criminal, Admiralty, and vice-Admiralty, Testamentary, Intestate and Matrimonial Jurisdiction, original and appellate, and all such Power and Authority for and in relation to the Administration of Justice in the Presidency for which it is established, as Her Majesty may such Letters Patent as aforesaid grant and direct, subject, however, to such, Directions and Limitations as to the Exercise of original Civil and Criminal Jurisdiction beyond the limits or the Presidency Towns as may be prescribed thereby; and, save as by such Letters Patent may be otherwise directed, and subject and without prejudice to the Legislative Powers in relation to the Matters aforesaid of the Governor-General of India in Council, the High Court to be established in each Presidency shall have and exercise all Jurisdiction and every Power any Authority whatsoever in any Manner vested in any of the Courts in the same Presidency abolished under this Act at the Time of Abolition of such last-mentioned Courts.

10. High Courts to exercise some Jurisdiction as Supreme Court. - Until the Crown shall otherwise provide under the Powers of this Act, all Jurisdiction now exercised by the Supreme Courts of Calcutta, Madras and Bombay respectively over inhabitants of such parts of India as may not be comprised within the local Limits of the Letters Patent to be issued under this Act establishing High Courts at Fort William, Madras and Bombay, shall be exercised by such High Courts respectively.

11. Upon the Establishment of the said High Courts in the said Presidencies respectively all Provisions then in force in India of Acts of Parliament, or of any Orders of Her Majesty in Council, or Charters, or of any Acts of the Legislature of India, which at the Time or respective Times of the Establishment of such High Courts are respectively applicable to the Supreme Courts at Fort William, in Bengal, Madras and Bombay respectively, . or to the Judges of those Courts, shall be taken to be applicable to the said High Courts and to the Judges thereof respectively, so far as may be consistent with the Provisions of this Act, and the Letters Patent to be issued in pursuance thereof, and subject to the Legislative powers in relation to the Matters aforesaid to the Governor-General of India in Council.

12. Provision as to pending proceedings in abolished Courts. - From and after the Abolition of the Courts abolished as aforesaid in any of the said Presidencies, the High Court of the same Presidency shall have jurisdiction over all Proceedings pending in such abolished Courts at the Time of the Abolition thereof, and such Proceedings, and all previous proceedings, in the said last-mentioned Courts, shall be dealt with as if the same had been had in the said High Court, save that any such Proceedings may be continued as nearly as circumstances permit, under and according to the Practice of the abolished Courts respectively.

13. Power to High Courts to provide for Exercise Jurisdiction by Single Judges or Division Courts. - Subject to any laws or Regulations which may be made by the Governor General in council the High Court established in any Presidency under this Act may by its own Rules provide for the Exercise, by one or more Judges, or by Division Courts constituted by two or more Judges of the said High Court, of the original and appellate Jurisdiction vested in such Court, in such manner as may appear to such Court to be convenient for the due Administration of Justice.

14. Chief Justice to determine what Judge shall sit alone or in the Division Courts. - The Chief Justice of each High Court shall from Time to Time determine what Judge in each case shall sit alone, and what Judges of the Court, whether with or without the Chief Justice, shall constitute the several Division Courts as aforesaid.

15. High Courts to Superintend and to frame Rules of Practice for Subordinate Courts. - Each of the High Court established under this Act shall have Superintendence over all Courts which may be subject to its appellate Jurisdiction

and shall have Power to call for Returns and to direct the Transfer of any suit or Appeal from any such Court to any other Court of equal or superior Jurisdiction and shall have Power to make and issue General rules for regulating the Practice and proceedings of such Courts, and also to prescribe forms for every Proceedings in the said Courts for which it shall think necessary that a form be provided, and also for keeping all Books. Entries, and Accounts to be kept by the Officers and also to settle Tables of fees to be allowed to the Sheriff, Attorneys, and all Clerks and Officers of Courts and from Time to Time to alter any such Rule or Table; and the Rules so made, and the Forms so framed, and the Tables so settled shall be used and observed in the said Courts. Provided that such General Rules and Forms and Tables be not inconsistent with the provisions of any Law in force, and shall before they are issued have received the Sanction in the Presidency of Fort William, of the Governor General in Council and in Madras or Bombay of the Governor in Council of the respective Presidencies.

