

Chapter 1-A

- 1. In Rule 1 sub-rule (2) & (3) substituted (Ref.: Book 2009 edition), Prior to substitution the Rule reads as under:-**

(2) Local and Seasonal Changes:-In view of the intensity of heat all civil and criminal courts in the districts of Rohtak, Hissar and Gurgaon shall work from 7 A.M. to 1 P.M with no interval for lunch from 1st May to 15th July. No reference need be made to the High Court for change of court hours during summer in these districts.

(3) Ditto:- The working hours for offices located at the hill stations of Simla, Dharamsala and Kulu Sub-division are sometimes cut short by an hour during certain winter months by instructions issued from time to time.

- 2. In Rule 4 Proviso added vide correction slip No. 17, dated 31st May, 1971.(Ref. Book)**

Chapter 1-E

- 3. In Rule 5 after the words “set-off” and before the words “under Order VIII” the words “counter-claim” inserted and after the words “Rules 6” and before the words “Civil Procedure Code” the words “and 6A to 6G” inserted vide Central Act, 104 of 1976.**

Chapter 1-G

- 4. In Rule 2 existing sub-rule (i) substituted vide correction slip No. 20 Rules.X.D.6, dated 20th September, 1974 after the Part N.(Ref. Book)**

2. (i) Whenever any documents are produced by the parties in the course of a suit, whether with the plaint or written statement, or at a later stage, they must always be accompanied by a list in the form given below. Documents produced must be forthwith compared with the list, and, if found correct, signed by the chief ministerial officer, of the Court. In column 4, the Court should note the manner in which the document was dealt with i.e., whether it was admitted in evidence or rejected and returned to the party concerned or impounded, as the case may be.

Chapter 1-K

- 5. In Rule 4 second paragraph beginning with the words “whenever possible” and ending with the words “dates fixed” deleted vide correction slip No. 32 Rules/II.D.4, dated 7th May, 1988, prior to deletion the Rule reads as under:- (Ref. Book)**

Whenever possible the Presiding Officer should, as soon as may be, fix fresh dates in cases fixed for the date which is declared a holiday or for which he has obtained leave, and issue notices to the parties, their counsel and witnesses, of the fresh dates fixed.

- 6. Rule 8 substituted vide Correction Slip No.**

29/Rules.IX.C.18, dated 19th June, 1980, prior to substitution the Rule reads as under:- (Ref. Book)

8. The progress of old cases should be carefully watched. It is advisable for judicial officers to keep before them a list of all old cases say pending over six months or a year and take proper steps to expedite their disposal. In order to put a stop to bad cases of delay courts are required to submit to the High Court abstracts of order sheets in cases pending over a year.

Chapter 1-N

7. **Part IV inserted vide Correction Slip No. S.O. 34/CA 5/1908/82/78 and Punjab Gaz L &S Pt. III dated 30th June 1978 at P-347.**

Chapter 1-O

8. **In Chapter I Part O added vide correction slip No. 44 Rules/II.D.4., dated 2nd September, 2003 after the Part N. (Ref. Lib.)**
9. **In Part II the Title substituted with the words “MEDIATION AND CONCILIATION RULES” vide Correction Slip No. 54 Rules/II.D.4 dated 9th July, 2008, prior to substitution the Title reads as under:-**

“MEDIATION RULES”

10. In this Chapter wherever the word “mediator” appears it is substituted with the words “mediator/conciliator” vide Correction Slip No. 54 Rules/II.D.4 dated 9th July, 2008, prior to substitution the Title reads as under:-

11. Rule 3(e) inserted after the existing Rule 3(d) vide Correction Slip No. 54 Rules/II.D.4 dated 9th July, 2008.

12. In Rule 4 clause (b) substituted vide Correction Slip No. 54 Rules/II.D.4 dated 9th July, 2008, prior to substitution the Rule reads as under:-

Legal practioners with atleast fifteen years standing at the Bar in the Supreme Court, High Court or District Court.

13. Rule 17 substituted vide Correction Slip No. 54 Rules/II.D.4 dated 9th July, 2008, prior to substitution the Rule reads as under:-

On the expiry of sixty days from the date fixed for the first appearance of the parties before the mediator conciliator, the mediation shall stand terminated, unless the Court, which referred the matter, either *suo moto* or upon request by any of the parties and upon hearing all the parties, is of the view that extension of time is necessary or may be useful then he may extend the time but such extension shall not be beyond a further period of thirty days.

14. In Rule 25 Clauses (1), (3) and (4) are substituted, vide Correction Slip No. 54 Rules/II.D.4 dated 9th July, 2008, prior to substitution the Rule reads as under:-

(1) At the time of referring the dispute to the ^[7] [mediator/conciliator], the Court shall after consulting the ^[7] [mediator/conciliator] and the parties, fix the fee of the ^[7] [mediator/conciliator].

(2) The expenses of the mediation including the fee of the ^[7] [mediator/conciliator], costs of administrative assistance, and other ancillary expenses concerned, shall be borne equally by the various contesting parties or as may be otherwise directed by the Court.

(3) Where there are two ^[7] [mediators/conciliators] as in clause (b) of Rule 2, the Court shall fix the fee payable to the ^[7] [mediators/conciliators] which shall be shared equally by the parties.

15. In Rule 25 after the existing Clause (1), proviso added, vide Correction Slip No. 58 Rules/II.D.4 dated 10th December, 2009.

16. In Rule 25 Clause (2) deleted and the rest of the clauses are re-numbered, vide Correction Slip No. 54 Rules/II.D.4 dated 9th July, 2008, prior to deletion the Rule reads as under:-

(2) As far as possible, a consolidated summary be fixed rather than for each session or meeting.

Chapter 1-P

17. In Chapter I Part P added vide correction slip No. 52 Rules/II.D.4., dated 12th March, 2008 after the Part O. (Ref. Lib.)

Chapter 3-D

18. In Rule 1 Clause (dd) added vide Haryana Government Notification No. GSR/52/CA7/1887/S.3/74, dated 10th May 1974.(Ref. Book edition 2009)

Chapter 4-A

19. “Scheme for Appointment of Arbitrators” added vide Notification No. GSR/6/C.A.26/96/S.11/97, dated 19th December 1996.

Thereafter

“Scheme for Appointment of Arbitrators” substituted vide Notification No. 271 Rules/XVI.A.129, dated 17th September 2003, prior to substitution the Rule reads as under:-

In exercise of the powers conferred on the Chief Justice of the High Court of Punjab and Haryana, Chandigarh, under sub-section (10) of section 11 of the Arbitration and Conciliation Act, 1996, I hereby make the following scheme:-

Short Title:

1. This Scheme may be called the Appointment of Arbitrators by the Chief Justice of Punjab and Haryana High Court, Chandigarh Scheme, 1996.

Submission of request:

2. The request to the designate person/institution under sub-section (4) or sub-section (5) or sub-section (6) of Section 11 shall be made in writing in the format prescribed in appendix I and shall be accompanied by-

- (a) The original arbitration agreement or a duly attested/photocopy thereof;
- (b) An affidavit supported by the relevant document or photo-true copies thereof to the effect that the condition to be satisfied under sub-section (4) or sub-section (5) or sub-section (6)

Authority to deal with the request:

3. For the purpose of dealing with the request made under para 2, the Chief Justice may designate Civil Judge (Senior Division) of the concerned District or Tehsil or Sub-division as the case may be.

Seeking further information:

4. The person designated herein may seek such further information or clarification or documents, from the party making the request under the scheme, as he may deem fit.

Rejection of request:

5. Where the request made by the party is not in accordance with the provisions of this scheme, the person designated may reject the same.

Notice to affected person(s):

6. Subject to the provisions of paragraph 5 the person designated shall direct that notice of the application be given to all the parties to the arbitration agreement and to such other person or persons as may seem to him likely to be affected by such proceedings 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 should not be 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.

Withdrawal of authority:

7. If the Chief Justice, on receipt of a complaint from either party to the arbitration agreement or otherwise is of opinion that the person designated by him under paragraph 3 has neglected or refused to act or is incapable of acting, he may withdraw the authority given by him to such person and either deal with the request himself or designate another person for that purpose.

Intimation of action taken on request:

8. The appointment made or measures taken by the person designated in para 3 or para 7 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.

Requests and communications to be sent to Authorised Officer:

9. All requests under the scheme and communications relating thereto shall be presented to the officer authorized by the person designated in para 3 or para 7 and the said officer shall maintain a separate register of such requests and communications. Whenever requests under para 2 are received, the authorized officer shall, as soon as may be, place the same before the person designated in para 3.

Delivery and receipt of written communications:

10. The provisions of sub-section (1) and (2) of section 3 of the Arbitration and Conciliation Act, 1996 shall, so far as may be, apply to all written communications received or sent under this scheme.

Costs for processing requests:

11. The party making a request under this Scheme shall alongwith the request for arbitration pay an amount of Rs. 500 towards the costs involved in processing the request.

The amount be deposited in the State Bank of India under the Head of Account "0070-other Administrative Services-01-Administration of Justice and the receipt thereof shall be filed alongwith requests.

Interpretation:

12. If any question arises with reference to the interpretation of any of the provisions of this Scheme, the question shall be referred to the Chief Justice whose decision shall be final.

Power to amend the Scheme:

13. The Chief Justice may, from time to time, amend by way of addition or variation any provision of this Scheme.

20. In Scheme for Appointment of Arbitrators Rule 3 & 10 substituted vide Correction Slip No. 185/Rules/XVI.A 129, dated 9th June, 2009, prior to substitution the Rules read as under:-

3. Authority to Deal with the Request:- (1) For the purpose of dealing with the request made under para 2 the Chief Justice hereby designates the District Judge to the Court of District Judge, where the value of the subject matter does not exceed 25 lakh rupees;

(2) the request involving the subject matters exceeding 25 lakh rupees shall be dealt with by the Chief Justice himself or he may designate any Judge of the High Court for this purpose by a general or special order;

(3) the requests falling under sub-para (1) shall be placed before the District Judge for appropriate allotment and the requests falling under sub-para (2) shall be placed before the Chief Justice or his designate.

10. Cost for Processing Requests:- A request under para 3(1) shall be accompanied by Court fee stamps of Rs. 500 and under

para 3(2) Rs. 1,000.

Chapter 4-B-1

21. Part B-1 added after the existing Part B, Vide Correction Slip No. 45 Rules/II.D.4, dated the 8th September, 2003.

Chapter 5-C

22. In Rule 3 sub-rule(ii) the word appearing in between the words “situated” and “more” omitted vide Correction Slip No. 16 Rules/II.D.4, dated 24th March, 1971.
23. In Rule 3 sub-rule(ii) the figures and words “8 Kilometers” substituted for the words “five miles” vide Correction Slip No. 16 Rules/II.D.4, dated 24th March, 1971.
24. In Appendix-I, below Rule 3 the existing provisions shall be substituted vide correction slip No. 27 Rules X.A.14, dated 3rd February, 1979, prior to substitution the Rule reads as under:-

RATES OF REMUNERATION TO BE PAID To WITNESSES ATTENDING THE CIVIL COURTS.

Class I.—Fifteen rupees per diem. Gentlemen
of Distinction.

All Covenanted and Commissioned officers of Government.

Uncovenanted officers of Government holding appointments equal in rank to those of Extra Assistant Commissioners.

All officers of the Armed Forces.

Class II—Seven rupees and annas eight per diem. Non-officials of the middle class.

Head-Assistants and the higher description of clerks in public offices.

Tahsildars, Inspectors of Police or officials of similar rank.

Junior Commissioned Officers and Warrant Officers of the Armed Forces.

Class III.—Five rupees per diem. Inferior clerks in public offices.

Ministerial employees in vernacular offices or departments; and persons of the middle class generally, such as Zamindars and tradesmen of the better sort, well-to-do zamindars should always be placed in this class and only very petty zamindars in class IV.

Non-Commissioned and petty personnel of the Armed Forces.

Class IV.—Four rupees per diem.

Persons below the preceding class, but above Class V, such as inferior zamindars, petty tradesmen.

Class V.—Three rupees per diem.

All persons not included in any of the above classes, such as coolies, day labourers, etc.

- 25. In Appendix II, Form B the figures and words “8 Kilometers” substituted for the words “five miles” vide Correction Slip No. 16 Rules/II.D.4, dated 24th March, 1971.**

Chapter 6-B

26. In the Indian Soldiers (Litigation) Rules, 1938, Rule 3 substituted vide Correction Slip No. 19 Rules/XXVIII.6, dated 21st September, 1972, prior to substitution the Rule reads as under:-

Prescribed authority. The prescribed authority for the purposes of sub clause (iv) of clause (b) of section 3 and section 6, 7 and 8 of the Act shall be the Officer Commanding the Unit or the Depot of the unit to which the soldier belongs.

27. Rule 5 substituted vide Correction Slip No. 19 Rules/XXVIII.6, dated 21st September, 1972, prior to substitution the Rule reads as under:-

The notice given by the Court under section 6 of the Act shall be in Form B of the Schedule and shall be sent to the prescribed authority care of the General Officer Commanding-in-Chief of the Command in which the Courts is situated, and the certificate of the prescribed authority, under section 7 of the Act, shall be in Form C of the Schedule.

28. Rule 8 substituted vide Correction Slip No. 19 Rules/XXVIII.6, dated 21st September, 1972, prior to substitution the Rule reads as under:-

The prescribed authority for the purposes of section 12 of the Act shall be the General Officer Commanding-in-Chief of the Command in which the Court is situated.

29. In the Schedule Form B, for the words and brackets “The Officer Commanding (enter name of unit _____ depot of unit” the words “The Prescribed Authority %” AND for the words “Care of the General Officer Commanding-in-Chief, ... Command” the words “Care of the General Officer Commanding-in-Chief..... Command. the Assistant Chief of the Air Staff (Personnel), Air Headquarters, New Delhi” substituted vide Correction Slip No. 19 Rules/XXVIII.6, dated 21st September, 1972, prior to substitution the Form reads as under:-

FORM B.

(See Rule 5)

Notice under section 6 of the Indian Soldiers (Litigation) Act, 1925.

In the.....
.....No.....of.....
.....
Versus
.....

To
The Officer Commanding (enter name of unit _____ depot of unit
Care of the General Officer Commanding-in-Chief, ...

..... Command.

Please take notice that [upon the certificate of the Collector of under Section 5 of the Indian Soldiers (Litigation) Act, 1925 (IV of 1925)][having had reason to believe]* that....., son of..... an Indian Soldiers who is a party in the above-mentioned proceeding now pending in this Court and is not represented by any person duly authorised to appear, plead or act on his behalf, is unable to appear therein, this Court has, under section 6 of the said Act, suspended the proceedings, if within the period prescribed in section 8 of the said Act, no certificate is received from you under section 7 thereof, the Court will, if it thinks fit, continue the proceeding.

Given under my hand and the seal of the Court, this the day of..... +19 .
Presiding Officer of the Court Registrar.

30. In the text of the form, in line 3 for the word “that” the word “that @” substituted vide Correction Slip No. 19 Rules/XXVIII.6, dated 21st September, 1972.

31. In the Schedule Form B the existing footnotes substituted vide Correction Slip No. 19 Rules/XXVIII.6, dated 21st September, 1972.

This notice should be sent by post in a registered cover, or by hand, and an acknowledgement should be obtained for it.

