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## INTRODUCTION

Under Article 214 of the Constitution it is provided that there shall be a High Court for each State. Chapter V of Part VI of the Constitution contains the provisions relating to the High Courts in the States. Every High Court is a Court of record and has all the powers of such a court including the power to punish for contempt of itself. Under Article 225 of the Constitution, subject to the provisions of the Constitution and the provisions of any law of the appropriate Legislature made by virtue of powers conferred on that Legislature by the Constitution, the jurisdiction of and the law administered in any existing High Court and the respective powers of the Judges thereof in relation to the administration of justice in the court, including any power to make rules of Court and to regulate the sittings of the Court and of members thereof sitting alone or in Division Court, shall be the same as immediately before the commencement of the Constitution. The High Court under Article 226 of the Constitution is empowered to issue writs for the enforcement of any of the rights conferred by Part III or for any other purpose. Under Article 227 of the Constitution, the High Court has superintendence over all the courts and tribunals throughout the territories in relation to which it is empowered to issue writs for the enforcement of any of the rights conferred by Part III or for any other purpose. Under Article 227 of the Constitution, the High Court has superintendence over all the courts and tribunals throughout the territories in relation to which it exercises jurisdiction. Article 227 (2) confers power on the High Court to call for returns from such courts, make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts and prescribe forms in which books, entries and accounts shall be kept by the offices of any such courts. The High Court is also entitled to settle tables of fees to be allowed to the sheriff and all clerks and officers of such courts and to attorneys, advocates, and pleaders practicing therein. Under Article 229 appointment of officers and servants of the High Court shall be made by the Chief Justice of the Court or such other Judge or officer of the Court as he may direct. The conditions of service of officers and servants of a High Court shall be such as may be prescribed by rules made by the Chief Justice of the Court or by some other Judge or officer of the Court authorized by the Chief Justice to make rules for the purpose.

The High Court of Andhra Pradesh came into existence on 1<sup>st</sup> November, 1956 simultaneously with the formation of the State of Andhra Pradesh. It has been held that the High Court of Andhra Pradesh is also governed by the Letters Patent issued to the High Court of Madras having regard to the history, origin and formation of the High Court of Andhra Pradesh. The High Court of Andhra Pradesh does not exercise extraordinary original civil or criminal jurisdiction. It, however, exercises extraordinary original jurisdiction of issuing writs under Article 226 of the Constitution. Rules have been framed by the High Court governing the procedure applicable to writ petitions. It also exercises jurisdiction regarding contempt of courts, including the contempt of subordinate courts. The High Court has accordingly framed rules under contempt of courts act. In regard to appeals, it is governed by the Appellate Side Rules. Though the High Court has no direct original suits and other proceedings from the subordinate courts and exercise original jurisdiction by trying those suits and other proceedings itself. In exercise of such jurisdiction, it is governed by the Original Side Rules, which were in vogue in the Madras High Court and which have been adapted by this Court. The High Court of Andhra Pradesh also exercises original jurisdiction under others Acts like Indian Companies Act, Insolvency Act, Election Petition filed under the Representation of the Peoples Act and other special enactments, as well as Admiralty jurisdiction, several rules and standing orders have been issued from time to time governing such matters as procedure in the High Court, fees payable to the advocates, etc.

It was felt desirable to publish all the provisions relating to the High Court contained in the Constitution, Statutes, and rules and standing orders relating to the High Court in one single publication so that advocates, judges and the litigant public will have the advantage of having all the relevant provisions relating to the cases in the High Court included in one single volume without being put to the necessity of referring to several books for this purpose. It was, therefore, decided to have a comprehensive High Court manual containing all the provisions in the Constitution, statutory provisions, rules and standing orders relating to the cases in the High Court.

It is hoped that this publication will satisfy the long-felt need of the litigants, advocates and the judges to have a comprehensive collection of all the provisions relating to the cases and proceedings in the High Court in a single publication. It is also hoped that in course of time this manual will be translated into Telugu and other languages so that the litigant public in the State of Andhra Pradesh, who are not acquainted with the English language, may have an opportunity to get acquainted with all the legal provisions relating to the proceedings in the High Court.

P.SRI RAMA RAJU  
Registrar.

**CONSTITUTION OF INDIA**  
**PART V**  
**CHAPTER IV**  
**THE UNION JUDICIARY**

124. *Establishment and constitution of Supreme Court:-* (1) There shall be a Supreme Court of India consisting of a Chief Justice of India and, until Parliament by law prescribes a larger number, of not more than seven other judges.

(2) Every Judge of the Supreme Court shall be appointed by the President by warrant under his hand and seal after consultation with such of the Judges of the Supreme Court and of the High Courts in the States as the President may deem necessary for the purpose and shall hold office until he attains the age of sixty-five years.

Provided that in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of India shall always be consulted:

Provided further that:-

- (a) a Judge, may, by writing under his hand addressed to the President, resign his office;
- (b) a Judge may be removed from his office in the manner provided in clause (4)

(2A) The age of a Judge of the Supreme Court shall be determined by such authority and in such manner as Parliament may by law provide)

(3) A person shall not be qualified for appointment as a Judge of the Supreme Court unless he is a citizen of India, and

- (a) has been for at least five years a Judge of a High Court or of two or more such Courts in succession; or
- (b) has been for at least ten years an advocate of a High Court or of two or more such Courts in succession; or
- (c) is, in the opinion of the President, a distinguished jurist.

*Explanation I-* In this Clause "High Court" means a High Court which exercises, or which at any time before the commencement of this constitution exercised, jurisdiction in any part of the territory of India.

*Explanation II* – In computing for the purpose of this clause the period during which a person has been an advocate, any period during which a person has held judicial office not inferior to that of a district judge after he became an advocate shall be included.

(4) A Judge of the Supreme Court shall not be removed from his office except by an order of the President passed after an address by each House of Parliament supported by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting has been presented to the President in the same session for such removal on the ground of proved misbehaviour or incapacity.

(5) Parliament may by law regulate the procedure for the presentation of an address and for the investigation and proof of the misbehaviour or incapacity of a Judge under Clause (4).

(6) Every person appointed to be a Judge of the Supreme Court shall, before he enters upon his office, make and subscribe before the President, or some person appointed in that behalf by him, in oath or affirmation according to the form set out for the purpose in the Third Schedule.

(7) No person who has held office as a Judge of the Supreme Court shall plead or act in any court or before any authority within the territory of India.

125. Salaries etc., of Judges" (1) There shall be paid to the Judges of the Supreme Court such salaries as are specified in the second schedule.

(2) Every Judge shall be entitled to such privileges and allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by or under law made by Parliament and, until so determined, to such privileges, allowances and rights as are specified in the Second Schedule:

Provided that neither the privileges nor the allowances of a Judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment.

126. *Appointment of acting Chief Justice*:- When the office of Chief Justice of India is vacant or when the Chief Justice, is, by reason of absence or otherwise, unable to perform the duties of his office, the duties of the office shall be performed by such one of the other Judges of the Court as the President may appoint for the purpose.

127. *Appointment of ad hoc Judges*:- (1) If at any time there should not be a quorum of the Judges of the Supreme Court available to hold or continue any session of the Court, the Chief Justice of India, may with the previous consent of the President and after consultation with the Chief Justice of the High Court concerned, request in writing the attendance at the sittings of the Court, as an ad hoc judge, for such period as may be necessary, of a Judge of a High Court qualified for appointment as a Judge of the Supreme Court to be designated by the Chief Justice of India.

(2) It shall be the duty of the Judge who has been designated, in priority to other duties of his office to attend the sittings of the Supreme Court at the time and for the period for which his attendance is required, and while so attending he shall have all the jurisdiction, powers and privileges, and shall discharge the duties, of a Judge of the Supreme Court.

128. *Attendance of retired Judges at sittings of the Supreme Court*:- Notwithstanding anything in this Chapter, the Chief Justice of India may at any time, with the previous consent of the President, request any person who has held the office of a Judge of the Supreme Court or of the Federal Court (or who has held the office of a Judge of a High Court and is duly qualified for appointment as a Judge of the Supreme Court to sit and act as a Judge of the Supreme Court, and every such person so requested shall, while so sitting and acting, be entitled to such allowances as the President may by order determine and have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a Judge of that court.

Provided that nothing in this article shall be deemed to require any such person as aforesaid to sit and act as a Judge of that Court unless he consents so to do.

129. *Supreme Court to be a Court of record*:- The Supreme Court shall be a court of record shall have all the powers of such a Court including the power to punish for contempt of itself.

130. *Seat of Supreme Court*:- The Supreme Court shall sit in Delhi or in such other place or places, as the Chief Justice of India may, with the approval of the President from time to time, appoint.

131. *Original Jurisdiction of the Supreme Court*:- Subject to the provisions of this constitution, the supreme court shall, to the exclusion of any other court, have original jurisdiction in any dispute:-

- (a) between the Government of India and one or more States; or
- (b) between the Government of India and any State or States on one side and one or more other States on the other; or
- (c) between two or more States;

if and in so far as the dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends;

(Provided that the said jurisdiction shall not extend to a dispute arising out of any treaty, agreement, covenant, engagement, sanad or other similar instrument which, having been entered into or executed before the commencement of this Constitution, continues in operation after such commencement, or which provides that the said jurisdiction shall not extend to such a dispute).

(131.A. Exclusive jurisdiction of the Supreme Court in regard to questions as to constitutional validity of Central laws). Rep. By the Constitution (Forty-third Amendment) Act, 1977 s. 4 (w.e.f.13.4.1978).

132. *Appellate jurisdiction of Supreme Court in appeals from High Courts in certain cases*: (1) An appeal shall lie to the Supreme Court from any judgment, decree or an final order of a final order of a High Court in the territory of India, whether in a Civil, Criminal or other proceedings, (if the High Court certifies under article 134.A) that the case involves a substantial question of a law as to the interpretation of this Constitution.

\*\* \*\* \*

(3) Where such a certificate is given, any party in the case may appeal to the supreme court on the ground that any such question as aforesaid has been wrongly decided.

*Explanation*: For the purpose of this article, the expression "final order" includes an order deciding an issue which, if decided in favour of the appellant, would be sufficient for the final disposal of the case.

133. *Appellate jurisdiction of Supreme Court in appeals from High Courts in regard to civil matters*:- (1) An appeal shall lie to the supreme court from any judgment, decree, or final order in a civil proceedings of a High Court in the territory of India. (If the High Court certifies under article 134.A).

- (a) that the case involves a substantial question of law of general importance; and
- (b) that in the opinion of the High Court the said question needs to be decided by the supreme court.

(2) Notwithstanding anything in article 132, any party appealing to the Supreme Court under Clause (1) may urge as one of the grounds in such appeal that a substantial question of law as to the interpretation of this Constitution has been wrongly decided.

(3) Notwithstanding anything in this article, no appeal shall, unless Parliament by law otherwise provides, lie to the Supreme Court from the judgment, decree, or final order of one Judge of a High Court.

134. *Appellate jurisdiction of Supreme Court in regard to Criminal matters:* (1) An appeal shall lie to the Supreme Court from any Judgment, final order, or sentence in a criminal proceeding of a High Court in the territory of India if the High Court:--

- (a) has on appeal reversed an order of acquittal of an accused person and sentenced him to death; or
- (b) has withdrawn for trial before itself any case from any court subordinate to its authority and has in such trial convicted the accused person and sentenced him to death; or
- (c) (certifies under article 134A) that the case is a fit one for appeal to the Supreme Court.

Provided that an appeal under sub-clause © shall lie subject to such provisions as may be made in that behalf under clause (1) of article 145 and to such conditions as the High Court may establish or require.

(2) Parliament may by law confer on the Supreme Court any further powers to entertain and hear appeals from any judgment, final order or sentence in a criminal proceeding of a High Court in the territory of India subject to such conditions and limitations as may be specified in such law.

(134.A) *Certificate for appeal to the Supreme Court:*- Every High Court, passing or making a judgment, decree, final order, or sentence, referred to in clause (1) of article 132 or clause (1) of article 133, or clause (1) of article 134.

- (a) may, if it deems fit so to do, on its own motion; and
- (b) shall, if an oral application is made, by or on behalf of the party aggrieved, immediately after the passing or making of such judgment, decree, final order or sentence,

determine, as soon as may be after such passing or making, the question whether a certificate of the nature referred to in clause (1) of article 132 or clause (1) of article 133, or, as the case may be, sub-clause © of clause (1) of article 134, may be given in respect of that case).

135. *Jurisdiction and powers of the Federal Court under existing law to be exercisable by the Supreme Court:*- Until parliament by law otherwise provides, the Supreme Court shall also have jurisdiction and powers with respect to any matter to which the provisions of article 133 or article 134 do not apply if jurisdiction and powers in relation to that matter were exercisable by the Federal Court immediately before the commencement of this Constitution under any existing law.

136. *Special leave to appeal by the Supreme Court:* (1) Notwithstanding anything in this Chapter, the Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal in the territory of India.

(2) Nothing in clause (1) shall apply to any judgment, determination, sentence or order passed or made by any court or tribunal constituted by or under any law relating to the Armed Forces.

137: *Review of judgments or orders by the Supreme Court:* Subject to the provisions of any law made by Parliament or any rules made under article 145, the Supreme Court shall have power to review any judgment pronounced or order made by it.

138. *Enlargement of the jurisdiction of the Supreme Court:* (1) The Supreme Court shall have such further jurisdiction and powers with respect to any of the matters in the Union list as Parliament may by law confer.

(2) The Supreme Court shall have such further jurisdiction and powers with respect to any matter as the Government of India and the Government of any State may by special agreement confer, if Parliament by law provides for the exercise of such jurisdiction and powers by the Supreme Court.

139. *Conferment on the Supreme Court of powers to issue certain writs:-* Parliament may by law confer on the Supreme Court power to issue directions, orders, or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for any purposes other than those mentioned in clause (2) of article 32.

(139.A (1) *Transfer of certain cases:-* Where cases involving the same or substantially the same questions of law are pending before the Supreme Court and one or more High Courts or before two or more High Courts and the Supreme Court is satisfied on its own motion or on application made by the Attorney-General of India or by a party to any such case that such questions are substantial questions of general importance, the Supreme Court may withdraw the case or cases pending before the High Court or the High Courts and dispose of all the cases itself;

Provided that the Supreme Court may after determining the said questions of law return any case so withdrawn together with a copy of its judgment on such questions to the High Court from which the case has been withdrawn, and the High Court shall on receipt thereof, proceed to dispose of the case in conformity with such judgment).

(2) The Supreme Court may, if it deems it expedient so to do for the ends of justice, transfer any case, appeal or other proceedings pending before any High Court to any other High Court.

140. *Ancillary powers of Supreme Court:-* Parliament may by law make provision for conferring upon the Supreme Court such supplemental provisions of this Constitution as may appear to be necessary or desirable for the purpose of enabling the Court more effectively to exercise the jurisdiction conferred upon it by or under this Constitution.

141. *Law declared by Supreme Court to be binding on all Courts:-* The law declared by the Supreme Court shall be binding on all courts within the territory of India.

142. *Enforcement of decrees and orders of Supreme Court and Orders as to discovery etc.,:-* (1) The Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before, it, and any decree so passed or order so



made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, in such manner as the President may by order prescribe.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Supreme Court shall, as respects the whole of the territory of India, have all and every power to make any order for the purpose of securing the attendance of any person, the discovery or production of any documents, or the investigation or punishment of any contempt of itself.

143. *Power of President to consult Supreme Court*:- (1) If at any time it appears to the President that a question of law or fact has arisen or is likely to arise, which is of such a nature and of such public importance that it is expedient to obtain the opinion of the Supreme Court upon it, he may refer the question to that Court for consideration and the Court may, after such hearing as it thinks fit, report to the President its opinion thereon.

(2) The President may, notwithstanding any thing is \*\*\*\*\* the proviso to article 131, refer a dispute of the kind mentioned in the (said provision) to the Supreme Court for opinion and the Supreme Court shall, after such hearing as it thinks fit, report to the President its opinion thereon.

144. *Civil and Judicial authorities to act in aid of the Supreme Court*:- All authorities, civil and judicial, in the territory of India shall act in aid of the Supreme Court.

144.A (Special provisions as to disposal of questions relating to constitutional validity of laws). Rep. By the Constitution (Forty-third Amendment) Act, 1977 s 5. (w.e.f. 13.4.1978).

145. *Rules of Court, etc*:- (1) Subject to the provisions of any law made by Parliament, the Supreme Court may from time to time, with the approval of the President, make rules for regulating generally the practice and procedure of the Court including:--

- (a) rules as to the persons practicing before the Court;
- (b) rules as to the procedure for hearing appeals and other matters pertaining to appeals including the time within which appeals to the Court are to be entered;
- (c) rules as to the proceedings in the Court for the enforcement of any of the rights conferred by Part-III.
- (cc) rules as to the proceedings in the Court under (article 139A).
- (d) Rules as to the entertainment of appeals under sub-clause © of Clause (1) of article 134;
- (e) Rules as to the conditions subject to which any judgment pronounced or order made by the Court may be reviewed and the procedure for such review including the time within which applications to the Court for such review are to be entered;
- (f) Rules as to the costs of and incidental to any proceedings in the Court and as to the fees to be charged in respect of proceedings therein;
- (g) Rules as to the granting of bail;
- (h) Rules as to stay of proceedings;
- (i) Rules providing for the summary determination of any appeal which appears to the Court to be frivolous or vexatious or brought for the purpose of delay;

(j) Rules as to the procedure for inquiries referred to in clause (1) of article 317.

(2) Subject to the (Provisions of \*\*\*\*\* clause (3), rules made under this article may fix the minimum number of Judges who are to sit for any purpose, and may provide for the powers of single Judges and Division Courts.

(3) (2 \*\*\*\*\* The minimum number) of Judges who are to sit for the purpose of deciding any case involving a substantial question of law as to the interpretation of this Constitution or for the purpose of hearing any reference under article 143 shall be five:

Provided that, where the Court hearing an appeal under any of the provisions of this Chapter other than article 132 consists of less than five Judges and in the course of the hearing of the appeal the Court is satisfied that the appeal involves a substantial question of law as to the interpretation of this Constitution the determination of which is necessary for the disposal of the appeal, such Court shall refer the question for opinion to a Court constituted as required by this clause for the purpose of deciding any case involving such a question and shall on receipt of the opinion dispose of the appeal in conformity with such opinion.

(4) No judgment shall be delivered by the Supreme Court save in open Court, and no report shall be made under article 143 save in accordance with an opinion also delivered in open Court.

(5) No judgment and no such opinion shall be delivered by the Supreme Court save with the concurrence of a majority of the Judges present at the hearing of the case, but nothing in this clause shall be deemed to prevent a Judge who does not concur from delivering a dissenting judgment or opinion.

146. *Officers and servants and the expenses of the Supreme Court:-*

(1) Appointments of officers and servants of the Supreme Court shall be made by the Chief Justice of India or such other Judge or officer of the Court as he may direct:

Provided that the President may by rule require that in such cases as may be specified in the rule, no person not already attached to the Court shall be appointed to any office connected with the Court, save after consultation with the Union Public Service Commission.

(2) Subject to the provisions of any law made by Parliament, the conditions of service of officers and servants of the Supreme Court shall be such as may be prescribed by rules made by the Chief Justice of India or by some other Judge or officer of the Court authorized by the Chief Justice of India to make rules for the purpose:

Provided that the rules made under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the President.

(3) The administrative expenses of the Supreme Court, including all salaries, allowances and pensions payable to or in respect of the officers and servants of the Court, shall be charged upon the Consolidated Fund of India, and any fees or other moneys taken by the Court shall form part of that Fund.

147. *Interpretation*:- In this Chapter and in Chapter V of Part VI, references to any substantial question of law as to interpretation of this Constitution shall be construed as including references to any substantial question of law as to the interpretation of the Government of India Act, 1935 (including any enactment amending or supplement that Act), or of any Order in Council or order made thereunder, or of the Indian Independence Act, 1947, or of any order made thereunder.

**PART – VI**  
**CHAPTER V**  
THE HIGH COURTS IN THE STATES

214. *High Courts for States*:- \*\*\* There shall be a High Court for each State.

\*                    \*                    \*                    \*                    \*

215. *High Courts to be courts of record*:- Every High Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself.

216. *Constitution of High Courts*:- Every High Court shall consist of a Chief Justice and such other Judges as the President may from time to time deem it necessary to appoint.

\*                    \*                    \*                    \*                    \*

217. *Appointment and conditions of the office of a Judge of a High Court* :- (1) Every Judge of a High Court shall be appointed by the President by warrant under his hand and seal after consultation with the Chief Justice of India, the Governor of the State, and , in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of the High Court, and (shall hold office, in the case of an additional or acting Judge, as provided in article 224, and in any other case, until he attains the age of (sixty-two years)):

Provided that:-

- (a) a Judge may, by writing under his hand addressed to the President, resign his office;
- (b) a Judge may be removed from his office by the President in the manner provided in clause (4) of Article 124 for the removal of a Judge of the Supreme Court;
- (c) the office of a Judge shall be vacated by his being appointed by the President to be a Judge of the Supreme Court or by his being transferred by the President to any other High Court within the territory of India.

(2) A person shall not be qualified for appointment as a Judge of a High Court unless he is a citizen of India and –

- (a) has for at least ten years held a judicial office in the territory of India: or
- (b) has for at least ten years been an advocate of a High Court or of two or more such courts in succession;

\*                    \*                    \*                    \*                    \*

*Explanation:* For the purposes of this clause—

{(a) in computing the period during which a person has held judicial office in the territory of India, there shall be included any period, after he has held any judicial office, during which the person has been an Advocate of a High Court or has held the office of a member of a tribunal or any post, under the Union or a State, requiring special knowledge of law;}

{aa) in computing the period during which a person has been an advocate of a High Court, there shall be included any period during which the person (has held judicial officer or the office of a member of a tribunal or any post, under the

Union or a State, requiring special knowledge of law) after he became an advocate;

- (c) in computing the period during which a person has held judicial office in the territory of India or been an advocate of a High Court, there shall be included any period before the commencement of this Constitution during which he has held judicial office in any area which was comprised before the fifteenth day of August, 1947, within India as defined by the Government of India Act, 1935, or has been an advocate of any High Court in any such area, as the case may be.

{(3) If any question arises as to the age of a Judge of a High Court, the question shall be decided by the President after consultation with the Chief Justice of India and the decision of the President shall be final}.

218. Application of certain provisions relating to Supreme Court to High Courts:- The provisions of clauses (4) and (5) article 124 shall apply in relation to a High Courts as they apply in relation to the Supreme Court with the substitution of references to the High Courts for references to the Supreme Court.

219. *Oath or affirmation by Judges of High Courts*:- Every person appointed to be a Judge of a High Court 1\*\*\* shall, before he enters upon his office, make and subscribe before the Governor of the State or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

220. (*Restriction on practice after being a permanent Judge*:- No person who, after the commencement of this Constitution, has held office as a permanent Judge of a High Court shall plead or act in any court or before any authority in India except the Supreme Court and the other High Courts.

Explanation: In this article, the expression "High Court" does not include a High Court for a State specified in Part B of the First Schedule as it existed before the commencement of the Constitution (Seventh Amendment) Act, 1956).

221. *Salaries etc., of Judges*:- (1) There shall be paid to the Judges of each High Court such salaries as are specified in the Second Schedule.

(2) Every Judge shall be entitled to such allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by or under law made by Parliament and, until so determined, to such allowances and rights as are specified in the Second Schedule.

Provided that neither the allowances of a Judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment.

222. *Transfer of a Judge from one High Court to another*:- (1) The President may, after consultation with Chief Justice of India, transfer a Judge from one High Court to any other High Court.4\*\*\*\*.

(2) When a Judge has been or is so transferred, he shall, during the period he serves, after the commencement of the Constitution (Fifteenth Amendment) Act, 1963, as a Judge of the other High Court be entitled to receive in addition to his salary such compensatory allowances as may be

determined by Parliament by law and, until so determined, such compensatory allowance as the President may be order fix).

*223. Appointment of acting Chief Justice:-* When the office of Chief Justice of a High Court is vacant or when any such Chief Justice is, by reason of absence or otherwise, unable to perform the duties of his office the duties of the office shall be performed by such one of the other Judges of the Court as the President may appoint for the purpose.

*224. Appointment of additional and acting Judges:-* (1) If by reason of any temporary increase in the business of a High Court or by reason or arrears of work therein, it appears to the President that the number of the Judges of that Court should be for the time being increased, the President may appoint duly qualified persons to be additional Judges of the Court for such period not exceeding two years as he may specify.

(2) When any Judge of a High Court other than the Chief Justice is by reason of absence or for any other reason unable to perform the duties of his office or is appointed to act temporarily as Chief Justice, the President may appoint a duly qualified person to act as a Judge of that Court until the permanent Judge has resumed his duties.

(4) No person appointed as an additional or acting Judge of a High court shall hold office after attaining the age of (sixty two years).

*(224A. Appointment of retired Judges of sittings of High Court:-* Notwithstanding anything in this chapter, the Chief Justice of a High Court for any State may at any time, with the previous consent of the President, request any person who has held the office if a Judge of that Court or of any other High Court to sit and act as a Judge of the High Court for that State, and every such person so requested shall, while so sitting and acting, be entitled to such allowances as the President may by order determine and have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a Judge of that High Court:

Provided that nothing in this article shall be deemed to require any such person as aforesaid to sit and act as a Judge of that High Court unless he consent so to do.}

*225. Jurisdiction of existing High Courts:-* Subject to the provisions of this constitution and to the provisions of any law of the appropriate Legislature made by virtue of powers conferred on that Legislature by this Constitution, the jurisdiction, of, and the law administered in, any existing High Court, and he respective powers of the Judges thereof in relation to the administration of justice in the Court, including any power to make rules of Court and to regulate the sittings of the Court and of members thereof sitting alone or in Division Courts, shall be the same as immediately before the commencement of this Constitution.

(Provided that any restriction to which the exercise of original jurisdiction by any of the High Courts with respect to any matter concerning the revenue or concerning any act ordered or done in the collection thereof was subject immediately before the commencement of this Constitution shall no longer apply to the exercise of such jurisdiction.)

(226). *Power of High Courts to issue certain writs:-* (1) Notwithstanding anything article 32 (\*\*\*) every High Court shall have power throughout the territories in relation to which it exercises jurisdiction to issue to any person or authority, including in appropriate cases, and Government within those territories directions, orders or writs, including (writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them for the enforcement of any other the rights conferred by Part III and for any other purpose)}.

(2) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercise by any High Court exercising jurisdiction in relation to which it exercises jurisdiction to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including (writs, in the nature of habeas corpus, mandamus, prohibition, or warrantor and certiorari, or any of them for the enforcement of any the rights conferred by Part III and for any other purpose.).

(2) The power conferred by clause (1) to issue directions, orders, or writs, to any Government authority or person may also be exercise by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power notwithstanding that the seat of such Government authority or the residence of such person is not within those territories.

( 3) where any party against whom an interim order, whether by way of injunction or stay or in any other manner, is made, on or in any proceedings relating to, a petition under clause (1), without –

- (a) furnishing to such party copies of such petition and all documents in support of the plea for such interim order; and
- (b) giving such party an opportunity of being heard.

Makes an application to the High Court for the vacation of such order and furnishes a copy of such application to the party in whose favour such order has been made or the counsel of such party, the High Court shall dispose of the application within a period of two weeks from the date on which it is received or from the date on which the copy of such application is so furnished, whichever is later, or where the High Court is closed on the last day of that period, before the expiry of the next day after wards on which the High Court is open; and if the application is not so disposed of, the interim order shall, on the expiry of that period, or. As the case may be, the expiry of the said next day stand vacated.).

( 4) The power conferred on a High Court by this article shall not be in derogation of the power conferred on the Supreme Court by clause (2) of article 32.)

226A. (*Constitutional validity of Central laws not to be considered in proceedings under article 226.*) Rep. By the Constitution (Forty-third Amendment) Act, 1977, S.8 (w.e.f. 13-4-1978).

227. *Power of superintendence over all courts by the High Court.*—( 1) Every High Court shall have superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction.)

(2) Without prejudice to the generality of the foregoing provision, the High Court may --

- (a) call for returns from such courts;
- (b) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts; and
- (c) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts.

(3) The High Court may also settle tables of fees to be allowed to the sheriff and all clerks and officers of such courts and to attorneys advocates and pleaders practicing therein:

Provided that any rules made, forms prescribed or tables settled under clause (2) or clause (3) shall not be inconsistent with the provision of any, law for the time being in force, and shall require the previous approval of the Governor.

- (5) Nothing in this article shall be deemed to confer on a High Court powers of superintendence over any court or tribunal constituted by or under any law relating to the Armed Forces.

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228. *Transfer of certain cases to High Court.*—If the High Court is satisfied that a case pending in a court subordinate to it involves a substantial question of law as to the interpretation of this Constitution the determination of which is necessary for the disposal of the case,(it shall withdraw the case and 2\*\*\* may ---).

- (a) either dispose of the case itself, or
- (b) determine the said question of law and return the case to the court from which the case has been so withdrawn together with a copy of its judgment on such question, and the said court shall on receipt thereof proceed to dispose of the case in conformity with such judgment.

228A. *(Special provisions as to disposal of questions relating to constitutional validity of State laws.) Rep. By the Constitution (Forty-third Amendment) Act, 1977, s.10 (w.e.f. 13-4-1978)*

229. *Officers and servants and the expenses of High Courts.*—(1) Appointments of officers and servants of a High Court shall be made by the Chief Justice of the Court or such other Judge or Officer of the Court as he may direct:

Provided that the Governor of the State/\*\*\*\* may by rule require that in such cases as may be specified in the rule no person not already attached to the Court shall be appointed to any office connected with the Court save after consultation with the State Public Service Commission.

(2) Subject to the provisions of any law made by the Legislative of the State, the conditions of service of officers and servants of a High Court shall be such as may be prescribed by rules made by the Chief Justice of the Court or by some other Judge or officer of the Court authorized by the Chief Justice to make rules for the purpose.

Provided that the rules made under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the Governor of the State/\*\*\*\*.

(3) The administrative expenses of a High Court, including all salaries, allowances and pensions payable to or in respect of the officers and servants of the Court, shall be charged upon the Consolidated Fund of the State, and any fees or other moneys taken by the Court shall form part of that fund.



230. Extension of jurisdiction of High Courts to Union territories:- (1) Parliament may by law extend the jurisdiction of a High Court to, or exclude the jurisdiction of a High Court from, any Union territory.

(2) Where the High Court of a State exercises jurisdiction in relation to a Union territory:-

- (a) nothing in this Constitution shall be construed as empowering the Legislature of the State to increase, restrict or abolish that jurisdiction; and
- (b) the reference in article 227 to the Governor shall, in relation to any rules, forms or tables for subordinate courts in that territory, be construed as a reference to the President.

231. *Establishment of a common High Court for two or more States*:- (1) Notwithstanding anything contained in the preceding provisions of this Chapter, Parliament may by law establish a common High Court for two or more States and a Union territory.

(2) In relation to any such High Court:-

- (a) the reference in article 217 to the Governor of the State shall be construed as a reference to the Governors of all the States in relation to which the High Court exercises jurisdiction.
- (b) The reference in article 227 to the Governor shall, in relation to any rules, forms or tables for subordinate courts be construed as a reference to the Governor of the State in which the subordinate courts are situate; and
- (c) the references in articles 219 and 229 to the State shall be construed as a reference to the State in which the High Court has its principal seat;

Provided that if such principal seat is in a Union territory, the references in articles 219 and 229 to the Governor, Public Service Commission, Legislature and Consolidated Fund of the State shall be construed respectively as references to the President, Union Public Service Commission, Parliament and Consolidated Fund of India.

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**AMENDED LETTERS PATENT – HIGH COURT, MADRAS**  
28 & 29 Vic., c. 15

For the High Court of Judicature for the Presidency of Madras  
(28<sup>th</sup> December, 1865).

*Recital of Acts 24 and 25 Vic., c. 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 twentyfourth and twenty-fifth years of Our Reign entitled "An Act for establishing High Courts 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 Madras, for the Presidency of Madras aforesaid, and that such High Court should consist of a Chief Justice and as many Judges, not exceeding 15, 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 the time of the establishment of such High Court were Judges of the Supreme Court of Judicature and permanent Judges of the Court of Sudder Dewany Adawlut or Suder Adawlut of the same Presidency, should be and become Judges of such High court, without further appointment for that 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 Dweany Adawlute and Faujidarry Adawlut at Madras in the said Presidency should be abolished.

And that the High Court of Judicature so as to be established should have and exercise all such Civil, Criminal Admiralty, and Vice-Admiralty, Testamenetary 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 Magesty 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 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 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 Seal of the United Kingdom of Great Britain and Ireland bearing date at Westminster the Twenty-sixth day of June, in Twenty-fifth year of Our Reign, in the Year of our Lord, one thousand eight hundred and sixty-two and accordingly for Us, Our Heirs, and Successors, erect an establish at Madras, for the President of Madras, aforesaid, a High Court of Judicature at Madras, 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 Madras 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 five Judges and did thereby constitute and appoint certain persons, being respectively qualified as in the said Act is declared, to be Judges of the said High Court.

And whereas by the said recited Act it is declared lawful of Her Majesty, at any time within three years after the establishment of the said High Court, by Her Letters Patent, to revoke all or such parts 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 Here 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-eighth year of Our Reign chapter fifteen, entitled " An Act to extend the term for granting from Letters " An Act to extend the term for granting from Letters Patent for the High Courts in India, and to make further provisions respecting the territorial jurisdiction of the said Courts. The time for issuing fresh Letters Patent has been extended to the first January, One thousand eight hundred and sixty-six.

And whereas, in order to make further provisions 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 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-presents (from and after the date of publication thereof, as hereinafter provided, the 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 forty-first year of His Majesty King George the Third, dated the twenty sixth of December, One thousand eight hundred, establishing a Supreme Court of Judicature at Madras, ere revoked or determined thereby.
- 2) *High Court at Madras 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 Madras, shall be and continue as from time of the original erection and establishment thereof, the High Court of Judicature at Madras for the Presidency of Madras, aforesaid; and that the 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 Patents 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 to 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 Madras, 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 Courts 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 Madras, appointed by virtue of the said letters patent of the twenty-sixth June, one thousand eight hundred and sixty-two, 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 Madras 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 Madras, do solemnly declare that I will faithfully perform the duties of my office to the best of my ability, knowledge and judgment".

- 6) *Seal:-* And we do hereby grant, ordain, and appoint that the said High Court of Judicature at Madras shall have and use, as occasion may require, a seal bearing a device and impression of Our Royal Arms, with an exergue or label surrounding the same with this inscription. "The seal of the High Court at Madras". 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 the case of the 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, whensoever 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 soever the same may have come to his, her, or their possession.
- 7) *Writs, etc., to issue in the name of the Crown, and under seal:-* And we do hereby further grant, ordain, and appoint that all writs, summons, precepts, rules, orders and other mandatory process to be used, issued or awarded by the said High Court of Judicature at Madras, 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 Madras 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 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 ad 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 the officers and clerks to be appointed as aforesaid shall be residents within the limits of the jurisdiction of the said court, so long as they shall hold their respective offices; but this proviso shall not interfere with or prejudice the right of any other officer or clerk to avail himself of leave of absence under any rules prescribed by the Governor-in-Council, and to absent himself from the said limits during the term of such leave, in accordance with the said rules.

Admission of Advocates, Vakeels and Attorneys.

9. *Powers of High Court admitting Advocates, Vakeels and Attorneys:-* And We do hereby authorize and empower the said High Court of Judicature at Madras 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, and 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 Madras shall have power to make rules for the qualification and admission of proper persons to be Advocates Vakeels, and Attorneys-at-law of 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-Laws and no person whatsoever but such Advocates, Vakeels, or Attorneys, shall be allowed to act or to plead for, or on behalf of, any suitor 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 co-suitor.

### **Civil Jurisdiction of the High Court.**

11. *Local limits of the ordinary original jurisdiction of the High Court:-* And We do hereby ordain that the said High Court of Judicature at Madras 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 Madras at the date of the 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 prescribed 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 Madras, in 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 shall be situated, or, in all other cases, if the cause of action shall have arisen, either wholly, or, in case 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 cases falling within the jurisdiction of the Small Cause Court at Madras, in which the debt or damage, or value of the property sued for does not exceed one hundred rupees.

13. *Extraordinary original civil jurisdiction:-* And We do further obtain that the High Court of Judicature at Madras, 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 Madras, 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. *Joinder of several causes of action:-* 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. *Appeal from the Courts of Original Jurisdiction to the High Courts in its appellate jurisdiction:-* And We do further ordain that an appeal shall lie to the said High Court of Judicature at Madras from the Judgment (not being a judgment passed 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 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 or one Judge of any Division Court, pursuant to Section 108 of Government of India Act, and that notwithstanding anything hererinafore 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 1<sup>st</sup> day of February 1929) 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 said 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 or Successors in Our or Their Privy Council, as hereinafter provided.

16. *Appeal from Courts in the Provinces:-* And we do further ordain that the said High Court of Judicature at Madras shall be a Court of Appeal from the Civil Courts of the Presidency of Madras, 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 Madras shall have the like power and authority with respect to the persons and estates of infants, idiots and lunatics within the presidency of Madras, as that which is now vested in the said High Court immediately before the publication of these presents.

18. *Provision with respect to the Insolvent Court:-* And we do further ordain that the court for relief of insolvent debtors at Madras shall be held before one of the Judges of the said High Court of Judicature at Madras, and the said High Court, and any such Judge thereof, shall have and exercise within the presidency of Madras, 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 or equity to be applied to each case coming before the said High Court of Judicature at Madras, 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 extraordinary original civil jurisdiction:-* And we do further ordain that, with respect to the law, or equity and rule of good conscience to be applied to each case coming before the said High Court of Judicature at Madras, in the exercise of its Extraordinary Original Civil Jurisdiction, such law or 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 the exercise of appellate jurisdiction:-* And we do further ordain that, with respect to the law or equity and rule of good conscience to be applied by the said High Court of Judicature at Madras, to each case coming before it in the exercise of its appellate jurisdiction, such law or equity and rule of good conscience shall be the law or equity and rule of conscience which 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 Madras, shall have Ordinary Original Criminal Jurisdiction, within the local limits of its Ordinary Original Civil

Jurisdiction, and also in respect of all such persons beyond such limits, over whom the said High Court of Judicature at Madras 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 Madras 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. *Extraordinary original criminal jurisdiction*:- And we do further ordain that the said High Court of Judicature at Madras 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 persons 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 and 26. Repealed by Act XXVI of 1943.

27. *Appeal from Criminal Courts in the Provinces*:- And we do further ordain that the said High Court of Judicature at Madras shall be a Court of Appeal from the Criminal Courts of the Presidency of Madras, 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 of referred cases and revision of criminal trials*:- And we do further ordain that the said High Court of Judicature at Madras 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 Judge, 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 or to revision by the said High Court.

29. *High Court may direct the transfer of a 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*:- Any We do further Indian ordain that all persons brought for trial before the said High Court of Judicature at Madras 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 "Indian Penal Code", or by any Act amending or excluding the said Act 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. *Judges may be authorized to sit any place 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 Madras 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. Civil – And We do further ordain that the said High Court of Judicature at Madras shall have and exercise all such civil and maritime jurisdiction as may now be exercised by the said High Court as a 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. Criminal – And We do further ordain that the said High Court of Judicature at Madras shall have and exercise all such criminal jurisdiction as may now be exercised by the said High Court as a Court of Admiralty, or of Vice-Admiralty, or otherwise in connection with maritime matters, or 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 Madras 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 Madras; 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 Madras shall have jurisdiction, within the Presidency of Madras, 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 Charter within the said Presidency lawfully possessed thereof.

Powers of Single Judges and Division Courts.

36. *Single Judges and Division Courts:-* And We do hereby declare that any function which is hereby directed to be performed by the said High Court of Judicature at Madras, in the exercise of its original or appellate jurisdiction, may be performed by any Judge, or by any Division Court thereof, appointed or constituted for such purpose (in pursuance of Section 108 of the Government of India Act 1915) and in 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 who 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 Madras 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, Vide-Admiralty, testamentary, intestate and matrimonial jurisdiction respectively: 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-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 Madras, in exercise of its ordinary original criminal 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 High court immediately before the 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 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 of 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 Madras made on appeal, and from any final judgment decree or order made in the exercise of original jurisdiction by Judges 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 15<sup>th</sup> clause of these presents: Provided, in either case, that the sum or matter at issue is of the amount of 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 do further ordain that it shall be lawful for the said High Court of Judicature at Madras, 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 proceedings 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 judgments, decrees, orders and sentences.