16. Her Majesty may establish a High Court in the North Eastern Provinces. -It shall be lawful for Her Majesty, if at any Time hereafter Her Majesty see fit so to do by Letters Patent under the Great Seal of the United Kingdom, to erect and establish a High Court of Judicature in and for any Portion of the Territories within Her Majestys Dominions in India, not included within the Limits of the local Jurisdiction of another High Court, to consist of a Chief Justice and of such Number of other Judges, with such Qualifications as are required in Persons to be appointed to the High Courts established at the Presidencies, hereinbefore mentioned, as Her Majesty from Time to Time may think fit and appoint; and it shall be lawful for Her Majesty by such Letters Patent to confer on such court by such jurisdiction, Powers and Authority as under this Act is authorised to be conferred on, or will become vested in the High Court to be established in any Presidency hereinbefore mentioned, and subject to the Directions of such Letters Patent, all the Provisions of this Act having reference to the High Court established in any such*Presidency, and to the Chief Justice and other Judges of such Court and to the Governor-General or Governor of the Presidency in which such High Court is established, shall, as far as circumstances may permit, be applicable to the High Court established in the said Territories, and to the Chief Justice and other Judges thereof, and to the Person administering the Government of the said Territories.

17. Other or Supplemental Charters may be granted within Three years after establishment of Court. -It shall be lawful for Her Majesty, if Her Majesty shall so think fit at any Time within Three Years after the Establishment of any High Court under this Act, by Her Letters Patent, to revoke all or such parts or provisions Her Majesty may think fit of the Letters Patent by which such Court was established and to grant and make such other Powers and Provisions as Her Majesty may think fit, and as might have been granted or made by such First Letters Patent, or without any such Revocation as aforesaid by the like Letters Patent to grant and make any additional or supplementary Powers and Provisions which might have been granted or made in the first instance.

18. Territorial Limits of jurisdiction of Courts may be altered by order in Council. - It shall be lawful for Her Majesty, from Time to Time by Her Order in Council, to transfer any Territory or Place from the Jurisdiction of One to the Jurisdiction of any other of the High Courts established under this Act, and generally to alter and determine the territorial Limits of the Jurisdiction of the said several Courts as to Her Majesty, with the Advice of Her Privy Council, may seem meet.

19. The Word "Barrister" in this Act shall be deemed to include Barristers of England or Ireland or Members of the Faculty of Advocates in Scotland; and the Words "Governor-General and Governor" shall comprehend the Officer

administering the Government.

The Amended Letters Patent of the High Court LETTERS PATENT of the High Court of Judicature for the Presidency of Bombay, bearing date the Twenty-eight day of December, in the Twenty ninth year of the reign of Victoria, in the year of our Lord One Thousand eight hundred and sixty-five.

20. Recital of Act 24 & 25 Vie. Cap. 104. -VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith. To all to whom these presents shall come greeting: Whereas by an Act of Parliament passed in the Twenty-fourth and Twenty fifth years our Reign, intituled "An Act for establishing High Court of Judicature in India", it was amongst other things, enacted that it should be lawful for Her Majesty, by Letters Patent under the Great Seal of the United Kingdom to erect and establish a High Court of Judicature at Bombay, for the Presidency, of Bombay aforesaid, and that such High Court should consist of a Chief Justice and as many Judges not exceeding Fifteen, as Her Majesty might, from time to time, think fit to appoint, who should be selected from among persons qualified as in the said Act is declared: Provided always that the persons who, at time of establishment of such High Court, were Judges of the Supreme Court of Judicature and permanent Judges of the Court of Sudder Dewanee Adalut or Sudder Foujdaree Adalut of the same Presidency, should be and become Judges of such High Court without further appointment for the purpose and the Chief Justice of such Supreme Court should become the Chief Justice of such High Court and that upon the establishment of such High Court as aforesaid, the Supreme Court and the Court of Sudder Dewanee Adalut and Sudder Foujdaree Adalut at Bombay, in the said Presidency, should be abolished. And that the High Court of Judicature so to be established should have and exercise all such civil, criminal, admiralty and vice-admiralty, testamentary, intestate, and matrimonial jurisdiction, original and appellate, and all such powers and authority, for and in relation to the administration of justice in the said Presidency, as Her Majesty might, by such Letters Patent as aforesaid, grant and direct, subject however, to such directions and limitations, as to the exercise of original civil and criminal jurisdiction, beyond the limits of the Presidency town, as might be prescribed thereby; and save as by such Letters Patent might be otherwise directed, and subject, and without prejudice to the legislative powers in relation to the matters aforesaid of the Governor General of India in council, the High Courts so to be established should have and exercise all jurisdiction, and every power and authority whatsoever, in any manner vested in any of the Courts in the same Presidency abolished under the said Act at the time of the abolition of such last mentioned Courts.