**One of the two portions within square brackets, should according to the circumstances of each case, be penned through.*

32. In the Schedule Form C, for the words and brackets “The Officer Commanding (enter name of unit/depot of unit)” the following shall be substituted,
“

_____” and for the words “Officer Commanding” below the words “Yours faithfully” the words “Prescribed Authority” substituted, vide Correction Slip No. 19 Rules/XXVIII.6, dated 21st September, 1972, prior to substitution the Form reads as under:-

FORM C.
(See Rule 5).

Certificate under section 7 of the Indian Soldiers (Litigation) Act, 1925.

From

The Officer Commanding,
(enter name of unit/depot of unit)

.....

.....

.....

.....No.....of 19.....

.....

Versus

.....

No....., dated.....

Sir,

I HAVE the honour to acknowledge receipt of your notice dated....., under section 6 of the Indian Soldiers (Litigation)

Act, 1925 (IV of 1925), in the above mentioned proceeding, and to certify under section 7 of the said Act that. son of
....., in respect of whom the above mentioned notice has been given, is serving under special conditions and that a postponement of the proceeding in respect of that soldier is necessary in the interest of justice.

..... Yours faithfully,
Officer Commanding.

33. In the Schedule Form D, for the words “Officer Commanding” below the words “Yours faithfully” the words “Prescribed Authority” substituted, vide Correction Slip No. 19 Rules/XXVIII.6, dated 21st September, 1972, prior to substitution the Form reads as under:-

FORM D.

(See Rule 6).

Certificate under rule 6 of the Indian Soldiers (Litigation) Ruls, 1938.

From

.....
.....

To

.....
.....
.....

In re.....No.....of 19.....

.....
Versus
.....

No....., dated.,.....

Sir,

I HAVE the honour to invite a reference to my letter No.....
....., dated....., and to certify under rule 6 of the Indian Soldiers (Litigation) Rules, 1938. that circumstances no longer exist for the postponement of the above mentioned (enter suit appeal, application or other proceeding), now pending in (enter name of court), wherein, son
of.....an Indian Soldier, is a party.

Yours faithfully,
Officer Commanding.

Chapter 8

34. Rule 6 substituted vide Correction Slip No. 28, dated 9th May 1979, prior to substitution the Rule reads as under:-

To avoid delays in the disposal of suits and proceedings against the Government and to prevent inconvenience to the law Officers of the Government the following directions should be observed:—

- (1) No suit against the Government or Public officer as such should be heard by a Court away from the headquarters of the District.
- (2) Suits and proceedings in which Government is a party should be given priority of hearing; and such cases should, when possible, be heard continuously until completion; and
- (3) If a date is fixed in a suit affecting the Government, and the Court is not prepared to hear the case on that date, timely notice if necessary by telegram, should be given to the Law Officer concerned by the Court.

Timely notice
of
adjournment.

35. Rule 7 substituted vide CPC (Amendment) Act, 1976 (Act 104 of 1976), prior to substitution the Rule reads as under:-

Where in a suit by or against the Government or a public officer in his official capacity a decree is passed against the Union of India or the State or as the case may be, the public officer; the Court shall specify a time within which the decree shall be satisfied (Section 82). As regards the execution of such decrees see paragraph 7 of Chapter 12-C.

36. At the end of Rule 8, paragraph XVI and XVII added vide Correction Pamphlet No. 2, dated 3rd January, 1966.

Chapter 9

37. Rule 5(iii), substituted vide correction slip no. 13, dated 7th August 1968, prior to substitution, the rule reads as under:-

Fees.

(iii) Whenever an application is sent to the Special Kanungo or Patwari Muharrir be must, at the same time, be summoned, as a witness, and the applicant must at once deposit into Court the fee for evidence which is Rs.3/ and the excerpt, fee which is also Rs.3.

38. Rule 5(vii), substituted vide correction slip no. 13, dated 7th August 1968, prior to substitution, the rule reads as under:-

(vii) The fee for the preparation of the excerpt will be a consolidated one of Rs. 3 which will cover the cost of search and preparation of the excerpt. Any extra fee fixed should be recovered at the hearing.

Chapter 10

39. In Rule 4, sub-paragraph 5 & 6, The word state Substituted with the word (India) by the CPC Act No. 2 of 1951, prior to substitution the rule reads as under:-

178. When a letter of request to be issued.—Order XXVI, Rule 5, of the Code of Civil Procedure lays down that a court may issue a letter of request if it is satisfied that the evidence of a person residing at any place not within the State is necessary.

179. Letter of request under Section 77 of Civil Procedure Code.—When a court issues a letter of request under section 77 of the Code of Civil Procedure, to examine a witness or witnesses residing at any place outside the State, it shall send therewith a list of the questions to be asked the witness or witnesses and a translation of the letter of request and of questions into English and where possible into the language of the court to which the letter of request is sent. In cases where both the parties are to be represented at the examination the court may, if so desired by the parties ask in the letter of request that the agents of the parties be permitted to put such further questions in examination and cross examination as they may be advised. The party on whose application the letter of request is issued shall give an undertaking to be responsible for the expenses incurred in its execution. Nothing in this rule prohibits a court issuing a commission from enlarging from time to time the period within which the return may be made.

Chapter 11-A

- 40. Punjab and Haryana Civil Courts Preparation and Supply of Certified Copies of Type Written Judgments Rules, 1982 added vide Notification No. GSR. 85/257/CA/1908/R6B and 20, Order XX/82 dated 5th August, 1982.(reference from Vol. II edition 2004)**

Chapter 12-L

41. For Sub-Rule (ii) of Rule 20, substituted vide correction slip no. 21/Rules XI.C.4(a), dated 20th November 1974, prior to substitution, the rule reads as under:-

(ii) In every district, save as otherwise prescribed, the Official Receiver should ordinarily be appointed Court Auctioneer.

Further substituted vide Correction Slip No.26/Rules XI.C.4(a), Dated 17th September, 1976

At the head quarters of each sub-division in a district, save as otherwise directed, the District Judge shall, with the prior approval of the High Court, appoint a Court Auctioneer to conduct sales in execution of decrees within the limits of the sub-division. The official Receiver shall ordinarily be appointed as the ex-officio Court Auctioneer for the sub-division which has its headquarters at the place where the headquarters of the District are located.

42. For Sub-Rule (ii) of Rule 22, substituted vide Correction Slip No.26/Rules XI.C.4(a), Dated 17th September, 1976, prior to substitution, the rule reads as under:-

(ii) If the sale is conducted by the Court Auctioneer, 80 per cent of the Commission will be paid to him and 20 per cent will be paid into the Treasury to the credit of Government. All incidental expenditure shall be met by the Auctioneer.

Chapter 12-R

43. Rule 4, substituted vide insertion of Section 35-B in C.P.C. by Amending Act 1976 prior to substitution, the rule reads as under:-

The Court can order that a party who knowingly puts forward any false or vexatious claim or defence in execution proceedings shall pay costs by way of compensation to the opposite party who objects to the claim or defence on these grounds. The amendments of Section 35A of the Code of Civil Procedure by Act No. 66 of 1956 may be studied in this connection.

Chapter 16-B of Volume I

44. For rule 1, substituted vide correction slip no. 33 Rules II. D.4, dated 27th February 1991, prior to substitution, the rule read as under:-

In suits for the recovery of specific property or a share of specific property, whether immovable or moveable, or for the breach of any contract or for damages:—

- (a) if the amount or value of the property debt or damages decreed shall not exceed Rs. 5,000 at 7½ per cent on the amount or value decreed;
- (a) if the amount or value shall exceed Rs. 5,000 and not exceed Rs. 20,000 on Rs. 5,000 at 7½ per cent and on the remainder at 3 per cent.
- (c) if the amount or value shall exceed Rs. 20,000 and not exceed Rs. 50,000 on Rs. 20,000 as above, and on the remainder at 1½ per cent;
- (d) if the amount or value shall exceed Rs. 50,000 on Rs. 50,000 as above and on the remainder at ¾ percent:

Provided that in no case shall the amount of any fee exceed Rs. 4,500.

Note.—In suits for land the Pleader's fees should be calculated on the value of the suit as determined for purposes of jurisdiction by the Rules made by the High Court under section 9 of the suits Valuation Act, 1887*, and not on the value as determined for the purposes of the Court-fees Act. Other suits.

45. For rule 2, substituted vide correction slip no. 33 Rules II. D.4, dated 27th February 1991, prior to substitution, the rule read as under:-

In suits for injuries to the person or character of the plaintiff, such as for assault or defamation, or for injuries to property, or to enforce rights, where the pecuniary value of such injury or right cannot be exactly defined, as in suits for interference with a right to light or water, or to enforce a right of pre-emption, or suits for the partition of joint property, where partition is improperly resisted, or any other suit of the kinds specified in the rules made by the High Court under section 9 of the suits Valuation Act, 1887, *

for the valuation of suits which do not admit of being satisfactorily valued, if the plaintiff succeeds, the court may order the fee allowed to the plaintiff, to be calculated with reference either to the amount decreed, according to the valuation of the suit, or according to such a sum, not exceeding the valuation, as the Court shall think reasonable, and shall fix with reference to the importance of the subject of dispute. In any such case the amount of the fee shall be calculated according to rule 1.

Note.—The words "Valuation of the suit" in the above rule mean the value of the suit as determined for purposes of jurisdiction by the rules made by the High Court, under section 9 of the Suits Valuation Act, 1887* (See Chapter 3 of this Volume)

46. For rule 8, deleted vide correction slip no. 33 Rules II. D.4, dated 27th February 1991, prior deletion, the rule read as under:-

In any miscellaneous proceedings or for any matter other than that of appearing, acting or pleading in a suit prior to decree, the fee shall not exceed.—

- (i) rupees two hundred and forty in the court of a District Judge, or of an officer exercising the powers of a Subordinate Judge of the 1st, 2nd, 3rd and 4th class or in a Court of Small Causes;
- (ii) rupees forty eight in the Court of an officer exercising the powers of a Subordinate Judge in respect of cases the value of which is below Rs. 1,000.

Chapter 16-C of Volume I

47. Rule 2, substituted vide correction slip no. 33 Rules II. D.4, dated 27th February 1991, prior substitution, the rule read as under:-

2. Several appeals have had to be admitted to a hearing by this Court solely on the ground that counsel's fees, which should have been fixed by rule, had been fixed at the discretion of the District Judge, at a rate higher than that allowed by the rules. Although rules 2 and 15 of Part B of this Chapter permit District Judges to exercise their discretion in allowing fees which appear just and equitable, it must be remembered that the fee to be allowed is to be calculated in accordance with scale laid down in Rule 1 of that Part, and any fee not exceeding the sum so arrived at may be allowed.

For instance:—

- (i) in a suit for an injunction where the plaintiff values the relief sought at Rs. 110, the maximum fee which can be allowed is Rs. 8.25 nP.

in a suit for declaration that an alienation of land of which 30 times the land revenue is Rs. 300 and where the consideration is Rs. 1,000 shall not affect the plaintiff's reversionary rights, the maximum fee allowable is Rs. 22.50 calculated upon the jurisdictional value and not Rs. 75 calculated upon the consideration.

Chapter 17-B of Volume I

48. For rule 1, paragraph 1, added vide notification no. G.S.R. 85 P.A. 6/1918/S. 46A/Amd./74., dated 19th July, 194, prior to addition, the rule read as under:-

‘Petition’ means a document, written for the purpose of being presented to a Court or a Judicial or Revenue Officer, as such, and includes a plaint and memorandum of appeal.

49. For rule 1 after paragraph 3 the explanation added vide Notification No. G.S.R. 85 P.A. 6/1918/S. 46A/Amd./74., dated 19th July, 1974.

50. Rule 19(i), substituted vide correction slip no. 6/Rules XIV.8, dated 11th October 1966, prior substitution, the rule reads as under:-

- a. Subject to the provisions of rule 25, every licensed Petition-writer may make his own terms with his employer as to the remuneration to be paid for his services.

51. Rule 25, deleted vide correction slip no. 6, dated 11th October 1966, prior deletion, the rule reads as under:-

Any Judicial or Revenue Officer or Court, who, upon the representation of any person employing a Petition-writer after hearing such petition-writer, if he desires to be heard, finds that the fee charged for writing a petition presented in his office or Court was excessive, may by order in writing, reduce the same to such sum as appears to be, under the circumstances, reasonable and proper, and may require the petition-writer to refund the amount received in excess of such sum. An order passed under this rule shall not be revised, except by the Officer or Court, who made it.

52. In Rule 28, words occurring “and rule 25” deleted vide correction slip no. 6, dated 11th October 1966, prior deletion, the rule reads as under:-

Any person who practises as a Petition-writer contrary to the provisions of rule 2 or who fails to obey the orders of a competent authority passed under rule 17 and rule 25, shall be liable to a penalty not exceeding rupees fifty.

Failure to obey orders.

Punishment for violation of rules.

Punishment for inefficiency, misconduct etc.

Chapter 18-A of Volume I

53. Chapter 18-A, substituted vide correction slip No. 40 Rules/II.D.4., dated 5th February, 1999.

CHAPTER 18

PART A.—Control

Rules framed by the High Court under Section 35(3) of the Punjab Courts Act for subordinate Services attached to Civil Courts other than the High Court.

I. *Application*.—These rules shall apply to the following:-

- (a) Ministerial and menial establishment of District and Sessions Judges, including establishment of Record Offices and Sessions Houses.
- (b) Ministerial and menial establishment of Sub- Judges stipendiary and honorary.
- (c) Ministerial and menial establishment of Courts of Small Causes.

Note.—The term 'menial' used in this rule and the other rules in this chapter includes all inferior Government servants other than process-services, who have been classed as ministerial officers for the purpose of these rules.

II. *Classification.*—(a) The following officers, together with such others as the High Court may from time to time direct, shall be considered as ministerial officers, forming a joint cadre :—

“A joint seniority list of Assistant Nazirs in the Process Serving Establishment and Clerks and Steno-typists in the general line shall be prepared for purposes of promotion to the post of Assistant at every district headquarter in the States of Punjab and Haryana and Union Territory, Chandigarh subject, however, to the provisos that not more than 20 per cent of the promotion posts of Assistants in any District/Sessions Division would at any particular point of time be filled by promotion from amongst the Assistant Nazirs borne on the Joint Seniority list; and that none from amongst those Assistant Nazirs would be considered for promotion as Assistant unless he is a matriculate.”

- (1) Clerks of Court to Senior Subordinate Judges and Judges of Courts of Small Causes;
- (2) Readers;
- (3) Record keepers;
- (4) English and Vernacular Clerks (Ahlmads and Muharrirs, paid Candidates and Leave Reserve Clerks);
- (2) Stenographers;
- (3) Translators and Assistant Translators;
- (4) Copy Clerks, and Copyists, English and Vernacular;
- (5) District and Sessions Judges' Nazirs;
- (6) Civil Nazirs, Naib-Nazirs and Madad Naib-Nazirs;
- (2) European and Execution Bailiffs;
- (3) Process-servers.

Nos. (1) to (8) shall be classed as General Line; Nos. (9) to (11) shall be classed as Process-serving Establishment.

Posts, the initial pay of which is less than Rs. 75 (old) Rs. 60 (new) shall be classed as Lower Grade Posts, all other shall be classed as High Grade Posts.