41. *Appeal in criminal cases, etc.:-* And we do further ordain that from any judgment, order or sentence of the said High Court of Judicature at Madras, 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 here in before 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, Our 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. *Rule 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 or sentence or decree of the High Court of Judicature at Madras 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 for the judgment or determination appealed against. And we do further ordain that the said High Court shall, in all cases of appeal to Us, Our Heirs or Successors conform to and execute or cause to be executed such judgments and orders as we, Our Heirs and 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 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 requisition from Government for records:-* And it is our further will and pleasure that the said High Court of Judicature at Madras shall comply with such requisition 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 Preserved:-* 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 the Governor-General in Council under Section 71 of the Government of India, 1915, and also of the Governor-General, in cases of emergency under Section 72 of that Act and may be in all respects 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 should 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 Third as was not revoked or determined by the said Letters Patent of the twenty-sixth of June, one thousand eight hundred and sixty-two, and is inconsistent with these Letters Patent, shall cease, determine and be utterly void, to all intents and purposes whatsoever.

*In witness:-* In Witness thereof, we have caused these our letters to be made patent. Witness Ourselves, at Westminster, the Twenty-eighth day of December in the Twenty-ninth year of our Reign.

By warrant under the Queen's sign Manual.

**C.ROMILLY**

**FORMS****FORM NO. 1.**

(See Rules 34 and 63)

*Form of Memorandum giving particulars for service on the Respondent.*

Court-fee stamp affixed for Rs.

Appeal NO.            of 19    .

Particulars for service of process on respondent.

<u>service.</u> _____		<u>Address for</u>		
 Name town	Father's name or Occupation,  If a minor, name if any of guardian	 District	Taluk	Village (if a  street,
and door number				

**FORM NO. 2**  
(See Rules 73 and 74)

*Form of list of documents to form the record in appeal in the High Court  
(Cause title)*

Mark in Estimate The lower cost. Court.	Date and description Of document	Whether the whole or part of the Document.	*Number of pages of _____ Translation	* Printing	
					<i>Rs.</i>
<i>P.</i>					
Total ..					
The applicant will require Record in addition to the first copy			copies of the		
			(signed) A.B.,		
			Advocate for Appellant (Respondent)		
*These columns are to be filled in by the officers of					Court.

*Note:-* Where portion only of documents are required to be translated and printed and where the portions to be translated and printed are not pointed out within the prescribed time, those documents will be excluded from the record.

**Form No. 3.**  
(See Rule 45)

*Notice of application to the court.*  
(Cause title)

Take notice that the appellant (respondant) has presented a petition to the Court praying that (*set out the terms of the prayer*) and that the same will be heard by the Court (*Registrar*) on the        day of        19    .

Execution has been stayed (*or other order made*) by orders, dated the day of        19.

The affidavit of E.F. has been filed in support of the application.

Dated the        day of        19    .

(signed) A.B.,

Advocate for Appellant  
(Respondent)

To

Mr. C.D., Advocate for respondent (appellate)  
At (enter address for service).

High Court of Judicature, Andhra Pradesh.

### **BANKING COMPANIES RULES 1956.**

In exercise of the powers conferred by Section 45(N) (2) and Section 45(U) of the Banking Companies Act, 1949 (Act X of 1949) as amended and all other powers hereunto enabling, the High Court hereby makes the following rules with regard to applications and other proceedings under the said Act:-

1. Short title, commencement and application:- These rules shall be called the Banking Companies Rules, Andhra Pradesh 1956, and shall come in to force at once and shall apply to all proceedings under the Banking Companies Act.
2. Definitions:- In these rules, unless the context or subject matter otherwise requires;-
  - (a) "Act" means the Banking Companies act 1949 (X of 1949) as amended (or as may be amended) from time to time.
  - (b) "Company" means a company to which the provisions of time being;
  - (c) "Registrar" means the Registrar of the High Court for the time being;
  - (d) "Official Liquidator" means ad includes the person or persons appointed by the Court for the purpose of conducting the proceedings in winding up a banking company and performing such duties in reference thereto as to the court may impose.
3. General headings:- The following shall be used as general headings in all matters to which these rules apply:-
  - (a) In proceedings before the Judge in Chambers or in Court IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH, HYDERABAD.  
In the matter of the Banking Companies Act, 1949, and of the before the Judge in the Chambers or in Court.
  - (b) For all advertisements, notices and other proceedings not before the Judge in Chambers or in the Court.  
  
In the matter of the Banking Companies Act, 1949, and of the (Name) Bank, Limited.
- 4, Application of the Indian Companies Rules,1940:- Save as expressly provided in these rules, the rules framed under the Indian Companies Act shall apply to proceedings under the Act.
5. Mode of proceedings (Petitions) (1) The following applications under the Act shall be made by original petition:-
  - (a) Applications under Section 37 of the Act to stay commencement or continuance of any proceedings against the company.
  - (b) Applications under Section 38 or sub-section (2) of Section 45.K of the Act for winding up;
 (2) All other applications to the Court under the Act shall be by Judge's summons.  
 (3) The Official Liquidator may file a report instead of an affidavit in support of or in answer to a Judge's summons.



6. (a) Where a Special Officer has been appointed under sub-section (3) of Section 37 of the Act, the order of appointment shall be in Form No.1 appended to these rules.

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

- (1) A Special Officer appointed under Section 37(3) of the Act shall furnish security to the Registrar in such amount as may be ordered by the Court.
- (2) 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 the creditors and shareholders of the Bank, and to conserve and ensure the proper disposition according to law, of the assets of the Bank.
- (3) The Special Officer may be empowered to represent the company in proceedings before any Court, Tribunal or Public Officer.
- (4) The Special Officer shall apply to the Court for such directions as he may deem necessary.
- (5) The Special Officer shall, where his duties so require, maintain proper accounts.
- (6) 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.
- (7) The Special Officer shall continue to supervise the affairs of the Bank until he is removed from office or the term of his appointment terminates or until the company resumes business or until an Official Liquidator is duly appointed to wind up the business of the company.

7. Notice:- In addition to the advertisement and notice provided for in the Indian Company Rules, 1940, notice of application winding up a company made by persons other than Reserve Bank shall be served on the Reserve Bank.

8. Transfer of proceedings:- (1) As soon as the report of the Official Liquidator containing a list of suits and proceedings by or against the company pending in any court or courts is filed by the Official Liquidator under sub-section (3) of Section 45-C of the Act, the Registrar

(2) If the Court directs notice to any party or parties, it shall be by registered post, acknowledgement due, and shall require the party to appear in person or by pleader on the date fixed therein and show cause why the suit or proceeding should not be withdrawn to the High Court to be dealt with according to law.

(3) On the day fixed in the notice as aforesaid, or on any adjourned date, the court may, after hearing the parties, withdraw to itself any suit or proceeding. The suits and proceedings so withdrawn or transferred to the High Court shall be dealt with in the same manner as claims and questions under Section 45-B of the Act.

(4) Every such order transferring or withdrawing any suit or proceeding shall be communicated with all convenient speed to the Court in which it is pending and in case of transfer or withdrawal shall require the records to be sent to the High Court.

9. (1) Proof of debts and claims against the company:- Notwithstanding anything to the contrary contained in the Indian Company Rules, 1940, every depositor, whose name appears as a depositor in the books of the company shall be admitted as a creditor without proof for the amount appearing in the books of the company as due to him. The Official Liquidator shall notify every depositor so admitted without proof of the amount for which he has been admitted as a creditor.

(2) If the Official Liquidator desires to contest a claim shown in the books of the company as due to 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 dealing with company matters stating his reasons for doubting the 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.

(3) The affidavit proving a debt shall, in addition to the matters specified in Form 27 of the Indian Company Rules, 1940, contain a statement as follows:

“At the commencement of the winding up, I had the following dealings and accounts with the company and its branches.

(HERE SET OUT PARTICULARS)”

Apart from what is set out above, I had no dealings with the company on the relevant date and do not owe any other sum to the company on any account whatsoever.

10. List of Debtors:- (1) The Official Liquidator may from time to time file into court a list or lists of debtors under Section 45-D of the Act in form No.XIV prescribed under Rule 15-A of the banking Companies Rules, 1949, framed by the Central Government. A separate Judge’s summons for direction as to further proceedings shall be filed with respect to each debtor therein.

(2) Every person liable as guarantor shall also be included in the list.

(3) In the case of any date for which the company holds security of immovable property, the Official Liquidator shall make or cause to be made a search in the Office of the Registrar of Assurances of the district or Sub-district in which the property is situate, for not less than 12 years, prior to the making of the list of debtors and shall satisfy the court by an affidavit that no other person is interested in the said property. (Roc.No.266/57-B1, dated 5.9.1957)

(4) Subject to any directions of the court in this behalf the Official Liquidator shall give notice of the day appointed by the court for hearing to every person included in the list. The notice shall be by registered post acknowledgment due to the address of the debtor as entered in the registers of the company and contain all the particulars mentioned in the said list including the serial number of the debtor so far as they relate to the debtor to whom the notice is addressed. It shall further state that, if he contests the debt, he shall appear before the court on the appointed date, in person or by pleader and show cause by affidavit why his name should not be included in the list for the amount specified, and that in default of his appearance, a decree will be passed against him. On the return of the notices, the Official Liquidator shall make a report as to the nature of the service effected; and on such report the court will decide on the sufficiency of the service and, if considered insufficient, order fresh notice.

(5) A debtor shall be entitled to plead by way of set off or counter-claim, any amount which he may claim against the company.

(6) A list of debtors as settled by the court from time to time shall be drawn up by a the Official Liquidator and submitted for the signature of the Judge. It shall set out the names of the debtors, their addresses, the amount of the debt and the costs, if any, payable, the reliefs, if any, against any guarantor or in respect of the realization of any security, or by way of installment payment allowed by the court.

(7) The court may, at the time of making an order for the inclusion of any debtor in the list of debtors fix the costs payable by such debtor to the company, such costs to include any out-fees incurred and any sum as and for counsel's fee that may be fixed by the Judge in his decision.

When a claim against a debtor is disallowed in whole or in part, the court may award costs to the successful debtor, such costs to include any out-fees incurred and any sum as and for counsel's fees as may be fixed by the Judge in his discretion. Such costs shall be payable out of the assets of the company.

(8) As soon as practicable after the list of debtors has been signed by the Judge under the preceding sub-rule a certificate in Form No.2 shall issue under the seal of the court, and signed by the Registrar in terms of sub-section (6) of Section 45-D of the Act in respect of each debtor placed on the list setting out the relevant particulars.

(9) An application by a person whose name has been settled on the list to vary the same under sub-section (9) of Section 45-D shall be by Judge's summons and the court may thereupon pass such order as it thinks fit.

11. Public Examination:- (1) As soon as practicable after the order of winding up is made or within such time as the Court may grant, the Official Liquidator shall file into Court the report required by sub-section (1) of Section 45-G of the Act, together with a Judge's summons for directions.

(2) After hearing the Official Liquidator, the Court may direct notice to issue to persons concerned to show cause why they should not be publicly examined.

(3) After hearing all the parties on the day fixed in the notice, the Court, may if it desires to direct the public examination of any one or more persons, fix a date for such examination.

(4) The Official Liquidator shall notify the creditors and contributories of the company of the date fixed under the preceding sub-rule by advertisement in a newspaper or in such manner as the court may direct.

(5) Rules 151 to 156 of the Indian Company Rules, 1940, shall apply to any public examination directed by the Court under Section 45-G of the Act.

(6) The provisions of this rule, shall, as far as may be, apply to any public examination directed under Section 45-L of the Act and the Court may issue such directions as it considers necessary for the conduct thereof including the appointment of an officer to perform the duties conferred on the Official Liquidator under the Indian Company Rules, 11940.

12. Offences:- (1) The Official Liquidator shall report to the Court as soon as possible after the commencement of the windings up, and thereafter from time to

time, any offence or offences punishable under the Act or under the Indian Companies Act, 1913 any other offence with which the accused may, under the Code of Criminal Procedure, 1898 (Act V of 1898), charged at the same trial which may have been committed by any promoter, manager, or officer of the company either prior to the commencement of the winding up or after the commencement thereof. On such report, after hearing the parties concerned, if necessary, the Court may decide, having regard to the gravity of the offence and the circumstances in which it was committed, whether it is fit for summary trial or should be taken cognizance of under sub-section (4) of section 45-J of the Act.

(2) Any creditor or contributory or other person alleging that any such offence (as may be tried by the High Court) has been committed shall apply to the Court for directions. The court may refer the matter to the Official Liquidator for examination and report and on his report pass such orders as it may think fit.

(3) The High Court may in all cases either call upon the proper law officer of the State to conduct the prosecution or sanction necessary legal assistance to the Official Liquidator for conducting the prosecution.

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

- (a) he shall not be called as a witness except on his own request in writing; or
- (b) his failure to give evidence shall not be made the subject of any comment by any of the parties or the court or give rise to any presumption against himself or any person charged together with him at the same trial.
- (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;
  - (i) 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
  - (j) he has personally or by his advocate asked questions of any witnesses for the prosecution with a view to establish his own good character, or has given evidence of his good character or the nature or conduct of the defence is such as to involve imputation on the character of the prosecutor or of any witness for the prosecution. or
- (k) he has given evidence against any other person charged with the same offence.
- (l) All offences triable made Part III-A of the Act may be compounded with the leave of the Court.

13. Appeals:- (a) An Appeal lie from any sentence or order in a trial under the provision of sub-section (4) of Section 45-J of the Act to a Division Bench of the High Court with the leave of such Division Bench or of the Judge who tried the case.

(b) In all cases in which the accused has been tried summarily, no appeal shall lie except from a sentence of imprisonment.

(c) Appeals in civil proceedings under sub-section (1) of Section 45-N of the Act shall be governed by the rules of the High Court, 1927, in respect of appeals from

decrees and orders of the High Court in exercise of its ordinary original civil jurisdiction.

14. Inspection Reports:- (1) In any case in which the Reserve Bank has filed a report under sub-section (2) of Section 45-Q of the Act, the Registrar shall forward a copy thereof to the Official Liquidator. Where the Central Government has brought to the notice of the High Court any substantial irregularity in the winding up proceedings under sub-section (3) of Section 45-Q of the Act, a copy of the Central Government's communication shall also be forwarded to the Official Liquidator.

(2) The Official Liquidator shall, as early as possible, after the receipt of the copy of such report, or communication, file an application supported by his own report, suggesting such action as he may consider necessary or appropriate in the light of the Reserve Bank's report. The Court may thereupon pass such orders as it may deem fit, after notice to the Central Government and the Reserve Bank or any other person as the circumstances may require.

15. Court fees: (1) A court-fee of Rs.100/- shall be levied on all original petitions under Rule 5 supra.

(2) The court-fee payable on claims for money (whether secured or unsecured) by Judges summons or to set off made against such claims or on counter-claims shall be as follows:-

Claim, counter-claim or set off:-

- |   |          |
|---|----------|
| (a) Where the amount does not exceed Rs.2,500/- | Rs.5/-   |
| (b) Where the amount exceeds Rs.2,500/-         |          |
| but does not exceed Rs.10,000/-                 | Rs.10/-. |
| (c) Where the amounts exceeds Rs.10,000/-       | Rs.20/-  |

16. Hearing fees:- In addition to the court-fee payable under Rule 15 above, a hearing fee of Rs.5/- for the first day of hearing, and a hearing fee of Rs. 10/- for every subsequent hearing shall be collected on all applications involving claims for money whether secured or unsecured made against a banking company.

17. Court-fee on appeals:- On every appeal from a order, decree or decision passed under the provisions of Section 45-B of the Act, a court-fee of Rs. 100/- shall be paid.

18. Notwithstanding anything contained in Rules 15 to 17 supra, no court-fee shall be chargeable on any application made or appeal preferred by the Official Liquidator to the Court under this Act or for the drawing and issuing of any order made by the Court on such application or in such appeal.

19. Enforcement of Orders:- (1) Every order in favour of a company for enforcement of a mortgage, pledge, hypothecation or any other security, shall be executed by the Court and the Court may direct the security to be sold by a Commissioner without the settlement of a sale proclamation but after such advertisement as the Court may direct.

(2) Every other order passed in favour of a company for money may be executed by the Court or transmitted for execution to any other court subordinate to the

High Court as the court may deem fit, provided that the court shall be at liberty at any stage to withdraw for disposal by itself any proceedings in execution pending in another court subordinate to the High Court in respect of an order transmitted to such court for execution.

20. (1) The Reserve Bank may, on application to the Registrar, inspect the records relating to any proceedings in the winding up of a company.

(2) No court-fee shall be charged on an application under this rule.

**APPENDIX  
FORM No. 1**

*Order appointing Special Officer*  
(For general heading see Rule 3).

Upon the petition of \_\_\_\_\_ filed on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
. under sub-section (1) of Section 37 of the Banking Companies Act, 1949, as amended, upon hearing Sri \_\_\_\_\_ Advocate, for the petitioner Sri \_\_\_\_\_ Advocate, for the Respondent, upon reading the petition and the Affidavit of \_\_\_\_\_ and filed on the \_\_\_\_\_ day of 19\_\_\_\_ (enumerate all Affidavits read) and the report of the Manager of the Reserve Bank of India. \_\_\_\_\_, dated the day of \_\_\_\_\_ 19\_\_\_\_, and filed on the \_\_\_\_\_ date of \_\_\_\_\_ 19\_\_\_\_ IT IS ORDERED

(1) that Sri A.B. \_\_\_\_\_ Advocate be and hereby is appointed the Special Officer for the said Bank, Limited, pending disposal of the petition read above, or until further orders.

(2) That Sri A.B., \_\_\_\_\_ the Special officer do furnish security in his own bond or in the shape of fidelity bond of a guarantee society approved by the full Court or in the shape of immovable property to the satisfaction of the Registrar of the High Court for a sum of Rs. \_\_\_\_\_ On or before the \_\_\_\_\_ for the due discharge of his duties as such Special Officer.

(3) That the said A.B. \_\_\_\_\_ the Special Officer do forthwith take into his custody or under his control all the assets, books, documents, effects and actionable claims to which the said Bank Limited, is or appears to be entitled and which are found at the registered office of the said Bank at (here enter the at the registered office of the said Bank at (here enter the address of the branches). At (here enter the address of the branches).

(4) That all officers of the said Bank do assist the Special Officer in every respect in carrying out this order.

(5) That the Special Officer do submit a report to this Court on or before the day of \_\_\_\_\_ 19\_\_\_\_.

(6) That the Special Officer be at liberty to apply to this Court for directions if necessary.

Copy to: \_\_\_\_\_ Registrar

Sri A.B. \_\_\_\_\_ Advocate.

(Formm.No.2)

**FORM NO:2**

Certification under Section 45-D of Central Act No.LII OF 1953

And Rule No.10 (8)

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH, HYDERABAD

SPECIAL ORIGINAL CIVIL JURISDISTION

Day the \_\_\_\_\_ day of \_\_\_\_\_

One thousand nine hundred and fifty

THE HONOURABLE MR. JUSTICE

Original Petition No. \_\_\_\_\_ of 19 \_\_\_\_ .

In the matter of the Banking Companies Act X of 1949.

\_\_\_\_\_ Petitioner

Versus

\_\_\_\_\_ Respondent

Application No. \_\_\_\_\_ of 19 \_\_\_\_ .

The Official Liquidator \_\_\_\_\_ Applicant.

This application coming on for hearing on

Day, the \_\_\_\_\_ day of \_\_\_\_\_ 19. and this day, upon reading the Judge's summons and the affidavit of the Official Liquidator, the applicant herein, the debtor's list No. \_\_\_\_\_ referred to therein, the counter-affidavit filed by the above-named debtor and upon hearing Mr. \_\_\_\_\_ The Official Liquidator and Mr. \_\_\_\_\_ Advocate for the said debtor, this Court, Doth, in approving the settling the said list of debtors, Declare Order and Certify under the provisions of sub-section 6 of Section 45-D of the Banking Companies Act No. X of 1949 as follows:-

That the said \_\_\_\_\_ (Debtor No \_\_\_\_\_ ) is liable to and directed to pay to the official Liquidator the sum of money, with interest and costs specified hereunder.

---

Sl.No.	Name and Address	Description	Amount.	Date of	Costs.	Relief
		Of debt.		Interest.		
Granted.						

---

1                      2                      3                      4                      5                      6

---

. here set out:-

- (a) the relief against any guarantor'
- (b) in the case of debts secured by mortgage the particulars of the mortgage property, the date of the order of sale and any other direction or directions of Court; and
- (c) in case of payment by instalments, the particulars of the order as to payment of the instalments.



**WRIT PROCEEDINGS RULES, 1977  
HIGH COURT OF ANDHRA PRADESH**

**Roc. No. 136/SO/77** : - By virtue of Article 225 of the constitution of India and all other powers hereunto enabling and in super session of the existing rules, the High Court of Andhra Pradesh hereby makes the following rules to regulate the proceedings under Article 226 of the Constitution :

**Rules to regulate proceedings under Articles 226 of the constitution.**

1. (a) These rules may be called the Writ Proceedings Rules, 1977.
  - (b) These rules shall come into force on the 4<sup>th</sup> day of June, 1977.
  - (c) These rules shall apply to the petitions, applications and appeals filed on or after the 4<sup>th</sup> day of June, 1977.
  
2. In these Rules the expression 'Petition' filed in the nature of a public interest litigation shall mean a 'Public Interest Litigation' and the expression 'Application' shall mean a 'PIL Miscellaneous Application'.
  
- 3.(a) A petition for a direction, order or writ, including a writ of habeas corpus, mandamus, certiorari, quo warranto or prohibition shall be by an original petition to be entitled "Writ Petition No.....of ..... and shall be filed in the office of the Registrar by the petitioner or his duly authorized advocate or attorney:
  - (b) An application shall be entitled Writ Miscellaneous Petition in the Writ Petition.
 

Provided that any such petition or application to the High Court by a person who is in jail and has not appointed an advocate or an attorney on his behalf, may be presented to the Officer-in-charge of the Jail, who shall forward the petition or application to the High Court without delay.
  - (c) A petition for a direction, order or writ, including a writ of mandamus, certiorari, quo warranto or prohibition filed in the nature of a public interest litigation shall be by an original petition to be entitled "PIL NO..... of ....." and shall be filed in the office of the Registrar by the petitioner or his duly authorized Advocate or attorney.
  - (d) An application in the Public Interest Litigation shall be entitled "PIL Miscellaneous Petition'.
  
4. (a) Every such petition shall set out the provision of law under which it is made and shall contain the following particulars:
  - (i) The name, description and place of residence of the petitioner.
  - (ii) The name, description and place of residence of the respondent so far as they can be ascertained: and
  - (iii) The relief or reliefs sought
  - (b) The petition shall be signed by the petitioner or his advocate or attorney and the facts relied on by the petitioner shall be verified by an affidavit which shall be filed along with the petition.

<sup>1\*</sup>4A Two or more persons raising common questions of law or persons having a common cause of action may join in a single writ petition paying a single set of court fees.

5 (a) Every affidavit shall be drawn up in the first person and shall set forth succinctly and in chronological order all the relevant facts and the grounds for the relief sought. The statement of facts shall be divided into consecutively numbered paragraphs, each paragraph being confined as nearly as may be to a distinct portion of the subject.

<sup>2\*</sup> (b) The affidavit shall state:-

(i) the particular right conferred by the provisions of Part III of the Constitution of India sought to be enforced:

(ii) the other purpose for which relief is sought:

(iii) the particular law impugned and how it is not constitutionally valid and whether it is a State Law, Central Law or State and Central Law:

(iv) Whether any alternative remedy for the relief sought is provided for by or under any other law for the time being in force, and whether that remedy has been availed of and if so, with what result, by way of a separate paragraph:

(v) Whether the petitioner had or had not already filed a writ petition in the High Court or instituted any suit or other legal proceedings in any Court of Law or Tribunal either for the same or substantially the same relief on a previous occasion and if he had done so, the particulars of the petition, suit or other proceedings and the result thereof shall also be mentioned in the affidavit, by way of a separate paragraph.

(c) When the deponent speaks to facts within his knowledge he shall do so directly and positively using the words:

I make oath (or affirm) and say .....

(d) When a particular fact is not within the deponent's knowledge, but is stated upon information the deponent shall use the words I, am informed by (giving the source of information) and verily believe it to be true and set out the grounds of his belief.

(e) Every affidavit stating any matter of opinion shall show the qualification of the deponent to express such opinion by referring to his length of experience, acquaintance with or

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<sup>1\*</sup> Rule 4-A Incorporated by R.O.C. No.92/SO/86 dt 19.03.86 Published in R.S to Part II A.P. Gazette No.8 dt.10.04.86.

<sup>2\*</sup> Substituted by ROC No.881/SO/80 Vide R.S. TO Part II A.P.Gazette dt. 12.03.1981.

other means of knowledge of the person or matter as to which the opinion is expressed.

- (f) A petition for a Writ of Habeas Corpus shall be accompanied by an affidavit by the person restrained setting out the nature and circumstances of the restraint:

Provided that where the person restrained is unable owing to the restraint to make the affidavit, the petition shall be accompanied by an affidavit made by some other person acquainted with the facts, which shall state the reason why the person restrained is unable to make the affidavit.

- (g) An application shall state the provisions of Law under which it is made and shall not contain more than one prayer unless the prayers are consequential.

- <sup>3\*</sup>6 (a) (1) Every petition shall be accompanied by an affidavit and all the documents serially numbered as Ex.P-1,p-2 etc. including rules Bye-laws, notifications etc., relied upon by the petitioner and the order challenged or a certified copy thereof and copies of all documents which shall be certified by the party filing it to be a true and correct copy of the original of such documents if it is not a certified copy.
- (2) When such petition is directed against the Order of a Quasijudicial nature passed by any Industrial Tribunal, Labour Court, or any other like authority or made in any disciplinary proceedings, by a copy of the award, the report of the Enquiry Officer, the order of the Disciplinary Authority and the Order of the Appellate Authority passed on such Appeal, if any, and shall be marked and serially numbered as mentioned in sub-rule (1) above.
- (3) The petition shall be accompanied by as many authenticated copies of the petition, affidavit and the said documents as there are parties to be served and three additional sets for use of the Court. These shall be separately filed as paper books marking each set.
- (4) The petition shall also be accompanied by the prescribed Court Fees and Process Fees. The petition, affidavit and its enclosures filed in Court shall be duly stitched book-wise and indexed. The Process papers shall be separately stitched as paper book and filed.
- (b) Where the petitioner has already served the authenticated copies of the petition, affidavit and documents on the party against whom such petition is filed it shall not be necessary to file copies for them under sub-rule(a) but the petitioner shall make a statement to that effect by an additional affidavit and produce proof of service of the documents.
- 7 (a) Whenever a petition or application is presented against the Government, or any authority, the copies of the petition:

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<sup>3\*</sup> Rule 6 (a)(1) to (4) substituted in place of existing rule 6 (a), vide ROC No. 2097/SO/92 dt.oct.93 and R.S. to Part . II (Ext) A.P. Gazette No.34 dt.4.11.1993.

application and the accompanying affidavit and documents shall be served on the Government Pleader or the Standing counsel concerned, and the said petition or the application shall not be accepted in the Registry unless it contains an endorsement of service signed by the Government pleader or the Standing-Counsel concerned, or by the Secretary of the Government Pleaders' office or by someone authorized by him in this behalf, not below the rank of a Superintendent, or by a Registered Clerk of the Standing Counsel concerned, as the case may be, or by a person so authorized by the Standing Counsel concerned under intimation to this Registry.

- (b) Every application for an Interim order shall state whether copies of the petition, affidavit and documents have been served on the opposite party or parties and if served, produce proof thereof, or if not served, state the reason therefor.

**RULE 7-A:**

- (a) Every writ petition filed in public interest shall be heard by a Bench of two Judges;
- (b) In addition to and without derogating from the procedure prescribed in the other Rules contained herein, every writ petition filed in public interest shall conform to the procedure prescribed hereunder:

- (i) The affidavit filed in support of such petition shall contain an averment by way of a separate paragraph in the following terms:

1

*"I hereby affirm and state on oath that the petitioner(s) herein has/have no personal interest in the subject matter of this petition. The petitioner(s) hereby undertake(s) to pay exemplary costs and/or compensatory damages as directed by this Court in the event of a contrary finding upon adjudication by the Court that the writ petition is filed for extraneous/personal considerations or with an oblique motive."*

- (ii) Where a writ petition is filed through counsel, the verification by the Advocate, after the above verification statement of the party, shall be in the format below:

*"Verified in my presence at \_\_\_\_\_ on this the \_\_\_\_\_ day of \_\_\_\_\_ (Month, Year).*

*Advocate*

*Deponent"*

- (iii) The petitioner(s) shall file along with the petition, document(s) in proof of his/her/their identity and residential address. Certified true copies of the driving license/passport/identity card issued by the Election Commission of

<sup>1</sup> A.P. Gazette published by Authority, dt.22.12.2011. Judicial Notification. Roc.No137/SO-2/2010.

India/ration card/bank statement of the petitioner(s) shall be sufficient proof for the purposes of this sub-rule;

- (iv) The affidavit shall clearly set out all the necessary facts to establish that the petition is filed in public interest as commonly understood, and shall be accompanied by all necessary and material documents to support the factual assertions made therein so as to establish *prima facie* the correctness of the contents thereof.
  - (v) The deponent to the affidavit filed in support of such petition shall categorically aver by way of a separate paragraph that all possible efforts have been made to gather the material required for proper and comprehensive adjudication of the issue(s) raised. The deponent shall detail the steps taken in this regard, be it by addressing the authorities concerned or by invoking the relevant laws for obtaining the necessary information.
  - (vi) The affidavit filed in support of such petition shall set out the source of the information gathered by the petitioner(s) which lends support to the cause of action espoused in the petition. The deponent to the affidavit shall specifically state as to which of the facts are within the deponent's knowledge and which of the facts are based upon information gathered by the deponent, indicating the authenticity of such information and the competence of the person who furnished such information. Any information in the form of an opinion expressed by a person competent to speak on the subject shall necessarily be accompanied by the details of the length of experience and the means of knowledge of such person to speak on the subject as to which the opinion is expressed.
  - (vii) In the event the Court comes to the conclusion that the writ petition filed in public interest was motivated by any extraneous and/or ulterior motives or without *bonafides*, it shall be open to the Court to impose exemplary costs and/or compensatory damages upon the petitioner(s). The exemplary costs so imposed may at the discretion of the Court be directed to be paid to the State Legal Services Authority. However, in the event the respondents are shown to have sustained legally redressable damages owing to the filing of a frivolous or untenable writ petition in public interest, the compensatory damages awarded by the Court shall be paid to such affected party or parties as apportioned by the Court;
- (c) The Bench hearing writ petitions in public interest shall prioritize the hearing of such cases based on the nature of the case. Matters involving larger public interest or where the gravity/urgency of the issue raised so warrants, may be heard on priority basis;
  - (d) Notwithstanding what is stated in these rules, it shall be open to the Court to entertain a writ petition filed in public interest without reference to the interest of the petitioner(s) in the litigation if the subject matter of the complaint is of such nature as to warrant the adjudication of the case in larger public interest.

- 8 (a) Every petition or application shall soon after it is numbered, be posted for admission of the Court as to issue of rule nisi or notice to the respondents. The Court may, upon hearing the petitioner or applicant or his advocate, either direct rule nisi or notice to issue and pass such interim orders as it may deem necessary, or reject the petition or application.

Provided that an application for an interim order shall not be posted for orders of court under this sub-rule, unless a period of not less than forty eight hours elapsed between the service of the copy of such application in accordance with Rule 7(a) on the Government Pleader or the Standing Counsel concerned:

Provided further that notwithstanding anything contained in the first proviso, if the applicant files an affidavit stating that the object of obtaining an order would be defeated by the delay of forty-eight hours, the application may be posted for orders of court soon after it is numbered and the court may, if it opines that the object of granting the order would be defeated by the delay of forty-eight hours, pass an order in the absence of the Government Pleader or Standing Counsel concerned recording the reasons for the said opinion, fix a date for hearing and require the applicant to deliver to the Government Pleader or Standing-Counsel concerned a gist of the said order informing the date fixed for hearing and file into court on the day immediately following the day on which the order was passed, proof of its delivery.

- (b) (i) In cases where the respondents are the persons other than the Government or any other authority who are represented by the Government Pleader or Standing counsel concerned and where the court is inclined to pass an order against those respondents before serving notice of the petition or application on them, the court may do so recording reasons for so doing and fix a date for hearing requiring the petitioner or applicant to deliver to those respondents, or to send to them by Registered Post, **"acknowledgement due, or by speed post or by an approved courier service or by fax message or by electronic Mail service or by such means"** immediately after the order has been made a copy of his petition application and the accompanying affidavit and documents on which he relies and a gist of the said order informing the date fixed for hearing and to file into court on the day immediately following the day on which the said order was passed, proof of such delivery or an affidavit stating that the copies aforesaid have been so sent.
- (ii) In case where the party is directed/permitted by an order of the court to takeout summons/notices by Registered Post "acknowledgement due, or by speed post or by an approved Courier service or by Fax Message or by Electronic Mail Service or by such means", the Registry shall handover summons/notices duly prepared and signed by the authorising Officer to the petitioner or his advocate for service on the parties.
- (iii) The petitioner or his advocate shall file an affidavit stating the mode of service by which he effected service enclosing the acknowledgement card or returned postal covers or any other proof.

- (c) Where it is deemed necessary, the court may instead of directing the issue of rule nisi ,cause a notice to be served on the respondent to show cause why rule nisi should not be issued.
  - (d) The Registrar (Judl.) or the officer authorised by him shall prepare the panel of courier service and such panel shall continue until further orders.
- 9(1) Where any party against whom an interim order whether by way of injunction or stay or in any other manner, is made on, or in any proceeding relating to, a petition under clause (1) of Article 226 of the Constitution, without –
- (a) furnishing to such party copies of such petition and all documents in support of the plea for such interim order : and
  - (b) giving such party an opportunity of being heard, makes an application to the High Court for the vacation of such order and furnishes a copy of such application to the party in whose favour such order has been made or the counsel of such party, the High Court shall dispose of the application within a period of two weeks from the date on which it is received or from the date on which the copy of such application is so furnished, whichever is later, or where the High court is closed on the last day of that period, before the expiry of that period, or , as the case may be, the expiry of the said next day, stand vacated.
- (2) The application referred to in sub-rule (1) shall contain an endorsement of its service or the petitioner or his or her counsel or the respondent shall produce proof such service separately.

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The words in inverted commas are added in sub rule (b) of Rule 8 and shall be read as sub rule (b) (i)..

Sub rule (ii) is added , Vide A.P.Gazette publication dt. 21.04.2003 vide Roc.No.73/SO/2003.

Sub rule (iii) is added , Vide A.P.Gazette publication dt. 21.04.2003 vide Roc.No.73/SO/2003.

The sub rule (d) of Rule 8 is added , Vide A.P.Gazette publication dt. 21.04.2003 vide Roc.No.73/SO/2003.

- (3) The application referred to in sub-rule (1) shall be numbered as WVMP.
10. (a) Unless the Court otherwise directs the rule nisi together with a copy of the petition, affidavit and documents in support thereof shall be served on the party against whom such a petition is filed or on such other party or person as the court may direct, not less than 14 days before the date fixed for the hearing of the rule nisi. If the rule nisi is returned unserved or is not returned served before the date fixed for the hearing, the petition shall be posted before the Registrar who may give such further directions regarding the steps to be taken for effecting service as may be necessary.

Provided that where a party enters appearance, service of all petitions, affidavits and documents on the advocate or the attorney shall be deemed, to be service on the party for the purpose of these proceedings.

<sup>4\*</sup>(b) Service of rule nisi or notice, shall ordinarily be effected by registered post **speed post or by an approved courier service or by Fax Message or by Electronic Mail Service or by such means and the party deposit necessary charges in the shape of court fee stamps for meeting the service charges, if notices are sent by Court.**

11 (a) In every petition for issue of a writ of Habeas Corpus, the respondent shall on a rule nisi being issued produce the person concerned unless the court for reasons to be recorded in writing dispenses with such production.

(b) On sufficient cause being shown the High Court may during the pendency of a petition for issue of a writ of Habeas Corpus, release the person detained or restrained on bail on such terms and conditions as it may deem fit.

<sup>5\*</sup>12 (i) (a) Every Respondent in every Writ Petition intending to enter appearance and oppose any Writ Petition on which notice is issued by the High Court, shall enter appearance and file a Counter Affidavit in opposition as soon as may be and in any event not later than six months from the date of service of notice in the Writ Petition or the Service of Rule nisi on the said Respondent "unless otherwise directed by the court".

(b) Reply affidavits shall be filed unless otherwise ordered, within one month of receipt of copy of the Counter Affidavit.

(ii) No Counter affidavit filed beyond six months from the date of service of notice on the opposite party or parties in the Writ Petition shall be received or be used at the hearing of the Writ Petition unless the Court permits the Respondent on an application containing Special reasons to do so.

(iii) Affidavits in opposition and affidavits in reply thereto shall be filed in the Registry along with authenticated copies of documents on which the party relies duly stitched book-wise and indexed after service on the opposite party or parties. No such affidavit shall be entertained after the time extended in sub-rule (ii) without the leave of the Court.

13(a) The copies of documents shall be fairly and neatly type-written on substantial white foolscap paper with an outer margin 2" wide, and inner margin 1 " wide, and shall be stitched book-wise. The copies of the documents shall be arranged in chronological order. The pages shall be numbered and indexed. The copies of documents filed along with the petition and filed subsequently shall bear

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Omitted <sup>4\*</sup> Rs.20/- Substituted for Rs.13/- in Rule 10(b) vide Roc No.523/SO/98 dt. 27.02.99, Published in R.S.

to Part II (Ext.) A.P. Gazette No. 3 dt. 3.3.99.

<sup>5\*</sup> Rule 12 (i) to (iii) is substituted in place of existing Rule 12 vide ROC No. 1438/SO/93 dt. 18.03.94, Published in R.S. to Part . II (Ext.), A.P. Gazette No. 6 dt. 21.03.1994.

Rule 10(b) substitute for the existing sub rule (b) vide Roc.No.73/SO/2003, Dt: 21.4.2003.



consecutive numbering. The copies of the documents shall be certified to be 'true copies' by the counsel on record.

- (b) While filing the documents the petitioner shall mark his document as 'P' series and the Respondent as 'R' series. If there are more respondents than one, each respondent shall mark his document as 'R-1' series, 'R-2' series and the like according to his rank among the respondents. The parties shall give continuous page numbers to all the documents filed by them and furnish an index.

14 (a) The following petitions shall be heard by a Bench of two Judges

- (i) Petitions for a writ in the nature of Habeas Corpus:
- (ii) Petitions relating to Elections under the Representation of the People Act, 1951
- (iii) Petitions relating to Income-tax, Gift-tax, Wealth-tax, Estate duty, Sales-tax and Excise Acts and other Allied Acts (State and Central Taxation Cases)
- <sup>6\*</sup>(iv) Petitions relating to matters coming within the purview of :-
  - A.P. Land Grabbing (Prohibition) Act, 1982.
  - Administrative Tribunals Act, 1985,
  - A.P Lokayukta & Upa - Lokayukta Act, 1983 and
  - The Consumer Protection Act, 1986).
- (b) All other petitions shall be posted before a Single Judge who may, if he thinks fit, refer any of them to a Bench of two Judges.

15 The party to the proceedings under the rules shall be entitled to inspect the records called for and relating to the proceedings, on a request made in writing in that behalf to the Government Pleader or the Standing Counsel concerned. If such a request is refused, the party shall be entitled to apply to the court for directions in that behalf.

16 (a) The Court may at any stage of the proceedings, either upon or without any application and on such terms as may appear to be just, order that the name of any party in improperly joined be struck out, and that the name of any person who ought to have been joined or whose presence may be necessary in order to enable the court effectually and completely to adjudicate upon and settle all the questions in the petition, be added.

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<sup>6\*</sup> Sub-Clause (iv) to Clause (a) of rule 14 is inserted vide ROC No . 1960/SO/9A3 dt. 29.11.1993, Published in A.P. Gazette No. 26 Part. II.

- (b) At the hearing of the petition or application, any person who desires to be heard in opposition to the petition or application and appears to the court to be a proper person to be heard may be heard, subject to such conditions as to costs as the court may deem fit to impose.
- 17 (a) The memorandum of appeal against an order in a petition or an application shall be in the form prescribed or an appeal under the Letters Patent but will be registered and numbered as a "Writ Appeal".
- (b) An application for an interim order in a writ appeal shall be numbered as a "Writ Appeal Miscellaneous Petition".
- 18 Such memorandum shall be accompanied by –
- (i) the court fees prescribed therefor:
  - (ii) proof of service of notice on all the parties who had appeared at the hearing of petition.
  - (iii) Two typewritten copies of the order appealed against:
  - (iv) Two additional copies of the memorandum: and
  - (v) two copies of all other papers on which the appellant intends to rely

Provided that whenever any case is referred to Full Bench or Larger Bench, the counsel for the petitioner or the Appellant, as the case may be, shall furnish additional sets of papers (Copies of the Writ Petition or Writ Appeal, Order appealed against and copies of all other papers) on which the petitioner/Appellant intends to rely. The Registry shall inform the counsel concerned regarding the reference to the Full Bench/Larger Bench. Number of additional sets to be filed shall be the number of Judges comprising the said Bench plus two (for record), in addition to as many copies as there be Respondents, within one week from the date of communication by the Registry.