And Whereas We did, upon full consideration of the premises, think fit to erect and establish, and by Our Letters Patent under the Great Britain and Ireland, bearing date at Westminster the Twenty-sixth day of June in the Twenty-fifth Year of our Reign, in the year of our Lord One Thousand Eight hundred and Sixty two, did accordingly, for Us, Our heir and successors, erect and establish at Bombay, for the Presidency of Bombay aforesaid, a High Court of Judicature which should be called the High Court of Judicature at Bombay, and did thereby constitute the said Court to be a Court of Record; and whereas we did thereby appoint and ordain that the said High Court of Judicature at Bombay should, until further or other provision should be made by Us or Our heirs and successors, in that behalf, in accordance with the recited Act, consist of a Chief Justice and Six Judges, and did thereby constitute and appoints certain persons, being respectively qualified as in the said Act is declared, to be Judges of the said High Court, and whereon the Sixth day of July One Thousand Eight Hundred and Sixty three we did, in accordance with the

provisions of the said rejected Act, increase the number of the Judges of the said Court to Chief Justice and seven Judges:

And whereas by the said recited Act it is declared lawful for Her Majesty, at any time within three years after the establishment of the said Court, by Her Letters Patent, to revoke all or such parts or provisions as Her Majesty might think fit of the Letters Patent by which such Court was established, and to grant and make such other powers and provisions as Her Majesty might think fit, and as might have been granted or made by such first Letters Patent:

And whereas by the Act of the Twenty-eight of Our Reign, Chapter fifteen, entitled, "An Act to extend the Term for granting fresh Letters Patent for the High Court in India, and to make further provision respecting the territorial jurisdiction of the said Courts", the time for issuing fresh Letters Patent has been extended to the First of January One Thousand Eight hundred and Sixty six.

And whereas in order to make further provision respecting the constitution of the said High Court, and the administration of justice thereby, it is expedient that the said Letters Patent dated the Twenty-sixth of June One Thousand Eight hundred and Sixty-two should be revoked, and that some of the powers and provisions thereby granted and made should be granted and made with amendments and additional powers and provisions by fresh letters Patent:

1. Revocation of Letters Patent of 1862. -Now know ye that we, upon full consideration of the premises, and of Our especial grace, certain knowledge, and mere motion, have thought fit to revoke, and do by these present (from and after the date of the publication thereof, as hereinafter provided and subject to the provisions thereof), revoke our said Letters Patent of the twenty-sixth of June One thousand eight hundred and sixty-two except so far as the Letters Patent of the Fourth year of His Majesty King George the Fourth dated the Eighth day of December One thousand eight hundred and Twenty-three, establishing a Supreme Court of Judicature at Bombay, were revoked or determined thereby.

2. High Court at Bombay to be continued. -And we do by these presents grant, direct, and ordain that notwithstanding the revocation of the said Letters Patent of the Twenty-sixth of June One thousand Eight hundred and sixty-two, the High Court of Judicature called the High Court of Judicature at Bombay, shall be and continue as from the time of the original erection and establishment thereof, the High Court of Judicature at Bombay for the Presidency of Bombay aforesaid, and that the said Court shall be and continue a Court of Record and that all proceedings commenced in the said High Court, prior to the date of the publication of these Letters Patent, shall be continued and depend in the said High Court as if they had commenced in the said High Court after the date of such publication, and that all rules and orders in force in the said High Court immediately before the date of the publication of these Letters Patent shall continue in force, except so far as the same are altered hereby until the same are altered by competent authority.

3. Judges of the said High Court be continued. -And we do hereby appoint and ordain, that the person and persons who shall immediately before the date of the publication of these Letters Patent be the Chief Justice and Judges, or acting Chief Justice or Judges, if any, of the said High Court of Judicature at Bombay, shall continue to be the Chief Justice and Judges or acting Chief Justice or Judges, of the said High Court, until further or other provision shall be made by Us or Our heirs and successors in that behalf, in accordance with the said recited Act for establishing High Court of Judicature in India.

4. Clerks etc. of the said High Court to be continued. - And we do hereby appoint and ordain that every clerk and ministerial officer of the said High Court of Judicature at Bombay, appointed by virtue of the said Letters Patent of the

Twenty-sixth of June One Thousand eight hundred and sixtytwo, shall continue to hold and enjoy his office and employment, with the salary thereunto annexed, until he be removed from such office and employment, and he shall be subject to the like power of removal, regulations and provisions as if he were appointed by virtue of these Letters Patent.