Posts of Clerks of Court to District and Sessions Judges shall be classed as selection posts and shall be on a provincial cadre-

(b) There shall be a separate cadre for each Revenue District and a separate cadre for; each Court of Small Causes :

Provided that in those divisions, where one District and Sessions Judge has charge of more than one Revenue District, the following practice shall be observed:—

Unpaid candidates shall be recruited from each district separately. A joint list shall be kept in the office of the District and Sessions Judge, in which the name of the District to which each candidate belongs shall be clearly mentioned. As a general rule, a post in a particular district shall be given to an unpaid candidate of the district. This rule may, however, be departed from in those cases where it is considered that such an appointment will be prejudicial to the interests of the senior most unpaid candidate of the other district. In such cases, the latter may be appointed in the district other than his own till his turn comes for appointment in his own district, when he should be sent back, and an unpaid candidate belonging to the other district appointed in his place. The prospects of a candidate shall not be prejudiced through his declining an appointment in a district other than his own.

In making appointments in his own office, the District and Sessions Judge shall take into consideration the claims of clerks working in either district.

- (ii) The appointing authority shall in all such cases record his reasons for holding that a departure from the rule is justified.

Provided further that in those districts in which there is a separate Small Cause Court, the District Judge and the Judge of the Small Cause Court may take into consideration the claims of both establishments in making appointments in the establishments of their respective courts.

Note.—The term 'ministerial' used in this rule is not intended to overrule the definition of a ministerial Government servant given in Fundamental Rule 9(17). Bailiffs and process-servers will, therefore, continue to be regarded as non-ministerial and inferior Government servants, respectively, for the purpose of the rules relating to retirement, as contained in Fundamental Rule 56 for Bailiffs and Articles 481 to 485 of the Civil Service Regulations for process-servers. Bailiffs and other officials appointed to posts in the Punjab on pay not exceeding Rs. 25 per mensem on or after the 19th November, 1934, will be treated as inferior Government servants and their retirement governed by Articles 481 to 485 of the Civil Service Regulations.

III. *Qualifications.*—(1) No person shall be accepted as a candidate for the clerical ministerial staff if he is over 25 years of age, or if there is no prospect of his getting a permanent Government post, or a post of paid candidate, or a post of section copyist, before attaining the age of 25 years.

(2) No person shall be appointed to, or accepted as a candidate for, any clerical ministerial post, unless he has passed the Matriculation Examination of the Punjab University or an equivalent examination:

Provided that the member of the non-clerical ministerial staff, who joined service before November, 1929, may be appointed to a post of Madad Naib-Nazir, Naib-Nazir or Civil Nazir, if he has shown special ability, has a working knowledge of English and is able to examine and keep accounts.

Provided further that a non-matriculate, who joined service before 17th July, 1926, may, if he was actually accepted as a candidate for a clerical post, be appointed to any of the posts enumerated in Schedules I, II and III to this part, if it is certified by the District and Sessions Judge, that he is efficient and fit for such appointment.

(3) Preference shall be given in the recruitment of new candidates to those who are competent stenographers, and such candidates should be freely employed as court stenographers, while working as unpaid candidates.

(3) No person shall be appointed as Process-server or Execution Bailiff unless he has passed the Lower Middle School examination which is equivalent to 6th Class Promotion Examination provided that the High Court may relax this rule in the case of ex-soldiers and provided further that a Process-server who joined service before 2nd June, 1934, may be appointed as Execution Bailiff if he is considered otherwise fit for promotion, although he may not have passed the lower Middle School Examination.

(4) No person shall be appointed Civil Nazir who is not able to keep and examine accounts both in English and in Urdu.

(5) No person who is sickly, old or incapable of much physical exertion, and has not a good knowledge both of Urdu and of the language current in the district of his employment shall be appointed as Execution Bailiff or Process-server.

(4) For posts of menials the officers empowered to make appointments shall appoint the best man, provided that preference be given to ex-soldiers competent to do the duties required.

(5) All appointments shall be subject to a medical certificate of fitness.

IV. *First appointments*.—First appointment shall be made as follows :—

(1) By the District Judge:—

- (a) Ministerial officers in his own court and in all courts controlled by the District Court, other than courts of Small Causes;
- (b) Menials in his own court.

(2) By the Senior Sub-Judge:—

Menials in his own court and the courts of other Sub-Judges in the same district

(3) By the Judge of a Court of Small Causes:— Ministerial officers and menials in his own court.

Note 1.—A District Court may under the provisions of section 37 of the Punjab Courts Act, 1918, with the previous sanction of the High Court, delegate the power of appointment given above to any Subordinate Judge, to be exercised by him in any specified portion of the district, subject to the control of the District Court.

Note 2.—This delegation has been made to the Senior Sub-Judge, 1st Class, in each district in regard to the process-serving establishment of all courts in the district except that of the District Judges court and the court of the Judge, Small Causes, Lahore, Amritsar and Delhi.

V. *Appointment*.—(1) Appointment to ministerial posts shall ordinarily be made either by open competition or by selection from a list of qualified candidates or apprentices accepted by the District Judge, Judge of a Small Cause Court, or Sub-Judge to whom powers of appointment have been delegated, as the case may be. Any departure from either of these methods should be reported to the High Court for confirmation.

(2) No person shall be admitted to work in any Court as an apprentice unless his name is entered on the register of candidates by the written order of the District and Sessions Judge, Senior Subordinate Judge or Judge, Small Cause Court, as the case may be, who shall in addition to the qualifications specified above satisfy himself by personal inspection that each candidate is otherwise qualified and suitable and has adequate means of subsistence. Each apprentice shall have his place and duty distinctly assigned to him in the office and shall work under the supervision of a recognised superior clerk.

(2) When appointment to a permanent post is made from candidates, preference must be given to the senior candidate unless, he has shown himself unfit, provided that when candidates possessing higher educational qualifications for a post, for which an examination standard is fixed, such as graduates, are available they should be given preference over less well qualified candidates.

VI. *Promotion*.—(1) Appointments to the higher grades of the ministerial establishment should ordinarily be made by seniority from lower grades, provided that the official who would thus receive promotion possesses the prescribed educational qualifications and is otherwise fit to perform the duties to which he will be promoted, for which purpose tests may be imposed. This rule does not apply to such posts as that of stenographers for which special qualifications are needed ; but preference should be given to officers with such qualifications who are already working in the lower grades :

Provided that permanent vacancies in the 75-5-125 grade shall be filled by the District and Sessions Judges in the following rotation :—

- (i) By selection on merit out of graduates who have at least two years' experience in the work of the office, if there is no suitable graduate who fulfils this condition an 'outsider' graduate may be appointed, but he must be one who normally resides within the jurisdiction of the District and Sessions Judge.
- (ii) & (iii) By normal promotion in the office, i.e., the appointment of the next senior man whether graduate or non-graduate subject to his fitness:

Provided further that the rotation may be modified in very exceptional cases when the direct appointment of a graduate would mean the ousting of a man, who had been officiating quasi-permanently in the post concerned for an appreciable period. What is, an appreciable period will depend on the circumstances of each case. After such a modification, the rotation should be restored as soon as possible.

(2) In making promotions, preference may invariably be shown to officials who are known to be strictly honest. No promotion should be given and no recommendation for promotion made in the case of an official who does not possess and maintain a reputation for strict integrity. Efficiency without honesty is not to be regarded as constituting a claim to promotion.

VII. *Security*.—All officers having any dealings with public money or holding posts of particular trust shall on appointment give such security as the High Court may from time to time prescribe.

VII. *Conditions of service*.—(1) The establishment other than Process-servers mentioned in rule II in each district shall consist of so many posts as the High Court may fix from time to time by an order under this rule. The number of posts and the rates of pay of such, posts as they stood on 1st April, 1934, are as enumerated in Schedules I—III annexed to these rules.

(2) The remuneration of Process-servers and the number of their appointments are governed by rules issued by the High Court under sections 20 and 22 of the Courts Fees Act, 1870.

(3) Service shall ordinarily be within the Civil Division within which the officer was first appointed, but may be anywhere within the jurisdiction of the High Court.

(4) Members shall be governed by the provisions of the Fundamental and the Subsidiary Rules as framed from time to time.

Note.—Clauses (1) and (3) of this rule and the Schedules referred to in clause (1) do not apply to Delhi Courts.

IX. *Punishment*.—(1) The following penalties may for good and sufficient reasons be imposed upon members of the ministerial staff:—

- (i) Censure,
- (i) Fine of an amount not exceeding one month's salary for misconduct or neglect in the performance of duties,
- (i) Recovery from pay of the whole or part of any pecuniary loss caused to Government by negligence or breach of orders,
- (ii) Withholding of increments or promotion including stoppage at an efficiency bar,

- (iii) Reduction to a lower post or time scale or to a lower stage in a time scale,
- (iv) Suspension,
- (i) Removal, and
- (ii) Dismissal.

(2) (a) Any of the above penalties may be inflicted by the District Judge, on the ministerial officers of his own court or any Court subordinate to him other than a court of Small Causes, and on the menials of his own Court.

(b) The Judge of a Court of Small Causes may inflict any of the above penalties on the ministerial officers menials of his own Court.

(c) The District Judge may, with the previous sanction of the High Court, delegate to any Subordinate Judge the power to inflict penalties given in clause (a) to be exercised by the Subordinate Judge in any specified portion of the district subject to the control of the District Court.

Note.—This delegation has been made to the Senior Sub-Judge, 1st Class, in each district in regard to the process-serving establishment of all courts in the district except that of the District Judge's Court and the court of the Judge, Small Causes, Lahore, Amritsar and Delhi.

(d) Any Subordinate Judge may fine, in an amount not exceeding one month's salary, any ministerial officer of his own Court for misconduct or neglect in the performance of his duties.

(e) The Senior Subordinate Judge may inflict any of the above penalties on menials of his own court or the courts of other Subordinate Judges in the same district.

X. *Appeals.*—(1) The District Judge may on appeal or otherwise reverse or modify any order made under rule IX(2) by any Court under his control including a Court of Small Causes, and his order shall be final :

Provided that nothing in this rule shall preclude the High Court from altering where it deems fit any such appellate order of a District Judge on petition by an aggrieved person or otherwise:

Provided further that the District Judge shall not enhance any punishment but should, if he considers enhancement desirable, refer the case to the High Court for orders.

(2) Appeals against penalties inflicted by a District Judge shall lie to the High Court in the following cases only:-

- (a) Penalties mentioned in Rule IX(iii) to (viii) in respect of ministerial servants, holding permanent and pensionable posts ;
- (a) Orders of substantive appointment by promotion or otherwise to a permanent and pensionable post the maximum pay of which is Rs. 75 or more per mensem.
- (c) Orders of temporary appointment which is to last more than three months or has in fact lasted more than three months in respect of posts the maximum pay of which is Rs. 75 or more per mensem.

(3) Persons appealing to the High Court under this rule shall do so by petition, such petition, accompanied by a copy of the order complained against, shall be presented to the District Judge who passed the order within one month of the date of such order (the period between the date of application for the copy and the date on which it is supplied being excluded). The District Judge will forward the petition to the Registrar of the High Court without unnecessary delay, and in forwarding the same he will be at liberty to record any remarks which he may wish to make concerning any matter stated in the petition.

After reading the petition, the High Court may either:-

- (a) summarily reject it without hearing the petitioner;
- (b) refer it to the District Judge for report and on receipt of such report reject the petition without hearing the petitioner; or
- (c) hear the petitioner, and in cases where other persons are held to be concerned in the subject of the petition, such other persons in open court.

Nothing in these rules shall debar the High Court or a District Judge, from, altering, if deemed fit, any order of punishment or appointment not provided for above which may be passed by a District Judge, Senior Subordinate Judge, or the Judge of a Small Cause Court in respect of ministerial or menial establishment when an aggrieved person petitions or otherwise. District and Sessions Judges should not, therefore, withhold any petition addressed to the High Court whether an appeal lies to it in the case or not under these rules. In a case in which no appeal lies the District and Sessions Judge should forward it without any comments and relevant documents unless he wishes to do so or is so required by the High Court.

(4) Petitioners are forbidden to attend personally at the High Court unless summoned to do so. Orders on their petitions will be communicated to them through the District Judge concerned.

(5) In order that a dismissed official may be able to exercise his right of appeal, the charge against him should be reduced to writing, his defence should either be taken in, or reduced to writing and the decision on such defence should also be in writing. The record of the charge, defence and decision should in all cases be such as to furnish sufficient information to the appellate authority to whom the dismissed official may prefer an appeal.

(6) Establishment orders, in which an appeal lies to the High Court as a matter of right, should state briefly the claims of the persons appointed as well as those of their seniors, if any, who are considered unfit for the appointments in question, and where the order of seniority has not been followed the reasons for departure from it should be stated.

XI. *Appointments, transfers, etc., of Clerks of Courts.*—(1) All orders in regard to the appointments, suspension or removal of Clerks of Court attached to District and Sessions Judges Offices should be reported to the High Court for confirmation.

(2) A Clerk of Court to the District and Sessions Judge will not be regarded a fixture in a district, but will be liable to transfer under the orders of the High Court from one district to another within the same province.

XI. *General orders, regarding discipline, etc.*— Whenever any official (whether paid or unpaid) is personally interested in a case to be heard by the Court to which he is attached he must bring the fact to the notice of the presiding officer.

XII. *Conduct.*—(1) Members shall observe the Government Servants Conduct Rules and such other rules as may be framed by the Provincial Government from time to time.

(2) No candidate (whether paid or unpaid) shall undertake any business, trade or other employment without obtaining the previous permission in writing of the District Judge.

SCHEDULE I
District and Sessions Judges' Courts Establishment
as it stood in the 1st April, 1934

Designation of appointment	Number	Rates of pay	REMARKS
Clerical		Rs.	
Clerks of Courts	21	150-5-225	
Readers	24	100-5-175	
Stenographers	24	100-5-150	
English Clerks	21	75-5-100/5-125	
Record Keepers	21	75-5-100/5-125	
Translators	24	75-5-100/5-125	
Assistant Translators	6	40-2-80/2-90	
Ahlmads	24	40-2-80/2-90	
Guardian Clerks	4	30-1½-60/2-70	
Insolvency Muharrir	1	30-1½-60/2-70	
Copy Clerks	65	30-1½-60/2-70	
Liquidation Clerk	1	75-5-100/5-150	
Paid Candidates	69	Rs. 25 per mensem	
Total	305		
Process-Serving Establishment			
Nazirs	21	30-1-50	
Total	21		
Record Office Establishment.			
Inspection Muharrirs	22	30-1½-60/2-70	
Assistant Muharrir	1	30-1-50	
Total	23		
Grand Total	349		

SCHEDULE II
Subordinate Judges' Courts Establishment
as it stood in the 1st April, 1934

Designation of appointment	Number	Rates of pay	REMARKS
Clerks			
Clerks of Court	27	75-5-100/5-150	
Readers to Senior			
Sub-Judges	28	75-5-100/5-125	
Reader to Sub-Judge	123	40-2-80/2-90	
Ahlmads, Guardian			
Clerk and Insolvency			
Muharrirs	165	30-1½-60/2-70	
Total	343		
Process-Serving Establishment			
Civil Nazirs	30	50-1-70	
Naib-Nazirs	201	30-1-40/1-50	
Madad Naib Nazirs	103	25 per mensem	
Execution Bail ffs	284	25 per mensem	
Total	681		
Grand Total	972		

SCHEDULE II
Small Cause Courts Establishment as it stood
On 1st April, 1934

Designation of appointment	Number	Rates of pay	REMARKS
Clerical			
Clerks of Court	1	75-5-100/5-150	
Ditto	2	75-5-100/5-125	
Reader to Sub-Judge, Small Cause Courts	3	75-5-100/5-125	
Insolvency Clerks	3	40-2-80/2-90	
Readers to Registrars	2	40-2-80/2-90	
Cashiers	2	50-1-70	
Ahlmads	6	30-1½-60/2-70	
Total	19		
Process-Serving Establishment			
Naib-Sheriff	2	30-1-40/1-50	
Bailiffs	6	At Rs. 25 per mensem	
Total	8		
Grand Total	27		

54. Chapter 18-A, Rule 2(f) the words “Bailiffs, Drivers” occurring after the words “other than” and before the words “Process Servers” are deleted vide correction slip No. 43 Rules/II.D.4., dated 25th April, 2003, Prior to deletion the Rule reads as under.