Provided further that the Registry shall prepare as many copies of the Order/Orders of reference as the strength of the Judges comprising the Full Bench/Larger Bench.

- 19 The appeal shall, as soon as may be after it is numbered, be posted before a Division Bench who may dispose of it at once or adjourn it for further hearing.
- 20 Where a petitioner unduly delays the bringing of a petition to hearing the Registrar shall call upon him to explain the delay, and after notifying all parties who have entered appearance, place the petition and the explanation if any, before the court for such directions as the court may think fit to give thereon.
- 21 Unless the court otherwise directs, the direction or order made or the rule absolute issued by the High Court shall be implemented within two months of the receipt of the order.

- 22 (a) In all proceedings to which these rules apply, the court may make such order as to costs and security as it may consider just and necessary.
- <sup>7\*</sup>{(b) In all petitions and appeals under Article 226 and 227 of Constitution of India, and in all appeals arising there from under Clause 15 of Letters Patent the Court shall fix such fees as it considers to be just and proper and irrespective of whether the petition or appeal, as the case may be, as allowed, dismissed or disposed of}
- (c) Notwithstanding anything contained in sub-rule (b), where the courts is of the opinion that any party to the proceedings or any other person or authority has made averments false to his knowledge or deliberately suppressed material facts, or misrepresented or indulged in vexatious proceedings, it may award such amount of exemplary costs as it may deem fit in the circumstances of the case, in addition to the costs that may be awarded under clause (b).
- 23 (a) A party to whom costs have been awarded in a Writ Petition or a Writ Appeal or an application therein may obtain an order of the court for transmission for the purpose of execution, or the order of costs to the court of the District Munsif or to the Court of the Subordinate Judge in the State in whose jurisdiction the party against whom the order is to be executed ordinarily resides or carries on business or has property which can be attached.
- (b) An application for such transmission shall be made by a verified Miscellaneous Petition under the title of the Writ Petition or Writ Appeal, in addition to such particulars as may be necessary, and mention the court to which the transmission is sought. It shall also be accompanied by a copy of the order sought to be transmitted for execution.
- (c) A court fee Rs.10/- shall be affixed to the Miscellaneous Petition and the applicant shall also pay necessary transmission charges as per process fee rules in the shape of court fee stamps.
- (d) The Registrar shall dispose of a Miscellaneous Petition for transmission. He may in his order provide also for the costs of the Miscellaneous Petition and shall, if he so provides, direct the recovery there of along with the sum recoverable under the order transmitted.

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<sup>7\*</sup> Sub-rule (b) of Rule 22 is substituted for the existing sub-rule (b) vide ROC No. 102/SO/92 dt. 10.03.1992  
 proviso is added to Rule 18 vide A.P.Gazette Notification dt: 21.4.2003 vide Roc.No.73/SO/2003

- 24 All other rules relating to causes and matters coming before the Original Side and Appellate Side of the High court and the provisions of the Code of Civil Procedure, 1908 will apply to the Writ Petitions and the Writ Appeals in so far as they are not inconsistent with these rules.
- 25 The court may, on an application being made, set-aside an order dismissing for default or an ex parte order subject to payment of such costs and such other conditions as it may think fit to impose
- 26 The forms set out in the Appendix hereto shall be used with suitable modifications wherever necessary.

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\* sub-rule (c) of Rule 23 is substituted for the existing sub rule (c) vide Roc.No.73/SO/03,dt:21.4.03.

27. (1) The Rule Nis1 and Notice in the Writ Petition and Writ Miscellaneous Petition respectively or in the Writ Appeal and Writ Appeal Miscellaneous Petition respectively shall be issued to the respondents therein in the Composite Notice Form No.7 set out in the Appendix hereto and the Rule Nis1 and Notice so issued and served shall be treated as sufficient Notice to the respondents of the hearing of writ Petition and Writ Miscellaneous Petition or Writ Appeal and Writ Appeal Miscellaneous Petition, as the case may be.

(2) The following Composite Form No.7 shall be substituted for the existing Form No.7 set out in the Appendix to the Writ Proceedings Rules 1977.

**Note:-**Rule 27 is newly inserted as per R.O.C. No. 1209/SO/82, dated 16th December 1982 and published in A.P.Gzette, Part II at page 142,dated 10<sup>th</sup> March 1983.

- 8\* {Rule 28 : Rule for Destruction of the Records in the Writ Petitions and Writ Appeals (vide Appendix I and II)}.**

**Writ Petitions and Writ Appeals.**

**I Writ Petition:-**

**PART – I**

- 1. Index**
- 2. Impugned order.**

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<sup>8\*</sup> Rule 28 is added and amended by ROC No. 1569/SO/92 dt. 17.01.1994 Published in R.S. to Part II (Ext.), A.P. Gazette No. 3 dt. 04.02.1994.

3. **Affidavit.**
4. **Writ Petition.**
5. **Counter or Counters.**
6. **Reply Affidavit or Reply Affidavits, if any.**
7. **Order of the Court, and Docket Order**
8. **Writ absolute.**

**PART – II**

**All Miscellaneous Petitions where only notice was ordered.**

**Notice papers**

**Vakalatnama and Memo of Appearance**

**Implead Petitions, L. R. Petitions.**

**Petitions for fixing date of hearing and Expedite Petitions**

**All other Miscellaneous Petitions.**

**II Writ Appeal:**

**PART – I**

**Index**

- 1 **Memorandum of grounds of Writ Appeal**
- 2 **Judgment in the Writ Appeal.**
- 3 **Docket Order, order of the court, if any,**
- 4 **Writ absolute.**
- 5 **Additional pleadings, if any.**
- 6 **Counter Affidavit and reply Affidavit.**

**PART – II**

**Implead Petitions. L. R. Petitions and other Miscellaneous Petitions.**

**Petitions for Interim Orders (draft orders).**

**Miscellaneous Petitions where only notice was ordered.**

**Notice papers.**

**Memo of Appearance.****Expedite Petitions.****Petitions for fixing date of hearing and all other Miscellaneous papers.**

In the case of writ Petitions, the Writ Petitions bundle shall be divided into Part-I and Part – II for the purpose of destruction of the records. Part-I shall consist of the impugned order, the affidavit, Writ Petition, Counter or Counters Reply Affidavit or Reply Affidavits, if any and the order of the Court. Part-I records shall be preserved permanently.

Part-II shall consist of the rest of the papers filed in the writ Petitions. Part-II papers shall be destroyed, if no appeal is preferred against the order in the Writ Petition after two years from the date of disposal of the case.

The Writ Appeal bundle shall be divided into two parts, viz., Part-I and Part-II, Part-I shall consist of the Memorandum of Grounds of Writ Appeal, Judgment in the Writ Appeal, and the Writ Absolute and additional pleadings, if any, and it shall be preserved permanently.

Part-II shall consist of the rest of the papers filed in the Writ Appeal and it shall be destroyed if no appeal is preferred against the order in the Writ Appeal, after two years from the date of disposal of the case.

Regarding Miscellaneous Petitions filed in the Writ Petitions, Writ Appeals, only the orders passed in the Miscellaneous Petitions including the docket orders shall be preserved permanently. The rest of the papers filed shall be preserved for a period of one year and thereafter the same can be destroyed.

“One month’s notice of destruction of the records shall be displayed on the Notice-Board of the High Court and also on the Notice – Board of the High court Bar Association”.

**N.B.:-** The Records in the Writ Petitions, and Writ Appeals which were disposed of prior to 31.12.91 shall be preserved for a period of two months from the date, these Rules come into force and thereafter they can be destroyed. In the cases disposed of during the period from 1.1.1992 till the date these rules come into force, the records shall be destroyed six months after these rules come into force. These Rules shall come into force with effect from 1.11.1993, or the date of publication of the Rules in the Official Gazette, whichever is earlier.

## Annexure - I

## APPENDIX - I

**RULES FOR DESTRUCTION OF RECORDS – UNDER RULE 28  
OF THE WRIT PROCEEDINGS RULES, 1977.**

**Table Showing The Periods Prescribed for the retention  
of Various parts of the Records in the writ Petitions and Writ  
Appeals**

Nature of Proceedings	No. of Years for which Records are to be Retained	
	Part – I	Part – II
(1)	(2)	(3)
<b>WRIT PETITIONS</b>		
Index	Permanent	
Impugned order Affidavit		
Writ Petition		Do.
Counter or Counters		Do.
Reply Affidavit or Reply affidavits, if any.		Do.
Order of the Court and Docket order		Do.
Writ Absolute		Do.
All Miscellaneous Petitions where only notice was ordered		2 years
Notice Papers		Do.
Vakalatnama and Memo of Appearance		Do.
Implead Petitions, L.R. Petitions		Do.
Petitions for fixing date of hearing and Expedite Petitions		Do
All other Miscellaneous Petitions		Do

## Annexure – I

## APPENDIX - II

Nature of Proceedings	No. of Years for which Records are to be Retained	
	Part – I	Part – II
(1)	(2)	(3)
<b>WRIT APPEALS</b>		
<b>Index</b>	<b>Permanent</b>	
<b>Memorandum of Grounds of Writ Appeal</b>		
<b>Judgment in writ Appeal</b>		<b>Do.</b>
<b>Docket Order, Order of court, if any.</b>		<b>Do.</b>
<b>Writ absolute.</b>		<b>Do.</b>
<b>Additional pleadings, if any</b>		<b>Do.</b>
<b>Counter Affidavit and Reply Affidavit.</b>		<b>Do.</b>
<b>Implead Petitions, L. R. Petitions and other Miscellaneous Petitions</b>		<b>2 years</b>
<b>Petition for Interim Order (Draft orders)</b>		<b>Do.</b>
<b>Miscellaneous Petitions where only notice was ordered.</b>		
<b>Notice papers</b>		
<b>Memo of Appearance</b>		<b>Do</b>
<b>Expedite Petitions</b>		
<b>Petitions for fixing date of hearing and all other miscellaneous papers</b>		



**APPENDIX-FORMS**

**FORM NO. 1**

**Form of Petition**

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT  
HYDERABAD**

**Special Original Jurisdiction**

Writ Petition No.....of 19.....

A.B Petitioner

and

C.D. Respondent

Petition under Article 226 of the Constitution of India

The Petition above-named states as follows:-

- 1 The petitioner is (give, description and address).
- 2 The address of the petitioner for service of all notices. The respondent is (give, description and address).
- 3 For the reasons set out in the affidavit filed herewith, the petitioner prays that (set out the reliefs sought).

(Signed) Petitioner.

(Signed)Attorney/Advocate for  
Petitioner.

**FORM NO. 2**  
**Order Directing issue of Writ of Habeas Corpus**  
**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT**  
**HYDERBAD**

Day, the ..... day of .....  
 One thousand nine hundred and

Present:- The Honourable Mr. Justice:  
 and  
 The Honourable Mr. Justice:

Writ Petition No. ....of 19 .....  
 Between: .. Petitioner

AND

.. Respondent

Petition under Article 226 of the constitution of Indian, praying that in the circumstances set out in the affidavit filed therewith, court may be pleased to issue a writ of Habeas Corpus, etc.

The Petition coming on this day for orders, upon reading the petition, etc., and upon hearing Mr. .... for the petitioner, and Mr. .... for the respondent, it is ordered that a Writ of Habeas Corpus, do issue directed to the superintendent, Central Jail, at ..... requiring him to produce the body of ..... confined in the said jail, immediately before this court to be dealt with according to law.

Deputy Registrar.

To

The Superintendent, Central Jail (in duplicate)  
 2 The Chief Secretary to the Government of Andhra Pradesh,  
 General Administration Department, Hyderabad (with  
 covering letter).  
 3 The District Magistrate .....  
 (Docket)

**ORDER**

Writ Petition No. ....of 19.....  
Directing the release from custody a detenu in the Central  
Jail  
at .....

**FORM NO. 3**

**Writ of Habeas Corpus**

**IN THE HIGH COURT OF JUDICATURE: ANDHRA PRADESH AT  
HYDERABAD.**

To  
The Office-in-charge of ..... Jail / Asylum.

.....  
The Superintendent of  
.....

You are hereby directed to produce the body of  
now a prisoner in ..... (name Jail)

.....  
now in custody in ..... (Asylum)

Now in your charge, under safe conduct before the High  
Court of Judicature, Andhra Pradesh, Hyderabad on  
.....(date).....at

.....(hour) in the forenoon of the same day and unless the  
said ..... shall then and there be ordered by the said court  
to be released, cause him to be conveyed back under safe custody  
to the Jail/Asylum/custody.

Witness the Honourable Mr. .... Chief

Justice of the High Court of Judicature, Andhra Pradesh: at  
Hyderabad,

this ..... Day of ..... in the

year One thousand nine hundred and

Deputy Registrar.

**FORM NO. 4**

**IN THE HIGH COURT OF JUDICATURE: ANDHRA PRADESH AT  
HYDERABAD**

Day ..... the .....day of ..... one  
thousand nine hundred and

**Present:-** The Honourable Mr. Justice  
And  
The Honourable Mr. Justice

Writ Petition No..... of 19 .....

In the matter of ..... A detenue in the  
Central Jail at ..... .. Petitioner.

Petition under Article 226 of the Constitution of India  
praying that in the circumstances stated therein and in the affidavit  
filed therewith, the High court will be pleased to issue a Writ of  
Habeas Corpus for production before the High Court, Andhra  
Pradesh at Hyderabad, the person of .....a detenue in the

Central Jail at ..... to be dealt with according to law and direct that he/they be set at liberty.

**ORDER**

This petition coming on for orders/hearing, upon perusing the petition and the affidavit filed in a support thereof and other papers material to this petition, and upon hearing the arguments of Mr..... Advocate for the petitioner, and of Mr. .... for the Public Prosecutor on behalf of the State, it is ordered that ..... now a detenu in the Central Jail at .....under .....

(Specify Act) be released forthwith from custody, unless he is liable to be detained in custody for some other cause.

Deputy Registrar,

Assistant Registrar

Dated .....

"True copy"

To

1. The Superintendent, Central Jail (in duplicate).
2. The Chief Secretary to the Government of Andhra Pradesh, General Administration Department, Hyderabad (with covering letter).
3. The District Magistrate. ....

**FORM No. 5**

*IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH, AT HYDERABAD.*

Where as this Court has granted a Writ of Habeas Corpus directed ..... to ( or other person) having the custody of ..... commanding him to have the body of .....

..... before the said court.....at

the High Court of Andhra Pradesh at Hyderabad immediately to undergo and

receive all and singular such matters and things as the court shall then and there consider of concerning him in this behalf:

Now, take notice, that you are hereby required to have the body of the

said ..... before the said court on the day

of .....19, at the .....hour of in the

fore ( or after) noon. And to make a return to the said writ. Or in default

thereof the said Court will then, or so soon after as counsel can be heard, be

moved for an attachment against you for your contempt in not obeying the said Writ.

Dated the .....day of .....19 .....

Deputy Registrar

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH, AT HYDERABAD.

Day, .....the .....day of.....one thousand nine hundred and .....

**Present:-** The Honourable Mr. Justice

And

The Honourable Mr. Justice

Writ Petition No..... of 19 .....

**BETWEEN:**

1. Petitioner

And

2 Respondent

Petition praying that in circumstances stated in the affidavit filed therewith, the High Court will be pleased to issue a writ of certiorari calling for the records in ..... on the file of the ..... And quash the order therein.

This petition coming for orders, upon perusing the petition, the affidavit filed in support thereof and upon hearing the arguments of Mr..... Advocate(s), the petitioner, it is ordered as follows:-

- 1) that a writ of certiorari nisi returnable do issue to the calling for the records in ..... on the file of.....
- 2) that a rule nisi do issue to the respondent herein directing him to appear before this Court in person or by advocate on ..... at 10.30 a.m. and to show cause why this application should not be complied with.

Assistant Registrar.

Dated .....16 .....

**ORDER**

Writ Petition No. .... of 19 .....

Directing issue of a writ of certiorari .....calling for the records in ..... on the file of ..... and rule nisi to respondent to show cause why this application should not be complied with.

**COMPOSITE FORM NO. 7**  
**IN THE HIGH COURT OF JUDICATURE: ANDHRA PRADESH : AT**  
**HYDERABAD**  
**(Special Original Jurisdiction)**

day the ..... day of ..... One thousand nine hundred and eighty

Writ Petition No. .... and Writ Miscellaneous Petition No.....Writ Appeal No and Writ Appeal Miscellaneous Petition No..... 19

**BETWEEN**

Petitioner/Petitioners

.....

Appellant and Petitioner

And

Respondent in both...

To

Respondent No.....

Upon motion this day made into this Court by Mr. .... Advocate for the Writ Petitioner/Writ Appellant and the Court being of opinion that the records relating to and touching upon all the matters and contentions raised in the Memorandum of Writ Petition/Writ Appeal a copy of which is annexed hereto, together with the decision therein should be called for and perused; and that the prayer in Writ Miscellaneous Petition/ Writ Appeal Miscellaneous Petition, copies of petition and affidavit of which are annexed hereto may be considered.

**IT IS HEREBY COMMANDED**

- (1) That you, the aforesaid Respondent No..... do send for our use in High Court of Judicature, Andhra Pradesh at Hyderabad all and singular the said records and others with all things touching the same as fully and perfectly as they have been made by you, and now remain in your custody or power together with this, our writ before the day of ..... 198..... and
- (2) That if you intend to oppose the Writ Petition and Writ Miscellaneous petition/Writ Appeal and Writ Appeal/Miscellaneous Petition you, the aforesaid Respondent No..... do appear personally or by Advocate on the day of .....198..... at 10.30 before this Court, show cause why they should not be complied with, and that we may cause further to be done thereon what of right and according to law we shall fit to be done.

Witness the Honourable Mr..... Chief Justice of the High Court of Judicature, Andhra Pradesh at Hyderabad, this the



day of ..... in the year one thousand nine hundred and eighty.

Hearing date .....

Assistant Registrar

RETURN OF THE WRIT OF CETIORARI ORDER : NISI AND NOTICE IN WRIT MISCELLANEOUS PETITION/WRIT APPEAL MISCELLANEOUS PETITION.

(To be endorsed on this Writ and Rule Nisi and Notice in Writ Miscellaneous Petition/Writ Appeal Miscellaneous Petition)

The Process of the Writ of Certiorari and Writ Miscellaneous Petition/Writ Appeal Miscellaneous Petition whereof mention is within made, with all things touching the same in the several papers hereto annexed as within commended and served on respondent.

The answer of

Date .....day of .....198

This should be served urgently on the respondent No. .... and returned to the High Court.

**WRIT AND RULE NISI**

***W.P. of 19 and W.P.M.P of 19 / W.A.No of 19 and W.A.M.P. No. of 19***

Certified that the required conveyance charge and the process fee for the service of the process has been collected. It is requested that the English Translation of the Process Server’s Report, if it is in vernacular may be sent along with the Rule NISI and Notice returned.

Sd/-  
Registrar (Admn.)

High Court of Andhra Pradesh,  
Hyderabad.

16<sup>th</sup> December, 1982.

**Note:-** Form No. 7 is substituted as per ROC No. 1209/SO/82, dated 19<sup>th</sup> Dec.82 and published in A.P.Gazette Part II, Page 142, dated 16<sup>th</sup> March, 1983.

**FORM NO. 8  
(Writ of Certiorari-Order Absolute)**

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD  
(Special Original Jurisdiction)

day the ..... Day of ..... One thousand nine  
hundred and eightly

Writ Petition No. .... of 19

**BETWEEN:**

.. Petitioner

AND

.. Respondent

This petition, under Article 226 of the constitution of India coming on for further consideration, before the Honourable Mr. Justice ..... upon perusing the records relating to ..... comprising in the return to the Writ and Rule Nisi, directed by order of the High Court..... dated ..... and made herein, and upon the arguments of ..... Advocate for the petitioner and of ..... On behalf of the Respondent ..... And having stood over for consideration till this day it is ordered as follows:-

- (1) that the Rule Nisi issued pursuant to the order of the High Court, dated ..... and made herein, be and hereby is made absolute and that ..... and
- (2) That the Respondent herein do pay the petitioner the sum of Rs. as and for his costs of this petition.

**Memorandum of Costs**

Writ Petition No. .... of 19  
( Petitioner's (.....) Costs)

	<b>Rs. Ps.</b>
Stamp used for the Writ Petition	..
Stamp for Vekalatnama	..
Stamp enclosures	..
Advocate's Fee	..
Batta and Postage	..
<b>Total...</b>	

Witness the Honourable Mr. ...., Chief Justice of the High court of Judicature, Andhra Pradesh at Hyderabad, this .....day .....in the year one thousand nine hundred and eighty.

Registrar

**FORM NO. 9**

**Writ of Prohibition**

**Formal Parts as in Form No.1**

Whereby a petition filed in this Court by the aforesaid petitioner it has been to the notice of this Court, that you, the Respondent aforesaid, have taken on your file ..... (here describe the proceedings): and whereas this court is of opinion that you, the respondent, by reason that (State facts showing want of jurisdiction): You are hereby prohibited from further proceedings with the said

.....

Witness etc.

**FORM NO. 10**

**ORDER ON PETITION FOR QUO WARRANTO**

**Formal Parts as in Form No.1**

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to issue a writ of quo

warranto directed to ..... the Respondent above named,  
requiring him to show cause by what authority he claims to have use,  
enjoy  
and perform the rights, duties and privileges of the office of .....

The petition coming on for orders/hearing this day, upon reading the  
the

petition, etc., upon hearing Mr..... for the petitioner and

the said Respondent appearing by Mr..... and entering a

disclaimer to the Quo Warranto this court both order and direct that the  
said

..... the respondent herein shall not intermeddle in any manner

with the said office and this court both further order and declare that the  
said

office of ..... is vacant.

**FORM NO. 11**

**WRIT OF MANDAMUS**

**Formal Parts as in Form No.1**

To

Whereas by section ..... of Act (State provision  
of law on which the Act required to be done is founded) you are required  
to.....(Specify the Act to be done):

And whereas it has been represented to the Court, that, contrary to  
the requirements of the Act, you failed, neglected and refused to  
.....(State Act refused) in spite of demands made in  
that behalf.

You are hereby directed to do (specify the Act) on or before

.....

Witnesses etc.,

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**RULES TO REGULATE THE PROCEEDINGS UNDER ARTICLE 227 OF THE  
CONSTITUTION OF INDIA**

**ROC No.713/62 B1** : - Under the provisions of Section 122 of the Code of Civil Procedure, 1908 (Central Act V of 1908) the High Court of Andhra Pradesh with the previous approval of the State Government hereby makes the following rules to regulate the proceedings under Article 227 of the Constitution.

**RULES**

1. Applications under Article 227 of the Constitution shall be in the same form as Civil Revision Petitions presented to the High Court and the Appellate side Rules applicable to the latter shall apply mutatis mutandis to the former except in respect of matters for which special provision is made in these rules.

2. Every such application when examined and found to be in order shall be numbered as a Civil Revision Petition and posted for admission before the Single Judge dealing with Writ Petitions. The Judge may if he thinks fit refer it to a Bench of Two Judges:

Provided that the Chief Justice may direct any application under Article 227 to be posted before a Bench of two Judges.

3 (a) In all proceedings under Article 227 the court may make such order as to costs and security as it may consider just and necessary.

(b) Where costs are awarded to a party such costs may include the court fees paid on the application and other documents the costs of making copies of application affidavit etc., which are furnished to the court and which are required to be served on the opposite party or parties and the advocate's fees allowed by the Court. The Court hearing the application shall fix the advocate's fees which shall be subject to a minimum of Rs. 50 and a maximum of Rs.250.

4 (a) A party to whom costs have been awarded in an application under Article 227 may obtain in order of the Court for transmission for the purpose of execution of the order of costs to the Court of Tribunal in which the proceedings originally started and if such court or tribunal has no machinery for the enforcement of its decrees or orders to the court of the District Munsif with in local limits of whose Jurisdiction the party against whom the order is to be executed resides or carries on business or has property which can be attached.

(b) An application for such transmission shall be made by a verified petition under the cause title of the Civil revision Petition in which the order for costs was passed and shall in addition to such particulars as may be necessary mention the court or Tribunal to which the transmission is sought. It shall also be accompanied by a copy of the order sought to be transmitted.

- (c) A court – fee stamp of Rs.2 shall be affixed to the application for transmission and the applicant shall also pay into court a transmission fee of 0-75 Paise only.
- (d) The Registrar shall dispose of an application for transmission. He may in his order provide for the costs of the application and shall, if he so provides, direct the recovery thereof along with the sum recoverable under the order transmitted.

- - - -

## APPELLATE SIDE RULES

RULES OF THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH, AT HYDERABAD  
IN ITS APPELLATE JURISDICTION

### PART – I Introductory Rule

**By virtue of powers conferred by the enactments set out in Appendix I hereto, and of all other powers hereunto enabling, it is ordered that the following Rules of Practice and Procedure shall be observed in the High Court of Judicature, Andhra Pradesh, in all causes and matters coming before the said Court on the Appellate Side and may be cited as “The Rules of the High Court of Judicature, Andhra Pradesh, Appellate Side”.**

### CHAPTER I Constitution of Benches

#### SINGLE JUDGE

1. **The following matters may be heard and determined by one Judge: provided that the Judge before whom the matter is posted for hearing may, at any time, adjourn it for hearing and determination by a Bench of two Judges :-**

- (1) **Every application –**
- (a) **for determining in which of several Courts having jurisdiction a suit shall be heard:**
  - (b) **for the admission of an appeal in forma pauperis :**
  - (c) **for Section 115 of the Code of Civil Procedure, 1908, and under Section 25 of the Provincial Small Causes Courts Act (IX of 1887) :**
  - (d) **of an interlocutory character in appeals and other matters pending in the High Court except such of the applications as are posted before the Registrar for orders as to process-fees, payment of batta, etc :**

**“Provided that all applications for security for costs in appeals to be heard and determined by a Bench of two Judges as provided by Rule 2 shall, in all cases, be posted before a Bench”. (R.O.C. 5700/57-B1).**

**Note : - Such applications will be liable to be dismissed by the Registrar, if the practitioners consent to their dismissal, for want of prosecution or for any other cause.**

- (e) **for the admission of an appeal from the judgment or order for any Criminal Court ;**

- (f) for the exercise by the High Court of its powers to revise the proceedings of any Criminal Court ;
  - (g) made or transferred to the High Court to be entertained in the exercise of its original civil jurisdiction :
  - (h) for the transfer of any suit, appeal or other proceeding or proceedings in execution of a decree from one of the Civil Courts, subordinate to the High Court to another of such courts or to the High Court :
  - (i) for the transfer of an enquiry or trial or other proceedings from one of the Criminal Courts subordinate to the High Court to another of such Courts or to the High Court :
  - (j) for the admission of any appeal falling under clause (3) of this rule presented after the expiry of the period allowed by the Law of Limitation :
- (2) Every reference by a Criminal Court for the revision of the proceedings of a subordinate Criminal Court:
- (3) Every appeal –
- (a) from the judgment or order of a Criminal Court except in cases in which the appellant or a person tried with him has been sentenced to death or imprisonment for life :
  - (b) from an original decree when such appeal relates to costs only:
  - <sup>1\*</sup>(c) from an original decree when the amount or value of subject matter of the appeal does not exceed Rs.10,000, if the suit out of which the appeal arises was instituted before the 26<sup>th</sup> January,1950, and where such a suit was instituted after that date, when the amount or value of the subject matter of appeal does not exceed [Rs.5.00,000]
  - (d) from an order under the Code of Civil Procedure or any other enactment where the amount or value of the subject matter of the appeal does not exceed Rs.10,000 when the proceeding out of which the appeal arises was commenced before the 26<sup>th</sup> January,1950, and in all other cases when the amount or value of the subject matter of the appeal does not exceed <sup>1\*</sup>[Rs.5,00,000].
  - (e) from the appellate decree or order ;
  - (f) Omitted ;
  - (g) From an order of a Civil Court under Section 476 of the Code of Criminal Procedure ;
  - (h) Omitted :

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<sup>1\*</sup> In Rule 1 (3) (c) (d) amended as per ROC No. 1036/SO/97, dt. 25.07.1998 Vide R.S.T. Pt. I, (Ext.) A.P.Gazette, No:41, dt. 12.10.2000 ( Go.Rt. No. 1198 Law ( L.A. 2J Courts –C) 4-8-1999 No.165)

4. Every suit or petition made or transferred to the High Court to be tried in the exercise of its original civil jurisdiction ;
5. Every commitment made or transferred to the High Court to be tried in the exercise of its original criminal jurisdiction ;
6. Every matter referred for determination by the Registrar ; and
7. Every other application not otherwise specially provided for.

#### BENCH OF TWO JUDGES

2. The following matters may be heard and determined by a Bench of two Judges:

Provided that if both Judges agree that the determination involves a question of law they may order that the matter, or the question of law, be referred to a Full Bench :-

- (1) Every application petition } referred by a Bench suit or  
appeal } of one Judge
  - (2) Every appeal
    - (a) from the decree or order of a Civil Court except those mentioned in Rule 1 ;
    - (b) from the judgment of a Criminal Court in which sentence of death or imprisonment for life has been passed on the appellant or on a person tried with him ;
  - (3) Every reference
    - (a) from a Civil Court ;
    - (b) for the confirmation of a sentence of death ;
  - (4) Every application
    - (a) for the admission of an appeal falling under clause (2) of this rule and presented after the expiry of the period allowed by the Law of Limitation ;
    - (b) under Order XLV. Rule 2 of the code of Civil Procedure, for leave to appeal to the Supreme Court ;
    - (c) for security for costs under Order XLI. Rule 10 of the Code of Civil procedure, 1908 (Central Act V of 1908) in appeals falling under subclause (a) of clause (2)(Roc. No.5700/57-B1).
  - (5) Every appeal under Clause 15 of the Letters Patent, which shall be heard by a Bench of two Judges other than Judge who heard the appeal, or matter ;  
"2-A, Applications for a direction, order, or writ in the nature of Habeas Corpus shall be posted before a Bench of two Judges"  
(P. Dis.No. 636 of 1953).
- 3 When a question of law is referred to a Full Bench, the Full Bench may finally decide the case or return it with an expression of its opinion upon the question referred for final adjudication by the Court which referred the question, and, in case of necessity in consequence of the



absence of any or either of the referring Judges, for the ultimate decision of another Court.

- 4 Notwithstanding anything hereinbefore contained to the contrary the original and appellate jurisdiction vested in the High Court may, during the vacation of the Court, be exercised by a Single Judge acting as the Vacation Judge, except in cases in which such jurisdiction must be exercised, under any law or regulation made by the Union Government, by more than one Judge.

#### FULL BENCH

- 5 A Full Bench shall be a Bench of any number not less than three of the Judges for the time being present as Judges of the Court.
- 6 Anything in the foregoing rules to the contrary notwithstanding the Chief Justice may direct that any application, petition, suit, appeal or reference shall be heard by a Full Bench as defined in these rules.
- 7 Omitted
- 8 Every enquiry under Clause 10 of the Letters Patent, 1865, shall ordinarily be heard and determined by a Bench of three Judges.
- 9 Omitted.

Note:-References under the Indian Divorce Act IV of 1869 and under Sections 57 and 60 of the Indian Stamp Act II of 1890 must be posted before a Division Bench of atleast three Judges.

**CHAPTER II**  
**Officers of the Court**

- 10 The powers and authorities which, under these or other rules or the practice of the High Court, are exercisable by the Registrar (except such as may, from time to time be expressly excepted by the Chief Justice) may be exercised by the Deputy Registrar, or by the Assistant Registrar, Appellate side.
- 11 Where any duty to be discharged, under the code of Civil Procedure, or these rules, or any other enactment or rules, is a duty which has heretofore been discharged by any officer, such duty shall, unless and until otherwise ordered, continue to be discharged by the same officer, or by such other officer as the Chief Justice may by order direct : and where any new duty is to be discharged, the proper officer to discharge the same shall be such officer as the Chief Justice may, from time to time direct.
- 12 In addition to the powers conferred by other rules, the Registrar shall have the following duties and powers, subject to any special or general order made by the Chief Justice.
- (i) (1) To receive all appeals, petitions and other proceedings :
- (2) To require any memorandum of appeal, petition, application, or other proceedings presented to the Court or to Registrar to be amended in accordance with the procedure or practice of the Court or to be represented after such other requisition, as the Registrar is empowered to make, has been complied with : Provided that the Registrar shall, when so required, refer the matter to the Court.
- (3) To admit all appeals against the decrees or orders of Civil Courts and to issue notice to the respondents therein provided that after the admission.
- (a) in appeals against original decrees and in appeals under Clause 15 of the Letters Patent from judgments of Single Judges passed in appeals from appellate decrees or orders, the Registrar shall issue notice forthwith.
- Note:- Other appeals under clause 15 of the Letters Patent are to be posted before a Bench of two Judges for orders as to notice under Rule 51(3)
- (b) in appeals against appellate decrees he shall take the orders of a Judge whether notice shall issue or the appeal be posted before a Judge for hearing under Rule 11 of Order XLI of the First Schedule of the Code of Civil Procedure, 1908.
- (c) In all other appeals he shall determine whether notice shall issue at once or whether the case is to be posted before a Judge for orders : and
- (d) In revision petitions he shall take the orders of a Judge as to whether notice shall issue or the petition be posted before a judge for hearing in the manner prescribed for appeals by Rule 11 of Order XLI of the First Schedule to the Code of Civil Procedure, 1908.
- (4) To fix the date of hearing of any interlocutory matter.

- (5) **To advance the hearing of cases posted as ready on the notice board of the Court.**
- (6) **To determine all cases referred to him under Rule 60-A and, on application made to him by petition, to extend the period prescribed for payment of process fees, provided the whole period shall not exceed four weeks.**
- (7) **To direct service under Order XLI-A Rule 5.**
- (8) **On an application being made to him, to direct that any papers referred to in Rule 73 which he considers unnecessary be omitted from the record.**
- (9) **To direct the translation and printing of documents referred to in Rule 85.**
- (10) **To make an order for the supply of copies of**
  - (a) **records duly certified as correct copies ;**
  - (b) **uncertified printed records; and**
  - (c) **rough translations of records which are not printed: under Rules 87 and 88.**
- (11) **To stop at his discretion the issue of all or any papers to any pleader who has failed to pay any fee or charges due to the Court.**
- (12) **To direct the return of the deposit referred to in Rule 75.**
- (13) **To make an order for change of pleaders (with the consent of the pleader on record).**
- (14) **To require any person or party to file evidence to be given upon affidavit with respect to any application or matter in respect of which he has power to exercise any discretion or to make any order.**
- (15) **To appoint or discharge a next friend or guardian add litem to a minor (except in cases under appeal to the Supreme Court) and to direct the amendment of the record accordingly.**
- (16) **To enter in the record the name of the representative of a deceased appellant petitioner or respondent, except in cases under appeal to the Supreme Court.**

**Provided that contested applications and applications presented out of time falling within clauses 15 and 16 above shall be posted before a Judge for disposal.**

- (17) **To make an order for leave to search the records of the Court under the rules in that behalf.**
- (18) **To dispose of all applications for copies of judicial records of, or in the custody of, the High Court, presented by persons who are not parties to the proceedings to which such records relate.**
- (19) **To determine whether any accounts which the parties to an appeal to the Supreme Court have not specifically asked to be included are necessary to the appeal.**

- (20) **Omitted.**
- (21) **Omitted.**
- (22) **To make an order for payment of costs of any application heard by him.**
- (23) **To give directions as to the preparation of the record in connected appeals.**
- (24) **To dispense with the affidavit required by Rule 44.**
- (25) **To allow from time to time any period or period not exceeding ten days in all for filing slips, furnishing information for paying process-fees, or initial printing deposits for any similar act necessary to make an appeal or a petition complete.**
- (26) **To extend the period mentioned in Order XLI-A, Rule 2, as follows:-**
- (a) **If the respondent resides beyond the limits of the State of Andhra Pradesh within the limits of India or Ceylon, to not more; than eight weeks.**
- (b) **If the respondent resides beyond the limits of India or Ceylon, to not more than ten weeks.**
- (27) **To extend the time originally fixed for furnishing security or to grant further time when default has been made in furnishing security within the time originally fixed, on an application made to him by petition.**
- (28) **To extend the time mentioned in Rule 60 to four weeks in all from the time of notice on the notice board.**
- (29) **To extend the time prescribed by Rule 79 for a period not exceeding ten days.**
- (30) **To extend the time for making the deposit referred to in Rule 91.**
- (31) **To extend upon good cause for a period not exceeding ten days the time limited by the rules relating to the preparation of the record for filing a list or making a deposit.**
- (32) (i) **To consider and dispose of claims by the unsuccessful party for the cost of unnecessary printing done at the instance of the other party.**
- (ii) **To refer any matter before him to the Court.**
- 12-A **The Chief Justice may, by general or special order, confer upon the Registrar power to hear and determine the classes of applications set forth below:**

**Provided that the Registrar while exercising such powers, at his discretion, may refer any such application before him for the decision of the Court.**

Provided also that at the request of any party dissatisfied with the decision of the Registrar, the Registrar shall post the matter for the orders of a Bench of one Judge.