5. Declaration to be made by Judges. -And we do hereby ordain that the Chief Justice and every Judge who shall be from time to time appointed to the said High Court of Judicature at Bombay, previously to entering upon the execution of the duties of his office, shall make and subscribe the following declaration before such authority or person as the Governor in Council may commission to receive it: -

"I. A. B. , appointed Chief Justice(or a Judge) of the High Court of Judicature at Bombay, do solemnly declare that I will faithfully perform the duties of my office to the best of my ability, knowledge and judgment".

6. And we do hereby grant, ordain, and appoint that the said High Court of Judicature at Bombay shall have, and use as occasion may arise, a seal bearing a device and impression of the Ashok Capital within an exergue or label surrounding the same, with the following inscriptions at convenient places, namely. "THE SEAL OF THE HIGH COURT AT BOMBAY", and "Satyameve Jayate" in Devanagari script. And we do further grant, ordain and appoint that the said seal shall be delivered to and kept in the custody of the Chief Justice, and in case of vacancy of the office of Chief Justice, or during any absence of the Chief Justice the same shall be delivered over and kept in the custody of the person appointed to act as Chief Justice, under the provisions of Section 7 of the said recited Act and we do further grant, ordain and appoint, that when so ever it shall happen that the office of Chief Justice or of the Judge to whom the custody of the said seal be committed, shall be vacant, the said High Court shall be and is hereby authorized and empowered to demand, seize, and take the said seal from any person or persons whomsoever by what ways and means so ever the same may have come to his, her or their possession.

7. Writs, etc. to issue in name of the crown and under Seal. -And we do hereby further grant, ordain, and appoint that all writs, summons, precepts, rules and other mandatory process to be used, issued, or awarded by the said High Court of Judicature at Bombay, shall run and be in the name and style of Us Or of Our heirs and successors and shall, be sealed with the Seal of the said High Court.

8. Appointment of officers. -And we do hereby authorize and empower the Chief Justice of the said High Court of Judicature at Bombay from time to time, as occasion may require and subject to any rules and restrictions which may be prescribed by the Governor in Council, to appoint so many and such clerks and other ministerial officers as shall be found necessary for administration of justice, and the due execution of all the powers and authorities granted and committed to the said High Court by these Our Letters Patent. And it is our further will and pleasure, and we do hereby, for us, Our heirs and successors, give, grant, direct, and appoint that all and every the officers and clerks to be appointed as aforesaid shall have and receive respectively such reasonable salaries as the Chief Justice shall from time to time appoint for, each office and place respectively, and as the Governor in Council, subject to the Control of the Governor-General in Council, shall approve of: Provided always, and it is Our will and Pleasure, that all and every officers and clerks to be appointed as aforesaid, shall be resident within the limits of the jurisdiction of the said Court so long as they shall hold then respective offices; but this proviso shall not interfere with or prejudice the right of any officer or clerks to avail himself of leave of absence under any rules prescribed by the Governor in council and to absent himself from the said limits using the term of

such leave, in accordance with the said rule. Admission of Advocates, Vakeels, and Attorneys

9. Powers of High Court in Admitting Advocates, Vakeels and Attorneys. -And we do hereby authorize and empower, the said High Court of Judicature at Bombay to approve, admit and enroll such and so many Advocates, Vakeels, and Attorneys as to the said High Court, shall seem meet and such Advocates, Vakeels, and Attorneys shall be and are hereby authorized to appear for the suitors of the said High Court, and to plead or to act, or to plead and act for the said suitors according as the said High Court may by its rules and directions determine, and subject to such rules and directions.

10. In making Rules for the qualifications etc. of Advocates, Vakeels and Attorneys. -And we do hereby ordain that the said High Court of Judicature at Bombay shall have power to make rules for the qualification and admission of proper persons -to be Advocates, Vakeels, and Attorneys-at-Law of the said High Court, and shall be empowered to remove or to suspend from practice, on reasonable cause, the said Advocates, Vakeels, or Attorneys-at-law; and no person whatsoever but such Advocates, Vakeels, or Attorneys shall be allowed to act or to plead for or on behalf of any suit or in the said High Court, except that any Suitor shall be allowed to appear, plead or act on his own behalf, or on behalf of a cosuitor. Civil Jurisdiction of the High Court

11. Local limits of the Original jurisdiction of the High Court. -And we do hereby ordain that the said High Court of Judicature at Bombay shall have and exercise ordinary original civil jurisdiction within such local limits as may from time to time, be declared and prescribed by any law made by the Governor in Council and until some local limits shall be so declared and prescribed, within the limits of the local jurisdiction of the said High Court of Bombay at the date publication of these presents, and the ordinary original civil jurisdiction of the said High Court shall not extend beyond the limits for the time being declared and presented as the local limits of such jurisdiction.