- (a) “Ministerial servant” means a member of service whose duties are entirely clerical and any other class of service specially defined as such by general or special order by the High Court and shall include members of class II and III service other than Bailiffs, Drivers, Process Servers and Class IV employees.

55. Chapter 18-A, Rule 7(vi) after the words “Transcription of the same” and before the words “The Select List,” the words “and have proficiency in computers(Word Processing and Spread Sheets)”, added vide correction slip No. 55 Rules/II.D.4., dated 14th May, 2009, Prior to deletion the Rule reads as under.

(vi) Steno-typists:

Appointment to the post of Steno-typist shall be made by direct recruitment from;

Candidates who possess a degree of Bachelor of Arts or Bachelor of Science or equivalent thereto from a recognised university and pass a test at a speed of 80 W.P.M. in English shorthand and 20 W.P.M. in Transcription of the same. The select list so prepared on the basis of merit shall remain in force for one year from the date of declaration of result.

56. Chapter 18-A, in Rule 7 Sub-rule (vii) (c) and (e) the words ‘qualifies the type with minimum speed of 30 W.P.M.’ and ‘qualifying the type test in English with a minimum speed of 30W.P.M.’ respectively substituted as “having proficiency in operation of computers” vide correction slip No. 49 Rules/II.D.4., dated 6th February, 2008, prior to substitution the Rule reads as under:

(c) No candidate shall be considered for appointment unless he obtains 40% marks in aggregate in the written examination and qualifies the type test with minimum speed of 30 W.P.M.

(e) 10% vacancies in the cadre of Clerks shall be filled up by promotion from amongst the Bailiffs, Process Servers, Daftri and Record Lifter possessing minimum Matric qualification or equivalent thereto having 5 years service as such subject to his qualifying the type test in English with a minimum speed of 30 W.P.M.

57. Chapter 18-A, Rule 7 Sub-rule (ix) is re-numbered as Sub-rule (x) and will come after the title Class IV and sub-rule (x) is re-numbered as sub-rule (ix) vide correction slip No. 43 Rules/II.D.4., dated 25th April, 2003.

Chapter 18-B

58. **Chapter 18-B, inserted after Chapter 18-A and existing Chapter 18-B and 18-C will be renumbered as 18-C and 18-D, vide Correction Slip No. 39 Rules/XXII.D.4 dated 17th October, 1998(Refer to 2004 edition of Volume I)**
59. **Chapter 18-B, Rule 7(vi) after the words “Transcription of the same” and before the words “The Select List,” the words “and have proficiency in computers(Word Processing and Spread Sheets)”, added vide correction slip No. 56 Rules/II.D.4., dated 14th May, 2009, Prior to deletion the Rule reads as under.**

(vi) Steno-typists:

Appointment to the post of Steno-typist shall be made by direct recruitment from;

Candidates who possess a degree of Bachelor of Arts or Bachelor of Science or equivalent thereto from a recognised university and pass a test at a speed of 80 W.P.M. in English shorthand and 20 W.P.M. in Transcription of the same. The select list so prepared on the basis of merit shall remain in force for one year from the date of declaration of result.

60. In Rule 7 sub-rule (vi-a) inserted, vide Correction slip No. 46 dated 15th September, 2003.

61. Chapter 18-B, in Rule 7 Sub-rule (vii) (c) and (e) the words ‘qualifies the type with minimum speed of 30 W.P.M.’ and ‘qualifying the type test in English with a minimum speed of 30W.P.M.’ respectively substituted as “having proficiency in operation of computers” vide correction slip No. 50 Rules/II.D.4., dated 6th February, 2008, prior to substitution the Rule reads as under:

(c) No candidate shall be considered for appointment unless he obtains 40% marks in aggregate in the written examination and qualifies the type test with minimum speed of 30 W.P.M.

(e) 10% vacancies in the cadre of Clerks shall be filed up

by promotion from amongst the Bailiffs, Process Servers, Daftri and Record Lifter possessing minimum Matric qualification or equivalent thereto having 5 years service as such subject to his qualifying the type test in English with a minimum speed of 30 W.P.M.

62. In proviso to sub-rule (x) of Rule 7 the word 'and' occurring after 'Hindi' and before 'Punjabi', the word 'or' is substituted, vide correction slip No. 53 Rules/II.D.4 dated 13 March, 2008, prior to substitution the Proviso reads as under:-

Provided that no candidate shall be eligible for appointment/promotion unless he is a matriculate with knowledge of Hindi and Punjabi.

Chapter 18-C

63. Chapter 18-C, inserted after Chapter 18-B and existing Chapter 18-C and 18-D will be renumbered as 18-D and 18-E, vide Correction Slip No. 41 Rules/XXII.D.4 dated 29th November, 1999. (Refer to 2004 edition of Volume I)

64. **Chapter 18-C, Rule 7(vi) after the words “Transcription of the same” and before the words “The Select List,” the words “and have proficiency in computers(Word Processing and Spread Sheets)”, added vide correction slip No. 55 Rules/II.D.4., dated 14th May, 2009, Prior to deletion the Rule reads as under.**

(vi) Steno-typists:

Appointment to the post of Steno-typist shall be made by direct recruitment from;

Candidates who possess a degree of Bachelor of Arts or Bachelor of Science or equivalent thereto from a recognised university and pass a test at a speed of 80 W.P.M. in English shorthand and 20 W.P.M. in Transcription of the same. The select list so prepared on the basis of merit shall remain in force for one year from the date of declaration of result.

65. Chapter 18-B, in Rule 7 Sub-rule (vii) (c) and (e) the words ‘qualifies the type with minimum speed of 30 W.P.M.’ and ‘qualifying the type test in English with a minimum speed of 30W.P.M.’ respectively substituted as “having proficiency in operation of computers” vide correction slip No. 51 Rules/II.D.4., dated 6th February, 2008, prior to substitution the Rule reads as under:

(c) No candidate shall be considered for appointment unless he obtains 40% marks in aggregate in the written examination and qualifies the type test with minimum speed of 30 W.P.M.

(e) 10% vacancies in the cadre of Clerks shall be filled up by promotion from amongst the Bailiffs, Process Servers,

Daftri and Record Lifter possessing minimum Matric qualification or equivalent thereto having 5 years service as such subject to his qualifying the type test in English with a minimum speed of 30 W.P.M.

[¹][Part-I]**[²][The Use of Electronic Communication and Audio-Video Electronic Means Rules, 2026].**

[¹][The procedure for Video Conferencing for Civil Matters in Subordinate Courts shall be followed as prescribed in Part-H of Chapter-1 of Rules & Orders of Punjab and Haryana High Court, Volume-V titled as] [²][**"The Use of Electronic Communication and Audio-Video Electronic Means Rules, 2026"**].

[¹]{Vide correction slip No. 82 Rules/II.D4 dated 10.12.2021 Chapter 1 Part-I was inserted as "Video Conferencing Rules for Subordinate Courts in the States of Punjab, Haryana and U.T. Chandigarh"}

[²]{Vide correction slip No. 92 Rules/II.D4 dated 10.04.2026, now the title i.e. "Video Conferencing Rules for Subordinate Courts in the States of Punjab, Haryana and U.T. Chandigarh" has been substituted with the title "The Use of Electronic Communication and Audio-Video Electronic Means Rules, 2026"}

Rules and Orders of The Punjab High Court, VOLUME 1

CHAPTER 1
PRACTICE IN THE TRIAL OF CIVIL SUITS
PART A.—GENERAL

COURT HOURS, HOLIDAYS AND CAUSE LISTS.

1. ¹[There shall be uniform Court timings and office timings in all Subordinate Courts of the States of Punjab, Haryana and U.T. Chandigarh w.e.f. 01.07.2018 as follows:-

Court Timings	-	10:00 A.M. to 04:30 P.M.
Office Timings	-	09:30 A.M. to 05:00 P.M.
Lunch Break	-	01:00 P.M. to 01:30 P.M.

However, second and fourth Saturdays of each month shall be observed as holiday.

¹{*Rule 1 amended vide Correction Slip No. 77 dated 16.11.2018*}

2. **Taking up cases after Court hours:-** No new case should be taken up after the closing hour of the Court but the hearing of a case taken up before that hour may, if necessary, be continued for a short time.
3. **Holidays:** The holidays allowed to the Civil Courts are annually prescribed by the High Court, under the provisions of Section 47 of the Punjab Courts Act, and no other holidays can be allowed by any other authority. The list of civil holidays comprises general holidays and local holidays, the latter being usually limited to three days in the year for each district.
4. **Taking up cases on holidays:-** Civil suits and appeals ought not, as a rule, to be taken up during the vacation or on a holiday; but any civil suit or appeal may be legally heard, by consent of the parties during the vacation or on a holiday, if the Presiding Officer of the Court thinks it expedient, for any reason, to keep his Court open for the purpose.

^[2][Provided that the District Judge and in his absence any Additional District Judge or Subordinate Judge specially authorized by the District Judge in this behalf may entertain any urgent civil matter (suit) appeal or application) during the period when the civil courts are closed for vacation]

²{*added vide Correction Slip No. 17 dated 31.5.1971*}

5. **Attendance of ministerial establishment:-** The members of the ministerial establishment of the Courts should (subject to any special rules regarding the Vacation Department) attend their office on all days except on holidays allowed to Civil Courts. An official may, however, be ordered by the Presiding Officer to attend office on a holiday to clear off arrears. An official should not except in most exceptional cases be made to attend on a holiday pertaining to his religion.
6. **Preparation of cause lists:-** Cause Lists of cases fixed for each day should be prepared a day before. These lists should be exhibited in the Court

room, or the verandah of the Court-house, at least by the afternoon of the day preceding that to which they relate, for the information of parties and their pleaders and the order of causes in the list should not be departed from without cogent reasons, unless the case be settled by compromise or the claim be admitted before the day fixed for trial. A strict adherence to this practice will secure punctual attendance and greatly promote the despatch of business and the convenience of parties and witnesses. Cases should as far as possible be so arranged in the cause lists that the litigants may not have to wait long for simple cases and petty work such as miscellaneous applications, executions and objections, etc.

7. **Form of cause list:-** Cause lists should be in the following form:-
IN THE COURT OF

**CAUSE LIST FOR.....
(Day of the week and date).....**

Day of the week and date	No.	CASE		Description of the case	Remarks
		Plaintiff Appellant orPetitioner	Defendant or Respondent		

PART B.-**RECEPTION OF PLAINTS AND APPLICATIONS.**

1. **Not to be received on holidays:-** Complaints and petitions should be received by the Civil Courts on every day which is not an authorised holiday, during office hours.
 2. **Reception by Mofassil Courts:-** Courts situated away from the headquarters of the district can receive complaints and petitions direct, under the general directions prescribed by the District Judge or by a Subordinate Judge empowered under section 37 of Punjab Courts Act, 1918, to do so.
 3. **(i) Distribution of cases:-** Complaints and petitions presented at the headquarters of a district will be received and distributed by the District Judge who may delegate this power under section 37 of the Punjab Courts Act to any Subordinate Judge and should always do so when it is for the convenience of the litigants. Regard should be had to the provisions of Sections 15 and 20 and Order IV, Rule 1, of the Code of Civil Procedure, in framing directions regarding the reception of Civil suits.

(ii) Duty of distributing officer:- The work of distribution of cases should not be left to the Reader or the Clerk of Court. The Judge should attend to it personally, noting in his own hand the name of person presenting the case and the Court to which the case has been assigned for trial. He should also inform the person presenting the complaint or petition of the date on which he is required to attend the court to which the case is sent and note the fact of his having done so in his order. This will avoid the necessity of a notice being issued to the plaintiff or petitioner by the court to which the case is sent.

(iii) List of cases assigned to be exhibited:- At the end of each day a list of all the cases so distributed should be exhibited in the Court of the distributing officer. Similarly each Court should exhibit at the end of each day a list of the cases assigned to it by the distributing officer.
- Note.-**In almost all the districts in the Punjab, the District Judges have delegated their powers of the distribution of complaints to the Senior Subordinate Judges under the authority of Circular letter No. 653-G, dated 27th January, 1915.
4. **Examination, endorsement and distribution:-** Every complaint or petition should, if possible, specify the provision of law under which it is presented and should, at the time of its reception, be at once endorsed with the date of its receipt, and such endorsement should be signed by the receiving officer. The Court-fees should be forthwith examined and cancelled in the manner prescribed in that behalf. The receiving officer should prepare a list of all complaints and applications received each day, and be held responsible that they are duly distributed in accordance with the orders passed thereupon, and the general instructions (if any) given by the District Judge or the Senior Sub-Judge in that respect.
 5. **Insufficiently stamped complaints etc:-** It shall be the duty of the Superintendent of the District and Sessions Judge, Clerks of Court of the Senior Sub Judge and Judges of Small Causes Courts and Readers of all other Subordinate Judges to see that appeals, complaints and petitions, etc., received in the courts, to which they are attached, are properly stamped. When they are in doubt what Court-fee is due on any document, it shall be their duty to refer the matter to the Presiding Officer for orders.

These officials are primarily responsible for any loss of revenue

caused to Government by insufficiently stamped documents having been received owing to their neglect, but the ultimate responsibility for the loss lies on the Judge of the Court whose duty it is to look into such matters either when the plaints are instituted or when the plaints came up for hearing before him.

Note.—The clerk of Court to the Senior Sub-Judge *is* responsible for checking the Court fee on those plaints only which the Senior Sub-Judge retains for trial by himself. In other cases the Reader of the Court to which the suit is sent for trial is responsible.

Provided that the personal responsibility of the officers concerned shall only be enforced where obvious mistakes have been made and not in cases in which a genuine doubt was possible regarding the correctness of the Court-fee due.

6. **Transfer of cases to equalize work:**— The equal distribution of work amongst the Courts available can always be effected by the transfer of cases when necessary from one Court to another under the authority vested in the District Judge.

When a case is transferred by judicial order, the Court passing the order should fix a date on which the parties should attend the Court to which the case is transferred.

7. **Petition box:**— (a) The petition box shall be placed in the verandah of the Court house about one hour before the Court sits, an official being specially made to attend early for this purpose. It shall be opened in the presence of the Judge about 15 minutes after the Court opens when all petitions shall be initialed by him. The Judge shall pass proper orders forthwith or inform the petitioner when orders will be ready after the necessary kaifiyats have been put up. The box shall be replaced in the verandah and opened again shortly before the Court rises for luncheon in the presence of the Judge and the same procedure followed. It shall then be replaced once more in the verandah and opened for the last time 15 minutes before the time fixed for the rising of the Court and the procedure prescribed above followed. After the box has been opened for the third time, it shall not be replaced in the verandah but petitions may there-after be presented up to the closing hour of the Court to the presiding officer personally who shall receive them.