In exercise of the powers conferred by Rule 12-A of the Rules of the High Court of Judicature, Andhra Pradesh Appellate Side, the Honourable Chief Justice is pleased to confer upon the Additional Registrar, High Court until further orders, the powers to hear and determine the classes of applications set forth below:-

- (1) **Applications to extend beyond four weeks:-**
  - (i) the time allowed by Rule 12(6) of the said rules for payment of process-fees.
  - (ii) the time allowed by Rule 12(28) of the said rules for depositing fee for service of a fresh notice :
- (2) (a) **Applications to extend beyond ten days :-**  
the time allowed by Rule 12(i)(25) of the said rules for filing slips. etc.
- (b) **Application to extend beyond ten days:-**
  - (i) the time prescribed by Rule 70 of the said rules:
  - (ii) the time prescribed by rules relating to the preparation of the record, for filing a list or making a deposit.
- (3) **Applications for extension of time to enter appearance.**
- (4) **Applications for an order directing substituted service under Order V, Rule 20 or for an order under Order XLI-A Rule 5 of the Code of Civil Procedure.**
- (5) **Applications for dispensing with printing or for leave to use previously printed papers.**
- (6) **Applications to call for documents not produced by a party.**
- (7) **Applications by a guardian adlitem for an order under Order XXXII, Rule 3(10) of the Code of Civil Procedure as to the manner of incurring costs.**
- (8) **Applications for the appointment of a guardian ad litem to persons of unsound mind in cases where they have been so found.**
- (9) **Applications for excusing delay of 60 days in a representation or in payment of deficit court-fee.**
- (10) **Applications for amendment of cause-title, or for an order directing change of parties.**
- (11) **Applications for amendment of grounds of appeal or filing additional grounds.**
- (12) **Applications for refund of court-fee paid under a bonafide mistake.**
- (13) **Applications for leave to withdraw appearance.**

- (14) **Applications for change of pleaders where the consent of the pleader on record is not obtained.**
- (15) **Applications for the return of documents produced in pending cases.**
- (16) **All applications excepted under Rule 1(1)(d) and referred to in the note there under.**
- (17) **Applications to dispense with service of notice on respondents under the proviso to Order XLI. Rule 14(1) of the Code of Civil Procedure.1908.**
- (18) **Applications to dispense with the filing of the required number of copies of printed judgments in appeals, Second Appeals, Civil Miscellaneous Appeals and Civil Miscellaneous Second Appeals.**
- (19) **Applications for excusing the delay in filing fee certificates.**

12-B **The time prescribed under these rules for the doing of any act shall be extended only on application made by a stamped petition and the Registrar, shall wherever he considers it necessary, be at liberty to call for the production of a certificate showing the dates on which the acts prescribed by the rules were done or should have been done, which certificate will be granted by the Deputy Registrar upon payment of a fee of Rupees ten in court fee stamps.**

**The following duties under rule 12-B of the Appellate Side Rules will be performed by the officers mentioned below:-**

#### **PRINTING CHARGES**

- |                        |   |
|------------------------|---|
| Assistant Registrar :- | <b>Extension of ten days on informal application with a court-fee of Rupees ten.</b>  |
| Deputy Registrar :-    | <b>Extension of more than ten days on formal application with a court-fee of Rupees two and the Deputy Registrar's certificate.</b> |

#### **POINTING OUT PORTIONS FOR PRINTING**

- |                        |  |
|------------------------|--|
| Assistant Registrar :- | <b>Extension of 10 days on informal application with a court-fee of Rupees ten.</b>  |
| Deputy Registrar :-    | <b>Extension of more than ten days on formal application with a court fee of Rupees ten with liberty to call for the Deputy Registrar's certificate.</b> |

#### **LODGEMENT AND BATTA**

**These being payable at the time of presentation of memorandum, in case of non-compliance a period of ten days will ordinary be available under Rule 12(i) 25.**

- |                    |  |
|--------------------|--|
| Deputy Registrar:- | <b>Extension beyond the 10 days on a formal application with a court-fee for Rupees two with liberty to call for the Deputy Registrar's certificate.</b> |
|--------------------|--|

## BATTA OTHER THAN THE INITIAL BATTA

Assistant Registrar:- **Extension of 5 days after the 10 days allowed under Rule 60 on an informal application with court-fee of Rupees two.**

## CHAPTER III

## Practitioners

- 13 **Advocates, Vakils and Attorneys of the High Court are entitled to practice in any of the Courts Subordinate to the High Court.**
- 14 **Attorneys of the High Court may appear, plead and act for the suitors of the Court in all matters of appellate jurisdiction, Civil or Criminal (except in appeals from cases of Original Civil Jurisdiction).**
- 15 **When a practitioner. Retained to appear for any party to an appeal or other case in the High Court, is prevented by sickness or engagement in another Court or other reasonable cause from appearing and conducting the case of his client, he may appoint another practitioner to appear for him, unless his client has expressly stipulated that he should not do so : and the Court, if it sees no reason to the contrary, may allow the hearing to proceed in the absence of the practitioner originally engaged.**
- 16 **Except when specially authorized by the Court, or by consent of the party, a pleader who has advised in connection with the institution of a suit, appeal or other proceeding, or has drawn pleadings in connection with any such matter, or has, during the progress or any such suit, appeal or other proceeding, acted for a party shall not, unless he first gives the party for whom he has advised, drawn pleadings or acted, an opportunity of engaging his services, appear in such suit, appeal other proceeding, or in any appeal, or application for revision there from, or in any matter connected therewith, for any person whose interest is opposed to that of his former client.**

**Provided that the consent of the party shall be presumed if he engages another pleader to appear for him in such suit, appeal or other proceeding without offering an engagement to the pleader whose services he originally engaged.**

**Explanation:- Notwithstanding anything herein before contained, a practitioner who discloses to one client the information confided to him in his capacity as the legal practitioner of another client without the later's consent, shall not be protected merely by reason of his being permitted to appear for the other client under this rule.**

- 16 (A) **An advocate proposing to file an appearance in an appeal or other proceeding in which there is already an advocate on record, may not do so, unless he produces the written consent of the advocate on record, or, where the consent of such advocate is refused, unless he obtains the special permission of the Court.**

- 17. **No person shall be recognized as the gumastah of a practitioner unless his name has been entered with the permission of the Registrar in a register kept for that purpose.**
- 18. **Registered gumastahs may communicate personally regarding suits, etc., with the Manager, Bench Clerk's Department, Manager, Translation and Printing Department, the Assistant Registrar, Judicial Department, the Superintendent of Copyists and the Accountant, but they shall not communicate with the other subordinates of the establishment nor enter the record room.**
- 19. **No information shall be furnished to a gumastah unless he produces a written memorandum signed by a practitioner.**
- 20. **Gumasthas may, with the permission of the Deputy Registrar, correct any clerical error in a petition, such as the name of a party, the number of the suit or the like but such correction shall be made in the presence of the Deputy Registrar and shall be initialed by him.**
- 21. **No Advocate or attorney of the High Court shall be entitled to act in any civil case unless he files a vakalatnamah in the form appended hereto. The vakalatnamah shall authorize the advocate or attorney to appear in the appeal, petition or other proceedings including all interlocutory or miscellaneous proceedings connected with or arising out of the same matter and also in appeals under Clause 15 of the Letters Patent and in applications for review and for leave to appeal to the Supreme Court.**

**The Government pleader or other pleader appearing on behalf of the government or on behalf of any public servant sued in his official capacity shall not be required to file any document empowering him to act.**

**FORM OF VAKALAT**

Cause Title

- 1. **Appellant/Respondent/Petitioner in the above Appeal/Petition do hereby appoint and retain Advocate/Attorney of the High Court to appear for me in the above Appeal/Petition and to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein, including all applications for return of documents or the receipt of any moneys that may be payable to me in the said Appeal/Petition and also in applications for review, in appeals under clause 15 of the Letters Patent and in applications for leave to appeal to the Supreme Court.**

**Accepted.**

**The address for service of the said advocate is**

.....

- 22. **No advocate or attorney of the high court who has been engaged for the purpose of pleading only shall plead on behalf of any party unless he files in court a memorandum of appearance signed by himself and stating –**



- (a) the names of the parties to appeal or petition;
- (b) the name of the party for whom he appears; and
- (c) the name of the person by whom he is authorized to appear ;

Provided that nothing in this rule shall apply to any advocate or attorney engaged to plead on behalf of any party by any other advocate or attorney who has been duly appointed to act in Court on behalf of such party.

- 23 The vakalatnamah shall be executed or its execution attested before some judicial functionary, or a village munsif or Gazetted Officer, or the Assistant Registrars or Mangers of the High Court, Appellate side, or Commissioners for oaths, or before a member of the Lok Sabha or the Rajya Sabha or the Legislative Assembly of the State, or a retired Gazetted Officer receiving pension from Government, or the Manager of the Office of Board of the Commissioners for Hindu Religious Endowments, or any Superintendent or Inspector working under the Board, or a member of a District Board or a Panchayat constituted respectively under the Madras District Boards Act, 1920 and the Madras Village Panchayats Act. 1950, or a Municipal Councillor or an advocate other than the advocate in whose favour the vakalatnamah is executed or in the city of Hyderabad before any Sub-Registrar. The Judicial functionary, gazetted officer or other officer or person authorized to attest shall certify, by his signature and designation that the vakalatnamah has been duly executed :

Provided that when a vakalatnamah is executed by any person who appears to the officer before whom it is executed or by whom the execution is attested, to be illiterate, blind, or unacquainted with the language in which the vakalatnamah is written, the officer shall certify that the vakalatnamah was read, translated or explained in his presence to the executant, that the seemed to understand it and that he made his signature or mark in the presence of the officer.

- 24 Omitted.
- 25 Where the party is exempted from personal attendance in the Courts or unable from sickness or other cause to attend, the execution of the vakalatnamah may be verified by the attesting witnesses in the presence of the judicial functionary.
- 26 Every vakalatnamah shall be dated at the time of its execution.
- 27 An advocate or attorney shall endorse his name and the date of his endorsement on his vakalatnamah.
- 28 Vakalatnamahs and affidavits, etc., written on paper of insufficient stoutness and durability will not be received by the High Court.
- 29 Vakalatnamahs, notices of appearance, etc., sent into the Registrar's Office shall state clearly the names and description in the record of the parties on whose behalf counsel.etc., appear, Vakalatnamahs and notices of appearance not containing the required information will be returned for amendment.
- 30 A party who has retained an advocate or attorney to appear for him in a civil case shall not be heard in person unless he first withdraws the vakalatnamah.

- 31 Where a person is a party in two or more connected suits, Appeals or Petitions, he shall execute a separate vakalatnamah, in each case, notwithstanding that he may retain the same pleader in all.
- 32 Every appointment of an advocate or attorney shall be endorsed with a statement of the address for service of the advocate or attorney, and the endorsement shall be signed by him. If more than one advocate or attorney are named in the vakalatnamah, it should be endorsed with a statement of the address of only one advocate or attorney and signed by him.
- 33 An advocate or attorney authorized by a party to receive money on his behalf shall produce a vakalatnamah expressly giving him this authority.
- 33.A. Save by special leave of the Court and except in the case of a legal practitioner appearing on behalf of the Government or of an incapacitated proprietor who is a ward of the Court of Wards, no fee shall in any case be entered as recoverable in a decree or order except on production within seven days from the date of the judgment or order or such further period as may be allowed by the Court, of a certificate from the legal practitioner that he has received such fee.

Explanation:-The fact of a promissory note or other agreement to pay the fee having been given or made by the client does not entitle the legal practitioner to certify that he has received his fee.

#### CHAPTER IV

##### Appeals from Decrees and Orders

34. All appeals, petitions and other proceedings shall be presented in person by the appellants or his pleader or the pleader's registered clerk.

The memorandum of appeal shall be accompanied by as many authenticated copies on plain paper of the memorandum of appeal as there are respondents to be served and another such copy in addition for the court record, and two authenticated copies of the decree of the Court against which the appeal is presented on plain paper besides the certified copy required to be filed under Rule 1 of Order XLI of the First Schedule to the Code of Civil Procedure, provided that the Registrar may dispense with such portions of the decree which are only schedules and which are not in English, by the fees prescribed for service of notice on the respondent, by the particulars for service of the same set out as in Form I of Appendix IV and by the receipt of the Accountant of the Court for the sum mentioned in Rule 75.

In the case of a memorandum of appeal or petition presented after the expiration of the time limited by law, the fee for service of notice of the appeal and the receipt for the deposit for the preparation of the record shall be lodged, if necessary, within seven days of the final order of the court on the petition for extension of a the period of limitation prescribed by Order XLI. Rule 1 (3), Schedule I of the Code of Civil Procedure.

- <sup>2\*</sup>[34-A] In appeals petitions or other proceedings from the orders of the lower courts filed in High Court before disposal of the main proceedings in the lower courts, copies if relevant affidavits and counter affidavits in the said main proceedings, as the case may

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<sup>2\*</sup> Ins. By ROC No. 2286/SO/82, DT 9.7.87 vide R.S. to Part II (Ext.) A.P. Gazette, dt. 10-7-1987.

be relating to such appeals, petitions or other proceedings shall also be filed along with the papers mentioned in Rule 34.”]

35. No proceeding or communication received by post or telegram shall be accepted.

Provided that any application to the High court by a person who is in prison and has not appointed an advocate or attorney on his behalf, may be presented to the Officer-in-charge of the jail, who shall, thereupon, forward such application to the High Court”(R.O.C. 145/66-B1).

36. Every memorandum of appeal and of objection shall contain a statement of the value of the appeal or objection for the purpose of the Court Fees Act.

- 36.A. In appeals and petitions which, under the rules and practice of the High Court, have to be posted before a Bench of two Judges for hearing, and which are not printed, the practitioners should furnish at the time of filing an additional set of papers for the use of the second Judge.

37. (1) Every memorandum of appeal or petition which is presented after the expiration of the time limited by law and the petition for extension of time required by Order XLI, Rule 1 (3), schedule I of Code of Civil Procedure shall be posted together before a Single Judge or a Bench of two Judges, as the case may be ; and where notice is ordered to the respondent, the appellant shall within three days of such order bring into Court the notice prescribed by Rule 45 together with the fee prescribed for service of such notice and as many copies of the petition and affidavit as there are parties to be served and the petition shall be posted for hearing before a Single Judge or a Bench of two Judges, as the case may be; not less than 14 days after the service of notice on the respondent.

- (2) Every memorandum of appeal or petition which is presented after the expiration of the time limited by law shall be accompanied by an affidavit explaining the delay. If any such memorandum of appeal or petition is presented without such affidavit, it shall, together with all papers presented therewith, be returned to the pleader or party presenting them with an endorsement as follows :

This memorandum of appeal (or petition) has been presented .....days out of time. The pleader (or Party) is requested to explain the cause of the delay in order that the case may be posted before the court for consideration of such explanation, and for orders thereon.

- (3) Every memorandum of appeal or petition represented with such explanation shall be posted for orders before a Single Judge or a Bench of two Judges, as the case may be, and the Court may direct notice to the respondent of the presentation of the appeal and of the grounds on which the appellant contends, that such presentation is within the period of limitation prescribed and the appellant shall within three days of such order bring into Court the process-fee required for the service of such notice on the respondent.

38. Notice of the date of hearing of an appeal from an appellate decree or order, posted before a Bench of two Judges for hearing under Order XLI, Rule 11, read where necessary with Order XLII

or Order XLIII, shall be given by posting a list of appeals to be so heard on the notice board of the Court.

- <sup>3\*</sup> [39. Where in an appeal appearance has been entered by the Advocate for the respondent or respondents before notice of the appeal is served on him or them, copy of the notice shall be taken by the Advocate from the Notice Section of the Office of the Registry within one month from date of his duly entering appearance. Such notice shall be a notice for the purpose of sub-rule (2) of Rule 2 of Order XLI-A, Civil Procedure Code.”]
40. Unless otherwise ordered cases posted on the notice board of the court as ready for hearing shall not be transferred to the daily cause list for hearing by the Court until the expiration of the following periods from the date of such posting:-

For first appeals	..	14 clear days
For appeals posted under Rule 38	..	3 clear days
For all other appeals and matters	..	7 clear days.

#### POSTING OF CASES IN THE DAILY CAUSE LIST

- 40-A (1) Subject to any orders to the contrary, cases transferred from the rough list or from another fair Cause List, or coming on after adjournment shall be posted at the bottom in the Daily cause List for hearing arranged in the order in which they were filed in the Court.
- (2) The following cases shall be given precedence in the Cause list:-
- (a) Cases in which the hearing has been directed to be expedited or advanced.
  - (b) Part-heard cases and cases in which reports have been called for or findings have been submitted.
  - (c) Cases which have been directed by court to be posted to a further date or on the expiry of a specified period.
  - (d) Cases in which there is a stay of proceedings in the same suit or in other civil and criminal courts.
  - (e) Cases, the pendency of which causes delay in the disposal of cases pending in lower courts.
  - (f) Second Appeals in rent suits.
  - (g) Original Side Appeals, City civil court Appeals and Letters Patent Appeals.
  - (h) Appeals in probate and succession cases.
  - (i) Appeals in land acquisition cases.
  - (j) Appeals under special Acts, such as the Indian Companies Act, Guardian and Wards Act, Insolvency Act.
  - (k) Cases of a quasi-criminal nature, such as contempt of court.
  - (l) Cases in which execution of decrees or orders of lower court has been stayed.
- 40-B An application to postpone or advance the hearing of , or otherwise, with respect to a case on the ready board shall be made by petition endorsed with the consent of, or on notice to, all parties who have entered an appearance and shall be supported by evidence to be given

<sup>3\*</sup> Substituted by ROC No. 699/SO/92, Dt. 13.8.1993 published in R.S II Ext. Gazette No. 24 dt. 16.08.1993.

on affidavit. Unless otherwise ordered, the applicant shall pay the costs of all parties appearing upon the application.

- 40-C An application with respect to a case posted in the daily cause list may be made orally to the Court before which it is posted upon notice to the other parties.

#### REFERENCE AND REVISION PETITIONS

- 41 Every Civil Revision Petition shall be accompanied by-  
(R.O.C. 748/60-B1)
- (1) a typewritten or printed copy of the decree or order which it is sought to revise :
  - (2) a typewritten or printed copy of the judgment, if any, on which the decree or order is based, unless its production is dispensed with by the court; and
  - <sup>4\*</sup> (3) copies of relevant affidavit and counter affidavit in the main proceedings in lower courts as the case may be, relating to the civil revision petition, if the civil revision petition is presented in the High Court before disposal of the main proceedings in the lower courts”.
  - (4) A duly filled in and properly stamped memorandum in Form No.1 of Appendix IV to these rules for issue of notice to respondents.
- 41-A (1) A list of civil Revision Petitions admitted for hearing after notice or directed to be posted for disposal in the manner prescribed for appeals by Order XLI, Rule II, Civil Procedure Code, shall be affixed to the notice board of the High Court as soon as practicable after orders are obtained under Rule 12 (3)(d). Cases directed to be posted for disposal in the manner prescribed for appeals by Order XLI, Rule 11, Civil Procedure Code, shall be posted for hearing immediately after the expiry of one clear day from the date of affixture of the list on the notice board.
- (2) No application in civil Revision shall be presented after ninety days from the date of the order complained of, provided that the Court may, on sufficient cause shown, excuse the delay in presentation.
- 41-B The provisions of Rules 11 (2),17,18,19 and 21 of Order XLI of the Code of Civil Procedure shall apply mutatis mutandis to all Civil Revision Petitions.
- 41-C Unless otherwise ordered by the Court at the time of admission, there shall be no printing in a Civil Revision Petition presented against an interlocutory order in a suit or proceeding pending in the lower court.

On an application of an interlocutory character presented in any such Revision Petition, if an interim order is passed with a direction to issue notice to the respondents in the application, notice shall be issued simultaneously fixing the same hearing date, both in the application and in the Revision Petition, on payment of a single process-fee in respect of respondents common

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<sup>4\*</sup> Ins. By ROC No. 2286/SO/87,Dt.9.7.1987 Published in A.P. Gazette,d. 10.07.1987.

to both the proceedings and separate process-fees in respect of respondents who are parties to the Revision Petition but not parties to the application.

Unless the Court otherwise directs, the Revision Petition and the application shall be posted together for final disposal within a fortnight after service of notice on the parties.

#### INTERLOCUTORY APPLICATIONS AND MATTERS

- 42            An application for leave to amend a memorandum of appeal or of objections or a petition of revision shall be made by petition upon notice to any party, who has entered an appearance and shall set out the amendment prayed, if leave is granted the Court may allow further time for the preparation of the record, and unless the court otherwise directs the order shall be conditional upon payment by the appellant of the costs of the application and of any further translation and printing of the record.
- 43            When an issued referred for trial and the finding of the lower court is returned, notice shall be given on the notice board of the Court, and any party desirous of objecting to the finding shall, unless otherwise ordered, within seven days after such notice, file in Court a memorandum of his objections and serve a copy thereof on the other party.
44.        (1)        An application with respect to any of the matters mentioned in these rules shall be made by a petition to the Court stating the provision of law under which relief is sought, and the order prayed and any evidence thereon shall be given by affidavit.
- (2)        The petition shall be presented to the Registrar or such officer as he shall appoint.
- 45        (1)        If notice of the application is to be given, the applicant shall file in Court a notice to each party in Form No.3 of Appendix IV and a copy thereof. The date of hearing shall be inserted in the notice and copy which shall be sealed with the Court seal. The applicant shall serve the copy upon the other party to the appeal in manner prescribed by Rule 6 of Order XLI-A and shall take the signature of the party or his pleader upon the notice in acknowledgment of service, and where service is on the party shall file affidavit in proof of service, provided that in any case within Rule 4 (2) of Order XLI-A, service shall be made under Rule 7 and the prescribed fee shall be filed with the petition.
- (2)        Unless the Court otherwise orders notice need not be given to a party who has not entered an appearance.
- 46            Unless otherwise ordered, the day fixed for hearing shall be not less than 14 days from the date of presentation of the petition and the notice shall be served not less than seven days before the day so fixed.
- 47        (1)        Any affidavit intended to be read in support of the petition shall be filed therewith and notice thereof shall be given to the other parties. If any party served with notice intends to use an affidavit upon the application he shall, not less than three days before the hearing, file the same in Court and give notice thereof to the applicant.

- (2) An affidavit in respect of which default has been made shall not be read in evidence, except by leave of the Court.
- 48 If the party intended to be served with notice is a respondent who has not entered an appearance, the applicant shall file the notice and the prescribed fees for service together with the petition, and a copy of any affidavit filed therewith, and thereupon the notice and copy of such affidavit shall be served in the same manner as a notice of appeal.
49. In case of urgency, the applicant may apply to the Registrar that the petition may be posted for hearing without notice to any party. If at the hearing notice is directed to be given, unless otherwise ordered, the Registrar shall insert in the notice a day for the further hearing not less than three weeks from the date of hearing.
50. (1) If on the day fixed for hearing it appears that notice has not been served, the Court may order notice to be issued or may dismiss the petition.
- (2) If notice is ordered and is to be served through the Court, the applicant shall pay the prescribed fees for service of notice within three days after the date of the order directing notice, and if an interim order has been made upon application it shall not be issued until the said fees have been paid.
- (3) Unless otherwise ordered, the costs of the first notice only shall be allowed to the applicant upon taxation, and if it appears to the Court that the applicant is not exercising due diligence in service of notice, the Court may order him to pay all the costs of the application.
- 50-A In the event of the Admission Judge of the day, being indisposed or otherwise unable to deal with admission work, the applicant should set out in his application to the Judge before whom he moves-
- (a) the reason why the application should be regarded as imperatively urgent :
- (b) the dates on which the necessary documents were available ; and
- (c) the cause of his not having applied in the ordinary course to the sitting Judge before.

APPEALS TO THE HIGH COURT UNDER CLAUSE 15 OF THE LETTERS PATENT

51. (1) An appeal under clause 15 of the Letters Patent, other than an appeal from a judgment, decree or order passed or made by the High Court in the exercise of its original jurisdiction, shall be preferred within thirty days from the date of the judgment, decree or order appealed from, provided that the Court may, in its discretion, on good cause shown, extend such period.
- (2) In appeals not provided for by Section 4 of the Court Fees Act, 1870, the fee shall be levied at the same rates and in the same manner as in appeals falling under the said section, provided that the fee shall not be less than Rs.10.

- (3) Appeals under the Letters Patent from judgments of single Judges passed in appeals other than those from appellate decrees or orders shall be posted before a Bench of two Judges for orders whether notice shall issue.
- (4) Rules 72 and 84 to 90 shall, so far as may be, apply to the preparation of the record, provided that it shall not be necessary to translate or print any paper translated and printed in the appeal from the lower court.
- (5) Rules 38 and 40 shall apply to the posting of appeals for hearing.

#### PETITION

- 52 A Petition shall, when presented by a pleader or attorney, bear his signature as pleader or attorney, and when presented by a party shall be signed or marked by him, and such signature or mark shall be acknowledged before the Registrar, the Deputy Registrar, the Assistant Registrar, the Sub-Assistant Registrars or the Managers, Appellate Side, or before the Presiding Officer of any court or any Magistrate including a Village Magistrate, or a Sub-Registrar, Nazir, Deputy Nazir, Assistant Nazir or a member of a District Board or a Pachayat constituted respectively under the Madras District Boards Act, 1920 and the Madras Village panchayats Act, 1950 or a gazetted officer, or a notary as defined in the Notaries Act, 1952 (Central Act LIII of 1952), or an Advocate of the High Court, or a member of the Lok Sabha or the Rajya Sabha or the Legislative Assembly of the State, who shall certify therein in the following form or to the like effect:-

The contents of this petition were explained by me and the signature or mark (signatures or marks) made (or acknowledged) before me on the day of ..... 19 .....

- 52-A Every petition or other matter filed in the High Court before the disposal of the main proceedings in the Lower Court shall mention the name and address of the pleader (if any) who represents the other party in the main proceedings in order that service may be effected in the manner provided in Rule 62-A.
- 53 Petitions to the High Court shall not be filed unless presented by a pleader of the Court, or his registered gumastah, or a party.
- 54 Petitions which are couched in improper language, or which are illegible, or unnecessarily prolix, shall be returned for amendment.
- 54-A Wherein petitions for review presented to the High Court, notice is ordered to the opposite party, such notice shall be served on the pleader who represented that party in the main proceedings and such service shall be deemed to be sufficient service on the party who appeared by such pleader. In cases, however, where the opposite parties or any of them have not appeared by the pleader in the main proceedings, the notice shall be served on the party direct.
- 54-B (1) In all cases where processes of the nature of summonses or notices have to be issued, the parties or their advocates on whose behalf such summonses or notices have to be issued, shall file with their applications for the issue of processes



printed forms of processes in duplicate legibly filled up. The date of appearance and the date of process shall be left blank.

- (2) The form of process in the High Court shall be used with such modifications as the circumstances of the case may demand.
- (3) The parties or their advocates shall sign the form in the left bottom corner and will be responsible for the accuracy of the entries.
- (4) Where orders for the issue of processes are passed, the date fixed for appearance will be inserted in the forms and the processes will be dated and signed by an officer of the court duly authorized.
- (5) The necessary number of printed forms of processes will be supplied to the parties or their advocates at one rupee for 100 forms on application to the Registrar. The cost so incurred shall be allowed to the parties as part of the costs for the preparation of process.
- (6) The Court may, in its discretion, direct in any particular case that the forms of processes be entirely filled up in the office of the Court (R.O.C.No.897/65-BI).

#### CHAPTER V

##### Affidavits

- 55 (1) Every affidavit used in the High Court, Appellate Side, shall be entitled "In the High Court of Judicature, Appellate Side, Andhra Pradesh" and shall set forth the cause-title of the appeal or other matter in which the affidavit is sought to be used as evidence. An affidavit in support of, or in opposition to, an interlocutory application relating to an appeal, petition or other proceeding pending in the High Court shall also be entitled as made in such appeal, petition or other proceeding.
- (2) Every person making an affidavit shall be described in such a manner as will serve to identify him clearly, that is to say by the statement of his full name, the name of his father, his age, his profession or trade, and the place of his residence.
- (3) An affidavit shall be confined to statements of facts and be divided into numbered paragraphs, each paragraph being confined as nearly as may be to a distinct portion of the subject.
- (4) When the affidavit covers more than one side of a sheet of paper, the writing shall be on both sides of the sheet, and the declarant shall sign his name at the foot of each page of the affidavit.
- (5) When the declarant speaks to any fact within his own knowledge, he shall do so directly and positively using the words "I make oath (or affirm) and say".
- (6) When a particular fact is not within the declarant's own knowledge, but is stated up on information, the declarant shall use the words "I am informed by (giving source of information if

possible) and verily believe it to be true”, and set forth the grounds of his belief, if any.

- 56 (1) Affidavits intended for use in the Appellate side of the High Court may be made before any the officers of the High Court, the Sub-assistant Registrar or the Managers, Appellate Side or Commissioners for Oaths, or before the Presiding Officer of any Court or any Magistrate including a Village Magistrate or a Sub-Registrar, Nazir, Deputy Nazir, Assistant Nazir or a member of a District Board or a Panchayat constituted respectively under the Madras District Board’s Act, 1920 and the Madras Village Panchayats Act,1950 or Municipal Councillor or a member of the Legislative Council or the Legislative Assembly of the State or a retired gazetted officer receiving pension from Government or the manager of the Office of the Board of Commissioners for the Hindu Religious Endowments or any superintendent or Inspector working under the Board or an Advocate other than the Advocate who has been engaged in the case or and other gazetted officer in the service of the State Government or Central Government or a notary as difined in the Notaries Act,1952 or any Commissioner or other person appointed by the High Court for the purpose of taking affidavits or affirmations, or any Judge or any Commissioner for taking affidavits in any Court of Record in India.(Roc.No.3982 of 57 B-1, dated 1—8-1958.)
- (2) Documents referred to by affidavits shall be referred to as exhibits and shall be marked in the same manner as exhibits and shall bear a certificate signed by the officer before whom the affidavit is taken in the form.

This is the exhibit marked ‘A’ (or as the case may be ) referred to in the affidavit of A.B.sworn (or affirmed) before me this .....day of ..... 19 .....

(Signed) C.D.  
(Designation)

- (3) The officer or person before whom an affidavit is made shall state the day when and the place where the same is taken and sign his name and description at the end in the form following:-

Sworn (or solemnly affirmed)at .....on this day .....day of 19.....before me.

(Signed) S.D.  
(Signed) C.D.  
(Designation.)

- (4) Alterations and interlineations, if any, shall ,before the affidavit is sworn or affirmed, be authenticated by the initials of the officer or person before whom the affidavit is taken, and no affidavit having any alteration or interlineations, not so authenticated, or any erasure, shall, except with the leave of the Court be filed, or made use of in any manner. The number of any alterations or interlineations so authenticated shall be noted at the foot of each page under the initials of such officer or person. Each page shall be numbered at foot under the initials of the officer thus ‘first page’, ‘second page’ and to the number of the last page shall be added the words .....and last page.

- (5) Even person making an affidavit, if not personally known to the officer or person before whom the affidavit is taken, shall be identified by some person known to the officer or person, and the officer or person shall specify at the foot of the affidavit the name and description of him by whom the identification was made. If the declarant is not known to the officer or person and cannot be identified as above, the impression of the thumb of the declarant's left hand shall be taken at the foot of the last page of the affidavit and the following certificate shall be added to it:-

“Certified that this is the impression of the thumb of the left hand of the declarant of the above affidavit”.

(Signed) A.B.  
(Designation.)

- (6) If the declarant is ignorant of the language in which the affidavit is written, or appears to be illiterate or blinded, the officer or person shall cause the affidavit to be read to the person in his presence in a language which the declarant understands. When the affidavit has been explained to the declarant, he shall be sworn or affirmed in the usual manner, and the officer or person shall certify at the foot of the affidavit as follows:

<p>Sworn (o r solemnly affirmed)at on this day of 19.....before me the contents of this affidavit (or solemn affirmation) and the exhibits therein referred to have been first truly and audibly read over to declarant in he being unacquainted with (or being blind), who appeared perfectly to understand the same and made his mark thereto (or signed his name) in my presence.</p>	<p>(Signed) C.D.</p>
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(Signed) A.B.  
(Designation.)

- (7) In administering oaths and affirmations, the officer or person shall be guided by the provisions of the Indian oaths Act (X of 1873).

The following forms are to be used:-

OATH

“I, A-B., swear by Almighty God that is my name and handwriting, and that the contents of this my affidavit are true”.

SOLEMN AFFIRMATION

- (a) **“I, A.B., solemnly affirm in the presence of Almighty God that, that is my name and handwriting, and that the contents of this my affidavit are true”.**
- (b) **“I.A.B., do solemnly sincerely and truly declare and affirm that is my name and handwriting, and that the contents of this my affidavit are true.**

## CHAPTER VI

### Appointment of Guardian

- 57 **Every application for the appointment of a guardian of a minor respondent shall be supported by an affidavit, stating that the proposed guardian has no interest in the matter in question in the appeal adverse to that of the minor. No order shall be made an application by on appellant unless notice of the application has been duly served upon the father or guardian of the minor or upon the person with whom the minor resides six clear days before the day named in the notice for the hearing of the application.**
- 58 **An application for the appointment of a guardian adlitem shall not be combined with an application for bringing on record the legal representatives of a deceased appellant or respondent. The applications shall be by separate petitions.**
- 59 **When a guardian ad litem of a minor respondent is appointed, and it is made to appear to the Court that the guardian is not in possession of any, or sufficient, funds for the conduct of the appeal on behalf of the respondent and that the respondent will be prejudiced in his defence there by, the court may, from time to time, order the appellant to advance moneys to the guardian for the purpose of his defence, and all moneys so advanced shall form part of the costs of the appellant in the appeal. The order shall direct that the guardian do, as and when directed, file in Court an account of the moneys so received by him.**

## CHAPTER VII

## Service of Notices

60. (1) Every notice issued in respect of proceedings in the High Court other than writ petitioner, appeals against orders made in the exercise of original jurisdiction, petitions for injunction and all cases where notice is to a proposed guardian ad litem, shall be sent in the first instance to the address of the respondent given in the memorandum of appeal or petition, as the case may be by means of registered post, acknowledgment prepaid. An acknowledgment purporting to be signed by the respondent shall be deemed by the court to be sufficient proof of service of such notice. Notices in writ petitions, petitions for injunction, appeals against orders made in the exercise of original jurisdiction and to a proposed guardian ad litem shall be sent for service of the parties through the Nazareth of the subordinate court exercising jurisdiction over the area where the party to be served is residing or is carrying on business.

Provided that all notices issued by the High Court intended for service in the twin cities of Hyderabad and Secunderabad shall be sent to the City Civil Court, Hyderabad. (A.P.G.R.S. to Part II, dated 10-2-77).

- (2) If any notice is returned unserved an intimation of that fact and of the reason why the notice has not been served shall be given on the notice board and within 15 days from the date on which the intimation is so given, the appellant or his pleader shall, except when the notice has not been served because the respondent concerned is dead, deposit further fee for the service of a fresh notice and shall give the particulars necessary for serving it, and, if the fresh notice or any subsequent notice is returned unserved, the same procedure shall be repeated.

- 60-A The Bench Clerks of the High Court shall have power to determine whether notice of appeal or other process has been duly served and to direct the issue of fresh notice of an appeal or petition or other process: provided that if any party or pleader is dissatisfied with the finding of the Bench Clerk, the matter shall at the request of such party or pleader be posted for the orders of the Registrar.

61. Omitted.

62. Omitted.

- 62-A In any appeal, petition, case referred or other matter filed in the High Court before disposal of the main proceedings in the lower Court, notice shall be served on the pleader who represents the party in the main proceedings in the lower Court and such service shall be deemed to be sufficient service on the party who is represented by such pleader. In cases, however where the parties are not represented by a pleader in the main proceedings the notice shall be served on the party direct.

63. The fees for the service of notices on respondents shall be paid in the form of court-fee labels, and the court-fee labels shall be attached to a memorandum in Form No. I of Appendix IV.

64. When an appellant or his pleader has failed to pay into the Registrar's Office within the prescribed periods the fees required for the service of notices on the respondent, the appeal or appeals shall be posted for the orders of the Court.

CHAPTER VIII

Searches of Records

65. Every person requiring a search to be made of the records of the Court for the purpose either of inspection or of obtaining copies of records, shall submit an application for the same in the subjoined form or to the like effect:-  
FORM OF APPLICATION FOR SEARCH OF PUBLIC RECORDS.

To  
The Registrar, High Court of Andhra Pradesh, Hyderabad-DN

Name and address of applicant in full	Description of record as far as possible	Purpose for which inspection or copy is required

Date : .....

Signature of applicant.

Explanation:- Inspection in this rule does not include the examination of records for the purpose of preparing or amending lists of papers under the provisions of Chapter IX of these rules.

66. A separate application need not be presented in respect of each document for which a search is required. Enclosures or annexures to letters, accounts or other documents form part of the documents to which they appertain and are not reckoned for the purposes of these rules as separate documents.
67. When leave has been granted, the pleader on the record, or his authorized assistant or the party in person may search the record in the presence of the Record Keeper or his assistant.
68. The fee for a search shall be two rupees for every hour or part of an hour during which the Record Keeper, shall be engaged and shall be paid by court-fee stamps affixed to the application.
69. The payment of the fees for a search will entitle the applicant to read the document or part of the document for the finding of which the fees has been paid, or to have it read to him, or to make a short memorandum of the date and nature of the document so as to enable him to describe it sufficiently in case a copy is required but it shall not entitle him to take a copy of the document or part of the document or to make extracts therefrom.

CERTIFIED COPIES

70. (1) When a person is entitled to obtain a copy of a proceeding or document filed in or in the custody of the court, he may present an application therefor (addressed to the Registrar) to the Superintendent of Copyists in person, if he has no advocate on record, or by his advocate, or the latter's authorized clerk between the hours of 11-30 a.m. and 3 p.m.

The application shall set out the name of the applicant and his position in the appeal or proceeding and a description of the documents of which a copy is required; and an application which is not in proper form shall be returned for amendment.

- (2) Defective applications:-
  - (a) Applications not complying with the requirements of the rule are not to be received until amended in respect of the matters in which they are defective.
  - (b) All other applications shall be received and at once entered in Register A. Applications found defective after being entered in Register A shall be returned for amendment.
  - (c) When applications are returned for rectification of defects, a limit of 7 days shall be fixed for their representation. Defective applications which are not taken back by the parties or not represented within the prescribed period, shall be struck off by the Superintendent of Copyists.
- (3) Copies of judge's minutes, of correspondence not strictly judicial, or generally of any confidential proceedings will not be granted.
- (4) Application by a person who is not a party to the proceeding shall be accompanied by an affidavit setting forth the grounds on which he claims to be furnished with a copy.
- (5) In cases where it is doubtful whether a document of which a copy is applied for is one for which a copy can or ought to be granted and in all cases where the applicant is not a party to the suit or proceeding, the application shall be placed before the Deputy Registrar who shall decide whether it should be granted or refused. If the application is refused by the Deputy Registrar it shall be returned to the applicant with the order of the Deputy Registrar endorsed on it.
- (6) Notice as to stamp-papers:-

Every day between the hours of 3 and 5 p.m. a list showing the applications in which the records have been received, and the number of Stamp-papers required, shall be prepared and affixed to the Court's notice board. Such list shall remain suspended for three days, or, if the last day is a holiday, till the next Court day. If the required stamp-papers have not been deposited by 3 p.m. on the fourth day counting that on which the list was suspended or, if the fourth day is a holiday, then on the next Court day, the application shall be struck off. Between the hours 3 and 5 p.m. on each of the intermediate days, the applications upon which the requisite deposits have been made shall be struck off the list. The procedure above prescribed shall apply also to calls for, additional stamp papers when the number first supplied has been found to be insufficient: Provided that where the additional stamp-papers called for are not deposited, but the stamp-papers originally deposited are sufficient for the preparation of complete copies of one or more documents applied for the application shall be struck off, only as regards the documents which cannot be prepared by reason of the insufficiency of the stamp-papers supplied; but it shall be complied with by delivery of such of the completed copies as can be prepared on the stamp-papers supplied; the decision of the Superintendent as to the documents to be selected for copying being final.

Note:- It is open to the applicant to furnish the necessary stamp-papers as soon as their probable number is known.

When an application is struck off in whole or in part, the incomplete copy in every case shall be destroyed after 12 months from the date on which the application was struck off unless such copy is completed before the expiration of the period.

- (7) Order in which application should be complied with:- The preparation of the copies of all documents applied for or such of them as admit of being copied in full on the stamp-papers deposited shall (as far as possible) be undertaken in accordance with the serial order of applications except when the Registrar makes a special order for precedence as regards any particular application, provided that in complying with an application for copies, copies of decrees and judgments, if any, comprised in the application shall have precedence over copies of other documents applied for. A special order for precedence as regards any particular application shall be made only on a separate application duly stamped under the Court Fees Act and praying for such order.
- (8) Posting of list of copies ready for delivery:- A list of copies ready for delivery shall be posted on the notice board of the Court, and shall remain thereon for three clear days other than holidays. The copy and any unused stamp papers shall be delivered to the applicant between the hours of 10.30 and 11.30 O'clock in the morning and 3 and 5 O'clock in the afternoon; and if the copy is not claimed by the applicant within 12 months from the date of posting the said list, it shall be destroyed and the unused stamp papers, if any, shall be forwarded to the nearest Treasury Officer for reissue, if in good condition, by the Superintendent of Stamps. No party shall be entitled to the return of stamp-papers which are used, but in which an incomplete copy is written. But the incomplete copy may be completed, if the necessary additional stamp-papers are deposited under the order of the Registrar within six months from the date of striking off, and may then be delivered in the usual manner.

Note:- Where stamp-papers have been furnished in excess of the requirements or where an insufficient number of stamp papers have been furnished and the parties fail to furnish the additional number of stamp papers within the given period, notice shall be given to the parties that the unused stamp-papers will be held at their disposal for a month from the date of the notice and will be sent to them by registered post if within the above period they remit the cost of dispatch which would be stated in each case. If the amount be not remitted and no arrangements made to take delivery in person within the period fixed, the unused stamp papers shall be sent to the local or nearest Treasury Officer.

- (9) Disposal of incomplete copies and unused stamp-papers:-
- (a) Where an application is struck off in whole or in part under the above rules, the incomplete copy in every case shall be destroyed after twelve months from the date on which the application was struck off but may be completed if the necessary additional stamp-papers are deposited under the orders of the Registrar within six months from the date of striking off and may then be delivered in the usual manner.



No party shall be entitled to return of stamp-papers which are used but on which an incomplete copy is written.

- (b) Where parties have furnished the required number of stamp-papers, but some remain unused owing to the copyists writing too closely the Registrar shall forward the unused stamp-papers to the local or the nearest Treasury Officer.
- (c) Where, however stamp-papers have been furnished in excess of requirement or where an insufficient number of stamp-papers has been furnished and the applicants fail to furnish the additional number of stamp-papers within the given period, notice shall be given to the parties that the unused stamp-papers will be held at their disposal for a month from the date of notice and will be sent to them by registered post, if within the above period they remit the cost of despatch which should be stated in each case. If no arrangements are made to take delivery in person within the period fixed the unused stamps shall be sent to the Treasury Officer. All stamps so sent to the treasury officer will be treated as cancelled.

- (10) Sealing and certificate:-

All copies furnished by the Court shall be certified to be true copies, and shall be sealed with the seal of the Court. The Superintendent of Copyists shall initial every alteration and interlineations in the copy, and shall sign a certificate at the foot thereof that the same is a true copy, and shall also state the number of alterations and interlineations made therein.