12. Original jurisdiction as to Suits. -And we do further ordain that the said High Court of Judicature at Bombay, in the exercise of its ordinary original civil jurisdiction, shall be empowered to receive, try, and determine suits of every description, if, in the case of suits for land or other immovable property such land or property shall be situated or in all other cases if the cause of action shall have arisen, either wholly, or in case of the leave of the Court shall have been first obtained, in part, within the local limits of the ordinary original jurisdiction of the said High Court or if the defendant at the time of the commencement of the suit shall dwell, or carry on business, or personally work for gain, within such limits; except that the said High Court shall not have such original jurisdiction in case falling within the jurisdiction of the Small Cause Court at Bombay or the Bombay City Civil Court.

13. Extra ordinary Original Civil jurisdiction. -And we do further ordain that the said High Court of Judicature at Bombay shall have power to remove, and to try and determine, as a Court of extraordinary original jurisdiction, any suit being or falling within the jurisdiction of any Court; Whether within or without the Presidency of Bombay, subject to its superintendence, when the said High Court shall think proper to do so, either on the agreement of the parties to that effect or for purposes of justice, the reasons for so doing being recorded on the proceedings of the said High Court.

14. And we do further ordain that where plaintiff has several causes of action against defendant, such causes of action not being for land or other immovable property, and the said High Court shall have original jurisdiction in respect of one

of such causes of action, it shall be lawful for the said High Court to call on the defendant to show cause why the several causes of action should not be joined together in one suit, and to make such order for trial of the same as to the said High Court shall seem fit.

15. And we do further ordain that an appeal shall lie to the said High Court of Judicature at Bombay from the judgment (not being a judgment passed in the exercise of appellate jurisdiction in respect of a decree or order made in exercise of appellate jurisdiction by a Court subject to the superintendence of the said High Court, and not being an order made in the exercise of revisional jurisdiction, and not being a sentence or order passed or made in the exercise of the power of superintendence under the provisions of section 107 of the Government of India Act, or in the exercise of criminal jurisdiction) of one Judge of the said High Court, pursuant to section 108 of the Government of India Act, and that notwithstanding anything hereinbefore provided an appeal shall lie to the said High Court from a judgment of one Judge of the said High Court or one Judge of any Division Court, pursuant to section 108 of the Government of India Act made on or after the first day of February one thousand nine hundred and twenty-nine in the exercise of appellate jurisdiction in respect of a decree or order made in the exercise of appellate jurisdiction by a Court subject to the superintendence of the High Court, where the Judge who passed the judgment declares that the case is a fit one for appeal; but that the right of appeal from other judgments of Judges of the said High Court or of such Division Court shall be to Us. Our heirs successors in our or Their Privy Council, as hereinafter provided.

16. Appeal from Courts in provinces. -And we do further ordain that the said High Court of Judicature at Bombay shall be a Court of appeal from the Civil Courts of the Presidency of Bombay, and from all other Courts subject to its superintendence, and shall exercise appellate jurisdiction in such cases as are subject to appeal to the said High Court by virtue of any laws or regulations now in force.

17. Jurisdiction as to infants and lunatics. -And we do further ordain that the said High Court of Judicature at Bombay shall have the like power and authority with respect to the persons and estate of infants, idiots, and lunatics, within the Bombay Presidency, as that which was vested in the said High Court immediately before the publication of these presents.

18. Provision with respect to the insolvent Courts. - And we do further ordain that the Court for Relief of Insolvent Debtors at Bombay shall be held before one of the Judges of the said Court of Judicature at Bombay, and the said High Court and any such Judge thereof, shall have and exercise, within the Presidency of Bombay, such powers and authorities with respect to original and appellate jurisdiction and otherwise as are constituted by the laws relating to insolvent debtors in India.

Law to be administered by the High Court

19. By the High Court in the exercise of Ordinary Original Civil Jurisdiction. -And we do further ordain that with respect to the law of equity to be applied to each case coming before the said High Court of Judicature at Bombay in the exercise of its ordinary original civil jurisdiction, such law or equity shall be the law or equity which would have been applied by the said High Court to such case if these Letters Patent had not issued.