A list of all miscellaneous or execution applications, on which orders cannot be passed forthwith, should be prepared and exhibited outside the court room specifying the date fixed for the disposal of each application.

- (b) **Urgent cases:**— In urgent cases, however, the Judge may exercise his discretion and personally receive documents presented to him direct at any time.
- (c) **Reception by ministerial establishment prohibited:**— The members of the ministerial establishment are strictly forbidden to receive petitions, plaints or other documents direct from lawyers and their clerks or from litigants except when the Judge is on leave and no other judicial officer is in-charge of his current duties. District Judges should however, invariably make arrangements for the reception of plaints and petitions, etc., by another officer of a court when an Officer is temporarily absent on leave, tour or otherwise. Where there is a single judicial Officer at a station such as a Moffassil or outlying Court, arrangements should be made for the reception of plaints, petitions, documents, etc., by the Tahsildar or the Naib-Tahsildar in consultation with the Deputy Commissioners.
- (d) **Exceptions:**— The above orders do not apply to applications put in by counsel for the inspection of records which may be presented to the Presiding Officer personally, nor do they apply to talbanas and stamped postal envelopes filed by litigants, which should be received direct by the Ahlmad or the moharrir and a receipt given for the same whether demanded or not.

8. **Who can file petitions, etc:-** Plaints and petitions must be filed, except, when otherwise specially provided by any law for the time being in force, by the party in person or by his recognized agent or by a duly authorised and qualified legal practitioner.
9. **Recognized agents:-** Recognized agents are defined in Order III, Rule 2, of the Code of Civil Procedure, 1908. As to the appointment of a pleader, the provisions of Rule 4 of Order III, Civil Procedure Code, as amended by Act XXII of 1926, and the instructions of the High Court given in Chapter 16, part A, of this volume should be carefully studied.
10. **Powers of Attorney:-** ¹.[When parties appear by pleaders, or agents duly authorized in that behalf, their Powers-of-attorney should, when practicable, be filed in original with the plaint. Where the Power of attorney is general one, a copy should be filed, the original being presented for verification. When so filed, the power of attorney will be considered to be inforced until revoked, with the leave of the Court, by a writing signed by the client and filed in Court, or until the client or pleader or agent dies, or all proceedings in the suit are ended so far as regards the client.

An Advocate at the time acceptance of his appointment/engagement shall also record his residential/office address, telephone/cell number, enrolment number and if available, e-mail as well as fax number on the Vakalatnama/Memo of Appearance/Written Authorization, which shall be address for service within the meaning of the Rule 5 of Order 3 of Code of Civil Procedure, 1908.

Provided that where more than one Advocate accepts the appointment/engagement, it shall be sufficient for one of them to record his address.

Provided further that every Vakalatnama/Memo of Appearance/Written Authorization shall be affixed with the requisite Advocate Welfare Fund Stamp. In case of urgency, if the Advocate Welfare Fund Stamp is not available, the filing will be accepted subject to the undertaking furnished by the counsel that the requisite stamp will be affixed. The matter shall be listed before the Court only after compliance of the undertaking unless otherwise ordered by the Court. In the case of respondent also where the counsel files Vakalatnama/Memo of Appearance/Written Authorization, it shall be affixed with the requisite Advocate Welfare Fund Stamp, and in case of urgency, if the Advocate Welfare Fund Stamp is not available, the same will be accepted subject to the undertaking as above.]

{Rule 10 Amended vide Correction Slip No. 74 Rules/II.D4. dated 15.03.2018.}

11. **Sending by post:-** The reception of plaints and petitions made under the Code of Civil Procedure for judicial purposes, by post, is irregular. All applications of a judicial nature received by post should be filed and on each application so filed an endorsement should be made to the effect that it was filed as not having been properly presented. This does not apply to applications for copies of judicial proceedings, which are not applications for judicial purposes made under the Code; but are applications dealt with under administrative authority.
12. **General.-** In every case(s) where the party is represented by an Advocate with disability or such party with disability is appearing in person, then such Advocate or party shall be:-
 - (i) given out of turn priority at the Filing Counter.
 - (ii) the Advocates/individuals having disability shall be allowed to use their laptops/ Braille Displays in the Court room during the proceedings to enable them to make notes of proceedings and assist the Court in any other appropriate and requisite manner.

{Rule 12 added vide Correction Slip No. 91 Rules/II.D4. dated 09.05.2025.}

Chapter 1
PART C.—EXAMINATION OF THE PLAINT

- 1. Examination of complaints/petitions/applications etc:-** On the presentation or receipt of a complaint, the Court should examine it with special reference to the following points, viz:-
 - (i) Whether the complaint contains the particulars specified in Order VII, Rule 1, and conforms to the other rules of pleadings in Orders VI and VII and rules made by the High Court thereunder;
 - (ii) Whether there is, prima facie, any non-joinder or mis-joinder of parties, or mis-joinder of causes of action;
 - (iii) whether any of the parties to the suit are minors and, if so, whether they are properly represented as laid down in Chapter 1-M (d) of this volume;
 - (iv) whether the complaint is duly signed and verified;
 - (v) whether the suit is within the jurisdiction of the Court or must be returned for presentation to proper Court (Order VII, Rule 10);
 - (vi) whether the complaint is liable to be rejected for any of the reasons given in Order VII, Rule 11;
 - (vii) whether the documents attached to the complaint (if any) are accompanied by lists in the prescribed form and are in order;
 - (viii) whether the plaintiff has filed a proceeding containing his address for service during the litigation as required by Rule 19 of Order VII as framed by the High Court.
 - (ix) In money suits, whether the plaintiff has stated the precise amount the claims;
 - (x) Whether the plaintiff has stated in his complaint regarding the documents on which he relies his claim and are not in his possession and a statement in whose possession or power they are;
 - (xi) Whether the plaintiff has filed the address of the party in the prescribed form.

- 2. Pleadings:-** The provisions of the Code, with regard to the pleadings (which term includes the complaint and written statements of parties) should be carefully studied. The principal rules of pleadings may be briefly stated as follows:
 - (a) The whole case must be stated in the pleadings, that is to say all material facts must be stated (Order VI, Rule 2).
 - (b) Only material facts are to be stated. The evidence by which they are to be proved is not to be stated (Order VI, Rules 2, 10, 11 and 12).
 - (c) The facts are to be stated concisely.
 - (d) It is not necessary to allege the performance of any condition precedent; and averment of performance is implied in every pleading but a non-performance of condition precedent, if relied on, must be distinctly stated (Order VI, Rule 6).
 - (e) It is not necessary to set out the whole or any part of a document unless the precise words thereof are necessary. It is sufficient to state the effect of the document as briefly as possible (Order VI, Rule 9).
 - (f) It is not necessary to allege a matter of fact which the law presumes, or as to which the burden of proof lies on the other side (Order VI, Rule 13).
 - (g) When misrepresentation, fraud, undue influence, etc., are pleaded, necessary particulars must always be given (Order VI, Rule 4).
 - (h) When a suit is prima facie time-barred, the ground on which exemption is claimed must be stated (Order VII, Rule 6).

If the plaint is prolix (lengthy) or indefinite or omits to give the necessary particulars or to specify the relief claimed precisely or is defective in any other respect, it should be returned to the party or his counsel for such amendment as may be necessary in the actual presence of the presiding officer after he has signed the endorsement. The Court has wide powers in this respect (see Order VI, Rule 16 and 17). Where amendment is directed, an order should be recorded by the Judge indicating the particulars about the necessary amendment and fixing a date for filing the amended plaint.

3. **Non-joinder and mis-joinder of parties and causes of action:-**

(a) Attention is drawn to the provisions of law contained in Order I and II of the Civil Procedure Code relating to non-joinder of parties and mis-joinder of causes of action and parties and as to representative suits:-

- (i) **Joinder of parties:-** Order I, rule 1 and 3 provide in what case several plaintiffs or defendants may be joined in one suit.
- (ii) **Representative Suits:-** Order I, rule 8 provides that when there are numerous persons having the same interest in one suit, one or more of such persons may sue or defend on behalf of all with the permission of the Court.
- (iii) **Objections as to non-joinder or mis-joinder:-** Order I, rule 9 lays down that no suit shall be defeated by reason of mis-joinder or non-joinder of parties and Order I, rule 13 and Order II, rule 7 lay down that objections as to non-joinder or mis-joinder of parties or causes of action, etc., should be made at the earliest stage of the case.
- (iv) **Joinder of cause of action:-** Order II, rules 3-5 provide in what cases several causes of action may be joined in one suit. When an objection duly taken with regard to mis-joinder of causes of action is allowed by the Court the plaintiff should be permitted to select the cause of action with which he will proceed and the Court should grant him time to amend the plaint by striking out the remaining causes of action. The Court should also give the plaintiff time within which to submit amended plaints for the remaining causes of action and for making up the Court fee that may be necessary. (Order II, Rule 8, Civil Procedure Code).
- (v) **Separate trial:-** Order I, rule 2 and Order II, rule 6 provide for power of the Court to order separate trials if the joinder of several plaintiffs or several causes of action is inconvenient.
- (vi) **Striking out and adding parties:-** Order I, rule 10 gives power to the Court to strike out unnecessary parties and add necessary parties. {Upon examination of parties under Order X or upon production of documents under Order XI or on the receipt of report of Local Commissioner, the Court may add all necessary or proper parties to the suit, so as to avoid multiplicity of proceedings and also make such joinder of cause of action in the same suit.}

Rule 3(a)(vi) amended vide C.S. No. 84 Rules/II.D4 dated 21.11.2022}

(b) Necessary parties:- Suits for inheritance, partition or declaration of right in order to effect a partition, contribution, redemption,

foreclosure, administration of property, dissolution and winding up of a partnership, and the like, cannot be properly disposed of unless all persons interested in the matter are before the Court. Therefore, in cases of this description, if it appears that any necessary parties, have not been joined, the plaintiff should be ordered to joint them.

4. **Signing and verification:-**The plaint must be signed by the plaintiff, or, if by reason of absence or other good cause the plaintiff is unable to sign it, by his duly authorised agent. It must also be signed by the plaintiff's pleader (if any) and be verified by the plaintiff, or by some other person proved to the satisfaction of the Court to be acquainted with the facts of the case.

The personal attendance of the plaintiff in Court for the purpose of verification is unnecessary. The verification must, however, be signed by the person making it.

5. **Jurisdiction:-** The jurisdiction of a Court depends upon the nature and value of the suit. (For detailed instructions see Chapter II on "Jurisdiction of Courts" and Chapter III on "Valuation of Suits "). If a suit is not within the jurisdiction of the Court, the plaint must be returned in the presence of the Presiding Officer for presentation to proper Court. In such cases the presiding Officer must record on the plaint his reasons for returning it along with the other particulars mentioned in sub-rule (2) of Rule 10 of Order VII.

6. **Rejection of plaint:-** If the plaint discloses no cause of action, or is barred by any law on the statements made therein, or if the relief claimed is under-valued or the plaint is not sufficiently stamped and the plaintiff fails to correct the valuation or pay the deficiency in the Court-fee within the time fixed by the Court the plaint should be 'rejected' under Order VII, Rule 11 reasons being recorded by the Presiding Officer in support of the order.

It should be noted that the correct order in such cases is to 'reject the plaint' and not 'dismiss the suit'. The rejection of a plaint does not preclude the institution of a fresh suit on the same cause of action, provided of course, it is not otherwise barred (e.g. by limitation, etc.) by that time.

7. **Comparison of copies of account:-** Copies of any shop book or account produced should be compared with the original by Chief Ministerial Officer of the Court and the shop book or account should then be returned after marking the entries relied upon (Order VII, Rule 17).

When a shop book or other account written in a language other than English or the language of the Court is produced with a translation or transliteration of the relevant entry, the party producing it shall not be required to present a separate affidavit as to the correctness of the translation or transliteration but shall add a certificate on the document itself, that it is a full and true translation or transliteration of the original entry, and no examination or comparison by the ministerial officer shall be required except by a special order of the Court.

8. **Address of the parties:-** The proceeding containing address for service is intended to facilitate the service of processes throughout the litigation (including appeals, etc.) and it is, therefore, important to see that it is duly filed at the outset according to this rule. Failure to comply with the rule is liable to be punished with dismissal of the suit but such an order may properly be passed in extreme cases when the failure is intentional and contumacious.

9. **Land Suits:-** If the plaint relates to agricultural land and the plaintiff

is illiterate, it should be scrutinised with special care, according to the following directions:-

- (i) The Presiding Officer shall ascertain by careful examination of the plaintiff or his agent, whether the prayer in the plaint corresponds in all particulars with the exact relief which the plaintiff orally describes himself as seeking. If the oral statements of the plaintiff or his agent are at variance with the written description of his claim, the plaint shall, in his or his agent's presence, be returned for amendment, and no amended plaint should be accepted until the Court is satisfied that it correctly expresses the claim which the plaintiff desires to establish.
- (ii) Every such plaint shall be accompanied by a statement, in the prescribed form setting forth the particulars relating thereto recorded in the Settlement record and in the last Jamabandi. This statement shall be verified by a signature of the Patwari of the Circle in which the land concerned is situate. Where by reason of partition, river action or other cause, the entries in the Settlement record and in the last Jamabandi do not accord, a brief explanation of the reason should be given in the column of remarks. Where the suit is for a specific plot with definite boundaries, it shall also be accompanied by a map, drawn to scale, showing clearly the specific plot claimed, or in relation to which the decree is to be made and so much of the fields adjoining it, also drawn to scale, as may be sufficient to facilitate identification. The specific plot and adjoining fields shall be numbered in accordance with the statement and the map shall be certified as correct by the Patwari or other person who prepared it. Where, however, the suit is for the whole of one or more khasra numbers as shown in the Settlement map, or a share in such numbers, and not for a specific portion thereof no map will be required unless it is necessary for other reasons to show the boundaries of such khasra numbers.

- 10. Suits for recovery of money, mesne profits and accounts:-** If the plaintiff seeks the recovery of money, the plaint should state the precise amount, as far as the case admits. In a suit for mesne profits or unsettled accounts it is sufficient to state the amount approximately.
- 11. Suits by or against firms:-**Suits by or against firms should be in the form prescribed in Order XXX. An explanation has been added by the High Court to Rule I of Order XXX, making it applicable to joint Hindu trading partnerships. (Notification No. 2212-G., dated 12th May, 1909).
- 12. Copies or concise statements of plaints:-** When the plaint is admitted (after such amendment as may be found necessary), the plaintiff should be required to give as many copies of the plaint on plain paper as there are defendants, for being supplied to them. If the plaint is long, or the number of defendants is large, the Court may permit concise statements of the plaint to be supplied instead. Such copies or concise statements must be examined by the chief ministerial officer and signed, if found correct (Order VII, Rule 9).
- 13. Parcha Yaddasht:-** When a plaint or petition is admitted and a date fixed for summoning of the other party or for any other purpose a memorandum (parcha yaddasht) on strong paper in the form given below duly filled in shall be given to the plaintiff or the petitioner or his agent if he is illiterate and not represented by counsel.

Form of Parcha Yaddasht.