- (11) Endorsement as to dates:-

Every copy shall bear an endorsement showing the following dates:

1. Application made.
2. Stamp-papers (or charges) called for.
3. Stamp-papers (or charges) deposited.
4. Copy ready.
5. Copy delivered (or posted).

- (12) (a) one copy stamp-paper shall be furnished for every 350 words of fraction thereof.

In the case of a copy for which Article 20 of Schedule 1-A of the Indian Stamps Act, 1899, and the Indian Stamp Rules, 1925, require the production of non-judicial stamp-paper of a particular value, the stamp-paper or papers supplied for the purpose shall be used for copying and shall be written on in the same manner as copy stamp-papers, Copy stamp-papers shall be furnished to make up any deficiency in the paper required to complete the copying.

- (b) The first 175 words shall be written on the front page and the rest on the reverse.
- (c) The copying fee for each page shall be five annas and the said fee shall be paid in respect of the front page by means of adhesive court fee label or labels, the value of which together with the value of the copy stamp-paper amount to

five annas. Wherever the reverse side is written on, adhesive court fee labels of the value of five annas shall be affixed at the top right hand corner of that side and space left at the top left hand corner for the endorsement of the copyist. When the copy is written on non-judicial stamp-paper, adhesive court-fee label, or labels, of the value of annas five shall be affixed to the front page and whenever the reverse side is written on, adhesive label or labels of the value of annas five shall be affixed to that side in the manner specified in this clause.

- (d) Four figures shall be taken equivalent to one word and words in the Indian languages with short suffixes and inflections shall be counted as single words.
  - (e) The cost copying maps, or other matter requiring skilled labour shall be fixed by the Registrar, and deposited in court in cash. Notice of the amount so fixed shall be posted on the notice board of the Court and the foregoing provisions of this Rule shall apply with respect of payment of such amount.
  - (f) Except in any case requiring skilled labour, copying charges for the preparation of execution petitions, diglott registers, sale proclamations, books of account, or other matters including lines and columns, shall be levied with reference to the space occupied provided that not more than 175 words shall be copied on or computed as the equivalent of one page.
- (13) When however copy stamp papers are not available the Registrar may permit the use of white paper with court-fee label affixed for transcribing copies.

Whenever white paper is permitted to be used for transcribing copies the paper with the requisite court-fee label should be furnished by the party applying for copies and the paper supplied should be of durable quality and of foolscap size. Both sides of the white paper should be used for transcribing copies. The number of words that can be transcribed on either page will be subject to the following maxima.

First page 175 words

Reverse page 240 words.

The value of court-fee labels to be affixed to the white paper will be as follows:

- (a) When the first page of the paper above is written – five annas
  - (b) When the reverse of the paper is also written-
    - (i) for a maximum of 175 words on the reverse page – five annas more:
    - (ii) for more words than 175 words on the reverse page – seven annas more (for the whole of the reverse page).
- <sup>5\*</sup>(14) Whenever the Court directs the grant of carbon copies or copies taken by any mechanical reproduction of its proceedings, the same shall be certified and shall bear the seal of the court and shall contain the particulars mentioned in clause 11 endorsed thereon”.

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<sup>5\*</sup> New Sub-rule 14 of Rule 70 is substituted for the existing sub-rule 14 vide Roc No. 1045/SO/81, dt.28.1.1984 published in A.P.Gazette No: 3 dt. 9.2.1984.

<sup>6\*</sup>70-A On an application by the party the High Court may also grant copy of a proceeding or document filed in or in the custody of the court by getting it reproduced mechanically on payment of Rs.1-25 paise per page by means of affixure of court-fee labels to the application for copy or in cash through Lodgment Schedule within such time as the court may grant”.

71 Nothing in these rules shall entitle any person to inspect or obtain copies of the registers of the Court without special leave of the Court, or to see Judge’s notes or autograph judgments.

#### CHAPTER IX

##### Appeals From Original Decrees of Subordinate Courts

<sup>7\*</sup>72 The record shall be in English and shall be got neatly typewritten on both sides of white foolscap folio paper with double spacing or reproduced mechanically by the Registrar. The separate sheets shall be stitched together bookwise and the pages numbered consecutively in figures.

Provided that subject to the examination and comparison of the record under the supervision of the Registrar, either of the parties may, on the orders of the Court on the application made to it, get the record neatly typewritten or reproduced mechanically privately as specified above”.

<sup>8\*</sup>73 The record shall consist of the following papers:-

- (1) A table of contents, with reference to the pages of the record.
- (2) A chronological index of all documents filed in the case;
- (3) The plaint, written statement and issues, with the Judge’s notes, if any;
- (4) The judgment and decree and any schedules thereto;
- (5) The grounds of appeal and memorandum of objections if any;
- (6) Any order calling for a finding or report, any finding or report, and the objections thereto;
- (7) The B Diary.
- (8) Such other papers as the parties desire to have translated and typed or reproduced mechanically and have within the prescribed period applied to be included in the record:

Provided that schedules to the plaint or decree except in suits for partition shall not be translated or typed or reproduced mechanically unless they are necessary for the decision of the appeal and are specified in the lists hereinafter mentioned. The schedules in partition suits shall be translated and neatly typed or reproduced mechanically along with the pleadings in all cases unless the parties or their pleaders state at the foot of the memorandum of grounds that they do not require the same to be typed or reproduced mechanically:

Provided further that judgments need not be typed or reproduced mechanically in the High Court wherever the requisite copies of the same have been filed along with the memorandum of appeal as provided by Order XL-IA,

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<sup>6\*</sup> Rule 70-A is incorporated newly vide ROC No.1045/SO/81 dt. 28.1.1984.

<sup>7\*</sup> New Rule 72 is substituted for the existing Rule 72 vide ROC No.1045/SO/81 dt. 28.01.1984.

<sup>8\*</sup> New rule 73 is substituted for the existing rule 73 vide ROC No. 1045/SO/81 dt. 28.01.1984.

sub-rule (1) of Rule 2 or order XLII, sub-rule (2) of the Code of Civil Procedure.,1908 (Act V of 1908)”.

74. (1) The appellant, at the time of filing his memorandum of appeal, and the respondent within one month after service on him of the notice of appeal, shall file in Court lists in Form NO.2 of Appendix IV, of the papers mentioned in Rule 73 which they desire to have translated and typed or in any other way mechanically reproduced. If the respondent has filed a memorandum of objections, it should be included in his list.
- (2) The lists above referred to shall contain a full description of the papers required to be translated and typed or in any other way mechanically reproduced. No papers other than exhibits and depositions will be called for from the lower court unless specially mentioned in the list.
75. (1) Unless in cases which do not involve comparison of record or translation the court otherwise directs, the Appellant shall pay into the court along with his Memorandum of Appeal a sum of Rs.50 as the cost of preparing the portions of the record numbered 3 (except the issued and the Judges notes, if any) 4 and 5 in Rule 73.(P.Dis.469/61).
- (2) In the case of several connected appeals or batches of appeals a single deposit to cover the cost of preparing the record in the leading case may be accepted in the discretion of the Registrar.
- (3) If the cost of preparing the said portions of the record exceeds the said sum, the party shall pay the excess together with the sum mentioned in Rule 79. If the cost of preparing the said portions of the record is less than the said sum, the balance may be returned to the party on application after the case has been disposed of.
76. Any party shall be entitled to inspect in the Registrar's Office the list of any other party in the case, and at his own expense, to obtain a copy of the whole or of any portion thereof under the rules of the High Court relating to copies.
77. (1) A list of cases in which portions of documents are required to be translated and typed or in any other way mechanically reproduced shall be posted on the notice board from time to time.
- (2) The parties concerned shall, within seven days of the date of the said notice point out the required portions. In default, these documents will be excluded from the record.
78. The Registrar shall cause to be prepared and entered in the said lists filed by the parties an estimate of the sums payable by such parties for preparing the record framed in accordance with the prescribed schedule of rates and shall give credit therein for the amount paid by the appellant in accordance with clause (1) of Rule 75.
79. (1) The Registrar shall give to the parties notice of the amounts of the estimate mentioned in Rule 78 by affixing a statement thereof to the Court notice board, and thereupon the party shall be at liberty within 25 days from the date of such notice to deposit the requisite sum in Court.

- (2) The preparation of the record and the hearing of the appeal shall not be delayed by reason of the failure of a party to deposit a sufficient sum in Court within the prescribed period; provided that he may apply for further time in manner prescribed by sub-rule (2) of Rule 3 of Order XLI-A of the Code of Civil Procedure, and shall thereupon produce a certificate showing the dates on which the acts prescribed by the rules were done or should have been done, which will be granted by the Deputy Registrar upon payment of a fee of Rs.2 to be paid in court-fee stamps, and provided also that the Registrar may, whenever he thinks fit, dispense with the formal application subject to the condition that the fees payable are the same as in the case of a formal application.
- (3) A party shall be entitled to one copy of the portion of the record, for the preparation of which he has paid free of charge and to the further copies thereof mentioned in the list filed by him and any available copies of other portions of the record prepared under these rules, upon payment of a charge to be fixed by the Registrar in accordance with the Prescribed schedule of rates, provided that in cases to which the Government is a party, the Law Officers of Government shall be supplied with typed or in any other way mechanically reproduced records free of charge, but the charges incurred therefor shall be entered in the account maintained for the purpose.
- (4) The respondent shall apply in writing within one month after service on him of the notice of appeal, if he requires a set of printed or typed records.

#### MEMORANDUM OF OBJECTIONS

- 79-A [Omitted]
- 79-B Any party who has received or been served with a memorandum of objections may, within two weeks from the date of acknowledgment or of service, file a further list of documents.
- 79-C When an appeal is dismissed under Rule 10 of Order XLI-A, Civil Procedure Code, any respondent who has filed a memorandum of cross-objection may, if the Court so directs, be permitted to deposit within a time specified, funds sufficient for the further preparation of so much of the record as is necessary for the hearing of the memorandum of cross-objection.
80. When the record has been prepared and typed or in any other way mechanically reproduced so as far as the sum deposited within the prescribed period permitted, the appeal shall be posted on the notice board of the court as ready for hearing; Provided that unless otherwise ordered, no case shall be so posted until after the expiration of eight weeks from the date of service of the notice of appeal upon the respondent.
81. 82 and 83 [Omitted]

- 9\*84** Pleders shall be responsible to the Registrar for all translation and typing or mechanical reproduction charges incurred by him on their behalf under these rules. The Registrar shall have power to stop at his discretion the issue of all or any papers to any pleader who has failed to pay any money due by him to the Court under these rules.
- 10\*85** When application is made for the translation and typing or mechanical reproduction of any document not on the record with a view to its admission in evidence the translation and typing or mechanical reproduction may be ordered by the Registrar provided that the order shall be made without prejudice to the posting of the case.”
- 11\*86** The charges for translation and typing or mechanical reproduction including those incurred under Rules 78 and 79, will as a rule, be costs in the cause. But if it appears to the court that the translation or typing or mechanical reproduction of any paper or part of a paper was not necessary to the proper determination of the cause, the party at whose instance the typing or mechanical reproduction of translation was executed may be ordered to bear the costs thereof.
- 87** When a record not required to be printed under these rules is in a vernacular language and has been translated into English for the convenience of the Court, any party to the case who desires to have a copy of such translation for the purpose of the hearing of the case or of any interlocutory application in connection therewith, shall apply therefor in writing to the Deputy Registrar Appellate side.
- 88** It shall be within the discretion of the Deputy Registrar to grant or refuse all such applications on the understanding that the Court has no objection to the grant of such copies unless it appears that they have been applied for with some ulterior object, e.g., to cause delay. It must also be distinctly understood that such translations are only rough translations made for the convenience of the Court, that their absolute correctness is not vouched for, and that copies granted under this rule are intended only to be used at the hearing of the particular appeal concerned. To prevent any improper use of such translations all copies granted under this rule shall be clearly marked as follows.

**Uncertified copy of a translation of Exhibit in Appeal/Petition**

No..... of 19 ..... on the file of the High Court. The translation of this document was prepared in the High Court for the purpose of Appeal /Petition ..... No..... of 19 ..... and the copy was granted to Mr .....(Counsel)/Advocate/ for .....solely for use of the hearing /Appeal/Petition and must not be made use of for any other purpose.

- 89** Whenever with the permission of the Court a paper which has not been previously translated as provided above is translated orally in open Court, the party at whose instance the translation is made shall be charged a special fee of Rs.2 per page or fraction of page.

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<sup>9\*</sup> New Rule 84 is substituted for the existing Rule 84 vide ROC No. 1045/SO/81, dt. 28.01.1984.

<sup>10\*</sup> New Rule 85 is substituted for the existing Rule 85 vide ROC No. 1045/SO/81, dt. 28.01.1984 (Gazette No.3,dt.9.2.1984.)

<sup>11\*</sup> New Rule 86 is substituted for the existing Rule 86 vide ROC No. 1045/SO/81 dt.28.1.84.

- 12\*90 (1) The following rates shall be charged for translating typing, or cyclostyling or reproducing mechanically the record.**

R		Rs.	Ps.
Translating (including those granted under Rule 88) per page of 24 lines		3-50	
Typing per page not exceeding 32 lines		1-50	
Cyclostyling per page not exceeding 32 lines		3-50	
Reproducing mechanically per page		1-25	
Additional copy supplied, or, copy supplied to the opposite party per typed, or cyclostyled or mechanically reproduced page		1-00	
Where the record was got typed or cyclostyled privately, comparing and examining per page		0-25	

Note:- In appeals which are to be heard by a Division Bench or where the respondents are represented separately by more than two advocates or where the Registrar so directs, the record shall be cyclostyled, or reproduced mechanically. In other cases, the record shall be typewritten or reproduced mechanically.

- (2) The rates in sub-rule (1) shall be subject to such modification as the Registrar may decide from time to time in accordance with the increase or decrease in the cost of translation and printing records and the rates so revised shall not take effect until they have been notified in the Gazette and on the notice board of the High Court.

- (3) The rates prescribed in sub-rule (1) and any increase or decrease thereof ordered under sub-rule (2) of this rule shall take effect from an appointed day and shall apply to all records despatched by the Government Press after printing on and from that date. The rates prescribed in sub-rule (1) shall come into force from 3<sup>rd</sup> January, 1949.

- <sup>13\*</sup>(4) Any balance that may remain after translation and typing or mechanical reproduction have been completed in a case shall be refunded to the depositor.

**90A** These rules shall apply to appeals transferred to the High Court from other courts.

<sup>12\*</sup> New Rule 90 (1) is substituted for the existing Rule 90 (1)(a) to (c) vide Roc No. 1045/SO/81 dt. 28.01.84.

<sup>13\*</sup> New Sub-Rule (4) of Rule 90 is substitute for Rule 90 (4) Vide ROC.No. 1045/SO/81 dt.28.01.1984.

- 90B (1) All appeals to the High Court from Original Decrees of Subordinate Courts shall be neatly typewritten or mechanically reproduced in any other way unless either an appellant at the time of filing the appeal or a respondent within seven days of filing his appearance applies for the record to be printed in the Supreme Court Form.**
- (2) When the record is printed in the Supreme Court Form, the preparation of the record and the arrangement of the papers shall as far as practicable be in conformity with the rules laid down for the preparation and the printing of records for the Supreme Court and care shall be taken that the oral evidence begins at the commencement of a sheet and is printed in such a way that this portion of the record can easily be detached and bound together with the documents, so as to constitute a separate volume for the use of the High Court in hearing the appeal. Each exhibit shall be printed separately and paged at the foot of each page, so as to admit of the papers being readily detached and rearranged in accordance with the provisions contained in Schedule 1 to the Supreme Court Rules in the event of an appeals to the Supreme Court.**
- (3) In appeals where the amount or value of the subject matter of the dispute in the Court of first instance and still in dispute on appeal to this Court is not less than twenty thousand rupees, whether the printing is done in the ordinary form or in the Supreme Court form, in addition to the number of copies ordinarily struck off for the use of the appeal in the High Court, 35 additional copies shall be struck off and retained in the High Court, so as to be available for use in the event of an appeal to the Supreme Court from the appellate decree of the High Court. (P.Dis.532/62).**
- (4) The charges for the preparation of the record shall be divided between the parties in the same manner as they would be, if the record had been prepared in the ordinary form. The charges for translation shall be at the rate prescribed in this Chapter. In all other respects the rules embodied in this Chapter and in the Chapter X shall be followed in so far as they are applicable.**

#### CHAPTER IX-A

Appeals against Orders, Appellate Decrees, Appellate Orders, Interlocutory Orders and Appeals Relating to Costs only, Revision Petitions and Letters Patent Appeals

Note : - **In this Chapter, the word 'Appeal' and 'Appellant' will be understood to mean 'Petition' and 'Petitioner' in the case of Revision Petitions, wherever the context so requires.**

- 91 A memorandum of appeal against decrees and orders falling under this chapter shall be accompanied by the fees prescribed for notice and by as many copies on plain paper of such memorandum as there are respondents to be served, plus an additional copy.**
- 92 A list of cases to be heard under Order XLI Rule 11 read with Order XLII of the Code of Civil Procedure shall be affixed to Court notice board, and any such case may be posted for hearing not less than three clear days after it has been entered in the said list, and such entry shall be sufficient notice to the appellant of the day fixed for hearing the appeal.**



If notice to the respondent is ordered, intimation of that order shall be given to the appellant on the notice board of the Court.

- 93 If an appeal is posted under Order XLI, Rule 11, Civil procedure Code, the appellant shall within three days after it is entered in the list mentioned in Rule 92 file a typed copy of all the papers he desires to rely upon.
- 94 There shall be no printing of the record in appeals falling under this chapter unless the Court otherwise directs.
- 95 In all such cases, the parties shall furnish to the Court two copies of all such pleadings and documents as they require typed in English (and certified by counsel in case where they are translated, that the translations are true and correct) as soon as may be after the case is given ready and in any case at least a fortnight before the date when it is taken up for hearing copies. So filed in Court shall be accompanied by an endorsement from counsel on the opposite side, that copy of that record has been served on him, provided when the Court requires additional copies of the record, the parties shall furnish the same.
- 96 All records prepared for the use of the Court shall be neatly typewritten with the pages numbered consecutively indexed with a table of contents with reference to the number of the pages and stitched into books
- 97 Notwithstanding anything contained in the above rules, the Court may allow a practitioner who discovers that any paper necessary for the disposal of the case has not been typed or printed, to provide at the time of hearing, after serving copies in advance on the other side, typed copies in English of such paper, accompanied by a certificate that the translation is true and correct where the original is not in English and the translation was not done in the High Court.
- 98 The parties may get translated by the High Court office any paper they intend to use before the Court on payment of the charges therefor. Where the paper filed in the office for such translation is not the original or a certified copy, it shall be accompanied by a certificate by a certificate by the counsel filing it that it is a true and correct copy of the original.
- 99 Where at the time of the hearing for the admission of the appeal printing of the record is directed by the Court, the notice of appeal or petition issued to respondents shall contain a note to that effect. A list of cases in which printing has been ordered shall be affixed to the Court notice board from time to time. The appellant or petitioner shall within ten days from the date of such intimation file in the Court, lists as in Form No.2 of Appendix IV of such pleadings and documents as he desire to have translated and printed. The respondent may also file similar lists within one month either from the date of such intimation on the notice board or from the date of service on him of the notice of appeal or petition, whichever is later, provided that a memorandum of objections, if any, filed by him shall always form a part of the record to be printed. When a memorandum of objections is filed, the appellant or any respondent affected thereby may within one week of the service of such memorandum vary or amend his list.
- 100 To cases in which printing has been ordered the rules relating to the preparation of appeals from original decrees, with the exception of Rule

73 and so much of Rule 75(1) as relates to payment of deposit shall, so far as may be applicable.

101 In all cases where the records have not been called for, the appellant shall within twenty-one days from the date of notice of admission of the appeal file in Court certified copies of all the papers (other than those filed with the memorandum of appeal) which he desires to have translated or translated and printed as the case may be. The respondent shall within twenty-one days from the date of his entering appearance or within 6 weeks from the date of service of notice shall do likewise.

<sup>14\*</sup>102 Notwithstanding anything in the foregoing rules, the Registrar may suo motu or at the instance of a party direct that the records in any appeal be translated, typed, or cyclostyled or reproduced mechanically by the office of the court. In such cases the charges at the rates prescribed in Rule 90 shall be collected from the parties in the manner prescribed for the collection of such charges in appeals from original decrees.”

103 All appeals in which there is no printing of record shall be posted on the notice board as ready for hearing three months after the records therein have been received from the lower court and in cases where the records have not been called for, three months after the date of admission, provided, that unless otherwise ordered, no case shall be posted until after the expiration of eight weeks from the date of service of notice of the appeal upon the respondent.

104 (1) The party to whom costs are awarded may include in the memorandum of costs filed by him the expenses incurred for printing or typing and the Registrar shall allow the party such costs or such portion of the costs as he considers reasonable.

(2) If the unsuccessful party claims that any portion of the printing or typing done at the instance of the other party was unnecessary, he may immediately after the disposal of the case apply to the Court for disallowance to the other side of the costs unnecessarily incurred, and the Court may pass such orders as it deems fit.

105 When an appeal against an appellate decree or order has been heard and disposed of by a Single Judge on application for leave to appeal under clause 15 of the Letters Patent of the High Court shall be made orally and immediately after the Judgment has been delivered.

Note:- Rules 91 to 105 of this chapter were substituted in lieu of the old Rules 91 to 106-A(High Court's R.O.C. No. 238/48-B1,dated 4<sup>th</sup> April,1957).

## CHAPTER X

### Appeals to the Supreme Court

106 Whoever desires to appeal to the Supreme Court under Clause (1) of Article 133 of the Constitution, shall apply for a certificate by petition to the court whose judgment, decree or final order is complained of:

Provided that an application may be made orally for the purpose immediately after the judgment has been delivered:

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<sup>14\*</sup> New Rule 102 is substituted for the existing Rule 102 vide Roc No. 1045/SO/81 dt. 28.01.84.

Provided further where the certificate has been refused on an oral application no subsequent petition for the certificate shall lie.

107 Every petition for a certificate to appeal to the Supreme Court shall be accompanied by an acknowledgment signed by the Advocate; if any who has appeared for the opposite party at the hearing of the appeal in the High Court stating that he has received a copy of the petition or proof of refusal of notice by such advocate and such acknowledgment or proof of refusal shall be deemed to be sufficient service on the party who has appeared by such advocate.

An advocate appearing for a party to the appeal shall receive notice of such petition for a certificate unless he has withdrawn appearance with a certificate of the Court.

108 On receipt from the Supreme Court of the copy of the petition of appeal under Rule 11 of the Order XV of the Supreme Court Rules, 1966, the Registrar shall:-

- (1) cause notice of lodgement of the petition of appeal together with the copy of the said petition of appeal to be served on the advocate for the respondent who is on record in the High Court.
- (2) In case where the advocate for the respondent refuses to receive the said notice and in case where the respondent is not represented by an advocate in the High Court, as soon as possible, call upon the appellant to file the necessary process for the service of the notice of lodgement of the petition of appeal on the respondent with the proscribed fee in accordance with the Rules contained in Chapter VII of the Rules.
- (3) As soon as notice as aforesaid is served on the respondent, send a certificate to the Supreme Court as to the date or dates on which the said notice was served; and
- (4) Unless otherwise ordered by the Supreme Court, transmit to the Supreme Court at the expense of the appellant the original record of the case.

109 The appellant shall, within two weeks fo the receipt of the memo from the Registrar or such extended time as the Court may order on application, deposit into Court the necessary amount as shown in the memo for transmission of the original record to the Supreme Court.

110 Where, however, the Supreme Court on an application made for the purpose, dispenses with service of the petition of appeal on any respondent who did not appear in the proceedings in the High Court or on his legal representative under Rule 10 of order XV of the Supreme Court Rules, 1966 the appellant shall file a copy of the said order along with the process referred to in Clause (2) of Rule 109.

111 Whenever the Supreme Court by its order directs the High Court to have the record printed and prepared in the High Court under the provisions of Order XV, Rule 14, of the Supreme Court Rules, in the absence of any specific directions in the matter, the following rules apply in regard to the preparation of the records by the High Court.

112 (1) As soon as the original record of the case is received, the Registrar shall give notice to the parties of the receipt of the original record.

- (2) The appellant shall, within four weeks of the receipt of the notice referred to in clause (1), file a list of documents to be included in the record and serve a copy thereof on the respondent who shall be at liberty, within three weeks of the receipt of such list, to file such list of additional documents as he considers necessary for the determination of the appeal.

Provided that no such list of documents shall be necessary where the entire case record is in English and where the Supreme Court takes up the printing of the case record.

- 113 After the expiry of the time fixed for the filing of the additional list by the respondent the Registrar shall fix a day for the settlement of list of documents to be included in the appeal record and shall give notice thereof to the parties who have entered appearance. In settling the lists, 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 record as far as practicable.
- 114 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, the record as finally printed, shall, with a view to subsequent adjustment of cost of and incidental to the printing of the said document, indicate in the index of papers or otherwise the fact that the respondent has objected to the inclusion of the document and that it has been included at the instance of the appellant.
- 115 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 printed separately at the expense of the respondent and require the respondent to deposit within such time as he may prescribe, the necessary charges therefor and the question of cost thereof shall be dealt with by the Court at the time of determination of the appeal.
- 116 As soon as the index of the record is settled, the Registrar shall cause an estimate of the costs of the preparation of the record to be printed and served, on the appellant and to require him to deposit within thirty days of such service the said amount. The Registrar may extend the time for good cause on application made for the purpose.
- 117 When the Supreme Court or High Court, on an application made for the purpose, consolidates several appeals for giving security for the costs of the respondent subject to such orders of Court as may be made the cost of printing in appeals consolidated shall be borne by the appellants in each of the appeals in such proportion as may be agreed upon by common consent, and in case of disagreement in accordance with the apportionment made by the officer entrusted with the preparation of the record.
- 118 (1) Where the record has been printed for the purpose of the appeal in the High Court in the Supreme Court Form under Rule 90(B) and sufficient number of such copies are available, no fresh printing of the record shall be necessary except of such additional documents as are mentioned in the list of documents and subsequent proceedings in the appeal but a sum of

**Rs.300(to be afterwards increased if necessary) shall be deposited to meet expenses of preparing or completing and transmitting the record.**

- (2) **Where no portion of record has been printed in the Supreme Court form under Rule 90 (B) the appellant shall, in first instance deposit a sum of Rs.800 to meet the expenses of translating, transcribing, indexing, printing and transmitting the record.**

**Provided that the deposits mentioned in sub-rules (1) and (2) shall not be required by Government or where the Government has undertaken the defence of the suit from any Public Officer sued in respect of an act purporting to be done by him in his official capacity.**

- 119 **Where the appeal paper book is likely to consist of two hundred or less number of pages, the Court may, on the application made for the purpose, order instead of having it printed, cyclostyling of the case record under the supervision of the Registrar.**
- 120 **If at any time during the preparation of the record the amount deposited is found insufficient, the Registrar shall call upon the appellant to deposit such further sum as may be necessary within such further time as may be deemed fit but not exceeding twenty-eight days in the aggregate.**
- 121 **Where the appellant fails to make the required deposit, the preparation of the record shall be suspended and the Registrar shall not proceed with the preparation thereof without an order in this behalf of the court.**
- 122 **The charge for the preparation of the record shall be calculated at the rates mentioned in the Schedule annexed hereto: but the said rates are subject to modification by the Registrar from time to time.**
- 123 **In addition to twenty copies fixed under sub-rule (3) of Rule 14 of Order XV of the Supreme Court Rules, 1966, fifteen additional copies shall be printed and retained in the High court for further reference and for supply to the parties on application.**
- 124 **The entire costs of printing, indexing and transmitting of the record, unless otherwise ordered by court shall be borne by the appellant; and the Registrar shall certify when necessary the fees and expenses incurred and paid for the aforesaid purpose.**
- 125 **Where the proceedings from which the appeal arises, were heard in courts below, in a language other than English each party shall bear the translation and typing charges of the documents asked for in their respective lists. The necessary charges therefor shall be deposited by the parties in the High Court prior to the transmission of the record to the Supreme Court. If the appellant commits default in making such deposit, he shall be dealt with under Rule 121. If the respondent commits default the documents shall be excluded from the printed record and a note to that effect recorded in the Index.**
- 126 **When the record has been made ready, the Registrar shall certify the same and give notice to the parties of the certification of the record and append to the record a certificate showing the amount of expenses incurred by the party concerned for the preparation of the record.**

- 127 (1) When a party who has been successful in an appeal to the Supreme Court applies for a certificate of the costs incurred in the appeal in the High Court, the Registrar shall upon production of the order of the Supreme Court for the payment of such costs and without reference to the Court prepare a certificate of the fees and expenses incurred and paid for the preparation and transmission of the record and place it on the record of the Supreme Court.
- (2) Such certificate may also include Advocate's fee incurred in the high Court in connection with the application for leave and proceedings subsequent thereto and the Registrar may assess the amount thereof at a sum not exceeding Rs.250 having due regard to the circumstances of the case.
- 128 Where no time is fixed for any act to be done in the High Court in pursuance of these rules, the Registrar may in his discretion fix the time for the doing of such act and grant such further time as he may deem proper in the circumstances of each case.
- 129 (1) When Special Leave to appeal has been granted by the Supreme Court and intimation thereof is received in the High Court, notice of the grant of such special leave shall be given to the respondent, or to his pleader, if any, and a copy of this notice and the return thereto, together with a certificate by the Registrar that such notice has been duly served shall form part of the records.
- (2) Where the name of a person has been brought on the record of the appeal as respondent by an order of the Supreme Court and an intimation thereof is received in the High Court, notice of the fact shall be given to the said respondent through his pleader, if any, and a copy of the notice and the return thereto, together with a certificate by the Registrar that such notice has been duly served, shall form part of the record, if any, or shall be separately transmitted to the Supreme Court.
- (3) When the record or supplementary record in an appeal to the Supreme Court has been despatched to the Registrar of the Supreme Court, notice of a the despatch to the Registrar of the Supreme Court, notice of the despatch shall be given to the parties through their pleaders if any and by affixing a copy of the notice on the notice board of the Court and a copy of this notice and a certificate by the Registrar showing the fact and manner of service shall be transmitted to the Supreme Court.
- (4) The charge for serving the notices referred to in this rule shall be borne by the appellant and provisions of Chapter VII of the rules shall apply.
- 130 Where the preparation of the record has been done by the High Court at the direction of the Supreme Court, the party making deposits for translation, printing and preparation of the record shall be entitled to refund to the amount unspent on application made to the Registrar, after the disposal of the appeal by the Supreme Court.

SCHEDULE OF RATES  
(Rule 122)

	Rs.	Ps.

<b>Printing per page in Supreme Court Form:-</b>	<b>Actual charges to be ascertained according to the prevailing rates.</b>
<b>Cost of paper for printing</b>	<b>-do-</b>
<b>Translation per page of 24 lines</b>	<b>3.50</b>
<b>Copying and examining per page not exceeding 32 lines</b>	<b>1.50</b>
<b>Preparation of the record for the press and examination of the proofs for every printed page</b>	<b>1.00</b>
<b>Indexing for every 100 words</b>	<b>1.50</b>
<b>For Additional printed copy per page.</b>	<b>1.00</b>

## FORMS

Certificate that appellant has given security for the costs of the respondent. etc.

**(Rule 114)**

I, hereby certify that ..... has this day deposited in the office of the Registrar of the High Court the sum of Rs..... has security for the costs of the respondent in the appeal sought to be preferred to the Supreme Court against the decree of the High Court in suit No .....of ..... and has deposited the sum of Rs..... to defray the expenses of translating, transcribing, indexing, printing and transmitting to the Supreme Court a correct copy of the material portion of the record of the said suit.

Civil Miscellaneous Petition No. .... of 19.....

Application praying Inter alia, that the High Court will, on the fulfillment of the necessary conditions, be pleased to make the further order required by Order XLV, Rule 8 of the Code of Civil Procedure, in the appeal sought to be preferred by the petitioner to the Supreme Court against the decree of the High Court in Appeal No. .... of 19 ..... dated .....

#### ORDER

This application coming on for orders; upon perusing the application and upon hearing the arguments of ..... for the petitioner, and it appearing from the certificate of the Registrar of this Court, dated ..... 19 ..... that a the petitioner ..... fulfilled ..... the requirement of Order XLV, Rule 7, in regard to giving security for the costs of the respondent and making deposit of the amount required to defray the expenses of preparing a copy of the record for transmission to the Supreme Court ;this Court doth hereby declare that the appeal of the petitioner to the Supreme Court against the decree of this Court in Appeal No. .... of 19 ..... is admitted; and the Court doth further order that notice thereof be sent to the respondent, and that a correct copy of the material portions of the record of the said appeal be transmitted to the Supreme Court under the seal of the Court.

#### CHAPTER XI

<sup>15\*</sup>“Reference and applications under Income Tax Act, 1961, Wealth Tax Act, 1957 and Gift Tax Act, 1958”

The following Rules shall regulate the procedure to be adopted in regard to the reference and applications to the High Court under Section 256 (1) of the Indian Income Tax Act, Section 26 (1) of the Gift Tax Act, 1958 and Section 27 (1) of the Wealth Tax Act, 1957”.

- <sup>16\*1</sup> References under Section 256 (1) of Income Tax Act, 1961, Section 26 (1) of the Gift Tax Act, 1958 and Section 27 (1) of the Wealth Tax Act, 1957” by the Appellate Tribunal stating a case for the opinion of the High Court shall, on receipt thereof by the Registrar, be numbered as Referred Cases but no court-fee shall be leived on such references by the Registrar.
- 2 The registrar, Appellate Tribunal, shall together with the letter of reference submit two copies of the said letter and of any records necessary for the consideration of the reference.
- 3 (a) On the said reference being numbered as a Referred Case, the Registrar shall fix a day for the hearing of the case and

<sup>15\*</sup> Amended by ROC No. 341/SO/87 DT. 26.8.87 VIDE A.P. GAZETTE NO. 166, PART II (Ext.). dt. 26.8.1987.

<sup>16\*</sup> In Rule 1 for the word “Under Sec.66(1) of the Act” the words “Sec.256(1) of Income Tax Act, 1961, Sec. 26(1) of the Gift Tax Act, 1958 and Sec. 27(1) of the walth Tax Act 1957 are substituted vide Roc no. 341/SO/87 dt. 26.08.87 (A.P.Gazette No. 166 Part II (Ext.) dt.26.08.1987.



intimation thereof shall be given to the Appellate Tribunal and to the Commissioner of Income-tax.

- (b) Within a fortnight of the receipt of the intimation referred to in sub-clause (a) above the Commissioner of Income-tax shall file a memorandum giving particulars for service on the parties concerned in Form-I of Appendix IV of Appellate Side Rules with court-fee labels attached for the fees prescribed for service of notice on them.
- <sup>17\*4</sup> (a) Any application under Section 256 (2) of the Income Tax Act, 1961, Sec.26 (3) of the Gift Tax Act 1958 and sec. 27 (3) of the Wealth Tax Act, 1957” requiring the Appellate Tribunal to state a case for the opinion of the High Court shall be by a Civil Miscellaneous Petition. The petition shall be verified and shall contain in precise language a statement of the point of law upon which the case is to be stated and shall set out concisely the material facts and the proceedings which have taken place before the Income-tax Officers and the Appellate Tribunal Copies of the orders of the Income – Tax officer of the Appellate Assistant Commissioner of Income Tax and of the Appellate Tribunal, out of which the question of law arose and ( \* \* \* ) the order refusing to state a case shall be filed with the petition.
- <sup>18\*(b)</sup> An application under Section 256 (2) of the Income Tax Act, 1961, Section 26 (3) of the Gift Tax Act, 1958 and Section 27 (3) of the Wealth Tax Act, 1957” shall also be by a Civil Miscellaneous Petition which shall be verified and which shall set out concisely the proceedings which have taken place before the Appellate Tribunal. It shall be accompanied by two copies of the Orders of the Appellate Tribunal disposing of the case.
- <sup>19\*4-A</sup> An application Under Section 256 (2) of the Income Tax Act, 1961, Section 26 (3) of the Gift Tax Act, 1958 and Section 27 (3) of the Wealth Tax Act, 1957 filed by an assessee shall be accompanied by a certificate from the Income Tax Appellate Tribunal to the effect that he has not withdrawn his applications to the said Tribunal under Sec.256(3) of the Income Tax Act, 1961, Sec.26 (3) of Gift Tax Act, 1958 and Sec.27(3) of the Wealth Tax Act 1957.
- 5 With the petition, shall be filed two spare copies thereof and of the orders referred to in Rule 4 supra. The two spare copies of the petition and orders shall be nearly typed on substantial white paper, paged, indexed and stitched in book form. The petition shall also be accompanied by a memorandum giving particulars for service on the respondent in Form No.1 of Appendix IV, Appellate Side Rules, with

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<sup>17\*</sup> In Rule 4 (a) for the words “Sec.66(2) of the Act, “Sec .256 (2) of I.T. Act, 1961, Sec.26 (3) Gift Tax Act, 1958, and Sec.27(3) of W.T.Act, 1957 are substituted. In the some rule 4 (a),the words and numbers “under Sec.33(4) of the Act are deleted and for the words and numbers under Sec.66 of the Act” the words” “the order” are substituted vide ROC No. 341/SO/87 dt.26.08.1987. It is published in A.P. Gazette No. 166 Part.II (Ext.) dt. 26.08.87.

<sup>18\*</sup> In Rule 4 (b) for the words and numbers i.e. “Sec.66(3) of the Act”, the words and numbers i.e Sec.256 (2) of the I.T.Act, 1961,Sec.26(3) of Gift Tax Act, 1958, and sec.27(3) of the W.T.Act, 1957 “are substituted vide ROC.No. 341/SO/87 dt.26.08.1987.

<sup>19\*</sup> Rule 4-A is substituted with the new words and numbers in the existing Rule 4-A vide ROC.No. 341/SO/87 dt.26.08.87.

Court-fee labels attached for the fees prescribed for Service of notice on him.

6 As soon as the application under Section 256 (2) of the Income Tax Act, 1961 or Section 26 (3) of the Gift Tax Act, 1958, or Section 27 (3) of the Wealth Tax Act, 1957 is numbered, it shall be posted for admission before a Bench of two Judges who shall direct notice of final hearing of the said petition to be issued to the respondent or respondents if they are satisfied that the decision of the Appellate Tribunal is not prima facie correct and the said application shall thereupon be heard for final hearing as soon as the respondents are served. If the Bench hearing the application is satisfied with the correctness of the decision of the Appellate Tribunal, it shall dismiss the application after hearing the petitioner.

7 Either the Income Tax Department or the assessee may with the permission of the Court consolidate and file one single application under Section 256 (2) of the Income-Tax Act, 1961, Section 26 (3) of the Gift Tax Act, 1958, and Section 27 (3) of the Wealth Tax Act, 1957 if the order of the Appellate Tribunal relates to the same assessee and for the purpose of such consolidation, the petitioner shall indicate the reason for such consolidation and also the cases disposed of by the Tribunal which form a batch.

When the Income-Tax Tribunal disposes of a number of appeals relating to the same assessee but relating to different assessment years under common order, it shall be open either to the Income-Tax Department or to the assessee to file only one application provided the questions of law and fact arising in the orders of the Tribunal are common and the Court permits the Income-Tax Department or the assessee to do so.

<sup>20</sup>\*7-A The procedure prescribed under Section 148-A C.P.C. for filing Caveat opposing the application at the stage of admission shall be applicable to the proceedings posted for admission under these Rules.

8 All cases referred or stated by the Appellate Tribunal shall, as far as possible be divided, into paragraphs, numbered consecutively and shall concisely state such facts and refer to such documents, with copies of the latter annexed, as may be necessary to enable the Court to decide the question raised thereby.

9 The Appellate Tribunal shall settle the case in its final form, forward the case as thus settled to the High Court and supply three copies thereof to the commissioner of Income-tax and the assessee, intimating to them at the same time the date on which the case stated by the Tribunal was sent to the High Court.

10 Upon the argument of such reference or petition, the Court and the parties shall be at liberty to refer to the whole of the contents of the documents annexed to the case.

11 The statement of the case shall set out in the concluding paragraph thereof the point of law to be decided as stated in the application of the assessee or of the Commissioner of Income-tax or any modified form thereof which the High Court may have ordered.