20. In the exercise of extra Ordinary, Original Civil Jurisdiction. -And we do further ordain that with respect to the law of equity and rule of good conscience to be applied to such case coming before the said High Court of Judicature at Bombay in the exercise of its extraordinary original civil jurisdiction such law for equity and rule of good conscience shall be the law of equity and rule of good conscience which

would have been applied to such case by any local Court having jurisdiction therein.

21. By the High Court in exercise of appellate Jurisdiction ordinary. -And we do further ordain that with, respect to the law of equity and rule of good conscience to be applied by the said High Court of Judicature at Bombay to each case coming before it in the exercise of its appellate jurisdiction such law of equity and rule of good conscience shall be the law of equity and rule of good conscience with the Court in which the proceedings in such case were originally instituted ought to have applied to such case.

Criminal Jurisdiction

22. Ordinary Original Jurisdiction of the High Court. - And we do further ordain that the said High Court of Judicature at Bombay shall have ordinary original criminal jurisdiction in respect of all persons beyond the local limits of its ordinary original civil jurisdiction over whom¹ the said High Court of Judicature at Bombay shall have criminal jurisdiction at the date of the publication of these presents.

23. Jurisdiction as to persons. -And we do further ordain that the said High Court of Judicature at Bombay, in the exercise of its ordinary original Criminal jurisdiction, shall be empowered to try all persons brought before it in due course of law.

24. Extra ordinary Original Criminal Jurisdiction. - And we do further ordain that the said High Court of Judicature at Bombay shall have extraordinary original criminal jurisdiction over all persons residing in places within the jurisdiction of any Court now subject to the Superintendence of the said High Court, and shall have authority to try at its discretion any such person brought before it on charges preferred by the Advocate-General or by any Magistrate or other officer specially empowered by the Government in that behalf.

25. No appeal from High Court Exercising Original Jurisdiction. - And we do further ordain that there shall be no appeal to the said High Court of Judicature at Bombay from any sentence or order passed or made in any criminal trial before the Court of original criminal jurisdiction which may be constituted by one or more Judges of the said High Court. But it shall be at the discretion of any such Court to reserve any point or points of law for the opinion of the said High Court.

26. High Court to review. -And we do further ordain that on such point or points of law being so reserved as aforesaid or on its being certificated by the said Advocate- General that, in his judgment, there is an error in the decision of a point or points of law decided by the Court of original criminal jurisdiction, or that a points of law which has or have been decided by the said Court should be further considered, the said High Court shall have full power and authority to review the case, or such part of its as may be necessary, and finally determine such point or points of law and thereupon to alter the sentence passed by the Court of original jurisdiction, and to pass such judgment and sentence as to the said High Court shall seem right.

27. Appeal from. -And we do further ordain that the said High Court of Judicature at Bombay shall be a Court of appeal from the criminal Courts of the Presidency of Bombay and from all other Courts subject to its superintendence, and shall exercise appellate jurisdiction in such cases as are subject to appeal to the said High Court by virtue of any law now in force.

28. Hearing referred onset and revision of Criminal trials. -We do further ordain that the said High Court of Judicature at Bombay shall be a Court of reference and revision from the criminal Courts subject to its appellate jurisdiction, and shall have power to hear and determine all such cases referred to it by the Sessions Judges or by any other officers now authorized to refer cases to the said High Court, and to revise all such cases tried by any officer or court possessing criminal jurisdiction as

are now subject to reference to, or revision by the said High Court.

29. High Court may direct the transfer of case from one Court to another. -And we do further ordain that the said High Court shall have power to direct the transfer of any criminal case or appeal from any Court to any other Court of equal or superior jurisdiction, and also to direct the preliminary investigation or trial of any criminal case by any officer or Court otherwise competent to investigate or try it, though such case belongs in ordinary course to the jurisdiction of some other officer or Court.

Criminal Law

30. Offenders to be punished under Indian Penal Code. -And we do further ordain that all persons brought for trial before the said High Court of Judicature at Bombay. Either in the exercise of its original jurisdiction, or in the exercise of its jurisdiction as a Court of appeal, reference, or revision, charged with any offence for which provision is made by Act No. XLV of 1860, called the "Indian Penal Code", or by any Act amending or excluding the said Act which may have been passed prior to the publication of these presents, shall be liable to punishment under the said Act or Acts and not otherwise. Exercise of Jurisdiction elsewhere than at the ordinary place of sitting of the High Court

31. Judge may authorised to sit in any places by way of Circuit or special Commission. -And we do further ordain that whenever it shall appear to the Governor in Council convenient that the jurisdiction and power by these Our Letters Patent, or by the recited Act vested in the said High Court of Judicature at Bombay should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the said High Court, other than the usual place of sitting of the said High Court or at several such places by way of circuit, the proceedings in cases before the said High Court at such place or places shall be regulated by any law relating thereto which has been or may be made by competent legislative authority for India.