IN THE COURT OF THE_____AT Court_____
HOURS FROM _____AM_____TO _____
PM (Suit _____) Civil Appeal_____) No. _____ of 19_____
(Miscellaneous Application)

Parties	Date of receipt	Date fixed for hearing	Place at which attendance is required	Purpose for date is fixed	Remarks
A.	By (Officer of Court)				
B.	From, Name and Description of party presenting				

Instructions

1. In the case of parties who are illiterate and un- accompanied by counsel a parcha is to be given without demand (1) to the person who presents the plaint, appeal or petition and (2) when a case is not disposed of at the first hearing, to the defendant, or, if there be several, to such defendants or respondents as the Court may direct.
2. Every entry in any column after the first entry is to be signed by the officer making it.

14. **Parcha Yaddasht:-**A similar parcha shall be given to the opposite party when he appears if he is illiterate and not represented by counsel.
15. **Filling in of the Parcha:-** Parcha shall he filled in and signed by the Reader of the Court and given to the parties concerned in the presence of the Presiding Officer as soon as the date of hearing is fixed.
In Small Cause Courts and in the Courts of the District Judges this parcha may be filled in by any other official if the Presiding Officer so directs.
16. **Filling in of the Parcha:-** The above parcha shall be used throughout the proceedings and properly filled in whenever the case is adjourned. If the parcha is lost a duplicate should be given.

PART D. —
SERVICE OF PROCESSES
ISSUE OF SUMMONS TO THE DEFENDANT.

1. **Summons for final disposal or settlement issues:-** In Order V Rule 5, of the Code of Civil Procedure, it is laid down that the Court shall determine, at the time of issuing the summons, whether it shall be for the settlement of issues only, or for the final disposal of the suit, and the summons shall contain a direction accordingly; and a proviso to the rule adds that in every suit heard by a Court of Small Causes the summons must be for the final disposal of the suit.
2. **When summonses for final disposal may Issues:-** In determining whether the summons shall be for the settlement of issues only, or for the final disposal of the case, the Court must be guided by the nature of the suit, and the probability or otherwise of the facts stated in the plaint being disputed by the defendant on grounds which will require the production of much evidence or will involve much contention. Where the case appears simple, and it seems probable that a correct judgment can be formed at the first hearing from the examination of the parties or their agents, and such evidence, oral or documentary, as they can bring with them, the summons should be for the final disposal of the case.
3. **Adjournment of case in case of summonses for final disposal:-** It will however, be remembered that when the summons is for final disposal, the Court is not bound to dispose of the case on the date fixed for hearing, but can adjourn the case to another date, to enable the parties to produce evidence when this seems necessary in the interests of justice, and especially when there is reason to believe, that one party has been taken by surprise by the pleadings of, or statements made on examination by the other.
4. **Suitors should be made to know what summons for final disposal means:-** Care should be taken to make suitors understand, in cases in which the summons is for final disposal, that all their evidence must be produced on the day fixed for disposal.
5. **Distinctive colour of summons for final disposal:-** The form of summons for the final disposal of a suit should be printed in the vernacular on coloured paper, as this will tend to impress the distinction between this form and that for settlement of issues, both upon the minds of the people, and upon the officers of the Courts. Presiding Officers should take care in such cases that the plaintiff understands that, if he wishes for the assistance of the Court for the purpose of causing the production of his evidence, he must make timely application.
6. **Summons to be signed and sealed. Copy of plaint to accompany it:-** Summonses should be clearly and legibly written and signed and, the seal of the Court must be affixed. Order V, Rule 1 (3) of the Code requires that the summons shall be signed by the Judge or such officer as he appoints. In Courts, provided with a Superintendent or Clerk of Court he may be authorized to sign summonses; in all other Courts the Reader may be authorised to sign them. The signature should in all cases be fully and legibly written. A copy or concise statement of the plaint should be attached to each summons.
7. **References:-** As regards the general procedure to be followed in effecting service of processes, personal attention to service and proof of service, special procedure in the case of Government servants, and persons in Military employ, etc., the time to be allowed for service of processes in foreign countries, Chapter 7, Volume IV, "Processes—Civil Courts" may be referred to. For service of Processes of Appellate Courts-- See Chapter 14-B, Volume I.

PART E.—WRITTEN STATEMENTS

1. **When written statements required:-** It is laid down in Order VIII, Rule of the Code of Civil Procedure, that a defendant may, and if so required by the Court shall, at or before the first hearing or within such time as the Court may permit, present a written statement of his defence. Ordinarily it is advisable to require such a written statement and the Court should at the time of issuing the summons call for a written statement from the defendant on the date fixed for his appearance. In most cases, there should be no difficulty in presenting such a written statement on the date fixed, and no adjournment should be given for the purpose except for good cause shown, and in proper cases, costs should be awarded to the opposite side. Laxity in granting adjournments for the purpose of filing written statements should be avoided and it should be noted that in extreme cases contumacious refusal to comply with the Court's order is liable to be dealt with under Order VIII, Rule 10, Civil Procedure Code.
2. **Documents to accompany written statement:-** The combined effect of Rules 1, 11 and 12 of Order VIII is that the defendant should produce with the written statement (i) all documents in his possession or power on which he bases his defence or claim to set off, if any (ii) a list of other documents not in his possession or power but on which he relies in support of his case (iii) a statement indicating his address for service and (iv) a duplicate of the written statement to be supplied to the plaintiff.

Sub-rule (2) of Rule 1 of Order VIII requires that if the list referred to in (ii) above is not annexed with the written statement or presented at the first hearing, it shall be presented within a period of ten days from the date of the first hearing.
3. **Replications:-** When the defendant has filed a written statement, the Court may call upon the plaintiff to file a written statement in reply. Under Order VIII Rule 9, the Court has power to call upon both parties to file written statements at any time and this power should be freely used for elucidating the pleas when necessary, especially in complicated cases. In simple cases, however, examination of the parties, after the defendant has filed his written statement is generally found to be sufficient.
4. **Separate written statements:-** In all cases where there are several defendants the Court should, as a rule, take a separate written statement from each defendant unless the defences of any defendants filing a joint written statement are identical in all respects. There may be different defences based upon a variety of circumstances and these should not be allowed to be mixed up together in a single statement merely because all the defendants deny the plaintiff's claim.
5. **Court-fees on set-off:-** Written Statements called from the parties may be on plain paper, but when the defendant claims in his written statements any sum by way of set-off ^[3][counter-claim] under Order VIII, Rule 6 ^[3][and 6A to 6G] Civil Procedure Code, the statement must be stamped in the same manner as a plaint in a suit for the recovery of that sum.
6. **Contents:-** A "written statement" is included in the definition of "pleading" (*vide* Order VI, Rule 1) and should conform to the general rules of pleading given in order VI as well as the special rules with regard to the written statements in Order VIII. All admissions and denials of facts should be specific and precise and not evasive or ambiguous. When allegations of fraud, etc., are set up, the particulars should be fully given. When any legal provision is relied on, not only the provision of law relied upon should be mentioned, but also the facts making it applicable should be stated. For instance when a plea of *res judicata* is raised, not only the provision of law (e.g., section 11 of the Civil Procedure Code) should be mentioned, but also the particulars of the previous suit which is alleged to bar the suit.

PART F. - SETTLEMENT OF ISSUES

1. **Stress on framing correct issues:-** The trial of a suit falls into two broad divisions—the first part leading up to and including the framing of issues and the second, consisting of the hearing of the evidence produced by the parties on those issues and the decision thereof, Issues are material propositions of facts and law, which are in controversy between the parties and the correct decision of a suit naturally depends on the correct determination of these propositions. The utmost care and attention, is therefore, needed in ascertaining the real matters in dispute between the parties and fixing the issues in precise terms. In most cases the main difficulty of the trial is overcome when the correct issues are framed. A few hours spent by the Court at the outset in studying and elucidating the pleadings, may mean a saving of several days, if not weeks, in the later stages of the trial.
2. **Framing of issues by counsel:-** In some Courts, the framing of issues is left to the pleaders for the parties concerned. This practice is illegal and must cease. The Code contemplates that the Presiding Officer of the Court should himself examine the pleadings, get the points in dispute elucidated and frame issues thereon.
3. **Elucidation of pleadings for framing issues:-** The main foundation for the issues is supplied by the pleadings of the parties, viz., the plaint and the written statements. But owing to the ignorance of the parties or other reasons, it is frequently found that the facts are stated neither correctly nor clearly in the pleadings. The Code gives ample powers to the Court to elucidate the pleadings by different methods prescribed in Order X, XI and XII of the Code and in most cases it is essential to do so, before framing the issues.
4. **Elucidation of pleadings for framing issues:-** On the date fixed for the settlement of issues, the Court should, therefore, carefully examine the pleadings of the parties and see whether; allegations of fact made by each party are either admitted or denied by the opposite party, as they ought to be. If any allegations of fact are not so admitted or denied in the pleadings of any party, either expressly or by clear implication, the Court should proceed to question the party or his pleader and record categorically his admission or denial of those allegations (Order X, Rule 1). {In a suit for payment of money, before settlement of issues the Court may require the defendant to disclose his assets on Oath, to the extent the defendant is made liable in the suit. Further in the event of disclosure of assets by the defendant, the Court while exercising powers under Section 151 C.P.C. may also direct the revenue or municipal authorities or the Registrar appointed under the Registration Act to make an entry in the record to the effect that alienation, if any of such property shall be subject to the decision of the pending suit.}
{Rule 4 amended vide C.S. No. 84 Rules/II.D4 dated 21.11.2022}
5. **Examination of parties:-** Order X, Rule 2, of the Code, empowers the Court at the first or any subsequent hearing to examine any party appearing in person or present in Court or any person, accompanying him, who is able to answer all material questions relating to the suit. This is most valuable provision, and if properly used, results frequently in saving a lot of time. To use it properly, the Court should begin by studying the pleas and recording the admissions and denials of the parties under Order X, Rule 1, as stated above. The Court will then be in a position to ascertain what facts need further elucidation by examination of the parties. The parties should then be examined alternatively on all such points and the process of examination continued until all the matters in conflict and especially matters of fact are clearly brought to a focus. When there are more defendants than one, they should be examined separately so as to avoid any confusion between their respective defences. {However, in suits relating to delivery of possession of property, the Court must examine the parties in relation to third party interest in such property.}
{Rule 5 amended vide C.S. No. 84 Rules/II.D4 dated 21.11.2022}
6. **Examination on oath:-** From Order XIV, Rule 3, of the Code, it will appear that every allegation of fact made by any person other than a pleader should be on oath or solemn affirmation. Unlike a pleader, a mukhtar is not empowered to state the pleas of a party in a suit.
7. **Personal attendance of parties:-** When a pleader for a party or his agent is unable to state the facts to the satisfaction of the Court, the Court has the power to require the personal attendance of the party concerned (Order X, Rule 4 Civil Procedure

Code). It may also be noted here that the Court can require the personal attendance of the defendant on the date fixed for the framing of issues by an order to that effect in the summons issued to him. (Order V, Rule 3).

8. **Examination should be detailed:-** In examining the parties or their pleaders, the Court should insist on a detailed and accurate statement of facts. A brief or vague oral plea, e. g. that the suit is barred by limitation, or by the rule of *res-judicata*, should not be received without a full statement of the material facts and the provision of law on which the plea is based. Similarly when fraud, collusion, custom, misjoinder, estoppel, etc., is pleaded, the facts on which the pleas are based should be fully elucidated. Any inclination of a party or his pleader to evade straightforward answers or make objections or pleas, which appear to the Court to be frivolous, can be promptly met, when necessary, by an order for a further written statement on payment of costs. The party concerned should also be warned that he will be liable to pay the costs of the opposite party, on that part of the case at any rate, if he failed to substantiate his, allegations.
9. **Personal examination of parties:-** Examination of the parties in person is particularly useful in the case of illiterate litigants. Much hardship to the people will be prevented, if the Presiding officers examine the parties personally and sift the cases thoroughly at the outset.
10. **Amendment of pleadings:-** The examination of the parties frequently discloses that the pleadings in the plaint or written statement are not correctly stated. In such cases, these should be ordered to be amended and the amendment initialed by the party concerned. If any mis-joinder or multifariousness is discovered, the Court should take action to have the defect removed.

Attention is in this connection invited to a recent Punjab Amendment of Order VI Rule 17 of the Code of Civil Procedure. The new sub-rule (2) provides that every application for amendment shall be in writing and shall state the special amendments which are sought to be made, indicating the words or paragraphs to be added, omitted or substituted in the original pleadings.

11. **Forms prescribed for examination of parties:-** In order to ensure due compliance with these instructions as regards the examination of parties, the High Court has prescribed forms on which such examination should be recorded. Appellate Courts should see that the forms prescribed are used and should not fail to take notice of subordinate Courts which neglect to follow the directions here given.
12. **Discovery and inspection etc.:-**

(i) The provisions of Orders XI and XII of the Code with regard to 'discovery and inspection' and 'admissions' are very important for ascertaining precisely the cases of the parties and narrowing down the field of controversy. A proper use of these provisions should save expense and time of the parties and shorten the duration of the trial. The parties should be warned that if they fail to avail themselves of these provisions they will not be allowed costs of proving facts and documents, notice of which could have been given. When hearing evidence the Court should make a note whether the parties have made use of these provisions, and if they have not done so, should ordinarily disallow costs incurred in proving such facts and documents in passing final orders. As these provisions are little understood and are not used as much as they should be, it has been considered necessary to mention them briefly here.

(ii). **Court Can move Suo Motu:-** Section 30 of the Code authorises the Court when it appears reasonable, to order, *suo motu*, the delivery and answering of interrogatories, the admission of documents and facts and the discovery, inspection, production, etc., of documents or other articles producible as evidence. These powers should be freely exercised in long and intricate cases or where the number of documents relied upon by the parties is large and it may appear that a long time would be taken up in formally proving the facts and the documents. {In suits relating to delivery of possession of property, the Court must ask the parties to disclose and produce documents, upon Oath, which are in possession of the parties including declaration pertaining to third party interest in such properties.}

{Rule 12(ii) amended vide C.S. No. 84 Rules/II.D4 dated 21.11.2022}

(iii) **Interrogatories:-** Rules 1 and 2 of Order XI deal with discovery by

interrogatories. Leave to deliver interrogatories should be given to such only of the interrogatories as the Court may consider necessary for disposing fairly of the suit or for saving costs. The party to whom interrogatories are delivered shall make answer by affidavit within the time prescribed in Order XI, rule 8 and may therein raise objections as provided in Order XI, rule 6. Interrogatories may also be set aside or struck off by the Court, if these are unreasonable or vexatious or are prolix, oppressive or scandalous (Order XI, Rule 7). The answer to the interrogatories may be objected to only on grounds of insufficiency (Order XI, Rule 10). When a party omits to answer or answers insufficiently, the Court may on the application of the other party, require the former to answer or answer further by affidavit, or by viva voce examination. (Order XI, Rule 11.)