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<sup>20</sup>\* Rule 7-A is newly incorporated vide ROC No.341/SO/87 dt.26.08.87

- 12 **The Court disposing of the case shall fix the fees payable by or to either party in its absolute discretion.**

## ANNEXURE

Form of Notice under Rule 6  
In the High Court of Judicature, Andhra Pradesh, Hyderabad.  
Appellate Side  
**Referred Case No. .... of 19 .....**

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**C.M.P. No. .... of 19 .....**  
**Applicant in ..... On the file**  
**Of the Appellate Tribunal**  
**Petitioner**  
**Versus**

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**Respondent in ..... on the**  
**File of the Appellate Tribunal**

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**Respondent.**

**Take notice that a case has been stated and referred by the Appellate Tribunal for the opinion of the Honourable Judges of the High Court under date the .....day of .....19 ..... Or that a petition has been made to the High Court on the ..... day of ..... 19 ..... By the above-named petitioner to require the Appellate Tribunal to state a case and refer it to the High Court for the opinion of the Honourable Judges or to require the Appellate Tribunal to treat the application made by him to the Appellate Tribunal under Section 256(2) of the Income Tax Act, 1961, Section 26(3) of the Gift Tax Act, 1958 ; and Section 27(3) of the Wealth Tax act, 1957 as made within the prescribed time. You are hereby required to appear before the said High Court on the ..... day of .....19 ..... In person or by a duly authorized pleader and be prepared to argue the said reference or petition and that, in default of your appearance, the said reference or petition may be heard or determined in your absence.**

**High Court of the Andhra Pradesh**  
**Date ..... 19 .....**

**Assistant Registrar,**  
**Judicial Department.**

## 21\*CHAPTER XI-A

**The following rules are framed to regulate the procedure to be adopted with regard to proceedings to the High Court under Sections 22 and 23 of the A.P. General Sales Tax Act, 1957.**

- 1 **All Tax Revision Cases filed under Section 22 of the Andhra Pradesh General Sales Tax Act, 1957 shall be accompanied by a Memorandum of grounds a copy of which shall be served on the Government Pleader for Commercial Taxes or in the office of the**

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<sup>21\*</sup> Chapter XI-A is newly added by framing rules under A.P.General Sales Tax Act, 1957 vide ROC.No.918/SO/87 dt.26.08.87, published in A.P.Gazette No.166 (PartII (Ext.) dt. 26.08.1987.

**Government Pleader alongwith any material papers filed with such Tax Revision Case.**

- 2 **All Special Appeals under Section 23 of the A.P. General Sales Tax Act, 1957 shall be in the form of Memorandum of Appeal and a copy of such Memorandum together with all material papers on which the appellant is relying, shall be served on the Government Pleader for Commercial Taxes or in the Office of the Government Pleader as the case may be.**
- 3 **Notice shall be given to the Government Pleader for Commercial Taxes in all Applications for interim relief filed either in Tax Revision Cases under Section 22 of the Act or in Appeals under Section 23 of the Act and no Tax Revision Case or Special Appeal either under Section 22 or under Section 23 shall be numbered and posted for admission unless the Memorandum of Revision or appeal as the case may be bears endorsement of such service referred to in these Rules.**

## CHAPTER XII

### Miscellaneous

137. **[Omitted]**
138. **When any act has not been done within the time lawfully appointed for that purpose by the Registrar and an application to the Court therefore becomes necessary, such application shall be made by petition. Any facts required to be proved in support of such petition shall be ordinarily proved by affidavit and such petition and affidavit (if any) shall be filed in the Registrar's Office before 4.0'clock in the afternoon of the day preceding that fixed for the sitting of the Court before which the application is to be made.**
139. **The forms given in Appendix IV shall be used for the purposes therein mentioned.**
140. **The Office of the Registrar shall be open for the transaction of business from 11 a.m. to 4 p.m. on all days except Sundays and holidays. On Saturdays the office shall be closed for money transactions at 1 p.m.**
141. **Omitted.**
142. **When papers bearing court-fee labels are filed each set of papers filed at one time in a case must be accompanied by a form of receipt in duplicate duly filled up for the amount of the court-fee paid. The receipt shall be in a the printed form available for sale at the Registrar's office. The receiving clerk shall, after verifying the correctness of the particulars entered in the receipt, affix the date stamp to the original and duplicate, initial them and return the original to the person filing the papers.**
143. **Any party, dissatisfied with the decision of the Taxing Officer under Rules 43 and 48 of the Practitioner's Fees Rules, may within three days from the date of the order of the Taxing Officer apply to Court by petition for a review of the order.**

APPENDIX I

Enactments referred to in the Introductory Rule

1. **24 and 25 Vic., c, 104-Sections 13 and 14.**
2. **The Letters patent of the High Court of Judicature at Madras 1865.**
3. **The Code of Civil Procedure, 1908 and the Acts amending the Same.**
4. **The Constitution of India.**
5. **The Andhra State Act, 1953 (Central Act, XXX of 1953).**

APPENDIX II

**Constitution of the High Court of Andhra Pradesh  
The Andhra state act, 1953**

**(XXX of 1953)**

**\* \* \* \* \***

**CONTITUTION OF THE HIGH COURT OF ANDHRA  
THE ANDHRA STATE ACT, 1953**

(XXX of 1953)

\* \* \* \* \*

PART IV  
HIGH COURTS

**28. High Court for Andhra:- (1) As from the 1<sup>st</sup> day of January, 1956, or such earlier date as may be appointed under sub section (2), there shall be a separate High Court for the State of Andhra (hereinafter referred to as "The High Court of Andhra").**

**(2) The President may, if a resolution recommending the establishment of a separate High Court for the State of Andhra has, after having been adopted by the Legislative Assembly of that state, been submitted to him, appoint, by notification in the Official Gazette, a date earlier than the 1<sup>st</sup> day of January, 1956, for the purpose of sub-section (1).**

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GOVERNMENT OF ANDHRA  
ABSTRACT

**COURTS – High Court of Andhra – Establishment of – Appointment of the date  
– President's Notification – Republished.**

LAW DEPARTMENT

G.O.Ms.No.661  
Read the following:-

Dated the 25<sup>th</sup> June, 1954

From the Government of India, Ministry of Home Affairs, letter No.11/6/54 – Judicial, dated 8-6-54.

ORDER:

The following notification of the Government of India will be republished in the Andhra Pradesh:

NOTIFICATION

A resolution recommending the establishment of a separate High Court for the State of Andhra with effect from 5<sup>th</sup> July, 1954, having been adopted by the Legislative Assembly of that state, and the resolution so adopted having been submitted to the President under sub-section (2) of section 28 of the Andhra State Act, 1953 (30 of 1953) the President hereby appoints the 5<sup>th</sup> July, 1954, as the date on which a separate High Court for the State of Andhra shall be established.

(BY ORDER OF THE GOVERNOR)

B.CH.NARAYANA MURTHY,  
Secretary to Government.

**(3) The date mentioned in sub-section (1) or, if an earlier date is appointed under sub-section (2), the date so appointed is hereinafter referred to as the 'prescribed day'.**

**\* (4) The principal seat of the High Court of Andhra shall be at such place as the Governor of Andhra may, before the prescribed day, order, appoint:**

Provided that if a resolution recommending any place for such principal seat is adopted by the Legislative Assembly of Andhra such place shall be appointed by the Governor as the principal seat.

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GOVERNMENT OF ANDHRA  
ABSTRACT

**COURTS – High Court of Andhra – Establishment of – Appointment of the principal seat of High Court – Notified.**

**LAW DEPARTMENT**

**G.O.Ms.No.660**

**Dated the 25<sup>th</sup> June, 1954**

**Read the following:-**

**From the Legislative Secretariat U.O.Note No. 421/54-2-AL, dated 1-3-1954.**

**From the Government of India, Ministry of Home Affairs, Letter No.11/6/54 – Judicial, Dated 8-6-1954.**

**ORDER:**

**The appended notification will be published in the Andhra Gazette.**

APPENDIX  
NOTIFICATION

**Whereas under the proviso to sub-section (4) of section 28 of the Andhra State Act, 1953 (Central Act XXX of 1953), if a resolution recommending any place for the principal seat for the High Court of Andhra is adopted by the Legislative Assembly for Andhra, such place shall be appointed by the Governor of Andhra as the principal seat.**

**AND WHEREAS the Legislative Assembly of Andhra has on the 1<sup>st</sup> March, 1954 adopted a resolution recommending that the principal seat of the High Court of Andhra shall temporarily be at Guntur in the Guntur District:**

**Now, THEREFORE in exercise of the powers conferred by sub-section (4) of the said section 28 and in pursuance of the resolution aforesaid, the Governor of Andhra hereby appoints Guntur in the Guntur District temporarily to be the principal seat of the High Court of Andhra.**

**(BY ORDER OF THE GOVERNOR)**

**B.CH.NARAYANAMURTHY,**

**Secretary to Government.**

**29. Judges of the Andhra High Court:- (1) Such of the Judges of the High Court at Madras holding office immediately before the prescribed day as may be determined by the President shall, on that day, cease to be Judges of the High Court at Madras and become Judges of the High Court of Andhra.**

**(2) The persons who by virtue of sub-section (1) become Judges of the High Court of Andhra shall, except in the case where any such person is appointed to be the Chief Justice of that High Court, rank in that court according to the priority of their respective appointments as Judges of the High Court at Madras.**

**(3) Any person who by virtue of sub-section (1) becomes a Judge of the High Court of Andhra shall, except in the case where a Judge other than the Chief Justice of the High Court at Madras is appointed to be the Chief Justice of the High Court of Andhra, continue to be entitled to receive in respect of time spent on actual service as a Judge of the High Court of Andhra, the special pay which he was drawing immediately before the prescribed day under sub-paragraph (2) of paragraph 10 of the second schedule to the Constitution.**

30. Jurisdiction of Andhra High Court:- The High Court of Andhra shall have, in respect of the territories for the time being included in the State of Andhra, all such original, appellate and other jurisdiction as, under the law in force immediately before the prescribed day, is exercisable in respect of the said territories or any part thereof by the High Court at Madras.

31. Power to enroll advocates, etc:- (1) The High Court of Andhra shall have the like power to approve, admit, enrol, remove, and suspend advocates and attorneys, and to make rules with respect to advocates and attorneys, as are, under the law in force immediately before the prescribed day, exercisable by the High Court at Madras.

(2) The right of audience in the High Court of Andhra shall be regulated in accordance with the like principles as, immediately before the prescribed day, are in force with respect to the right to audience in the High Court at Madras:

Provided that subject to any rule made or direction given by the High Court of Andhra in the exercise of the powers conferred by this section, any person who immediately before the prescribed day is an advocate entitled to practice or an attorney entitled to act in the High Court at Madras shall be recognized as an advocate or an attorney entitled to practice or to act, as the case may be, in the High Court of Andhra.

32. Practice and procedure in Andhra High Court:- Subject to the provisions of this part, the law in force immediately before the prescribed day with respect to practice and procedure in the High Court at Madras shall, with the necessary modifications, apply in relation to the High Court of Andhra, and accordingly that High Court shall have all such powers to make rules and orders with respect to practice and procedure as are immediately before the prescribed day exercisable by the High Court at Madras.

Provided that any rules or orders which are in force immediately before the prescribed day with respect to practice and procedure in the High Court at Madras shall, until varied or revoked by rules or orders made by the High Court of Andhra, apply with the necessary modifications in relation to practice and procedure in the High Court of Andhra as if made by that court.

33. Custody of the seal of the Andhra High Court:- The law in force immediately before the prescribed day with respect to the custody of the seal of the High Court at Madras shall, with the necessary modifications, apply with respect to the custody of the seal of the High Court of Andhra.

34. Form of Writs and other Processes:- The law in force immediately before the prescribed day with respect to the form of writs and other processes used, issued or awarded by the High Court at Madras shall, with the necessary modifications, apply with respect to the form of writs and other processes used, issued or awarded by the High Court of Andhra.

35. Powers of Judges:- The law in force immediately before the prescribed day relating to the powers of the Chief Justice, single Judges and Division Courts of the High Court at Madras and with respect to all matters ancillary to the exercise of those powers shall, with the necessary modifications, apply in relation to the High Court of Andhra.

36. The place of sitting of the High Court:- The Judges and Division Courts of the High Court of Andhra may sit at such place or places in the State of Andhra other



than its principal seat as the Chief Justice may, with the approval of the Governor of Andhra, appoint.

37. Procedure as to appeals to the Supreme Court:- The law in force immediately before the prescribed day relating to appeals to the Supreme Court from the High Court at Madras, and the Judges and Division Courts thereof, shall, with the necessary modifications apply in relation to the High Court of Andhra.

38. Transfer of proceedings from Madras High Court to Andhra High Court:- (1) Except as hereinafter provided, the High Court at Madras, shall as from the prescribed day, have no jurisdiction in respect of the state of Andhra.

(2) Such proceedings pending in the High Court at Madras immediately before the prescribed day as are certified, whether before or after that day, by the Chief Justice of that High Court having regard to the place of accrual of the cause of action and other circumstances to be proceedings which ought to have been heard and decided by the High Court of Andhra shall as soon as may be after such certification be transferred to the High Court of Andhra.

(3) Notwithstanding anything contained in sub-sections (1) and (2) of this section or in Section 30, but save as hereinafter provided, the High Court at Madras shall have, and the High Court of Andhra shall not have, jurisdiction to entertain, hear, or dispose of appeals, applications for leave to appeal including leave to appeal to the Supreme Court, applications for review and other proceedings where any such proceedings seek any relief in respect of any order passed by the High Court at Madras before the prescribed day.

Provided that if after any such proceedings have been entertained by the High Court at Madras, it appears to the Chief Justice of that High Court that they ought to be transferred to the High Court of Andhra he shall order that they shall be so transferred and such proceedings shall thereupon be transferred accordingly.

(4) Any order made by the High Court at Madras:-

(a) before the prescribed day, in any proceedings transferred to the High Court of Andhra by virtue of sub-section (2), or

(b) in any proceedings with respect to which the High Court at Madras retains jurisdiction by virtue of sub-section (3) shall for all purposes have effect, not only as an order of the High Court at Madras, but also as an order made by the High Court of Andhra.

39. Savings:- Nothing in this part shall affect the application to the High Court of Andhra of any provisions of the Constitution, and this part shall have effect subject to any provision that may be made on or after the prescribed day with respect to that High Court by any Legislature or other authority having power to make such provisions.

40. Transitional provisions:- (1) The provisions of this section shall have effect with respect to the period beginning on the appointed day and ending immediately before the prescribed day.

(2) The jurisdiction of the High Court at Madras shall extend to the state of Andhra, and the said High Court, shall in relation to the territories of that State continue to have such jurisdiction as it had immediately before the appointed day.

\* \* \* \* \*

STATES REORGANISATION ACT, 1956  
(ACT XXXVII OF 1956)

PART V

HIGH COURTS

X                                    x                                    x                                    x                                    x                                    x

65. High Court of Andhra Pradesh:- (1) As from the appointed day.—

(a) the jurisdiction of the High Court of the existing State of Andhra shall extend to the whole of the territories transferred to that state from the existing State of Hyderabad.

(b) the said High Court shall be known as the High Court of Andhra Pradesh; and

(c) the principal seat of the said High Court shall be at Hyderabad.

(2) All proceedings pending in the High Court of Hyderabad immediately before the appointed day other than those certified by the Chief Justice of that High Court under sub-section (2) of section 59 or under sub-section (2) of section 62, shall stand transferred to the High Court of Andhra Pradesh.

(3) Any order made by the High court of Hyderabad before the appointed day in any proceedings transferred to the High Court of Andhra Pradesh by virtue of sub-section (2), shall, for all purposes, have effect not only as an order of the High Court of Hyderabad but also as an order made by the High Court of Andhra Pradesh.

(4) Any person who, immediately before the appointed day is an advocate entitled to practice in the High Court of Hyderabad, shall, as from the appointed day be recognized as an advocate entitled to practice in the High Court of Andhra Pradesh:

Provided that if any such person makes, within one year from the appointed day, an application to the High Court of Bombay, or to the High Court of Mysore for being recognized as an advocate entitled to practice in that High Court, he shall be so recognized, and on such recognition, he shall cease to be recognized as an advocate entitled to practice in the High Court of Andhra Pradesh.

X                    X                    X                                    X                                    X                                    X                                    X

**RULES TO REGULATE PROCEEDINGS UNDER THE SPECIAL MARRIAGE ACT.**

Rules to Regulate Proceedings under the Special Marriage Act.

In exercise of the powers conferred by Section 41 of the Special Marriage Act, 1954 (Central Act No.43 of 1954) the High Court hereby makes the following rules to regulate proceedings under the said Act:-

1. Form of proceedings:- The following proceedings under the Act shall be initiated by original petitions:-

- (i) under Section 22 for restitution of conjugal rights;

- (ii) under sub-section (1) of Section 23 for judicial separation:
- (iii) under sub-section (2) of Section 24 for rescinding a decree for judicial separation;
- (iv) under sub-section (1) of Section 24 for declaring a marriage null and void.
- (v) under sub-section (2) of Section 24 for declaring the registration of a marriage of no effect.
- (vi) under Section 25 for annulment of a marriage by a decree of nullity;
- (vii) under Section 27 for divorce;
- (viii) under Section 28 for divorce by mutual consent;
- (ix) under Section 38 to make, revoke, suspend, or vary an order or provision regarding the custody, maintenance or education of minor children;

2. Every other proceeding subsequent to the position shall be initiated by an interlocutory application.

3. Every petition, application, affidavit, decree or order under the Act shall be headed by a cause title in Form No.1 and shall set forth the provision of the Act or of these rules under which it is made.

4. Contents of petitions:- (a) Every petition shall state:-

(i) the place and the date of the marriage, the names of the parties and their occupation, the place and address where parties reside or last resided together within the jurisdiction of the court;

(ii) the names of the children, if any, of the marriage together with their dates of birth or ages;

(iii) if prior to the date of the petition there has been any proceeding under the Act, between the parties to the petition, the full particulars thereof;

(iv) if the petition is for restitution of conjugal rights the date on or from which and the circumstances under which the respondent withdraw from or terminated conjugal relationships with the petitioner;

(v) if the petition is for judicial separation or divorce the matrimonial offence alleged or other grounds upon which the relief is sought, together with full particulars thereof so far as such particulars are known to the petitioner, e.g:-

- (1) in the case of alleged desertion the date and the circumstances under which it began;
- (2) in the case of presumption of death, the last place where the parties lived together and the date when the place where the respondent was last seen or heard of as alive and the steps if any, taken to ascertain his whereabouts;
- (3) in the case of cruelty or adultery the specific acts of cruelty or adultery and the occasions when and the places where such act were committed;

- (4) in the case of incurable unsoundness of mind, the time when such unsoundness began to manifest itself, the nature and period of any curative steps taken, together with the name and address of the person who treated for such unsoundness of mind;
  - (5) in the case of leprosy, or venereal disease in a communicable form when such ailment began to manifest itself, the nature and the period of the curative steps taken together with the name and address of the person who treated for such ailment and that such ailment was not contracted from the petitioner.
  - (6) If the petition is for a decree of nullity of marriage on the ground specified in clause (ii) or clause (iii) of Section 25 of the Act, the time when the facts relied on were discovered and whether or not marital intercourse with the consent of the petitioner took place after the discovery of the said facts.
- (b) The petition shall set out at the end, the relief or reliefs sought, including any claim for:-
- (i) damages against the co-respondent,
  - (ii) custody care and maintenance of children,
  - (iii) permanent alimony maintenance, and
  - (iv) costs.

Where a claim is made under clause (iii) the petitioner shall specify the annual or capital value of the husband's property, the amount of his annual earnings and other particulars relating to his financial resources.

5. An application under the proviso to section 29 of the Act for leave to present a petition for divorce before three years have passed from the date of the marriage, shall be supported by an affidavit setting forth the circumstances relied on as constituting exceptional hardship to the petitioner or exceptional depravity on the part of the respondent.

6. When a petition is admitted the Chief Ministerial Officer of the Court shall assign a distinctive number to the petition and all subsequent proceedings on the petition shall bear that number.

7. Along with the petition, petitioner shall furnish a copy thereof for service on the respondent and if co-respondent has been impleaded, an additional copy for service on him, together with the fee prescribed under the court-fees Act for service of notices.

8. (i) Notice of the petition shall be in Form no.2 for settlement of issues and shall require the respondent and if a co-respondent if one is named in the petition, to enter appearance in person or by pleader and file a written statement not less than seven days before the day fixed in the notice.

(ii) The notice together with a copy of the petition shall be served on the respondent and the co-respondent if named, in the manner prescribed for service of summons in the suits, not less than 21 days before the day appointed therein.

9. Co-respondent:- Where a husband's petition alleges adultery on the part of respondent the alleged adulterer shall, if he is living, be made a co-respondent in the petition:

Provided, however, that in the case the adulterer's name, identity or whereabouts is unknown to the petitioner in spite of reasonable enquiries made and the Court is satisfied that it is just and expedient so to do, it shall on the application of the petitioner, dispense with the naming of the co-respondent.

10. Intervention:- (i) Any person other than a party to the petition seeking to show cause against granting the relief prayed for in the petition shall apply to the Court for leave to intervene. The application shall be supported by an affidavit setting forth the facts on the basis of which leave to intervene is prayed for.

(ii) Notice of the application together with a copy of the affidavit shall be served on all parties who shall be at liberty to file.

(iii) if after hearing all the parties, the Court grants leave, the intervener may take part in the trial subject to such terms and conditions as the Court may deem fit to impose.

(iv) if the Court is satisfied that the intervention was made without sufficient cause it may order the applicant to pay the whole or part of the cost occasioned by the intervention.

11. Damages and costs against co-respondent:- (i) Where damages are claimed the Court shall assess the damages and divert in what manner the damages if any awarded shall be paid or applied.

(ii) The Court may also direct that the whole or any part of the costs of the petition shall be paid by the co-respondent.

Provided that the co-respondent shall not be ordered to pay the petitioner's costs.

(1) if the respondent was, at the time of the adultery living apart from her husband and leading the life of a prostitute; or

(2) if the co-respondent had not, at the time of the adultery, reason to believe the respondent to be a married woman.

(iii) The Court may assess damages and make an order for payment thereof or of costs notwithstanding that the respondent or the co-respondent or both of them, have remained ex parte.

12. The Court dismiss a petition for divorce by mutual consent, if no motion is made by both the parties to the petition within the time prescribed in sub-section (2) of Section 28 of the Act.

13.(1) Appeals:- An Appeal to the District Court from the decision of the Marriage Officer under Section 8 or Section 17 of the Act shall be in the form of a memorandum which shall be accompanied by a certified copy of each of the following documents:-

(i) The notice of the intended marriage;

(ii) The objection recorded by the Marriage Officer; and

(iii) The decision of the Marriage Officer on the objection.

(2) The District Court may call for the other records of the enquiry from the Marriage Officer.

(3) The Memorandum of Appeal shall be accompanied also by the process-fee prescribed under the Court Fees Act for service of notice of the appeal on the objector.

(4) It shall be open to the District Court to take such additional evidence as it considers necessary in the interests of justice.

14.(1) Appeals to the High Court from the decrees and orders of the District Court shall be posted before a Bench of two Judges.

(2) Such appeals shall be governed by the Rules of the High Court, Appeals Side, as far as they may be applicable.

(3) In every such appeal notice shall be issued to the co-respondent and the intervener, if any.

FORM No:1

(Rule 3)

IN THE COURT OF THE DISTRICT JUDGE.

Original Petition No.    of 19 .

In the matter of the Special Marriage Act, 1954.

AB    .. Petitioner

CD    Respondent

EF    Co-respondent.

                                Petition under Section            of the Special Marriage Act, 1954 and rule            of  
the Rules under Special Marriage Act.

FORM No. II

IN THE COURT OF THE DISTRICT JUDGE \_\_\_\_\_

Original Petition No.    of 19

In the matter of the Special Marriage Act, 1954.

AB	Petitioner
CD	Respondent
EF	Co-respondent
To	
CD	Respondent
EF	Co-respondent

Petition presented on

Petition filed on

Notice issued on

WEREAS on the                    day of                    the abovenamed petitioner filed a  
petition against the respondent for

(specify the relief) you are hereby required to appear in this Court on the day of 19 at 10.45 a.m. in the forenoon in person or by pleader duly instructed and able to answer all material questions relating to the above proceeding.

Also take notice that in default of your appearance on the aforesaid day the issues will be settled as the petition heard and determined in your absence. You shall also bring with you or send by your pleader any documents which the petitioner desires to inspect and any documents on which you intend to rely in support of your defence.

You are required to file a written statement in Court on or before the day of 19 .

Given under my hand and the seal of the Court this                      day of                      19 .

District Judge

Note: A copy of the petition accompanies this notice.

The notice should be served not less than 21 days before the day fixed above for settlement of issues.

Should you apprehend your witnesses will not attend of their own accord you can have summons issued from this Court to compel the attendance of any witness and the producing of any document that you have a right to call on the witness to produce, on applying to the Court and on depositing the necessary expenses.

This notice has been taken out by Sri

Advocate/Pleader for the petitioner.

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## **RULES TO REGULATE PROCEEDINGS UNDER THE HINDU MARRIAGE ACT 1955**

### **(CENTRAL ACT, 25 OF 1955).**

Rules to Regulate under the Hindu Marriage Act, 1955

(Central Act of 1955).

In exercise of the powers conferred by Sections 14 and 21 of the Hindu Marriage Act, 1955 (Central Act 25 of 1955) the High Court hereby makes the following rules to regulate proceedings under the said Act:-

1. Definitions:- (i) "Act" means the Hindu Marriage Act, 1955 (Act 25 of 1955).  
(ii) "Court" means the Court mentioned in Section 3 (b) of the Act.
2. Form of Proceedings:- The following proceedings under the Act shall be initiated by original petition.
  - (i) under Section 9 for restitution of conjugal rights;



- (ii) under sub-section (1) of Section 10 for judicial separation
  - (iii) under sub-section (2) of Section 10 for rescinding a decree for judicial separation.
  - (iv) Under Section 11 for declaring a marriage null and void;
  - (v) Under Section 12 for annulment of a marriage by a decree of nullity;
  - (vi) Under Section 13 for divorce,
  - (vii) Under Section 26 to make orders and provisions with respect to the custody, maintenance and education of children.
3. Every other proceeding subsequent to the petition shall be by an interlocutory application.
  4. Every petition, application, affidavit, decree or order under the Act shall be headed by a cause title in Form No.I and shall set forth the provision of the Act under which it is made.
  5. Petition:- (a) Every petition under the Act shall be accompanied by a certified copy of the entry relating to the marriage in question in the Hindu Marriage Register maintained under Section 8 of the Act, where such marriage has been registered under the Act.
- (b) Every petition for divorce on any of the grounds mentioned in clause (viii) or (ix) of sub-section (1) of Section 13 of the Act shall be accompanied by a certified copy of the decree for judicial separation or for restitution of conjugal rights as the case may be.
6. Contents of Petitions:- (1) Every petition shall state:-
    - a) the place and the date of the marriage,
    - b) the names of the parties and their occupation;
    - c) the place and address where the parties reside or last resided together within the jurisdiction of the Court.
    - d) The names of the children, if any, of the marriage, together with their dates of birth or ages;
    - e) If prior to the date of the petition there has been any proceeding under the Act between the parties to the petition, the full particulars thereof.
    - f) If the petition is for restitution of conjugal rights, the date on or from which and the circumstances under which the respondent withdrew from the society of the petitioner;
    - g) If the petition is for judicial separation, the matrimonial offence alleged or other grounds upon which the relief is sought, together with full particulars thereof so far as such particulars are known to the petitioner, e.g.,
    - (i) in the case of alleged desertion, the date and the circumstances under which it began;

- (ii) in the case of cruelty or sexual intercourse with any person other than his or her spouse, the specific acts of cruelty or sexual intercourse and the occasion when and the places where such acts were committed, together with the name and address of the person or persons with whom the respondent had sexual intercourse.
- (iii) In the case virulent form of leprosy or venereal disease in a communicable form when such ailment began to manifest itself, the nature and the period of the curative steps, taken together with the name and address of the person who treated for such ailment and in the case of venereal disease that it was not contracted from the petitioner.
- (iv) In the case of unsoundness of mind, the time when such unsoundness began to manifest itself, the nature and period of any curative steps taken, together with the name and address of the person who treated for such unsoundness of mind;
- (h) if the petition is for divorce, the matrimonial offence alleged or other grounds upon which the relief is sought, together with full particulars thereof so far as such particulars are known to the petitioner, e.g.
  - (i) In the case of adultery, the specific acts of adultery and the occasion when and place where such acts were committed, together with the name and address of the person with whom such adultery was committed.
  - (ii) In the case of incurable unsoundness of mind, the time when such unsoundness began to manifest itself, the nature and period of any curative steps taken, together with the name and address of the person who treated for such unsoundness of mind.
  - (iii) In the case of virulent and incurable form of leprosy or venereal disease in a communicable form, when such ailment began to manifest itself, the nature and the period of any curative steps taken, together with the name and address of the person who treated for such ailment.
  - (iv) In the case of presumption of death, the last place where the respondent was last seen or heard of as alive and the place where the respondent was last seen or heard of as alive and steps, if any, taken to ascertain his or her whereabouts;
  - (v) If the petition is for a decree of nullity of marriage on the ground specified in clause (c) or clause (d) of sub-section (1) of Section 12 of the Act the time when the facts relief on were discovered and whether or not marital intercourse with the consent of the petitioner took place after the discovery of said facts.
- (2) The petition shall set out at the end the relief or reliefs sought, including any claim for:-
  - (i) custody, care alimony and maintenance of children,
  - (ii) permanent alimony and maintenance.
  - (iii) Costs.

Where a claim is made under clause (ii) above, the petition shall specify the annual or capital value of the respondent's property, the amount of his or her annual

earnings and other particulars relating to his or her financial resources and the particulars relating to the petitioner's income and other property.

7. Contents of written statement:- Every written statement in answer to a petition for restitution of conjugal rights shall set out the particulars as far as may be, set out in clauses (g), (h) and (i) of sub rule (1) of Rule 6.
8. Co-respondent:- (1) Where a husband's petition alleges adultery on the part of respondent, the alleged adulterer shall, if he is living, be made a co-respondent in the petition.

Provided, however, that in case the adulterer's name, identity or whereabouts is unknown to the petitioner in spite of reasonable enquiries made and the Court is satisfied that it is just and expedient so to do, it shall, on the application of the petitioner, dispense with the naming of the co-respondent.

- (2) In every petition under Section 13(2) (i) of the Act, the petitioner shall make "the other wife" mentioned in that section a co-respondent.
  - (3) In every petition under Section 11 of the Act on the ground that the condition in Section 5 (i) is contravened, the petitioner shall make the spouse alleged to be living at the time of the marriage a co-respondent.
9. Damages and costs against co-respondent:- (1) Where damage are claimed, the court shall assess the damages and direct in what manner the damages, if any, awarded shall be paid or applied.
  - (2) The Court may also direct that the whole or any part of the costs of the petition shall be paid by the co-respondent:

Provided that the co-respondent shall not be ordered to pay the petitioner's costs:-

- (a) if the respondent was, at the time of the adultery, living apart from her husband and leading the life of a prostitute: or
  - (b) if the co-respondent had not, at the time of the adultery, reason to believe the respondent to be a married woman.
- (3) The Court may assess damages and make an Order for payment thereof or of costs not withstanding that the respondent or the co-respondent or both of them have remained ex parte.

10. Application for maintenance pendente lite, and for permanent alimony and maintenance:-

- (a) Every application for maintenance pendente lite, permanent alimony and maintenance, or for custody, maintenance and education expenses of minor children, shall state the average monthly incomes of the petitioner and respondent, the sources of these incomes, particulars of other movable and immovable property owned by them, the number of dependents on the petitioner and respondent and the names and ages of such dependents.
- (b) Such application shall be supported by an affidavit of the applicant.

11. Application for leave under Section 14 of the Act (1) Where any party to a marriage desires to present a petition for divorce within three years of such marriage, he or she

shall obtain leave of the Court under Section 14 of the Act on ex parte application made to the Court in which the petition for divorce is intended to be filed.

(2) The application shall be accompanied by the petition intended to be filed bearing the prescribed court fee and in accordance with the rules. The application shall be supported by an affidavit made by the petitioner setting out the particulars of exceptional hardship to the petitioner or exceptional depravity on the part of the respondent on the basis of which leave is sought.

(3) The evidence in such an application may, unless the Court otherwise directs, be given by affidavit.

(4) When the Court grants leave, the petition shall be deemed to have been duly filed on the date of the said order. The petitioner within a week of the date of the said order shall file sufficient number of copies of application for leave and order of the Court thereon and of the petition for divorce for service upon the respondents in the petition.

12. Service of copy of application for and order granting leave on the respondents and procedure after service:- (1) When the Court grants leave under the proceeding rule, a copy of the application for leave and order granting leave shall be served on each of the respondents along with the notice of the petition for divorce.

(2) (a) When the respondent desires to contest the petition for divorce on the ground that leave for filing the petition has been erroneously granted or improperly obtained, he or she shall set forth in his or her written statement the grounds with particulars on which the grant of leave is sought to be contested.

(b) The Court may, if it so deems fit, frame, try and decide the issue as to the propriety of the leave granted as a preliminary issue.

(c) The Court may, at the instance of either party, order the attendance for examination or cross-examination of any deponent in the application for leave under the proceeding rule.

13. When a petition is admitted, the Chief Ministerial Officer of the Court shall assign a distinctive number to the petition and all subsequent proceedings on the petition and all subsequent proceedings on the petition shall bear that number.

14. Along with the petition, the petitioner shall furnish a copy thereof for service on the respondent and if a co-respondent has been impleaded, an additional copy for service on him, together with the fee prescribed under the Andhra Court Fees and Suits Valuation Act, 1956. for service of notices.

15.(1) Notice of the petition shall be in Form No.II for settlement of issues and shall require the respondent and the co-respondent, if one is named in the petition, to enter appearance in person or by pleader and file a written statement not less than seven days before the day fixed in the notice.

(2) The notice together with a copy of the petition shall be served on the respondent and the co-respondent, if named, in the manner prescribed for service of summonses in suits not less than 21 days before the day appointed therein.

16. *Transmission of certified copy of the decree*: - The court shall send a certified copy of every decree for divorce or nullity or dissolution of marriage to the Registrar of Marriages in charge of the Hindu Marriage Register, if any.

17. (1) Appeals to the High Court from the decrees and orders of the District Court shall be posted before a Bench of two Judges.

(2) Such appeals shall be governed by the Rules of the High Court, Appellate Side, as far as they may be applicable.

(3) In every such appeal notice shall be issued to the co-respondent, if any.

Form No. I  
(Rule 4)

IN THE COURT OF THE DISTRICT JUDGE,

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IN THE CITY CIVIL COURT, HDYERABAD

Original Petition No.                      of 19

In the matter of the Hindu Marriage Act, 1955

AG    ...    ... Petitioner

CD    ...    ....Respondent

Petition under Section                      of the Hindu Marriage Act, 1955 and Rule  
of the rules under the Hindu Marriage Act.

**Form No. II**  
(Rule 15)

IN THE COURT OF THE DISTRICT JUDGE,

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IN THE CITY CIVIL COURT, HDYERABAD

Original Petition No.                      of 19

In the matter of the Hindu Marriage Act, 1955

AG    ...    ... Petitioner

CD    ...    ....Respondent

Petition presented on  
Petition filed on  
Notice issued on

WHEREAS on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, the above-named petitioner filed a petition against the respondent for \_\_\_\_\_ (specify the relief) you are hereby required to appear in this court on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ at 10.45 a.m. in the forenoon in person or by pleader duly instructed and able to answer all material questions relating to the above proceeding.

Also take notice that in default of your appearance on the aforesaid day the issue will be settled and the petition heard and determined in your absence. You shall also bring with you or send by your pleader any document which the petitioner desires to inspect and any documents on which you intend to rely in support of your defence. You required to file a written statement in court on or before the \_\_\_\_\_ day of 19\_\_\_\_.

Given under my hand and the seal of this court, this day of \_\_\_\_\_ 19\_\_\_\_.

*District Judge*

\_\_\_\_\_  
*Chief Judge.*

Note:- (1) A copy of the petition accompanies this notice.

(2) This notice should be served not less than 21 days before the day fixed above for settlement of issues.

(3) Should you apprehend that your witnesses will not attend of their own accord, you can have summons issued from this court to compel the attendance of any witness and the production of any document that you have a right to call on the witness to produce on applying to the court and on depositing the necessary expense.

This notice had been taken out by Sri Advocate/Pleader for the petitioner.

### **ADVOCATE FEE RULES**

*R.O.C.No.1327/SO/87:-* In exercise of the powers conferred by Art.227 of the Constitution of India and Section 27 of the Legal Practitioner's Act of 1879 and Section 34 (1) (a) of the Advocate Act, the High Court of Andhra Pradesh frames the following:

### **RULES**

1. These rules may be called Advocates' Fees Rules.
2. In these Rules unless the context otherwise requires:
  - (i) "Advocate" includes a Pleader authorized to practice in courts within the meaning of Advocates' Act;
  - (ii) "District Court" means and includes the highest court in the District and any other court equivalent to such court within the meaning of the Civil Courts Act and includes the Courts of the Chief Judge, Additional Chief Judges and the Chief Judge and the Additional Chief Judge of City Civil Causes Court with in the City of Hyderabad.
  - (iii) "Sub-Court" includes the Court of the Subordinate Judge in the Districts including the Additional Subordinate Judges and in the City of Hyderabad includes the Courts of the additional Judges, City Civil Court and Additional Judge, City Small Causes Court;

- (iv) "District Munsif Court" includes the courts of the District Munsif in the District and Assistant Judges in the City Civil Court.

**PART I SUBORDINATE COURTS:**

3. These rules shall govern the fee payable by the adversary in the courts subordinate to the High Court of Andhra Pradesh.

**IN SMALL CAUSE SUITS:**

4. In all suits triable by Court of Small Causes, the fee shall be 10% of the amount claimed subject to a minimum of Rs.100/-.

**IN ORIGINAL SUITS:**

5. In all money suits, the fee shall be calculated at the rate of 10% of the claim involved in such suits when it does not exceed Rs.10,000/-.
6. In all such suits referred to above when the claim involved exceeds Rs.10,000/- the fee payable shall be calculated at the rate of 10% of the claim involved on the first Rs.10,000/- and on next Rs.10,000/- at the rate of 7% and when the claim exceeds Rs.20,000/- as above and on the next Rs.30,000/- at the rate of 5% and on the balance at the rate of 2% of the claim on the balance.

Provided, however, that in all suits which are tried in batches four suits or more and where evidence is recorded is common and the suits are disposed of by a common judgment, the fee payable shall be 1/3<sup>rd</sup> of the fee admissible under this rule in each suit.

7. In all suits where any declaration of title to any property is involved along with any other consequential relief such as possession or injunction, the fee shall be fixed at the rate of 7% of the total value of the property taken as the value for the purpose of Court Fee and Suits Valuation Act, 1956 or any such Act for the time being in force subject to a minimum of Rs.500/- in the Court of District Munsif and a Minimum of Rs.1,500/- in other Courts and a maximum of Rs. 1,00,000/-.
8. In all suits for recovery of movable property or its value and in all suits for maintenance and annuities, the fee payable shall be fixed in the same manner as in the suits for money subject to a minimum of Rs.500/-.
9. In all suits for bare injunction, the fee shall be fixed as in money suits subject to a minimum of Rs.500/-.
10. In all suits for enforcement of an agreement of sale or any other relief under the Specific Relief Act, 1877, the fee shall be fixed as in suits for declaration of title to immovable property mentioned in Rule 3(d) and any other suit for recovery of possession under a contract of sale or otherwise or for the recovery of money under such a contract shall be treated likewise.
11. In all suits relating to casement, whether any compensation is sought or not, the fee shall be fixed at 10% of the value of the claim mentioned in

the plaint subject to a minimum of Rs.750/- and a maximum of Rs.10,000/-.

12. All suits for recovery of money based upon accounts shall be treated as suits for the recovery of money for the purpose of these rules and the fee shall be fixed as provided for such suits herein.
13. In all suits for dissolution of partnership and for partition of joint family properties or administration suits, fee shall fixed by the court at 5% of the valuation subject to a maximum of Rs.10,000/- irrespective of the other reliefs claimed therein.
14. In all other suits including suits relating to Trust property or property endowed and any other suit which was filed as on Original Petition initially but was subsequently converted into a suit as under the provisions of the Succession Act or Petitions filed for the grant of Probate of Letters of Administration, on such conversion into a suit, the fee shall be fixed at 3% of the value of the property involved or the Estate subject to a maximum of Rs.10,000/-.
15. In all other original Petitions relating to matrimonial causes, Land Acquisition matters, claims regarding Motor Vehicle Accidents, Claims under the Arbitration Act and grant of Succession Certificate or Letters of probate the fee shall be fixed by the Court are not less than Rs.1,500/- not more than Rs.5,000/- in its discretion, subject to the provision of Rule 18 below.
16. In all the above matters where the suit claims or petitions including original petitions mentioned above are settled out of court or adjusted at any time before the judgment is pronounced or otherwise disposed of without contest, half of the fee payable under Rule 15 subject to a minimum of Rs.1,000/- shall be allowed.
17. All suits or other proceedings of a substantive nature which are dismissed for default shall be treated as money suits and the court shall fix the fee payable to the other party at half the fee payable on contest.
18. In all original petitions whether it is matrimonial cause, or under the Succession Act or a claim under the Land Acquisition Act or under the Arbitration Act, if the said proceeding or petition is not contested half of the fee payable otherwise subject to a minimum of Rs.1,000/- shall be paid as fee under these rules.
19. Whenever any suit is re-heard on review, the successful party shall be entitled to half of the fee taxable according to these rules in such suit and the same shall apply to any original petition named above.
20. In all appeals against any judgment, order or decree filed in any District Court, the fee shall be fixed in the same manner as in the trial court as provided above. For the purpose of this rule in a Civil miscellaneous Appeal fee shall calculated as in Rule 22 below.
21. In all execution petitions filed for the first time, the court shall fix a fee which is  $\frac{1}{2}$  of the fee allowed in the suit or proceeding as the case may be under the above rules in case of contest and  $\frac{1}{4}$ <sup>th</sup> in cases where there is no contest.