Admiralty and Vice-Admiralty Jurisdiction

32. And we do further ordain that the said High Court of Judicature at Bombay shall have and exercise all such civil and maritime jurisdiction as may now be exercised by the said High Court as Court of Admiralty, or of Vice-Admiralty, and also such jurisdiction for the trial and adjudication of prize causes and other maritime questions arising in India, as may now be exercised by the said High Court.

33. And we do further ordain that the said High Court of Judicature at Bombay shall have and exercise all such criminal Jurisdiction as may now be exercised by the said High Court as a Court of Admiralty, or Vice Admiralty, or otherwise in connection with maritime matters of prize.

Testamentary and Intestate Jurisdiction

34. Testamentary and Intestate Jurisdiction. -And we do further ordain that the said High Court of Judicature at Bombay shall have the like power and authority as that which may now be lawfully exercised by the said High Court in relation to the granting of probates of last wills and testaments and letters of administration of the goods, chattels, credits and all other effects whatsoever, of persons dying intestate, whether within or without the Presidency of Bombay: Provided always that nothing in these Letters Patent contained shall interfere with the provisions of any law which has been made by competent legislative authority for India by which power is given to any other Court to grant such probates and letters of administration.

Matrimonial Jurisdiction

35. Matrimonial Jurisdiction. -And we do further ordain that the said High Court of Judicature at Bombay shall have jurisdiction within the Presidency of Bombay in

matters matrimonial between Our subjects professing the Christian religion: Provided always that nothing herein contained shall be held to interfere with the exercise of any jurisdiction in matters matrimonial by any Court not established by Royal Chartered within the said Presidency lawfully possessed thereof.

Powers of Single Judge and Division Courts

36. Single Judges and Divisional Courts. -And we do hereby declare that any function, which is hereby directed to be performed by the said High Court of Judicature at Bombay in the exercise of its original or appellate jurisdiction, may be performed by any Judge or any Division Court thereof, appointed or constituted for such purpose, in pursuance of section One hundred and eight of the Government of India Act, 1915, and if such Division Court is composed of two or more Judges, and the Judges are divided in opinion as to the decision to be given on any point, such point shall be decided according to the opinion of the majority of the Judges, if there shall be a majority, but if the Judges should be equally divided they shall state the point upon which they differ and the case shall then be heard upon that point by one or more of the other Judges and the point shall be decided according to the opinion of the majority of the Judges, who have heard the case including those first heard it.

Civil Procedure

37. Regulation of Proceedings. -And we do further ordain that it shall be lawful for the said High Court of Judicature at Bombay from time to time to make rules and orders for the purpose of regulating all proceedings in civil cases which may be brought before the said High Court, including proceedings in its Admiralty, Vice-Admiralty, intestate, and matrimonial jurisdiction respective: Provided always that the said High Court shall be guided in making such rules and orders as far as possible by the provisions of the Code of Civil Procedure, being an Act passed by the Governor General in Council, and being Act No. VIII of 1859, and the provisions of any law which has been made amending or altering the same by competent legislative authority for India.

Criminal Procedure

38. Regulation of Proceedings. -And we do further ordain that the proceedings in all criminal cases which shall be brought before the said High Court of Judicature at Bombay in the exercise of its ordinary original jurisdiction, and also in all other criminal cases over which the said High Court had jurisdiction immediately before the publication of these presents shall be regulated by the procedure and practice which was in use in the said Court immediately before such publication, subject to any law which has been or may be made in relation thereto by competent legislative authority for India; and that the proceedings in all other criminal cases shall be regulated by the Code of Criminal Procedure prescribed by an Act passed by the Governor-General in Council, and being Act. No. XXV of 1861, or by such further or other laws in relation to criminal procedure as may have been or may be made by such authority as aforesaid.