(iv) Discovery of documents:- A party may also move the Court for discovery of documents which are or have been in possession or power of any other party to the suit, and which relate to any matter in question in the suit. The other party shall make answer on affidavit in form No.5, Appendix C to the Code and must make a full and complete disclosure along the lines indicated in this Form (Order XI, Rules 12 and 13). The production of documents can be resisted on three grounds; viz. (i) that these are evidence exclusively of the party's own case or title (ii) that these are privileged and (iii) when the party called upon to produce being a public officer considers that a disclosure would be injurious to public interest. The affidavit shall be treated as conclusive to the existence, possession and the grounds of objection to the production of the document, unless the court is reasonably certain that the objection is misconceived and the document is of such a nature that the party cannot properly make the assertions contained in the affidavit. The Court can also examine the document to decide the claim about privilege. The Court can order the production of the documents at any stage of the trial and a party can serve notice on the other party for the inspection of any of the documents mentioned in the pleadings or the affidavit of the other party (Order XI, rules 14 and 15.) The failure to comply with such order or notice does not justify the striking out of the defence, though the party at fault shall not afterwards be at liberty to put such document in evidence, except with the leave of the Court and on such terms as to costs as the Court thinks fit. Sections 163 and 164 of the Indian Evidence Act may also be read in this connection. The party on whom notice to produce or allow inspection is served, shall within ten days serve a counter notice, stating a time within three days after the delivery thereof offering inspection by the other party at his pleader's office, of such documents as he offers to produce (for forms of notices see No. 7 and 8, Appendix C). Where no such counter notice is given, the Court may on the application of the party and if of the opinion that it is necessary for disposing fairly of the suit or for saving costs make an order for inspection at a time and place fixed by the Court.

(v) Business Books:-In the case of business books the Court may, in the first instance, instead of ordering inspection of original books, order that copies of relevant entries verified to be correct by the affidavit of a person who has seen these books, may be furnished. Such affidavit shall state whether in the original books there are any and what erasures, interlineations and alterations etc. The Court can still order inspection of the original books, and can look up the document to decide a claim regarding privilege.

(vi) Penalty for disobedience of order:- Under rule 21 of Order XI, when a party disobeys valid orders of the court to answer interrogatories or for discovery and inspection of documents he can, on the application of the other party, if a plaintiff have his suit dismissed for want of prosecution, and if a defendant have his defence, if any, struck out by the Court. The Courts should pass orders against a party only as a last resort and when the default is willful. This rule has been interpreted to be applicable only where an order passed under rule 11 had remained uncomplicated with and not where orders under rules 1, 12 and 18 of Order XI were disobeyed.

13. Notice to admit documents or facts:-

(i) Order XII makes provisions for admission of facts and documents. Any party can serve on the other party a notice to admit facts or documents. Rule 3A now enables the Court to call upon any party to admit any document at any stage of the proceeding notwithstanding that no notice to admit documents had been given under rule 2. The failure or neglect of that other party to admit the documents or facts entails only this penalty that the cost of proving the fact or the document has to be borne by that other party, whatever be the final result of the suit. A notice to admit facts should be served at least nine days before the day fixed for hearing ; the other party may then admit the fact

within six days of service of notice otherwise he incurs liability for the costs of proving the fact. (Vide Forms No. 9 to 12 in Appendix C of the Code).

(ii) **Part Judgment on Admissions:-** Where a part of the case is admitted in the pleadings or otherwise, the party entitled may apply to the Court and a judgment or Order can be passed in respect of the part admitted and a decree is to be drawn accordingly.

14. Form of issues:- When the pleadings have thus been exhausted and the Court has before it the plaint, pleas, written statements, admissions and denials recorded under Order X, Rule 1, examination of parties recorded under order X, rule 2, and admissions of facts or documents made under Order XII of the Code, it will be in a position to frame correctly the issues upon the points actually in dispute between the parties. Each issues should state in an interrogative form one point in dispute. Every issue should form a single question, and as far as possible issue should not be put in alternative form. In other words, each issue should contain a definite proposition of fact or law which one party avers and the other denies. An issue in the form, so often seen, of a group of confused questions is no issue at all, and is productive of nothing but confusion at the trial. A double or alternative issue generally indicates that the Court does not see clearly on which side or in what manner the true issue arises, and on whom the burden of proof should lie, and an issue in general terms such as "Is the plaintiff entitled to a decree" is meaningless. If there are more defendants than one who make separate answers to the claim, the Court should note against each issue the defendant or defendants between whom and the plaintiff the issue arises.

15. Burden of proof:- The burden of proof as to each issue should be carefully determined and the name of the party on whom the burden lies, stated opposite to the issue.

PART G.—DOCUMENTARY EVIDENCE

1. The main provisions of the Code with regard to the production of documents by the parties are as follows:—

(a) Production of documents and list along with plaint and written statement on final hearing:- According to Order VII, Rule 14, when the plaintiff sues upon a document in his possession or power, he shall produce it in Court when the plaint is presented and deliver the document itself or a copy thereof to be filed with the plaint. If he relies on any other documents, whether in his possession or power or not as evidence in support of his case he shall enter such documents in a list to be annexed to the plaint. If the documents are not so produced or entered in the list, they cannot be proved at a later stage without the leave of the Court, unless they fall within the exception given in sub-rule (2) of Order VII, Rule 18.

(b) Order VIII, Rule 1 (as amended by the High Court), similarly requires the defendant to produce with his written statement any documents upon which his defence or claim to set-off is founded. The defendant must also annex to the written statement a list of all documents on which he intends to rely whether in his possession or power or not in support of his defence or claim to set off.

If the documents are not so produced or entered in the list, they cannot be proved at a later stage without the leave of the Court unless they fall within the exception given in sub-rule (4) of Order VIII, Rule 1.

(c) Order XIII, Rule 1, lays down that the parties shall produce at the first hearing of the suit documentary evidence of every description in their possession or power, on which they intend to rely, and which has not been already filed, in Court and all documents which the Court has ordered to be produced. If the documents are not so produced at the first hearing, they cannot be produced at a later stage unless good cause is shown to the satisfaction of the Court.

2. **(i) List of documents & their Comparison with the list:-** [Whenever any documents are produced by the parties in the course of a suit, or other civil proceedings, whether with the plaint or written statement, or otherwise, at any stage, they must always be accompanied by a list in duplicate, in the form given below. Documents produced must be forthwith compared with the list, which if found correct, shall be signed by the Ahlmad of the Court, who shall deliver the copy, duly signed by him, to the person producing the documents. In column 4, the court shall note the manner in which each document was dealt with,

i.e. whether it was admitted in evidence or rejected and returned to the party concerned or impounded, as the case may be.]

{sub-rule (i) of rule 2 substituted vide C.S. No. 20/Rules.X.D.6 dated 20.9.1974}

List of documents produced by Plaintiff/Defendant under Order
X111, Rule 1, Civil Procedure Code

IN THE COURT OF _____ AT _____ DISTRICT SUIT NO.
_____ OF _____ *Plaintiff.*

Versus

_____ *Defendant.*

List of documents produced with the plaint (or at first hearing) on
behalf of plaintiff or defendant

This list was filed by _____ this _____ day of 19 _____

1	2	3	4		5
			What become of the document		Remarks
Serial No.	Description and date, if any, of the document	What the document is intended to prove	If brought on the record, Exhibit mark put on the document	If rejected, date of return to the party and signature of party, or pleader to whom the document was returned	

Signature of party or
pleader producing the list.

NOTE.—Judicial officers should instruct all petition-writers practising in their Courts to prepare lists in the above form for all documents intended to be produced in Court.

(ii). Preservation of documents:—Care should be taken to protect old and delicate documents from damage likely to be caused by frequent handling in courts. The common method of pasting the document on a piece of strong paper will be found useful in most cases but where there is writing on both the sides, the document may be preserved between two sheets of cellophane glued together at the edges so that the document can

be easily examined without being taken out of its protective covering. In case the parties agree a photographic copy may also be placed on the file and the document kept in a sealed cover. The party producing the document may be asked to supply the material necessary for its proper preservation.

3. **Calling upon parties to produce documents:-** The Court should formally call upon the parties at the first hearing at the time of framing issues to produce their documents and should make a note that it has done so. Forms have been prescribed by the High Court for the examination of the parties with reference to their documents and these should be invariably used. If the printed forms are not at any time available, the questions prescribed therein should be asked and the questions as well as the answers noted. If these instructions are strictly carried out, there will be no justification for the plea frequently put forward by ignorant litigants, with regard to the late production of a document that they had brought the document at the first hearing but were not called upon to produce it.
4. **Late production of documents:-** The above provisions as regards the production of the documents at the initial stage of a suit are intended to minimize the chances of fabrication of documentary evidence during the course of the suit as well as to give the earliest possible notice to each party of the documentary evidence relied upon by the opposite party. These provisions should, therefore, be strictly observed, and if any document is tendered at a later stage, the Court should consider carefully the nature of the document sought to be produced (e.g., whether there is any suspicion about its genuineness or not) and the reasons given for its non-production at the proper stage, before admitting it. The fact of a document being in possession of a servant or agent of a party on whose behalf it is tendered is not itself a sufficient reason for allowing the document to be produced after the time prescribed by Order XIII, Rule 1. The Court must always record its reasons for admission of the document in such cases, if it decides to admit it (Order XIII, Rule 2).
5. **Forged or Defective Documents:-** Should any document which has been partially erased or interlined or which otherwise presents a suspicious appearance, be presented at any time in the course of proceedings, a note should be made of the fact, and, should a well-founded suspicion of fraudulent alteration or forgery subsequently arise, the document should be impounded under Order XIII, Rule 8, and action taken under Sections 476, 478 and 479 of the Code of Criminal Procedure. Similarly, should any document be presented which appears to have been executed on unstamped or insufficiently stamped paper, action should be taken under sections 33 and 35 of the Indian Stamp Act, 1899. (See also Volume IV, Chapter 4, "Court-fees Stamps"). Where a document produced is written in pencil the court should ask for a true copy thereof written in ink.
6. **Production and admission of documents distinguished:-** Courts

should be careful to distinguish between mere production of documents and their admission in evidence' after being either 'admitted' by the opposite party or 'Proved' accordingly to law. When documents are 'produced' by the parties, they are only temporarily placed on the record subject to their being 'admitted in evidence' in due course. Only documents which are duly 'admitted in evidence' form a part of the record, while the rest must be returned to the parties producing them (Order XIII, Rule 7).

7. **Documents must be tendered in evidence:-** Every document which a party intends to use as evidence against his opponent must be formally tendered by him in evidence in the course of proving his case. If a document has been placed on the record, it can be referred to for the purpose. If it is not on the record, it must be called from and produced by, the person in whose custody it is.
8. **Procedure when documents admitted by the opposite party:-** If the opponent does not object to the document being admitted in evidence, an endorsement to that effect must be made by the Judge with his own hand; and, if the document is not such as is forbidden by the Legislature to be used as evidence, the Judge will admit it, cause it or so much of it as the parties may desire to be read.
9. **Procedure when document is not admitted by the opposite party:-** If, on the document being tendered, the opposite party objects to its being admitted in evidence two questions commonly arise, first, whether the document is authentic, or, in other words, is that which the party tendering it represents it to be; and second, whether, supposing it to be authentic, it is legally admissible in evidence as against the party who is sought to be affected by it. The latter question in general, is a matter of argument only; but the first must, as a rule, be supported by such testimony as the party can adduce.
10. **Legal objections as to admissibility:-** All legal objections as to the admissibility of a document should, as far as possible, be promptly disposed of, and the Court should carefully note the objection raised and the decision thereon.

The Court is also bound to consider, *suo motu*, whether any document sought to be proved is relevant and whether there is any legal objection to its admissibility. There are certain classes of documents which are wholly inadmissible in evidence for certain purposes, owing to defects such as want of registration. etc. (see e.g., Section 49 of the Indian Registration Act). There are others in which the defect can be cured, e.g., by payment of penalty in the case of certain unstamped or insufficiently stamped documents.

11. **Mode of proof:-** As regards the mode of proof the provisions of the Indian Evidence Act should be carefully borne in mind. The general rule is that document should be proved by primary evidence, i.e., the document itself should be produced in original and proved. If secondary

evidence is permitted, the Court should see that the conditions under which such evidence can be let in, exist.

Old documents:- If an old document is sought to be proved under Section 90, the Court should satisfy itself by every reasonable means that it comes from proper custody.

When copies instead of original may be put in:- Under the Bankers' Books Evidence Act, 1891, certified copies can be produced, instead of the original entries in the books of Banks in certain circumstances. In view section 2 (8) of this Act the following certificate should appear at the foot of such copies:—

"Certified that the above is a true copy of an entry contained in one of the ordinary books of the bank and that it was made in the usual and ordinary course of business and that such book is still in the custody of the bank.

Dated.....

Signatures
Principal Accountant/ Manager,
.....Bank,
.....Station."

A similar privilege is extended under section 26 of the Co-operative Societies Act, 1912, to entries in books of Societies registered under that Act and the entries in the accounts prescribed under clause (a) of Section 3 (1) of the Punjab Regulation of Accounts Act, 1930.

12. **Proof of signature or attestation:-** There are certain points which the Courts should bear in mind, when the signature or attestation of a document is sought to be proved.

Before a witness is allowed to identify a document, he should ordinarily be made, by proper questioning, to state the grounds of his knowledge with regard to it. For instance, if he is about to speak to the act of signature, he should first be made to explain concisely the occurrences which led to his being present when the document was signed, and if he is about to recognise a signature on the strength of his knowledge of the supposed signer's handwriting he should first be made to state the mode in which this knowledge was acquired. This should be done by the party who seeks to prove the document. It is the duty of the Court, in the event of a witness professing ability to recognise or identify hand-writing, always to take care that his capacity to do so is thus tested, unless the opposite party admits it.

13. **Plans:-** In all cases in which a plan of the property is produced by either of the parties or is required from it by the Court and is not admitted by the opposite party, it must be properly proved by

- (a) Examination of the person who prepared it and by requiring him to certify it as correct and to sign it, or
- (b) by affidavits or examination of the parties and witnesses.

It is further open to the Court to issue a commission at the cost of the parties or either of them to any competent person to prepare a correct plan and to examine the person so appointed in order to explain and prove it.

14. **Endorsements on documents admitted in evidence:-** Every document 'admitted in evidence' must be endorsed and signed or initialed by the Judge in the manner required by Order XIII, Rule 4, and marked with an Exhibit number. Documents produced by the plaintiff may be conveniently marked as Ex. P.1, Ex. P.2, etc., while those produced by the defendant as Ex. D.1, D. 2, D. 3, etc. To ensure strict compliance with the provisions of Order XIII, Rule 4 (.....the importance of which has been emphasized by their Lordships of the Privy Council on more than one occasion--See e.g., Indian Law Report, 38. Allahabad 627 at page 663) each Civil Court has been supplied with a rubber stamp in the following form:—

SUIT No. _____ OF _____ 19 _____
 Title _____ Plaintiff _____ Versus _____ Defendant
 Produced by _____
 Nature of document _____
 Stamp duty paid Rs. _____ nP. is (is not) correct.
 Admitted as Exhibit No. _____
 On the _____ day of _____ 19 _____

The entries in the above form should be filled in at the time when the document is admitted in evidence under the signature of the Judge. This precaution is necessary to prevent any substitution or tampering with the document. Details as to the nature of the document and the stamp duty paid upon it are required to be entered in order that Courts may not neglect the duties imposed on them by Section 33 of the Indian Stamp Act, 1899. District Judges should see that all Courts subordinate to them are supplied with these stamps.

The above rule also applies to documents produced during the course of an enquiry made on remand by an appellate Court.

The endorsement and stamp will show that the document is proved. it is to be remembered that the word "proved" used in the context here means "that judicial evidence has been led about it, "and does not imply "proof" in an absolute sense.

15. **Endorsements on documents not admitted in evidence:-** Documents which are not admitted in evidence must similarly be endorsed before their return with the particulars specified in Order XIII, Rule 6, together with a statement of their being rejected and the endorsement must be signed or initialed by the Judge.
16. **Documents to be placed in strong cover:-** Documents which are

admitted in evidence should be placed in strong covers one cover being used for documents produced by the plaintiff and the other for those produced by the defendant.