22. In all interlocutory applications filed in any suit or other proceedings including petitions filed by third parties and petitions for withdrawal of money deposited in court either by any party to the suit or proceeding or by third party who is entitled to such withdrawal (including the Income-tax Department) the court shall fix a fee of not less than Rs.100/- subject to a maximum of Rs.500/-.

23. In the following special cases the fee shall be as noted below:

(a) (i) In inter-pleader suits the fee to be given to the advocate for original plaintiff shall be one-fourth of the fee prescribed under Rule 5, subject to a maximum of Rs.700/-.

(ii) In suit under order-XXXVI and XXXVII of the First Schedule to the Code of Civil Procedure where have to defend has not been granted the fee shall be half the fee prescribed under rule 5, subject to a maximum of Rs.700/-.

(b) (i) In declaratory suit where the subject matter in respect of which relief claimed is capable of valuation, the fee shall be according to the scale prescribed in rule (5). Where it is not so capable of valuation, the Court shall fix a fee subject to a minimum of Rs.500/- in the court of District Munsif and a Maximum of Rs.1000/- and Rs.500/- as the minimum and Rs.2,500 in a Sub Court or a District Court.

24. In suit under Section 7 of the Indian Registration Act, the court shall at its discretion fix a fee having or regard to the time taken in the case, a minimum of Rs.250 and a Maximum of Rs.1,000.

25. In all proceedings under the insolvency Act, if the proceedings are contested the fee shall be fixed not at less than Rs.1000 and in case there is no contest the court shall fix a fee of Rs.500.

26. In all applications under the Andhra Pradesh Buildings (L.R.&E) Control Act, and the appeals arising from any order thereupon, the fee shall be fixed at not less than Rs.500/- and not more than Rs.2,000/-.

27. In all election petitions, filed in the lower court under any Act, the fee shall be fixed at not less than Rs.1,000/- and not more than Rs.5,000/-.

28. In all Suits not otherwise provided for and of Whatever nature the court shall fix a fee of not less than Rs.500 and not more than Rs.2000/.

29. In all other cases the court shall fix a fees of not less than Rs.500/ and not more than 5000/.

30. In all other Proceedings under any Act and in any Suit when any Suit is claimed as damages the court shall fix the fee as in a money Suit.

31 .In all cases where the value of the claim exceeds Rs.5000/and in all cases where an Advocate with standing of more than 15 years the Bar is assisted by a Junior Advocate appearing along with him from the stage of pleading an additional fee calculated at 1/3<sup>rd</sup> of the fee allowable according to these Rules shall be fixed by the Court.

32. Where any suit is remanded on appeal and heard afresh in a court Subordinate to the High Court half of the fee prescribed under these rules for the suit of the said nature shall be fixed.

## **PART II HIGH COURT**

33. The rules framed as under shall regulate the fee payable to the Advocates appearing in the High court of Andhra Pradesh.
34. In all appeals arising out of suits for money or any other suit or other proceedings decided by a court subordinate to the High Court including appeals under clause 15 of the Letters Patent the fee shall be fixed at the same rate as in the trial court.
35. The fee shall be fixed at half the amount if the appeals in un-contested at the time of the hearing or if the appeal is withdrawn before or during the hearing thereof or if the appeal is disposed of as in fructuous in all cases where costs are granted.
36. In all Civil Miscellaneous Appeal filed in the High Court the fee shall be fixed as in the lower court in the proceedings from out of which such civil Miscellaneous Appeal arise.
37. In all Civil Miscellaneous Petitions in the appeal or other proceedings the Court shall fix the fee payable to the successful party at a minimum of Rs. 160/- whenever costs are directed to be paid in such petitions,
38. Whenever a counsel of more than 20 years standing at the Bar is assisted by a Junior counsel from the time when appearance is entered, an additional fee amounting to  $\frac{1}{3}$ <sup>rd</sup> of the fee payable to the Senior Counsel shall be fixed by the Court subject to a minimum of Rs.500/-.
39. In all petitions under Article 226 and Article 227 of the Constitution of India and in all appeals arising therefrom under Clause 15 of the Letters Patent, the Court shall fix such fees as it considers to be just and proper and irrespective of whether the petition or appeal as the case may be, is allowed, dismissed or disposed of.
40. For the Purpose of these rules whether relating to the fee to be fixed in the courts subordinate to High Court or in the High Court, the amount of valuation of the claim shall be as sent out in the plaint or Memorandum of appeal or cross objections and in applications under Article 226 and 227 of the Constitution of India, it shall not be necessary to set forth such valuation.
41. In all Election Petitions, filed in the High Court fee shall be fixed at not less than Rs.2,500/- for each contesting respondent.
42. In all Civil Revision Petitions and Second Appeals fee shall be at not less than Rs. 250/-.
43. In all proceedings not otherwise provided for, the costs shall be at the discretion of the court.

44. The fee payable in all cases shall be rounded off to the nearest ten rupees, four rupees or less being neglected and five rupees or more being shown as ten rupees.
45. The court shall order separate sets of fee only in cases where the parties advance or succeed on substantially independent grounds separate and specific to the party succeeding thereupon and only to the extent of the value of the property or the amount covered thereby provided, however, the court shall be at liberty to apportion amongst the parties, the fee payable in case of each contesting party whenever it is considered desirable and in all such cases it shall not be necessary that the total amount of fee so granted may or may not aggregate to the fee payable if the matter had been decided as if one set of fee was to be fixed.
46. The court of the District Munsif or any court of equivalent rank shall grant adjournment on such terms as to costs not exceeding Rs.100/- on any one occasion.
47. The court of the Subordinate Judge or any court equivalent rank shall grant adjournment subject to such terms as it may think fit regarding costs not exceeding Rs. 200/- on any one occasion.
48. The Court of the District Judge or any court of equivalent rank shall grant adjournment on such terms as it thinks fit regarding costs, which shall not exceed Rs.300/- on any one occasion.
49. In matters not provided for therein, the fee payable shall be in the discretion of the High Court and nothing in these shall be deemed to reduce the jurisdiction of the High Court to grant exemplary costs.
50. Every Advocate shall produce a certificate that he has received the fee claimed in the suit or appeal within one weeks from the date of the judgment.
51. The rules relating to the fee payable in the High Court shall be deemed to be the fee payable according to the Appellate Side Rules of the High Court of Judicature, Andhra Pradesh.
52. In all original side matters and company petitions and applications and any other matters which may brought up and tried, by the High Court as suit, the fee shall be not less than the fee prescribed for a suit of similar nature in the trial court and in all company petitions or other application's the fee shall be not less than Rs.2,500/- and not more than Rs.20,000/-.
53. In all matters tried by the Family Court under the Family Courts Act, no fee shall be fixed, provided however, that the court may if it is of the opinion that any party had been put to great hardship before or during the pendency of the proceedings, direct the other party to pay costs of not less than Rs.1,000/- and not more than Rs.5,000/- depending upon its discretion.
54. The rules already framed under the Legal Practitioners Act are hereby repealed.

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**RULES PREPARED UNDER SECTION 82 OF THE ARBITRATION AND CONCILIATION ACT, 1996:-**

*ROC.NO.203/SO-1/2000:-* In exercise of the powers conferred under section 82 of the Arbitration and Conciliation Act, 1996 (Act 26 of 1996) the High Court hereby makes the following Rules under Arbitration and Conciliation Act.

1. These Rules may called the "Andhra Pradesh Arbitration Rules, 2000".
2. They shall come into force from the date of their publication in the "Official Gazette."
3. In these Rules "Act" means the Arbitration and Conciliation Act, 1996. Other expressions not defined therein shall carry the same meaning as they do under section 2 of the Act.
4. (1) Every application under Sections 8,9,14,27,34 and 43 of the Act shall be duly signed and verified in the manner prescribed by Order VI, Rules 14 and 15 of the Code of Civil Procedure, 1908. It shall be divided into paragraphs, numbered consecutively and shall contain the name, description and place of residence of the parties. It shall state the provision of law under which it is filed and contain a statement in concise form –
  - (a) of the material facts constituting cause of action;
  - (b) of facts showing that the court to which the application is presented has jurisdiction;
  - (c) relief asked for ; and
  - (d) names and addresses of the persons liable to be affected by the application.

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

(2) A certified copy of the arbitration agreement and certified copies of the relevant documents shall be annexed to every such application.

(3) An application filed under Section 34 shall be accompanied by, besides certified copies of relevant material documents, a signed copy of the award.

- (i) The arbitrator/arbitrators who made such award shall also be joined as respondent/respondents to the applications; and
- (ii) If it is deemed necessary, the court may, subject to the provisions of Section 39 (2) of the Act, direct the arbitrator/arbitrators to file the original award along with all connected material documents including the minutes of the arbitral proceedings, if any, into the court.

5. An application for enforcement of an arbitral award under Section 36 or a foreign award under Sections 47 or 56 shall be signed and verified by the applicant or by some other person proved to the satisfaction of the Court to be acquainted with facts of the case, and shall contain in a tabular form the particulars prescribed in sub-rule (2) of Rule 11 of Order 21 of the Code of Civil Procedure, 1908. A signed copy of the award shall accompany such application.

6. In an application for interim measure filed under Section 9, before the commencement of the arbitral proceedings the applicant should specifically refer to the steps if any already taken to seek arbitration and that the applicant is willing and prepared to take necessary steps with utmost expedition to seek reference to arbitration in terms of the arbitration agreement/clause.

7. Where the application made by the party is not in accordance with the provisions of these Rules, the court may reject the application, but such rejection order shall not be made without giving an opportunity to the applicant to rectify the defects and if necessary, giving a hearing to the party.

8. Every application shall, if the court is satisfied that the same is in order, be numbered and registered as a Original Petition (Arbitration), for short "O.P.(Arbn)" –

Provided that :-

- a) An application under Section 9 of the Act, if filed in a pending petition in the Court, shall be registered as an Interlocutory Application(I.A).
  - b) Any other application or procedural or interim nature pending main proceedings shall be numbered as CMP in the High Court and I.A. in any other court.
  - c) An application filed under Section 36 may be registered as Execution Petition (Arbitration), for short "E.P. (Arbn)."
9. Every appeal filed under Section 37 or under Section 50 or under Section 59 shall contain a concise statement of facts and the grounds of appeal and be governed by the procedural provisions relating to appeals against orders, as far as practicable.
10. An application under Section 34 and an application under Section 36 shall be filed in the court as defined in Section 2 (e) of the Act, subject to the special provisions contained in Section 42 of the Act.

11. The Court to which an application is presented shall direct notice thereof to be given to the opposite party and to such other persons as are likely to be affected by the proceedings requiring to show cause within a time to be specified in the notice why the relief sought in the application be not granted. The notice shall be accompanied by a copy of the application and documents filed by the applicant.
12. (1) Save as otherwise expressly provided in the Act or these Rules the following provisions of the Code of Civil Procedure, 1908 (Vof 1908) shall apply to the proceedings before a court in so far as they may be applicable thereto; namely;
  - (i) Sections 28,31,35,35A, 35B,107,133,135,144,148A,149,151 and 152 and
  - (ii) Orders III,V,VI,IX,XIII,XIV to XIX,XXIV and XLI.
- (2)
  - (a) For the purpose of facilitating the application of the provisions referred to under sub-section (1) the court may construe them with such alterations, not affecting the substance, as may be necessary or proper to adapt the matters before it; and
  - (b) The court may, for sufficient reasons, proceed otherwise than in accordance with the said provisions if it is satisfied that the interests of the parties will not thereby be prejudiced.

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**ANDHRA PRADESH HIGH COURT ADVOCATES' CLERKS (REGISTRATION, DISCIPLINE AND CONTROL) RULES, 2000**

ROC.NO.175-A/SO/2000

Dated 19-12-2000

In exercise of the powers conferred under Section 122 of the Code of Civil Procedure 1908, the High Court of Andhra Pradesh, hereby makes the following Rules relating to Registration, Discipline and Control of Advocates' Clerks in the High Court of Andhra Pradesh.

- 1) Short title: These Rules shall be called A.P.High Court Advocate's Clerks (Registration, Discipline and Control) Rules, 2000.

- 2) Commencement: These Rules shall come into force on the date as notified in the A.P. Official Gazette.
- 3) Application: These Rules shall apply to all the clerks employed by the Advocates practicing in the High Court of Andhra Pradesh.
- 4) Definition: In these Rules unless there is any repugnancy in the context, the expression
  - a) "Advocate" means and includes all Advocates who are on rolls of Bar Council of A.P. and practicing in the High Court of A.P.
  - b) "Registrar" means Registrar (Judl.) of High Court of A.P.
  - c) "Registered Clerk" means the clerk employed by an Advocate and recognized as such by the High Court of A.P.

5) Registration of Advocate Clerks:-

- i) Every person employed as a clerk by an advocate practicing in the High Court of A.P. shall apply for registration to the Registrar of the High Court by submitting application in the prescribed form (Annexure-A) and affixing thereon court fee stamp worth Rs.10/- and a recently taken stamp size photograph of the applicant duly attested by the Advocate with whom he is employed. Along with the application form two more copies of photographs shall be presented, one for affixing on the Identity Card and the other for affixing in the Register.
- ii) The application shall be accompanied by a certificate of good conduct from two respectable persons of which at least one must be from an advocate of not less than ten years standing in the High Court.
- iii) On receipt of such application with its enclosures, the Registrar or any other Officer authorized by him in this regard shall, after scrutiny and such enquiry as deemed necessary, register the name of the applicant in the prescribed Register (Annexure-B) with the prior approval of the Chief Justice and such registration shall confer recognition on the said applicant.
- iv) The stamp size photograph of the applicant duly attested by the Asst. Registrar who is authorized in this behalf, shall be affixed in the Register in the prescribed column.
- v) The Registry shall maintain the prescribed Register (Annexure -B) noting bio-date of persons registered as recognized clerks of the Advocates in the High Court of A.P. and allot Register numbers in seriatim.
- vi) Upon such registration, the Identity Card in the prescribed proforma duly signed by the Registrar or any other Officer authorized by him shall issued to registered clerk. The Identity Card (Annexure-C) shall contain stamp size photograph of the registered clerk duly attested by the Asst. Registrar who is authorized in this behalf.
- vii) Every such registration shall be valid for a period of two years unless the Registration is cancelled earlier for valid reasons.
- viii) Every recognized clerk seeking renewal of the Registration shall submit an application to that effect affixing thereon court fee stamp worth Rs. 10/- at least one month before the expiry of the original period, counter-signed by the Advocate with whom he is continuing employment.

ix) On such application being presented, the Registrar or any other Officer authorized by him may after such enquiry as deemed necessary, grant renewal of the registration for a further period of two years.

x) In event of cancellation of Registration or refusal to renew the registration, the Identity Card already issued shall be surrendered by the concerned clerk.

xi) The names of the recognized clerks whose registration has been cancelled or who failed to seek renewal of the Registration or whose application for renewal has been refused shall be struck off the rolls of the prescribed Register.

xii) An Advocate may have one or more clerks but not more than two shall be registered.

xiii) The recognized clerk shall not be employed with more than four advocates at a time.

xiv) When an applicant is employed by two Advocates, the application for registration or renewal shall be counter-signed by both the Advocates.

6) Qualifications: No person shall be eligible to be registered as clerk of an advocate unless he/she a

- a) Citizen of India.
- b) Above 18 years of age and
- c) Passed X class or equivalent examination

Provided that the said Sub-rule © shall not be applicable to the advocates' Clerks who are already on rolls prior to the commencement of the rules.

7) Dis-qualification: (i) No person who

- a) has been declared as a tout or
- b) has been dismissed from any public employment or
- c) is convicted of an offence involving moral turpitude or
- d) is an undischarged insolvent or
- e) is an ex-document writer whose license has been cancelled or
- f) is holding a Public Office shall be eligible to be registered as a clerk of an Advocate.

(ii) In the event of any Advocate's Clerk incurring disqualification after registration, such registration shall be cancelled and his name struck off the rolls of the prescribed register.

8) Cancellation of Registration for mis-conduct or suspense for specified period.

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The Registration of an Advocates' Clerk is liable to be cancelled and his name struck off the rolls in the prescribed register if he is found guilty of mis-conduct, and the decision of the competent Authority shall be final.

Provided that before taking any action under these Rules, the Registrar or any other Officer duly authorized by him in this behalf may hold such enquiry as may be deemed fit and shall give reasonable opportunity to the concerned Advocate Clerk to show cause.

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Rule 5(xiii) and 6 © amended by Roc.No.175-A/SO/2000, Dt:18.10.2001 published in A.P. Gazette No.44 Part-II dated 1<sup>st</sup> November, 2001

EXPLANATION: For the purpose of this Rule, 'misconduct' shall include any or more of the following acts of omission and commission.

- a) If he is found guilty of having suppressed any material fact having a bearing on the registration under these rules; or
- b) If he is found indulging in touting; or
- c) If he is found to have received any payment from a litigant on misrepresentation or is found indulging in acts unbecoming of a registered Advocate Clerk; or
- d) If he is found to have tampered with any document/petition etc., presented or to be presented in the Registry/court or the record of the court whether Judicial or Administrative.
- e) If he is declared as an insolvent; or
- f) If he is convicted of an offence involving moral turpitude; or
- g) If he is found indulging in improper or in disciplined conduct in the Court or Registry.
- h) If he violates any of the Standing Orders, Rules, Circular etc., issued by the High Court from time to time which have a bearing on the Advocates' Clerks.
- i) If the signatures of Advocates/Parties on the papers/documents filed in the Registry are found to have been forged/tampered.
- j) If he commits a breach of any of the conditions prescribed in these Rules.

9) Display of Identity Card while functioning as Advocate Clerk:

Except the recognized clerk of an Advocate, no other person shall be allowed entry into the Sections of the Registry for the purpose of filling case papers, applications or taking return of the case files, documents or collecting copies of the Orders/judgments or seeking information about the cases on behalf of the said Advocate.

10) Surrender of Identity Card:

Whenever a registered clerk ceases to be in the employment of an Advocate for any reason, the said fact shall be reported by the Advocate concerned to the Registrar and thereupon; the name of the said Advocate Clerk shall be removed from the Register. On termination of his employment, the Advocate Clerk shall immediately surrender the Identity Card to the Registry.

11) Transitory Provision:

No clerk who is already working with an Advocate at the commencement of these Rules shall be permitted to function as such in the Registry of High Court of Andhra Pradesh, on expiry of a period of three months from 19<sup>th</sup> September, 2001 unless he gets himself registered in accordance with these rules within the said period.

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Rule 11 amended by Roc.No.175-A/SO/2000, Dt:18.10.2001 published in A.P. Gazette No.44 Part-II dated 1<sup>st</sup> November, 2001

12) Residuary Powers:

Nothing in these rules shall be deemed to affect the powers of the Chief Justice to make such Orders from time to time as he may deem fit in regard to all matters forming part of the subject matter of these rules and all matters incidental or ancillary thereto not specifically provided for therein or with regard

to matters as have not been provided for or have not been sufficiently provided for herein.

### ANNEXURE-A

FORM FO APPLICATION FOR ISSUE OF CERTIFICATE OF REGISTRATION AS RECOGNISED CLERK OF AN ADVOCATE.

THROUGH THE HIGH COURT ADVOCATES 'CLERKS' ASSOCIATION: HYDERABAD.

1. Name of the Applicant :
2. Father's Name :
3. Date of Birth :
4. Permanent Address :
5. Address for communication :
6. Educational Qualifications :
7. Occupation(s) in which engaged  
during the last 10 years (if applicable) :
8. Name(s) of the Advocate(s) employed  
and his/their address(es) :
9. Date of employment under the  
Advocate employer :
10. Whether has ever been declared to tout :
11. Whether is an undischarged insolvent :
12. Whether is a previous convict for  
an offence involving moral turpitude :
13. Whether has been dismissed from  
any public employment :
14. Whether is an ex-petition/document  
writer whose licence has been cancelled  
for corruption or dishonesty :
15. Whether is holding a public office :
16. References: (1)  
(2)
17. Addl. Information if any :

Stamp size  
photo

**DECLARATION**

I declare that the particulars given above are true.

SIGNATURE OF THE APPLICANT

CERTIFICATE OF ADVOCATE EMPLOYER

I certify that the applicant is employed under me as a clerk. I undertake to be responsible for all his acts and deeds done on my behalf in the discharge of his duties as my clerk while attending to my professional work in the High Court as well as Registry of the High Court.

SIGNATURE OF THE ADVOCATE

NAME  
(in block letters)

OF THE ADVOCATE

**ANNEXURE-B**

FORM OF REGISTER

Sl. No.	Name of the clerk	Father's Name	Address of the permanent residence & present address	Date of Registration	Name(s) and addresses of the Advocates under whom he is employed	Photograph to be affixed	Date of deregistration/ Removal from the Registration with cause of removal in brief	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

### ANNEXURE-C

#### IDENTITY CARD

1. Full Name :
2. Father's Name :
3. Address :
4. Date of Registration :
5. Name(s) of the Advocate(s) with whom employed :
6. Photo :
7. Counter Signature of the (Competent Authority) with date and office stamp :

Stamp size photo to be attested by A.R. INCHARGE
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**RULES MADE BY THE HIGH COURT OF ANDHRA PRADESH RELATING TO DESIGNATING ADVOCATES AS SENIOR ADVOCATES UNDER SECTION 16 (2) OF THE ADVOCATES ACT, 1961.**

**ROC.NO.1529/SO/2008:**

The High Court of Andhra Pradesh frames the following guidelines for designating Advocates as Senior Advocates, under Section 16 (2) of the Advocates' Act, 1961 (Central Act 25/1961); in supercession of the existing guidelines on the subject:

- (1) The High Court may designate an Advocate as a Senior Advocate, if in its opinion, by virtue of his ability, standing at the Bar, special knowledge or experience in law, legal acumen and high ethical standards, he deserves such distinction.
- (2) The name of an Advocate, for being designated as a Senior Advocate, may be sponsored by, :-

- (i) the Chief Justice or a Judge of the High Court; or
- (ii) the Advocate General; or
- (iii) two Senior Advocates

in the Forms hereunto appended.

- (3) The Advocate to be designated as a Senior Advocate should have,-
- (i) completed 45 years of age, as on the date of being sponsored;
  - (ii) a minimum standing of 15 years at the Bar, out of which not less than seven years shall be in the High Court of Andhra Pradesh;
  - (iii) been assessed to Income Tax for 10 years preceding the date of consideration of his case for designation as Senior Advocate; and
  - (iv) annual declared gross income of not less than Rupees five lakhs for the past three years from the legal profession.
- (4) The Registrar General shall process the proposals and place the same before the Full Court, as per the directions of the Honourable the Chief Justice.
- (5) The Full Court may, by a majority of 2/3<sup>rd</sup> of the total number of Judges present, if necessary, by secret ballot, decide to designate an Advocate as a Senior Advocate.
- (6) The Registrar General shall notify the result of the proposal to the Advocate concerned when the proposal is accepted. Intimation shall also be sent to the High Court Advocates' Association, Bar Council of the State, Bar Council of India and the Registrar, Supreme Court of India.
- (7) The proposal, once rejected, shall not be renewed for the next two years.

**FORM OF PROPOSAL**

To

The Hon'ble the Chief Justice and the Judges of the High Court of  
Judicature at Hyderabad.

I,

\_\_\_\_\_  
—/ (Name etc.)

propose  
Shri/Shrimati/Kumari \_\_\_\_\_

— (Name etc.)

for being designated as Senior Advocate, who, in my opinion, by virtue of  
his ability, standing at the Bar, special knowledge or experience in law,  
legal acumen and high ethical standards, deserves of such distinction.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20

Signature of the Chief Justice/Judge  
Advocate General/  
Senior Advocate.

**FORM OF CONSENT**

I hereby express my consent, for being designated as Senior  
Advocate.

Advocate.

**FORM OR BIO-DATA**

- 1) Name:
- 2) Father's/Husband's name:
- 3) Address:
- 4) Permanent Address:
- 5) Age/Date of Birth:
- 6) Date of Enrolment:
- 7) Name of the Bar Association of which, he is a member:
- 8) Number of years of practice, and in which Court/s:
- 9) If specialized in any branch of Law:
- 10) Year from which he became income tax assessee, in respect of the professional income (enclose copies of relevant documents):
- 11) Particulars of annual declared gross professional income for the past three years (with copies of documents in that regard):
- 12) Whether he is, or has been in panel of Advocates of the State or Central Government, or a public sector undertaking, or a statutory body, or Institution. If so, the details thereof:
- 13) Particulars of the important matters in which he appeared, and particulars of citations of reported cases:
- 14) Particulars of articles, if any, published in any journal or books, if any, authorized:
- 15) Whether, associated with any faculty of Law (If so, the particulars thereof):
- 16) Whether his name was earlier proposed for being designated as Senior Advocate of the High Court of Andhra Pradesh, or any other High Court, or of the Supreme Court of India. If so, the decision thereon:
- 17) Whether involved in any Criminal Case, or disciplinary proceedings before the Bar Council of Andhra Pradesh. If so, the particulars the result/the stage of the proceedings:

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**SCHEME FOR APPOINTMENT OF ARBITRATORS, 2006**

In super session of the Scheme for Appointment of Arbitrators, 1996 made under sub-section (10) of Section 11 of the Arbitration and Conciliation Act, 1996, the Hon'ble the Chief Justice of the High Court of Andhra Pradesh, Hyderabad, hereby makes the revised Scheme under the Act as follows: -

**1. Short title: -**

This Scheme may be called the Scheme for appointment of Arbitrators, 2006.

**2. Submission of Request:**

(i) The request under sub-section (4) or sub-section (5) or sub-section (6) of Section 11 of the Act shall be made in writing in the form prescribed in Appendix-I and shall be accompanied by: -

- (a) The original arbitration agreement or a true copy thereof:
- (b) An affidavit supported by the relevant documents or true copies thereof to the effect that the condition to be specified under sub-section (4) or sub-section (5) or sub-section (6) of Section 11 of the Act, as the case may be, before making the request to the Chief Justice or the Judge, as the case may be, has been satisfied.

(ii) The request referred to in Para 2 (i) of this Para shall be accompanied by as many copies of the request together with items (a) and (b) of Para 2 (i), as the number of parties to the arbitration agreement or such number, which the Chief Justice or the Judge, as the case may be, may direct.

(iii) In case the person making the request does not have the original arbitration agreement or a copy thereof, he shall file an affidavit giving relevant facts in that behalf and request that the opposite party may be directed to produce the original or a copy thereof.

(c) Petition prescribed in appendix-II.

**3. Authority to Deal with the Request:-**

(i) Any request made under Paragraph 2 above shall be dealt with by:-

- (a) The judge of the High Court who at the relevant time has been allotted original side work in the High Court, where the value of the subject matter does not exceed Rupees One Crore;

And

- (b) The Chief Justice of High Court, where the value of the subject matter exceeds Rupees One Crore.

Provided that the Chief Justice may, in his discretion, take up the request under paragraph 3 (i) (b) himself or make it over to any other Judge of the High Court."

(ii) The requests falling under sub-Para (i) (a) of Para 3 shall be placed before the judge of the High Court to whom the original side work in the High Court has been allotted at the relevant time;

#### **4. Seeking Further Information:-**

- (i) The Chief Justice or the Judge, as the case may be, may seek such further information or clarification or documents, from the party making the request under this scheme, as he may deem fit;
- (ii) The party making the request shall file as many copies of the written information or clarification or copies of documents as may be so required to be filed.

#### **5. Rejection of Request:-**

Where the request made by any party under paragraph 2 is not in accordance with the provisions of this scheme, the same is liable to be rejected.

#### **6. Notice to Affected Person:-**

Subject to the provisions of Paragraph 5, a notice of the application be given to all the parties to the arbitration agreement and to such other person or persons likely to be affected by such request to show-cause, within the time specified in the notice, as to why the appointment of the arbitrator (s) or the measures proposed to be taken be not made or taken and such notice shall be accompanied by copies of all documents referred to in Para 2 or as the case may be, the information or clarification, or copies of documents, if any, sought under paragraph 4.

#### **7. Intimation of Action Taken on Request:-**

The appointment made or measures taken in pursuance of the request under paragraph 2 shall be communicated in writing to:-

- (a) the parties to the arbitration agreement;
- (b) the arbitrators, if any, already appointed by the parties to the arbitration agreement;
- (c) the person or institution, if any, to whom or to which, any function has been entrusted by the parties to the arbitration agreement under the appointment procedure agreed upon by them;
- (d) the arbitrator appointed in pursuance of the request.

#### **8. Requests and Communications to be sent to the Authorised Officer:**

All requests under the scheme and communications relating thereto shall be presented to the Registry of the High Court, which shall maintain a separate register of such requests and communications. Whenever, requests under Para 2 are received, the authorized officer shall, after scrutiny and on their being found to be in order, place the same before the Chief Justice or the Judge as the case may be. In case, the requests filed under Para-2 are found to be defective, they may be returned for compliance with the objections taken.

#### **9. Delivery and Receipt of Written Communications:-**

The provisions of sub-section (1) and (2) of Section 3 of the Act shall so far as may be, apply to all written communications received or sent under this Scheme.

The Chief Justice or the Judge, as the case may be, may call for and maintain such list or lists of institution or individuals, who, in their opinion, by virtue of technical qualifications and experience in various fields, are fit to be nominated as arbitrators.

#### **10. Costs for Processing Requests:-**

The party making a request under this scheme shall pay an amount of Rs.1,000/- in cases falling under Para 3 (i) (a) and Rs.2,000/- in cases falling under Para 3 (i) (b) in the form of Court fee stamps. Process fee chargeable for serving and executing process be paid as per the Process fee Rules, 2007 in the Form of Court Fee Stamps.

#### **11. Interpretation: -**

The decision rendered by the Chief Justice or the Judge, as the case may be, on any question shall be final.

#### **12. Power to Amend the Scheme:-**

The Chief Justice may, from time to time, amend, delete, vary, reframe, add, substitute any provision or do any other act required by the Act, Rules or the Scheme.

### **APPENDIX I**

#### **Before**

ARBITRATION APPLICATION NO..... OF

1. Provision under which the application is filed.
2. Name(s) of the applicant(s) with complete Address (es)
3. Name (s) of the other parties to the arbitration agreement with complete Addresses
4. Names and addresses of the arbitrators, if any, already appointed by parties.
5. Name and address of the person or Institution, if any, to whom any function has been entrusted by parties to the arbitration agreement under the appointment procedure agreed upon by them.
6. Qualification requirements, if any, of the arbitrator by the agreement of the parties.
7. A brief written statement describing the general nature of the disputes and the points at issue.

8. Valuation of the subject matter.
9. Date of Accrual of cause of Action
10. Jurisdiction of the Court;
  - a). Pecuniary jurisdiction
  - b). Territorial jurisdiction.
11. Relief or the remedy sought.

Date:

Signature of the Applicant.

Signature of the Advocate, if any.

**APPENDIX- II**

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH, HYDERABAD

(SPECIAL ORIGINAL JURISDICTION)

ARBITRATION APPLICATION NO..... OF

Between

.. Petitioner

AND

.. Respondent

Arbitration Application filed under Section 11© of the Arbitration and Conciliation Act 1996 R/W Scheme for appointment of Arbitrator, 2000.

Petition under Section 11© of Arbitration and Conciliation Act, 1996 praying that the Hon'ble Court may pleased to (Type the prayer).

Counsel for the Applicant

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**<sup>3</sup>RULES TO REGULATE THE PROCEDURE IN REGARD TO CASES  
STATED AND APPLICATIONS MADE TO THE HIGH COURT  
UNDER SECTION 64 OF THE ESTATE DUTY ACT, 1953**

*Rules to Regulate the Procedure in Regard to Cases Stated and Applications Made to the High Court under Section 64 of the Estate Duty Act, 1953.*

By virtue of Article 225 of the Constitution and of all powers hereunto enabling the High Court hereby makes the following rules to regulate the procedure in regard to cases stated and applications made to the High Court under Section 64 of the Estate Duty Act, 1953.

(1) Cases stated for the opinion of the High Court by the Board under Section 64 of the Estate Duty Act, hereinafter called the Act, shall, on receipt thereof by the Registrar, be numbered as Referred Cases. NO Court-fee shall be levied by the Registrar on such cases.

(2) As soon as the case has been numbered the Registrar shall fix a day for its hearing and give intimation thereof to the Board, to the Controller and to the party at whose instance the case has been referred.

(3) Every case stated by the Board shall, as far as possible, be divided into paragraphs, numbered consecutively and shall set out the facts of the case, the determination of the Board and the point of law arising there from as stated by the party in his application under Section 64 (1) of the Act and the same as framed by the Board. It shall also refer to such documents (with copies thereof annexed) as may be necessary for the consideration of the case.

(4) The record of the case shall be translated, if necessary, and printed or typed in the office of the Registrar for the Court. Any party may obtain from the Registrar a set of the printed or typed record on payment of such charges as may be fixed by the Registrar from time to time.

(5) An application under sub-section (3) of Section 64 of the Act for requiring the Appellate Tribunal to state a case for the opinion of the High Court shall be by a Civil Miscellaneous Petition verified in the manner prescribed by the rules of the Court. It shall contain in precise language a statement of the point of law upon which the case is to be stated; and shall set out concisely the material facts and the proceedings which have taken place before the Controller, Appellate Controller and the Appellate Tribunal. It shall be accompanied by a certificate of the Appellate Tribunal that the petitioner has not withdrawn his application to the Appellate Tribunal under the proviso to sub-section (3) of Section 64 of the Act;

and by a certified copy of each of the following Orders, namely (a) the order of the Controller, the order of Appellate Controller, (b) the order of the Appellate Tribunal under sub-section (5) of Section 63 of the Act out of which the question of law arises; (c) the order of the Appellate Tribunal under Section 64 of the Act refusing to state a case or rejecting the application as time-barred as the case may be; (d) a memorandum giving particulars for service on the respondent in Form No.1 of Appendix IV to the Rules of the High Court, Appellate Side, together with the prescribed fee in Court-fee labels for service of notices on the Appellate Tribunal and the Controller.

Three spare copies of the petition and of each of the orders specified in the foregoing paragraph shall also be filed, neatly typed on substantial white paper, paged, indexed and stitched in book form.

(6) The Registrar shall fix a day for the hearing of the petition and notice thereof in the form annexed hereto shall be issued to the parties concerned. The rules in Chapter 7 of the Rules of the High Court, Appellate Side, shall as far as may be applicable, apply to such notices.

(7) (a) Referred cases and applications shall be posted before such Bench to two Judges as the Chief Justice may appoint.

(b) Applications shall be posted for hearing as soon as the service of the notices has been effected.

(c) Referred cases shall be posted for hearing as soon as the record has been printed or typed, as the cases may be.

(8) The Court shall in its discretion fix the fee payable to the advocate appearing for either party.

## **ANNEXURE**

### *Form of Notice under Rule 6*

#### *IN THE HIGH COURT OF ANDHRA PRADESH, HYDERABAD*

Referred case NO. \_\_\_\_\_ of 19 \_\_\_\_\_

C.M.P.NO. \_\_\_\_\_ of 19 \_\_\_\_\_

Applicant in \_\_\_\_\_ on the file of the Appellate Tribunal.

Petitioner \_\_\_\_\_  
Respondent in \_\_\_\_\_ on the file of the Appellate Tribunal

TAKE notice that a case has been stated and referred by the Appellate Tribunal for the opinion of the Hon'ble the Judges of the High Court under date the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ that a petition has been made to the High Court on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ by the above-named petitioner to require the Appellate Tribunal to state a case and refer it to the High Court for the opinion of the Hon'ble the Judges: that a petition has been made to the High Court by the above-named petitioner to treat the application made by him to the Appellate Tribunal under Section 64 (1) of the Act as made within the prescribed time and to require the Appellate Tribunal to state a case and refer it

for the opinion of the Hon'ble the Judges, you are hereby required to appear before the said High Court on the day of 19 in person or by a duly authorized pleader and be prepared to argue the said reference/petition and that in default to such appearance, the said reference/petition may be heard and determined in your absence.

(Roc.No.4791/60-B1).

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**RULES TO REGULATE PROCEEDINGS  
FOR CONTEMPT OF SUBORDINATE COURTS  
AND OF THE HIGH COURT  
UNDER THE CONTEMPT OF COURTS' ACT, 1971**

**(CENTRAL ACT)**

HIGH COURT OF ANDHRA PRADESH, HYDERABAD

RULES TO REGULATE PROCEEDINGS FOR CONTEMPT OF SUBORDINATE COURTS  
AND OF THE HIGH COURT, UNDER THE CONTEMPT OF COURTS ACT, 1971  
(CENTRAL ACT).

(Published in *Andhra Pradesh Gazette* under supplement to part II Issue No.13 on 26-3-1991 at page 86.)

*Roc.No.173/SO/80*:-- In exercise of the powers conferred on the High Court under section 23 of the Contempt of Courts Act, 1971 read with Articles 215 and 227 of the Constitution of India and by Section 129 of the Code of Civil Procedure and all other powers hereunto enabling, the High Court of Andhra Pradesh hereby makes the following Rules to regulate the proceedings for Contempt's of Subordinate Courts and of the High Court, in supersession of the existing Rules:-

1. These Rules shall be called the Contempt of Court Rules, 1980.
2. These Rules shall come into force from the date of publication in the Andhra Pradesh Gazette.
3. Every case initiated for Contempt of Court under the Contempt of Courts Act, 1971 shall be presented in the office of the Registrar and Registered as a Contempt Case.
4. (1) Where Contempt is committed in the presence or hearing of the High Court, the contemnor may be punished by the Judge or Judges in



whose presence or hearing it is committed either forthwith or on such date as may be appointed by the Court in that behalf or be tried by some other Judge or Judges as the Chief Justice may direct on reference by the Judges concerned.

<sup>4</sup>(2) Where contempt is committed in the presence or hearing of the High Court, the nature of the contempt alleged shall be drawn in a concise form and the same shall be served upon the contemnor.

(3) Pending the determination of the charge, the court may direct that the contemner shall be detained in such custody as it may specify:

Provided that the contemner may be released on bail on such terms as the court may direct or may be discharged on such terms as the court thinks fit.

5. In case of Contempt other than the Contempt referred to in Rule 4, the High Court may take cognizance of Contempt and take action ---

- (a) *Suo motu*, or
- (b) On a petition made by the Advocate-General of the State of Andhra Pradesh, or
- (c) On a petition made by any person, and in the case of Criminal Contempt with the consent in writing of the Advocate-General of the State of Andhra Pradesh, or
- (d) On a reference made to it by a court Subordinate to it in the case of any contempt of such subordinate court or on a motion made by the Advocate-General of the State of Andhra Pradesh in that behalf.

6.<sup>5</sup> Every case of contempt other than the one referred to in Rule 4 shall be in the form of a petition supported by an affidavit.

7. <sup>6</sup>(1) Every petition under Rule 5 (b) and (c) shall contain:--

- (a) the name, description and place of residence of the petitioner or petitioners and of the person charged;
- (b) the nature and details of the contempt alleged, and such material facts, including the date or dates of commission of the alleged contempt, as may be necessary for the proper determination of the case;
- (c) the details of the petition previously made by the petitioner on the same facts, if any and the result thereof.

(2) where the petitioner relies upon a document or documents in his possession or power and refers to them in the petition in support thereof, he shall file such document or documents or true copies thereof duly authenticated along with the petition.

(3) No court fee shall be payable on the petition or on any document filed in the contempt proceedings.