Appeals to Privy Council

39. Power to appeal. -And we do further ordain that any person or persons may appeal to Us, Our heirs and successors, in Our or Their Privy Council, in any matter not being of criminal jurisdiction. From any final judgment, decree, or order of the said High Court of Judicature at Bombay made on appeal, and from any final judgment, decree, or order made in the exercise of original jurisdiction by Judge of the said High Court, or of any Division Court, from which an appeal shall not lie to the said High Court under the provisions contained in the fifteenth clause or these presents: Provided in either case that the sum or matter at issue is of the amount or value of not less than 10,000 rupees, or that such judgment, decree, or order

shall involve, directly or indirectly, some claim, demand, or question to or respecting property amounting to or of the value of not less than 10,000 rupees, or from any other final judgment, decree, or order made either on appeal or otherwise as aforesaid, when the said High Court shall declare that the case is a fit one for appeal to Us, Our heirs or successors, in Our or their Privy Council, subject always to such rules, and orders as are now in force, or may from time to time be made, respecting appeals to Ourselves in Council from the Courts of the said Presidency, except so far as the said existing rules and orders respectively are hereby varied, and subject also to such further rules and orders as we may, with the advice of Our Privy Council, hereafter make in that behalf.

40. Appeal from interlocutory Judgments. - And we further ordain that it shall be lawful for the said High Court of Judicature at Bombay, at its discretion, on the motion, or if the said High Court be not sitting, then for any Judge of the said High Court. Upon the petition of any party who considers himself aggrieved by any preliminary or interlocutory judgment, decree, order, or sentence of the said High Court in any such proceeding as aforesaid, not being of criminal jurisdiction, to grant permission to such party to appeal against the same to us, Our heirs and successors, in Our or Their Privy Council, subject to the same rules, regulations, and limitations as are herein expressed respecting appeals from final judgment, decrees, orders and sentences.

41. And we do further ordain that from any judgment, order, or sentence of the said High Court of Judicature at Bombay made in the exercise of original criminal jurisdiction, or in any criminal case where any point or points of law have been reserved for the opinion of the said High Court in manner hereinbefore provided, by any Court which has exercised original jurisdiction, it shall be lawful for the person aggrieved by such judgment, order, or sentence to appeal to Us, Ours heirs or successors in Council, provided the said High Court shall declare that the case is a fit one for such appeal, and under such conditions as the said High Court may establish or require, subject always to such rules and orders as we may, with the advice of Our Privy Council, hereafter make in that behalf.

42. Rules as to transmission of Copies of evidence and other documents. - And we do further ordain that in all cases of appeal made from any judgment, order, sentence, or decree of the said High Court of Judicature at Bombay to Us, Our heirs or successors, in Our or Their Privy Council, such High Court shall certify and transmit to Us, Our heirs and successors, in Our or Their Privy Council a true and correct copy of all evidence, proceedings, judgments, decrees, and orders had or made in such cases appealed, so far as the same have relation to the matters of appeal, such copies to be certified under the seal of the said High Court And that the said High Court shall also certify and transmit to Us, Our heirs and successors, in Our or Their Privy Council, a copy of the reasons given by the Judges of such Court, or by any of such judges, for or against the judgment or determination appealed against. And we do further ordain that the said High Court shall, in all cases of appeal to be, Our heirs or successors, conform to and execute, or cause to be executed such judgments and orders as we, our heirs or successors in our or Their Privy Council, shall think fit to make in the premises, in such manner as any original judgment, decree, or decretal orders or other order or rule of the said High Court should or might have been executed. Calls for Records, etc, by the Government

43. High Court to comply with requisitions from Government for record etc. - And it is Our further will and pleasure that the said High Court of Judicature at Bombay shall comply with such requisitions as may be made by the Government for records, returns, and statements, in such form and manner as such Government

may deem proper.

44. Powers of Indian Legislature is reserved. -And we do further ordain and declare that all the provisions of these Our Letters Patent are subject to the Legislative Powers of the Governor-General in Legislative Council and also of the Governor-General in Council under section Seventy-one of the Government of India Act, 1915 and also of the Governor- General in cases of emergency under section Seventy-two of that Act and may be in all respect amended and altered thereby.

45. Provisions of former Letters Patent inconsistent with these Letters Patent to be void. -And it is our further will and pleasure that these Letters Patent shall be published by the Governor in Council and shall come into operation from and after the date of such publication, and that from and after the date on which effect shall have been given to them so much of the aforesaid Letters Patent granted by His Majesty King George the Fourth as was not revealed or determined by the said Letters Patent of the Twenty-sixth of June One thousand Eight hundred and Sixty-two and in consistent with these Letters Patent, shall cease, determine and, be utterly void to all intents and purposes whatsoever. In witness whereof we have caused these our letters to be made patent, witness ourselves at Westminster, the Twentyeighth Day of December, in the Twenty-ninth year of Our Region.