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<sup>4</sup> sub-rule (2) in Rule4 inserted vide Gazette notificatiion.No.R.S II, Dt:5.9.2002

<sup>5</sup> Rule 6 is substituted in place of existing rule 6 vide Gazette notificatiion.No.R.S II, Dt:5.9.2002

<sup>6</sup> Rule 7(1) amended vide Gazette notificatiion.No.R.S II, Dt:5.9.2002

8.<sup>7</sup> (1) The person who presents the petition in cases covered by clause (c) of Rule 5 shall be named as the petitioner and the person charged as the respondent.

(2) In all contempt cases where the cognizance has been taken *suo motu*, the title of the contempt proceedings shall be in "in re----- (the alleged contemnor)" and in case where the cognizance has been taken on a reference made by the Advocate General of the State of A.P., and on a reference made by the Subordinate Court without referring it to the Advocate-General, the State of Andhra Pradesh or on a motion made by the Advocate-General, the State of A.P., in that behalf, the State of A.P., represented by the Advocate General shall be described as the petitioner.

(3) In all contempt petitions other than those filed by the Advocate-General the court may require the Advocate-General to appear and assist the court.

9. (1) All references made by the Subordinate Courts under Rule 5 (d) shall contain the particulars as mentioned in Rule 7 (1) (a) and (b) so far applicable.

(2) The Subordinate Courts shall transmit all relevant documents or true copies thereof duly attested along with the letter of reference.

(3) All references made under Rule 5 (d) by the Subordinate Courts other than the courts of District and Sessions Judges shall be forwarded through the respective District and Sessions Judges for onward transmission of the same to the High Court expeditiously with their report.

(4) Before making reference, the Subordinate Courts shall hold a preliminary enquiry by issuing a show cause notice to the Contemner and after hearing him, the said court shall write a concise reasoned order of reference about the alleged contempt.

10. Every reference on receipt in the High Court shall first be dealt with on the Administrative Side and will be placed before the Judge in charge of the District in which the Subordinate Court making the reference is situated and the Chief Justice for directions to send the papers to the Advocate-General for taking appropriate action:

Provided that the High Court may also take action *suo motu* on such reference.

11. Every petition for contempt shall be accompanied by three additional sets of all the papers in the case filed by the petitioner including:-

- (a) the petition with affidavit,
- (b) documents relied on,
- (c) other affidavits, if any, filed,
- (d) a copy of or a statement relating to, the matter constituting the alleged contempt,
- (e) notice in Forms-I to show cause, containing the particulars of the alleged contempt against the contemner.

for the record of the court and as many number of such sets as there are contemnors for service on them duly stitched in a book-form, pages numbered, indexed and authenticated.

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<sup>7</sup> Rule 8 substituted in place of the existing Rule 8 vide Gazette notification.No.R.S II, Dt:5.9.2002

12.<sup>8</sup> Every case for Civil Contempt of High Court shall be posted before the Judge or Judges in respect of whose Judgment, Decree, Direction, Order, Writ or other process the contempt is alleged or before whom the undertaking was given in respect of which willful breach was committed or before some other Judge or Judges as the Chief Justice may direct in case the Judge or Judges concerned is or are **not available\***, for preliminary hearing and for orders as to issue of notice to the contemnor or contemnors as the case may be, if there is a *prima facie* case and for further hearing before them after notice, if issued. Upon such preliminary hearing, the Judge or Judges is satisfied that no *prima facie* case has been made out for issue of notice, may dismiss the petition.

**\*"not available" means not readily available due to any assignment or retirement."**

13.<sup>9</sup> Every case of contempt shall be posted before a single Judge for Civil Contempt and before a Bench of two Judges for Criminal Contempt as the Chief Justice may direct for preliminary hearing and for orders as to issue of notice to the contemner or contemnors, as the case may be, if there is a *prima facie* case. Upon such preliminary hearing, the court, if satisfied that no *prima facie* case has been made out for issue of notice, may dismiss the petition.

14.<sup>10</sup> Every case of contempt after notice if issued, shall be posted for further hearing before a single Judge or a Bench of two Judges as the case may be, dealing with such cases for the time being or as directed by the Chief Justice.

<sup>11</sup>15. Where a Judge or Judges of the High Court considers or consider that any matter that might have come to his or their notice in any way, requires initiation of proceedings in contempt against any person, the papers relevant thereto together with a statement of the facts of the case and the direction of the Judge or Judges may be placed before the Chief Justice for directions to send the papers to the Advocate-General or may be sent to the Advocate-General for taking appropriate action or initiation of proceedings may be taken *suo motu* by the High Court on the original side.

16. In contempt cases where the Government or its servants are party respondents, notice of filing such cases shall be served on the concerned Government Pleader in advance before filing and in matters of Civil Contempt High Court, notice of filing such case shall be served on the Advocate for opposite party in advance before filing.

17. Any contempt case posted before a single Judge may be referred to a Bench of two Judges and contempt case posted before Bench of two Judges may be referred to a Bench of more than two Judges for hearing, if the single Judge or the Bench of two Judges as the case may be, is or are of the opinion that the said case requires consideration by more than one or two Judges, as the case may be.

18. Notice of every contempt case, if ordered by court for service on the contemner, shall be in Form I and shall be accompanied by one set of all papers filed in the case and the said notice with all enclosures shall be served personally on the alleged contemner, unless the court otherwise directs for reasons to be recorded, requiring him to appear in person, unless otherwise ordered, on a day fixed, which shall be not less than four weeks from the date of the order or as

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<sup>8</sup> Rule 12 omitted in 1991 and inserted in R.S. Part-II Ext. Dt:7.7.1995

<sup>9</sup> Rule 13 amended vide A.P.Gazette R.S Part-II Ext. Dated 23.9.1991.

<sup>10</sup> Rule 14 amended vide A.P.Gazette R.S.Part-II Ext. Dated 23.9.1991.

<sup>11</sup> Rule 15 amended vide A.P.Gazette R.S. Part-II Ext. Dated 23.9.1991.

fixed by the court, for hearing of the proceeding and to show cause why he may not be suitably punished under the Contempt of Courts Act, 1971 and he shall continue to remain present during the hearing till the proceeding is finally disposed of by order of the court, unless otherwise directed.

Provided that the court, on an application made by the contemner, before the date fixed for his appearance in the notice, to dispense with his personal appearance in court, may, for sufficient cause, dispense with his personal appearance and permit him to appear by his pleader.

19. No process fee shall be collected from the petitioner for service of process on the alleged contemner.

20. The Registrar (Judicial) may issue fresh notice, if he considers that the service of notice on the alleged contemner is not sufficient.

21. (1) The Court may, if it has reason to believe, that the person charged is absconding or is otherwise evading service of notice order substituted service.

(2) The Court may also if it has reason to believe that the person charged is absconding or is otherwise evading service of notice, or if the person charged fails to appear in person or continue to remain present in person in pursuance of the notice, direct a warrant bailable or non-bailable for his arrest, addressed to one or more police officers or may order attachment of his property or both simultaneously or one after the other.

(3) The Warrant of arrest shall be issued under the signature of the Registrar (Judicial) or the Deputy Registrar and it shall be in Form II and shall be executed, as far as may be, in the manner provided for execution of warrants under the Code of Criminal Procedure, 1973.

(4) The warrant shall be executed by the officer or officers to whom it is directed, and may also be executed by any other police officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed.

(5) Where a warrant is to be executed outside the State of Andhra Pradesh, the court may, instead of directing such warrant to police officer, forward it to the Magistrate of the District or the Superintendent of Police of the District or Commissioner of police of the City within which the person charged is believed to be residing. The Magistrate or the Police Officer to whom the warrant is forwarded shall endorse his name thereon and cause it to be executed.

(6) Every person who is arrested and detained shall be produced before the nearest Judicial Magistrate or the Metropolitan Magistrate as the case may be within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the said Magistrate, and no such person shall be detained in custody beyond the said period without the authority of either a Judicial Magistrate or a Metropolitan Magistrate, as the case may be and the said person may be released by the said Magistrate subject to the provisions as to bail under the Code of Criminal Procedure, 1973 an execution of a bond in Form III for his attendance in the High court on a particular date to answer the charge of contempt and to continue to attend the said court on all days thereafter until otherwise directed by the High Court of hearing and determination of the case.

(7) If the alleged contemner cannot be arrested by reason of his absconding or keeping out of the way to avoid arrest or for the reasons mentioned in sub-rule

(2) supra, the court may, upon being satisfied thereof, grant an order for the attachment of his property of such value or amount as it may deem reasonable in the manner provided in the Code of Civil Procedure, 1908, for the attachment of property in execution of a decree for payment of money, and if after such attachment, the person charged appears and shows to the satisfaction of the court that he did not abscond or keep out of the way to avoid service of the notice or arrest or shows sufficient cause for his absence on the date of hearing, the court shall order the release of his property from such attachment upon such terms as to costs or otherwise as it may think fit.

22. The alleged contemner may file an affidavit confessing the contempt or file his reply duly supported by an affidavit or affidavits together with documents, if any, on which he proposes to rely, in support of his defence.

23. No further affidavit or document shall be filed except with the leave of the court.

24. The court may determine the matter of contempt either on the affidavits filed or after taking such further evidence as may be necessary.

Provided that the High Court may also direct any Subordinate Court to record evidence and submit the same to the High Court and the said court will have all the powers of recording evidence of witnesses under Civil Procedure Code and Criminal Procedure Code.

25. The court may, either suo motu, or on motion made for that purpose, order the attendance for cross-examination of a person whose affidavit has been filed in the matter.

26. The court may make orders for the purpose of securing the attendance of any person to be examined as a witness and for discovery or production of any document.

27. The court may pass such orders as the Justice of the case requires.

28. At any stage of the case, the court may, of its own motion, direct the attachment of the property of the alleged contemner, if the circumstances of the case warrant.

29. Every affidavit filed in the contempt case may be made before the Commissioner for Oaths appointed by the High Court or Notary as defined in the Notaries Act, 1952 or any Gazetted Officer in the service of the State Government or the Union Government or a Retired Gazetted Officer receiving pension from the Government or an Advocate other than the Advocate who has been engaged in the case or in Village Magistrate or a Member of the Village Panchayat or Panchayat Samithi or a Municipal Councilor or a Member of the Legislative Council or the Assembly.

30. Where the person charged confesses the contempt committed by him and submits to the Judgment of the court thereon, his submission and confession shall be recorded and the court may, in its discretion, either commit him Jail or accept bail for his appearance before the court, at such time as may be appointed, to receive the judgment of the court for his contempt.

31. Where the person charged with contempt is adjudged guilty and is sentenced to suffer imprisonment a warrant of commitment and detention shall be made out in Form IV under the signature of the Registrar (judicial) or Deputy Registrar.

Every such warrant shall remain in force until it is cancelled by order of court or until it is executed. The Superintendent of the Jail shall, in pursuance of the order, receive the person so adjudged and detain him in custody for the period for his contempt.

32. (1) The court shall fix the subsistence allowance when the contemner is committed to civil person in accordance with his status.

(2) In cases of Suo motu proceedings and proceedings under reference where the State of Andhra Pradesh is the prosecutor, such subsistence allowance shall be borne by the state.

(3) In other proceedings where the petitioner is a private party, the contemner shall not be arrested when committed to civil prison unless and until the subsistence allowance, as fixed by the court, is deposited into court.

33. If the court awards a sentence of fine and the fine amount is not paid at once or within such time as may be granted by the court, the Registrar (Judicial) or the Deputy Registrar shall take action in any one of the ways as provided in section 421 of the Code of Criminal Procedure, 1973.

34. (1) The court may award such costs as it may deem fit in the circumstances of the case.

(2) Where the costs are awarded in a proceeding relating to Criminal Contempt the same shall be recoverable as if it were fine.

(3) Where the costs are awarded in a proceeding relating to Civil Contempt, the same may be recovered as if the order were a decree of the court under the Code of Civil Procedure, 1908.

35. In the case of Civil Contempts, even after the alleged contemner is punished, if he persists in contempt with regard to the same matter in respect of which he is punished, his property may be attached in the manner provided for the attachment of property in execution of a decree for money and the said attachment shall continue until the said person complies with orders of court and gives such security as the court directs for compliance with the said orders in future as per directions of court or until the court orders the property to be released.

36. (1) Every appeal filed under the contempt of Courts Act, 1971 shall be numbered as contempt appeal.

(2) Every such appeal against the order of a single Judge shall be posted before a Bench of two Judges for orders as to whether notice shall issue to the respondent.

(3) The procedure for regulation of such appeals shall be the same as for appeals under clause 15 of the Letters Patent.

(4) No court fee shall be payable on the memorandum of appeal filed by the contemner.

37. (1) With regard to all proceedings for contempts, the procedure prescribed in these rules which is not inconsistent with any of the provisions of the Contempt of Courts Act, 1971 shall be followed.

(2) Save as otherwise provided by the Rules contained herein, the provisions of the Rules of High Court of Judicature, Andhra Pradesh, Hyderabad in its original jurisdiction and in its Appellate Jurisdiction shall, so far as may be, apply to proceedings in relation to Contempt Cases and Contempt Appeals respectively.

38. It shall be the duty of the Deputy Registrar, High Court, to draw up orders made in respect of contempt matters and to see that fines and costs, if any, imposed are paid and that the orders of court are carried out.

39. All the existing Rules relating to regulation of proceedings for contempts of Subordinate Courts and of the High Court are hereby repealed.

### **FORM I**

NOTICE TO A PERSON CHARGED WITH CONTEMPT OF COURT  
(See Rule 18)

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH  
AT HYDERABAD  
(Original Jurisdiction)

Contempt Case No. \_\_\_\_\_ of \_\_\_\_\_

Versus  
... Petitioner  
...Respondent.

To

Whereas your attendance is necessary to answer a charge of Contempt of court, viz.:

(here briefly state the nature of the Contempt)

You, Sri

Are hereby required to appear in person (or by Advocate if the Court has so ordered) before this Court at Hyderabad on the

Day of \_\_\_\_\_ 19 \_\_\_\_\_ at \_\_\_\_\_ a.m. and show cause why you shall not be punished or other appropriate order be not passed against

you for contempt of the High Court of Andhra Pradesh/Subordinate Court (Name of Court).

You shall attend this Court at Hyderabad in person\* on the  
Day of 19 at a.m.  
and shall continue to attend the Court on all days thereafter to which the case against you stands adjourned and until final orders are passed on the charge against you.

Herein fail not.

Dated this ..... day of .....19  
.....

(SEAL)

Registrar.

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\* To be omitted where the person charged is allowed or ordered to appear by Advocate.



**FROM II**

WARRANT OF ARREST  
(See Rule 21)  
IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD.  
(ORIGINAL JURISDICTION)

Contempt Case No. \_\_\_\_\_ of \_\_\_\_\_

To \_\_\_\_\_

(Name and designation of the person or persons who is or are to execute the warrant).

Whereas \_\_\_\_\_ of \_\_\_\_\_ is charged with committing contempt of this Court, you are hereby directed to arrest the said \_\_\_\_\_ and to produce him before this Court.

Herein fail not.

(If the Court has issued aailable warrant, the following endorsement shall be made on the warrant).

If the said \_\_\_\_\_ shall give bail in the sum of Rs..... With one surety in the sum of Rs..... (or two sureties each in the sum of Rs.....) to attend before this Court on the \_\_\_\_\_ day of \_\_\_\_\_, 19 . and to continue so to attend until otherwise directed by this Court, he may be released.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 .....

(SEAL)

Registrar



**FORM III**

BOND AND BAIL-BOND AFTER ARREST UNDER A WARRANT  
(See Rule 21)

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH,  
AT HYDERABAD

(ORIGINAL JURISDICTION)

I, ..... (name) of .....  
being brought before the District Magistrate of  
..... (or as the case may be) under a warrant  
issued to compel my appearance to answer to the charge of contempt of the High  
Court of Judicature, Andhra Pradesh do hereby bind myself to attend the High  
Court of Judicature, Andhra Pradesh at Hyderabad on the .....  
Day of ..... next, to answer to the said charge and to  
continue so to attend, until otherwise directed by the High Court of Judicature,  
Andhra Pradesh and in case of my making default herein, I bind myself to forfeit  
to the State of Andhra Pradesh. The sum of Rupees  
..... Dated this ..... day of  
..... Of 19 .....

Signature

I do hereby declare myself surety for the above-named  
..... that he shall attend before ..... in the  
High Court of Judicature, Andhra Pradesh at Hyderabad on the ..... day of  
..... Next, to answer to the charge on which he has been arrested, and  
shall continue so to attend until otherwise directed by the High Court of  
Judicature, Andhra Pradesh, and, in case of his making default therein, I bind  
myself to forfeit to the State of Andhra Pradesh the sum of  
rupees.....

Dated this ..... day of ..... 19.....

**FORM IV**

**WARRANT OF COMMITMENT FOR CONTEMPT  
(See Rule 31)**

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH  
AT HYDERABAD  
(Original Jurisdiction)**

To

The Superintendent (Or Keeper) of the Jail at .....

Whereas this Court on this ..... day of 19 ..... adjudged  
(name of the Contemner with address).....  
guilty of willful contempt of Court, and he has been sentenced to suffer simple  
imprisonment for a term of ..... (here specify the term) and/or to pay  
a fine of Rupees .....

This is to authorize and require you the Superintendent (Or Keeper) of the  
said Jail, to receive the said (name of the Contemner) into your custody together  
with this warrant and him safely to keep in the said Jail for the said period of  
(term of imprisonment) or for such shorter period as may hereafter be fixed by  
order of this Court and intimated to you. You are directed to return this warrant  
with an endorsement certifying the manner of its execution.

You are further directed that while the said ..... Is in  
your custody, produce the said ..... Before the Court, at all  
times when the Court shall so direct.

Given under my hand and the seal of the Court, this ..... day  
of .....19 .. .

(SEAL)

Registrar

(By order)

**FORM V**

**SHOW CAUSE NOTICE FOR PRELIMINARY ENQUIRY BY THE  
SUBORDINATE COURT RULE 9 (4) OF THE RULES REGULATING THE  
PROCEEDINGS  
FOR CONTEMPT OF SUBORDINATE COURTS UNDER THE  
CONTEMPT OF COURTS ACT, 1971.**

IN THE COURT OF \_\_\_\_\_  
(Original Jurisdiction)

Show Cause Notice No. \_\_\_\_\_ for conducting the Enquiry.

To

Whereas a complaint is made against you by Sri/Smt. \_\_\_\_\_, a copy of which is enclosed herewith so as to enable you to answer a preliminary enquiry.

Whereas you, Sri/Smt. \_\_\_\_\_, are hereby required to show cause, as to why a reference be not made to the Hon'ble High Court for initiation of action U/s 10 of Contempt of Courts Act, 1971.

Whereas if you prefer, you may appear in person or through Advocate and participate in the preliminary enquiry which may be held on \_\_\_\_\_ or any other subsequent date (s) that would be convenient for the Court. If you fail to so appear, the Preliminary enquiry will be conducted and appropriate order would be passed thereafter based upon the material available on record, in your absence.

Dated this ..... day of ..... 20

Presiding Judge/  
District Judge/  
Senior Civil Judge/  
Junior Civil Judge/

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Gazette No.41, dt.6.5.2015 issued by the Andhra Pradesh Gazette.

**RULES TO REGULATE THE TRIAL OF ELECTION PETITIONS UNDER REPRESENTATION OF THE PEOPLE ACT, 1951.**

R.O.C. 156/67 B.1 – In exercise of the powers conferred by clause 37 of the Letters Patent of the High Court of Madras, section 32 of the Andhra State Act, 1953, section 129 of the Code of Civil Procedure 1908, and all other powers hereunto enabling, the High Court of Andhra Pradesh hereby frames the following:

1. In these rules, unless the context otherwise, requires:-
  - a) "Act" means the Representation of the People Act, 1951;
  - b) "Code" means the Code of Civil Procedure 1908;
  - c) "High Court" means the High Court of Andhra Pradesh;
  - d) "Judge" means the Judge as assigned by the Chief Justice for the trial of Election Petitions'
  - e) "Election Petition" means an Election Petition filed under the Act.
2. Every Election Petition shall be in the same form as an Original Petition and every application under the Act shall be filed as an application in the Election Petition concerned,
3. Every Election Petition shall contain, in addition to the particulars required by section 83 of the Act, information as to the date of election of the returned candidate or if there be more than one returned candidate 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 the time prescribed by section 81 of the Act.

It shall be filed in the office of the Registrar by the petitioner or an advocate duly appointed by him. In addition to the number of copies required by sub-section (3) of section 81 of the Act, the petitioner shall file two more copies of the petition for court record. He shall also file a certificate from the Head Accountant in token of having made the deposit required by section 117 of the Act.

\* The Chief Scrutiny Officer in the Registry should see to affix the date stamp on each page of the Election Petition and copies of the Election Petition as well as the Annexures of the Election Petition filed along with the Election Petition to indicate the date of receipt of those papers by the Scrutiny Officers Section, before sending those papers to O.S. Section on that day itself. So, also the Chief Scrutiny Officer in the Registry shall see to put the date stamp whenever fresh papers are filed.

The Scrutiny Officer while checking the Election Petitions should indicate clearly about the defects he noticed on the presentation of the Election Petition, more particularly regarding the number of copies of the Election Petition, the Annexures, affidavit in Form No.25, verification by the Election Petitioner or by the Oath Commissioner as the case may be and other particulars.

4. <sup>13</sup>\*\*If the Election Petition is not found in order the office shall post the election Petition in the SR stage with office objections before the court for orders.
5. Every Election Petition, when examined and found to be in order, shall be numbered and posted before the Judge for \*\*\*admission. If the petition is not dismissed under section 86 of the Act, notice shall issue on the directions of the Judge to the respondent to appear on a specified date before the High Court to answer the claim or claims made in the Election Petition. Such date shall not be earlier than three weeks from the date of issue of the notice.
6. Notice for service on the respondents shall be sent through the Nazareth of the Subordinate Court exercising jurisdiction over the area where the respondent to be served is residing or is carrying on business. It shall also be sent to the address of the respondent given in the Election Petition by means of registered post acknowledgement prepared. The Petitioner shall furnish extra copies of the petition to be served along with notice by registered post . No extra process fees, except postal charges, will be recovered for sending notices through posts.
7. Notice under sub-section (2) of Section 109 or under clause(b) of sub-section (3) of section 110 or under section 116 or the fact of abetment of an Election Petition under section 112 of the Act shall be published:-
  - (a) where it relates to an election to a House of Parliament, in the Gazette of India as well as in the Andhra Pradesh Gazette, and
  - (b) where it relates to an election to a House of the State Legislature in the Andhra Pradesh Gazette;

and subject to the orders of the Judge, in one or more newspapers. The cost of publication shall form part of the costs in the case.

8. Process fees shall be levied on processes issued under these rules at the rates laid down in the Process Fees Rules, 1965.
9. Subject to the orders of the Judge, witnesses shall be paid Traveling Allowance and allowances for subsistence and other expenses at the rates laid down in Order VII of the High Court fees Rules, 1925.
10. Advocate's fee shall be in the discretion of the Court, subject to a maximum of Rs.2,000/-
11. All the steps taken in the trial of the Election Petition shall be minuted in chronological order in a diary maintained in Civil Miscellaneous Form No.47 prescribed by the Civil Rules of Practice and Circular Orders.
12. Except as otherwise provided in the Act, the Code and the foregoing rules, the Rules of the High Court on the original side shall apply, as far as may be to the proceedings under the Act.

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\*\* Substituted as per A.P.Gazette Notification No.21, dated:1.9.1998 (Roc.No.123/SO/96)

\*\*\* Substituted as per A.P.Gazette Notification No.21, dated:1.9.1998 (Roc.No.123/SO/96)



**RULES FOR FILING APPEAL/REFERENCE UNDER THE COMPANY SECRETARIES ACT, 1980:**

ROC.NO.351/SO/97:- In exercise of the powers conferred Under Article 225 of the Constitution of India and all other powers enabling the High Court hereby makes the following Rules which shall regulate the procedure to be adopted in regard to the references and Applications under Section 30 of the Company Secretaries Act and applications thereunder:

1. Reference under Section 21(4) and (5) made by the Council of the Institute of Company Secretaries Act of India (hereinafter referred to as the Council) stating a case for the decision of the High Court shall on receipt thereof by the Registrar numbered as referred case but no Court Fee shall levied on such references.
2. The Council shall together with the letter of reference submit two copies of the same along with the following documents:
  - a) Complaint or information.
  - b) Written statement of the defence.
  - c) Deposition of the witnesses together with the exhibits.
  - d) Notes of the hearing before the disciplinary Committee and the Council; and
  - e) Any other relevant material.
3.
  - a) On the said reference being numbered as referred case, the Registrar shall fix a date for hearing and intimation thereof shall be given to the Council.
  - b) Within a fortnight of the receipt of the intimation, the Council shall serve notices required to be served under Section 21(6) and file proof of service.
4.
  - a) Any application under Section 21(7) to transfer any case to any other High Court shall be by a Civil Miscellaneous Petition which shall be verified and state concisely the proceedings that has taken place and the necessity for the transfer.

- b) As soon as the Registrar fixes a date for hearing of the said petition, and intimates to the Council, notices of the date of hearing shall be served by the Council on all those entitled to notice and proof of service shall be filed with the Registrar.
5. Every appeal under Section 30 shall be in the form of Civil Miscellaneous Appeal and shall be presented in person by the Appellant or his advocate to the Registrar. The Memorandum of Appeal shall be accompanied by as many copies as are required to serve the parties to whom notices are required to be served in addition to two copies for the use of the Court.
  6. Every memorandum of Appeal shall contain a statement of the value of the Appeal for the purpose of Court Fee Act and shall be affixed with Court Fee Stamps of adequate value.
  7. Every Memorandum of Appeal which is presented after the expiry of the time prescribed shall be accompanied by an application supported by an affidavit for condonation of delay explaining the delay for condonation thereof. If the memorandum is presented without such an application after the expiry of the period of limitation prescribed, it shall be returned with an endorsement that it was presented out of time and the delay may be explained so that the case may be posted before the Court for consideration and for orders.
  8. Every appeal re-presented with such explanation shall be posted before the court for condonation of delay or for dismissal.
  9. Where the delay is condoned and in cases where the appeals have been filed in time, notice of the date of hearing shall be given by posting the number of the appeal in the Notice Board of the Court as well as by intimation to the Council which shall serve notices on all the parties for the first hearing. For all subsequent dates of hearing, cases shall be posted in the list in accordance with the Appellate Side Rules.
  10. All Applications under Section 30(2) shall be in the form of Civil Revision Petition and shall be governed by the rules applicable to Civil Revision Petitions.
  11. All References, Appeals, Revisions and Applications under the Act shall be heard by a Division Bench of not less than two Judges to be nominated by the Chief Justice. The Court disposing of the case shall fix the fees payable by or to either party in its absolute discretion. A copy of the decision, of the Court shall be forwarded to the Council under the seal of the High Court by the Registrar for implementation.

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### **RULES REGULATING SITTING OF HIGH COURT**

In exercise of the powers conferred by Article 225 of the Constitution of India, the High Court of Andhra Pradesh has made the following rules for the appointment of terms:-

1. The High Court shall sit for three terms each year which will be divided by the Sankranthi, Summer and Dasara Vacations.
2. the Chief Justice shall have the power to fix the actual dates of each vacation.

**PROCESS FEES RULE, 1965**

HIGH COURT OF ANDHRA PRADESH

ROC.NO.725/65-B-1. – In exercise of the powers conferred by sub-section (1) of Section 75 of the Andhra Pradesh Court Fees and Suits Valuation Act, 1956 and in supersession of all the rules on the subject, the High Court of Andhra Pradesh has made the following rules to regulate the fees chargeable for serving and executing the processes issued by the High Court and civil Courts subordinate thereto. The said rules have been confirmed by the State Government and are hereby published as required by sub-section (2) of Section 75 of the Act.

## PROCESS FEES RULES

1.(1) These rules maybe called the Process Fees Rules, 1965.

(2) They shall come into force on the date of their publication in the Andhra Pradesh Gazette.

2. In these rules, unless the context otherwise requires:

- (a) 'City' includes any town with a population of one lakh and more
- (b) 'District Court' includes the Court of the Chief Justice and the Additional Chief Judge of the City Civil Court at Hyderabad.
- (c) 'District Munsif's Court' includes the Court of a Munsif Magistrate and the court of an Assistant Judge of the City Civil Court at Hyderabad.
- (d) 'Sub-Court' includes the Court of the Additional Judge of the City Civil Court at Hyderabad.
- (e) 'Suit' includes all proceedings including proceedings in execution arising therefrom.

3. (1) Fees shall be levied at the rates specified in the Schedule below for serving and executing processes issued by the High Court and the Civil Courts subordinate thereto.

## THE SCHEDULE

AMOUNT LEVIABLE IN  
OTHER SUITS IN

<i>Name of the process</i>	<i>Small Causes suits</i>	<i>District Munsif Courts</i>	<i>Sub-Courts District Courts and High Court.</i>
(1)	(2)	(3)	(4)
	Rs.Ps.	Rs.Ps.	Rs.Ps.
For each Summons or Notice:			
(a) When sent by Registered Post for each defendant, respondent or witness:	3.00	3.00	4.00
(b) When served by an Officer of the court or sent by post to another court for service.			
(i) On a defendant, respondent or witness	3.00	3.00	4.00
(ii) On every additional defendant, respondent or witness in the same matter residing in the same village or in the same locality of a city, if the process be applied for at the same time.	1.50	1.50	2.00

Note:- In cases where there are several minor defendants or respondents represented by a single guardian, there shall be a single service upon such guardian and only one fee shall be charged therefor.

I. (a) Every order of Injunction	..	2.00	3.50
(b) Every warrant of arrest or of committal to jail irrespective of the number of process servers employed.	1.75	2.00	3.50
(c) Every order of attachment	1.75	2.00	3.50
(d) Every proclamation of a sale	1.75	2.00	3.50
(e) Every want of sale	1.75	2.00	3.50
(f) Every order for delivery of possession	1.75	2.00	3.50
(g) Every order of process not Otherwise provided for	1.75	2.00	3.50

Explanation:- This shall not apply to an order for the release of a judgment Debtor from jail.

(2) In respect of every process or order enumerated in item II of the above Schedule, an additional fee shall be levied for the services of every officer entrusted with the process or order for each day after the third day beginning with the day on which it was issued:-

		Rs. Ps.
If such officer is an Amin	...	2.00
Or		
If such officer is an Peon	,..	2.00

The additional fee shall ordinarily be collected in advance, the journey (to and fro) being calculated at 30 miles a day.

Each process is liable to be paid for according to the time which it really occupies. The party must not be charged for the time occupied in serving or executing processes other than his own, but he must pay for all the days which his own process or processes would have occupied, if it or they had alone been entrusted to the process server. When one applicant puts in several processes to be served or executed had the same time in the same village or town or in the same locality in a city the charge for an additional day occupied on account of such processes may be distributed over them.

(3) For processes applied for and ordered to be executed as emergent fee shall be one and a half times the fees chargeable under sub-rules (1) and (2) above.

(4) Except in the case of warrants of committal and processes served by registered post, parties shall, in addition to the process fee prescribed in sub-rule (1) above, deposit in the shape of court fee stamps, the cost of transport from the serving court to the place of service at the rate of 10 paise per mile, subject to a minimum of 25 paise.

Explanation:- The rate of transport charges fixed in the rule is applicable to the actual distance, from the serving court to the place of service.

(5) In respect of all sales whether conducted by the Court or its officers, a fee by way of poundage shall be levied on the purchase money for each lot separately at the following rates:-

- |   |     |                        |
|---|-----|------------------------|
| (i) On the first Rs. 500                | ... | 10 paise in the rupee. |
| (ii) On the next Rs.500 or part thereof | ... | 5 paise in the rupee   |
| (iii) On any sum exceeding Rs. 1,000    | ... | 3 paise in the rupee.  |

(6) In cases where the party is directed by an order of the court to take out summons or notice by registered post, the process fees alone should be levied. If such service by post is in addition to the service by an officer of the Court, the prescribed process fee shall be levied in respect of each kind of service.

(7) Where a special process server is deputed by a superior court to an outlying court, an additional charge shall be levied in advance at the rate of RS.1.25 P. a day for a peon and Rs.2 a day for an Amin for the time for which he is likely to be employed on such duty.

(8) When one or more persons are deputed to have the Custody of a judgment debtor under arrest, an additional charge shall be levied in advance at the rate of Rs.1.25 Ps. a day for each peon up to the time fixed for the adjourned hearing.

4. In all cases except those covered by rules 32,49,49-A, 144 and 187 of the Civil Rules of Practice, Volume I. Process fee shall be paid within three days, or such other period as the court may fix, from the date of the order.

5. (1) The fees levied under these rules shall be paid in court fee labels.

(2) Process applications shall, immediately on presentation to the Nazir, be impressed with the date stamp of the Nazirath and the court fee labels affixed thereon shall be punched.

(3) Before the process is issued, the Nazir shall endorse on the process application a note to the effect that the proper fee has been paid. In the case of processes to be sent to other courts for service or execution, the note shall be endorsed on each process also.

6. (1) When a process is forwarded by any court in any of the States in the Indian Union to a court subordinate to the High Court for execution, such subordinate court shall accept the certificate endorsed on the process as sufficient proof that the proper fee therefor has been paid and shall deliver such process to the proper officer for service and shall retransmit the process to the court by which such process was transmitted to it with a return in Form No.10, Appendix B, Schedule I, Civil Procedure Code and with the endorsement of the process server showing, if service has not been effected, the reason why it has not been effected and such endorsement shall be verified by oath or affirmation of the process server.

(2) All processes intended to be served or executed by the Court of Small Causes, Calcutta shall have endorsed thereon a Certificate to the effect that conveyance charges at the rate of Rs.1.50 Ps. for each warrant and 0.25 Ps. for each summon

have been duly collected. Otherwise, such warrants and processes shall be returned unexecuted by the Court.

7. The fees payable for the service and execution of processes as laid down in these rules shall be displayed on the notice board of each court in English and in the local language or languages.

8. (1) Where more than the amount required for the service of process is deposited, or when issue of process for service becomes unnecessary after deposit, the courts may refund to the depositor, the amount of the surplus fees in money and charge the same to the contingent fund.

NOTE:- Fee paid on one process application and not utilized there for shall not be utilized in another application whether in the same proceedings or in different proceedings.

(2) Applications for refund of process shall be made before the expiry of six months from the date on which the process fees were paid into court; on applications made thereafter a penalty of 0.06 Ps. in the rupee or a fraction of a rupee shall be levied when making refund.

(3) Refunds of process fee and poundage shall be debited to "XIV Stamps – B. Judicial (d) Miscellaneous Deduct refunds – Process Service Fee". Form No.7, Appendix III (B) shall be used for the purpose. The refund shall, in the first instance, be made from the permanent advance with the head ministerial officer and shall be recouped by means of contingent bills headed 'refund of process and poundage fees' drawn on the Treasury at the end of the month. All the refund vouchers in the prescribed form shall be attached to the contingent bills and the vouchers shall on no account cancelled or destroyed as in the case of sub-vouchers for ordinary contingencies. The officer sanctioning a refund shall at time of signing the refund order exercise the necessary check by comparing the vouchers with the entries in the registers maintained in court.

When a refund has to be made after a process has been transmitted for service from one court to another the refund order shall be forwarded to the Judge of the Court in which the process fees have been deposited with a request that the amount of refund may be paid from his permanent advance instead of the order itself being made directly payable from the Treasury.

Y.VENKATESWARA RAO  
*Registrar*

High Court of Andhra Pradesh,  
Hyderabad, 3<sup>rd</sup> December, 1965.





**RULES MADE BY THE HIGH COURT OF ANDHRA PRADESH UNDER  
SECTION 34 (1) OF THE ADVOCATES' ACT 1961**

Notwithstanding Anything contained in the rules made by the High Court regarding the conditions subject to which an advocate shall practice, the High Court, in exercise of the powers conferred by Section 34(1) of the Advocates Act, 1961 makes the following Rules:-

1. In these rules, unless there is anything repugnant in the subject or context, the word 'advocate' shall include a partnership or a firm of advocates.

2. 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 and dated by such person or his recognized 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 or the advocate files a memorandum of appearance in the form prescribed by the High Court.

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.

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 proceeding or who has been appointed at the expense of the State to defend an accused person in a criminal proceeding.

Note:- Form NO.12 at page 200 Civil Rules of Practice, Volume II shall be used for appointment of an advocate.

3. Where the same advocate is retained for the party in two or more connected proceedings, a separate appointment or memorandum of appearance shall be filed in each of the several connected proceedings, notwithstanding that the same advocate is retained for the party in all the connected proceedings.

4. An advocate who is not on the roll of advocates of the Bar Council of the State in which the Court is situate, shall not appear, act or plead in such Court, unless he files an appointment along with an advocate who is on the roll of such State Bar Council and who is ordinarily practicing in such Court.

5. 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.

Provided that where an appointment in favour of one advocate has already been filed, a fresh appointment in favour of all the advocates accepted by all of them in substitution for the original or a separate appointment for each of the additional advocates shall be filed.

6. 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.

7. 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 of the Code of Civil Procedure.

8. 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, with the leave of the Court.

9. (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 until the party or the advocate dies, or until all proceedings in the case are ended so far as regards the party.

(3) For the purposes of sub-rule (2), a case shall be deemed to mean every kind of enquiry, trial or proceeding before a criminal Court, whether instituted on a police report or otherwise.

Provided that no fresh appointment need be filed where the case or the proceedings is transferred from one Court to another and the advocate who filed the appointment referred to in sub-rules (1) and (2) in the former Court is willing to act in the Court to which the case or the proceedings is transferred.

10. (1) Except when specially authorised by the Court or by consent of the party, and 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 not 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 therefrom 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 proceeding 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.

(3) An advocate who discloses to any party information confided to him in his capacity as an advocate by another party without the latter's consent shall not

be protected merely by reason of his being permitted to appear, act or plead for the said party.

(4) When a suit or other proceeding is remitted by order of an Appellate Court for a rehearing or finding on an issue, the proceeding on such order shall be regarded as a further proceeding in the trial of the suit or proceeding, and consequently an advocate shall not change sides and accept an appointment for the party opponent to the one for whom he appeared at the first hearing.

11. (1) The appointment of a firm or partnership of advocates may be accepted by any partner on behalf of the firm.

(2) 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.

(3) The name of the firm or partnership may contain to the names of the persons who were or are members of the partnership but of no others.

(4) The word 'and company' shall not be affixed to the name of any such partnership or firm.

(5) The names 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 State Bar Council, and the names of all the partners shall also be set out in all professional communications issued by the partners or the firm.

(6) The firm of advocates shall notify to the Registrar of High Court and/or the District Judge, as the case may be, and the State 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.

(7) 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 High Court, the District Judge, the State 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.

(8) In every case where a partner of a 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.

(9) 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.

12. No advocate shall be permitted to file an appointment or memorandum of appearance in any proceeding in which another advocate is already 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.

13. An advocate may correct any clerical error in any proceedings with the previous permission of the Registrar or any officer of the Court specially

empowered in this behalf by the Court obtained on a memorandum stating the correction desired.

14. No advocate who has been disbarred 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.

15. No advocate who has been found guilty of contempt of Court shall be permitted to appear, act or plead in any Court unless he has purged himself of contempt.

Provided however that due notice and opportunity of being heard shall precede. {Gazette No.223, dt.31.12.2010 published in A.P. Gazette}

16. Advocates appearing before the Court shall wear the following dress:-

(1) Advocates other than lady advocates:

- (a) Black buttoned upcoat (Black Chapkan, Achakan or Sherwani), Barrister's gown or Black Gown prescribed by the University for degree of Bachelor of Laws with bands, or
- (b) Black open collar coat, white shirt, stiff white collar with Barrister's gown or a Black Gown prescribed by the University for the degree of Bachelor of Laws and bands.

(2) Lady Advocates:

Regional dress of subdued colour or colours with Black coat and Barrister's gown, or the Black Gown prescribed by the University for the degree of Bachelor of Laws, stiff white collar and bands.

17. The Advocates shall not go on strikes except in exceptional cases as enumerated by the Apex Court.

The Hon'ble the Chief Justice shall constitute a Committee for redressal of grievances/complaints if any received from the Advocate/Advcoates Association, which shall consist of the following as members in addition to any member to be nominated.

1. The Hon'ble the Chief Justice or a Judge of the High Court nominated by the Chief Justice.
2. The Advocate General of the State.
3. The Principal District Judge of the concerned District.
4. The President of the concerned Bar Association.
5. Two representatives nominated by the Bar Counsel of the State of Andhra Pradesh.
6. One representative nominated by the President of the A.P. High Court Advocates' Association.

{Gazette No.2, dt.01.02.2006 published in A.P. Gazette}

**K.VENKATESWARA RAO**  
*Registrar.*

High Court of Andhra Pradesh.  
Hyderabad, dated 5<sup>th</sup> July, 1972.