17. **Consequences of not properly admitting documents:-** Owing to the neglect of the foregoing directions as regards endorsing and stamping of documents it is often impossible to say what papers on the file constitute the true record; copies of extracts from public or private records or accounts, referred to in the judgment as admitted in evidence, are often found to be not "proved" according to law, and sometimes altogether absent.

18. **Revision of record before writing judgment to see that only admitted documents are on the record. Duty of appellate Court to see that this has been done:-** It is the duty of the Court, before hearing arguments, finally to revise the record which is to form the basis of its judgment, and to see that it contains all that has been formally admitted in evidence and nothing else. Any papers still found with the file, which have not been admitted in evidence, should be returned to the parties.

Appellate Courts should examine the records of cases coming before them on appeal with a view to satisfying themselves that subordinate Courts have complied with the provisions of the law and instructions of the High Court on the subject, and should take serious notice of the matter when it appears that any Court has failed to do so.

19. **Extracts or copies of settlement record and Riway-i-Am to be placed on record:-** It frequently happens that although the *wajib-ul-arz* or *riway-i-atn* of a village or other revenue record is referred to by the parties and by the Court itself as affording most important evidence, there is no certified extract or copy with the record of the entries relied on. When there is a copy, it is often incomplete or so carelessly written as to be unintelligible. It becomes necessary to call for the originals thus causing damage to the records themselves, and delay and inconvenience to the parties to the suit. It is the duty of Appellate Courts to see that the Courts subordinate to them have proper extracts or copies of relevant entries in Settlement records made, verified and placed on the record.

20. **Production of public records of former Indian States:-** No application for the production of a Court record should be entertained unless it is supported by an affidavit and the Court is satisfied that the production of the original record is necessary (Order XIII, Rule 10). The same principle may well be applied to other public records also. In the case of revenue records, the procedure laid down in Chapter 9 of this Volume "Special Kanungo" should be followed.

It should be borne in mind that the mere production of a record does not make the documents therein admissible in evidence. The documents must be proved at the trial according to law.

Requisition for records of Courts in other States, including the former Indian States which have now merged with the States or integrated as states or territories of the Indian Union should be

submitted through the Registrar, Punjab High Court at Chandigarh.

Care should, however, be taken in not treating the applications for production of public records and documents too lightly. Such documents are liable to be lost or mutilated in the course of transmission and a good deal of time of the clerks is wasted in checking these records in order to see whether they are complete according to the index. Original records or documents should, therefore, not be sent for, unless the Court is fully satisfied that the production of a certified copy will not serve the purpose. Please see Rule 13, Chapter 5-A, of this Volume.

Attention is drawn to rule 5, Order XIII, Civil Procedure Code, under which it is open to the Court to require copy of an entry of a public record to be furnished by one or the other party to the case. In the absence of special reasons which should be recorded in writing, Court should not detain the original of a public document but should return it after a copy has been furnished.

21. **Return of documents:-** Documents admitted in evidence can be returned to the persons producing them, subject to the provisions of Order XIII, Rule 9 (as amended by the High Court by Notification No. 563-G., dated the 24th November, 1927). If an application is made for return of a document produced in evidence before the expiry of the period for filing an appeal or before the disposal of the appeal (if one is filed) care should be taken to require a certified copy to be placed on the record, and to take an undertaking for the production of the original, if required.

In pending cases, application for return of documents should be made to the Court where the case is pending.

In decided cases, the Officer-in-charge of the Record Room should return the documents without consulting the original Court only when the applicant delivers a certified copy to be substituted for the original and undertakes to produce the original if required to do so.

In all other cases, application shall be made to the original court or its successor. If the Court considers that the document may, under Order XIII, rule 9, be returned, it shall record an order accordingly.

The application should then be presented to the Officer-in-Charge of the Record Room who will pass an order for return of the document.

PART H.**HEARING OF SUITS, ADJOURNMENTS, EXAMINATION OF WITNESSES, ETC.**

1. **List of witnesses:-** Notice of the day of trial, reasonably sufficient to enable the parties to attend with their witnesses, should be given before hand. It is the business of the parties to take all reasonable steps to have their witnesses present in Court on the day fixed. The Court should, on application and deposit of process-fees and other necessary expenses, issue the requisite summonses as soon as possible so as to secure their attendance on the date fixed for hearing.

A list of witnesses must be filed by a party in Court before the actual commencement of the hearing of evidence on his behalf, and no party who has begun to call his witnesses shall be entitled to obtain processes to enforce the attendance of any witness against whom process has not been previously issued or to produce any witness not named in the list without an order of the Court made in writing and stating the reasons therefore (Order 16, rule 1, as amended by the High Court).
2. **Statement of case:-** The trial should begin by the party having the right to begin (Order XVIII, Rule 2, of the Code) stating his case, and giving the substance of the facts which he proposes to establish by his evidence. The case thus stated ought to be reasonably in accord with the party's pleadings, because no litigant can be allowed to make at the trial a case materially and substantially different from that which he has placed on record, and which his adversary is prepared to meet. The procedure laid down in the aforesaid rule is often neglected by Courts, but it is highly useful and should be invariably followed.
3. **Examination in-chief:-** In the examination of witnesses questions ought not to be put in a leading form, nor in such a form as to induce a witness, other than an expert, to state a conclusion of his reasoning, an impression of fact, or a matter of belief. The question should be directed to elicit from him facts which he actually saw, heard or perceived within the meaning of Section 60 of the Indian Evidence Act. The questions should be simple, should be put one by one and should be framed so as to elicit from the witness, as nearly as may be in chronological order, all the material facts to which he can speak of his own personal knowledge. A general request to a witness to tell what he knows or to state the facts of the case, should, as a rule, not be allowed, because it gives an opening for a prepared story. Where the party calling witnesses is not aided by counsel, and is unable himself to properly examine his witnesses he may be asked to suggest questions and the examination may be conducted by the Court.
4. **Cross-examination:-** When the examination-in-chief is concluded the opposite side should be allowed to cross-examine the witness or, if unable to do so, to suggest questions to be put by the Court. In cross-examination leading questions are permissible.
5. **Re-examination:-** Then should follow, if necessary, re-examination for the purpose of enabling the witness to explain answers which he may have imperfectly given on cross-examination, and to add such further facts as may be admissible for the purpose.
6. **(a) How far should Court interfere in the conduct of**

examination:- When the examination, cross-examination and re-examination are conducted by the parties or by their pleader, the Presiding Officer ought not, as a general rule, to interfere, except when necessary, e.g., for the purpose of causing questions to be put in a clear and proper shape, of checking improper questions, and of making the witness give precise answers. At the end, however, if these have been reasonably well-conducted he ought to know fairly well the exact position of the witness with regard to the material facts of the case; and he should then put any questions to the witness that he thinks necessary. The examination, cross-examination, re-examination and examination by the Court (if any) should be indicated by marginal notes on the record.

(b):- Conduct of proceedings by lawyers' clerks. Complaints have been received that the Civil Courts sometimes allow Clerks of lawyers to appear, examine or cross-examine witnesses or to conduct the proceedings in other manners, when the lawyers themselves are otherwise engaged. This is highly irregular and is against law and District Judges should take steps to put a stop to this practice wherever it is known to prevail.

7. **Examination of witnesses called by Court:-** The examination of witnesses called by the Court under the provisions of Order XVI, Rules 7 and 14, of the Code, should always be conducted by the Court itself; and after such examination if the parties to the suit desire it, the witnesses may be cross-examined by the parties. Upon the close of the cross-examination, the re-examination of such witnesses, if necessary, should be conducted by the Court in the manner above stated.
8. **Deposition should be read over:-** The deposition of each witness should be read over to him in open Court and corrected, if necessary, as soon as his evidence has been finished (Order 18, rule 5).
9. **Mode of recording evidence:-** In all appealable cases the evidence shall be taken by or in the presence of the Judge or under his personal directions and supervision. If he does not write the evidence himself he shall (in all cases whether appealable or non-appealable) as the examination of each witness proceeds, make in his own hand a memorandum of the evidence. He shall sign this memorandum and file it with the record. Should he be unable to do so he shall cause the reason of his inability to be recorded, and the memorandum to be taken down in writing from his dictation in open Court.
10. **Arguments:-** When the party having the right to begin has stated his case and the witnesses adduced by him have been examined, cross-examined and re-examined, and all the documents tendered by him have been either received in evidence or refused, it then devolves upon each of the opposing parties, who have distinct cases, to state their respective cases in succession, should they desire to do so. After all of them have done so, or have declined to exercise the right, the evidence, whether oral or documentary, adduced by each in order, should be dealt with precisely as in the case of the first party; and on its termination and after they have, if they so desire, addressed the court generally on the whole case the first party should be allowed to comment in reply upon his opponent's evidence.
11. **Rebuttal evidence:-** If, however, the case of an opposing party is such as to introduce into the trial, matter which is foreign to and outside the case of the first party and the evidence adduced by him, then the latter

must be allowed, if he so desires, to rebut this by additional evidence, and his opponent must be allowed to speak upon it by way of reply before the first party himself makes his own reply. But this is not to be understood as entitling the first party to ask for an adjournment for that purpose. He is bound to be prepared with such rebutting evidence, and an adjournment should only be allowed by the Court for good and sufficient reasons, costs being, if necessary, allowed to the opposite party.

12. **Examination of parties as witnesses:-** The vicious practice of each party summoning his opponent as a witness merely with the design that counsel for each party gets a chance of cross-examining his client, obtains in many of the Muffasil Courts. This practice has been strongly condemned by their Lordships of the Privy Council and must cease (see I. L. R. XXXI, All 116 at page 122). On the other hand, when the parties are personally acquainted with any facts which they have to prove, they are expected to go into the witness-box and stand the test of cross-examination by the opposite party. The failure of a party to go into the witness-box in such circumstances may, in the absence of a satisfactory explanation, justify the court in drawing an inference which is unfavourable to that party. Attention may here be drawn to two explanations added in Punjab to Order XVIII, Rule 2, of the Code of Civil Procedure, 1908. In view of these amendments a Civil Court in Punjab can of its own accord or on the application of any party, for reasons to be recorded, direct any party to examine any witness at any stage. The expression 'witness' here includes a party as his own witness.
13. **Note about closing of evidence:-** It is frequently urged in appeals that a party has had witnesses in attendance whom the lower Court has omitted to examine. It is often impossible to ascertain from the record whether this is the case, and it would be equally impossible to ascertain it by a remand. When the examination of the last witness produced in Court by a party is closed, he should be distinctly asked if he has any more witnesses to produce; and the question and reply should be noted on the record. If more witnesses are named, the Court should either examine them or record its reasons for not doing so. If either party states that he desires additional witnesses to be summoned the Court should record the fact of the application and pass an order thereupon.
14. **Continuous hearing of evidence:-** Judges should always endeavour to hear the evidence on the date fixed, as much expense and inconvenience is caused by postponements ordered on insufficient grounds before the witnesses in attendance have been heard. Under Order XVII, Rule (1) of the Code when the hearing of the evidence has once begun the hearing of the suit should be continued from day to day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the hearing to be necessary for reasons to be recorded by the Judge with his own hand.
It should be noted that Rule (1) of Order XVII as amended by this Court requires that when sufficient cause is not shown for an adjournment, the Court shall proceed with the suit forthwith.
15. **Adjournments for evidence:-** It has been observed that a number of Courts grant an adjournment merely because the party at fault is prepared to pay the costs of adjournment. Subordinate Courts should bear in mind that the offer of payment of the costs of adjournment is not in itself a sufficient ground for adjournment. The provisions of Order XVII, Rule (3) also deserve notice in this connection. If a party to a suit to whom time has been granted for a specific purpose as contemplated by Order

XVII, Rule (3), Civil Procedure Code, fails to perform the act or acts for which time was granted without any good cause the rule gives the Court discretion to proceed to decide the suit "forthwith" i.e., without granting any adjournment. In such cases a further adjournment should not ordinarily be granted, merely because offer is made for payment of costs. In some courts, it is apparently assumed that if such an adjournment is not granted the case will be remanded by an Appellate Court. There are, however, no valid grounds for this assumption. If the record makes it clear that a further adjournment has been refused because of the negligence of the party concerned, such refusal would not in itself justify an Appellate Court in remanding the case. An adjournment granted otherwise than on full and sufficient grounds is a favour and in Civil suits favour can be shown to one party only at the expense of the other.

No hard and fast rule can, however, be laid down. Each case must be judged on its own merits.

16. **Adjournments for arguments:-** The practice of adjourning a case for arguments after all the evidence has been given should, as a rule, not be followed except in long and complicated cases. But this observation does not extend to an adjournment, when reasonably necessary, for a reply on the whole case by the party who is entitled to such reply nor to an adjournment for argument on a question of law which may have arisen during the trial and may have been, for convenience sake, reserved for argument until after the taking of the evidence. Whenever a case has to be adjourned for arguments it should be adjourned to the next day, or, if this is not possible, to a very near date.
17. **Memo of evidence should be legible:-** The Judge's memoranda of evidence should always be written in a legible manner; and if from any cause they have been illegibly or indistinctly recorded, copies should be made and placed with the record.
18. **Interlocutory orders and notes:-** All orders made by the Court relative to change of parties, or adjournments, or bearing upon the course of the hearing of the suit other than depositions, orders deciding any issue and the final judgment, and notes of all material facts and occurrences which may have happened during the hearing of the suit, such as the presence of witnesses, etc., must be carefully recorded from time to time by the Presiding Officer in his own handwriting and be dated and appended to the record. Each "order" or "note" should be clearly marked as such.

The practice prevails in the subordinate Courts of writing orders on the back of applications made by the parties during the trial of a case. Such orders may sometimes escape notice during the hearing of appeals. It is, therefore, desirable that the summary of all interlocutory orders should be recorded separately by the reader at one place in chronological order and kept at the beginning of the English record of evidence.

PART J
DISMISSALS IN DEFAULT AND EX-PARTE PROCEEDINGS

1. **General:-** Order IX of the Code deals with the appearance of parties and the consequences of non-appearance on the first hearing. Order XVII, Rule 2, Lays down that the non-appearance of a party on an adjourned hearing may lead to similar consequences.
2. **Default by parties:-** Order IX, Rule 3, provides that when neither party appears when the suit is called on for hearing, the Court may make an order that the suit be dismissed.
3. **(a) Default by defendants:-** Order IX, Rule 6, provides that, if on the day fixed in the summons for the defendant to appear, and answer, the plaintiff appears and the defendant does not appear, and it is proved that the summons was duly served in sufficient time to enable the defendant to appear and answer on the day named in the summons, the Court may proceed to try the case ex-parte. As regards the requisite proof of service in such cases, Chapter 7-B, Volume IV, on "Service of Processes" may be referred to. Even in such cases, however, the plaintiff must prove this case to the satisfaction of the Court, before he can obtain a decree. The defendant, it will be observed, may apply under Order IX, Rule 13, for an order to set aside the ex-parte judgment at any period between the date of the judgment and the thirtieth day from the date of the decree or where the summons was not duly served, from the date on which he has knowledge of the decree (See Article 164, Schedule 1, of the Indian Limitation Act). The provisions of section 5 of the Indian Limitation Act 1908 have recently been made applicable to all applications for the setting aside of Ex- parte decrees and for restoration of suits under Order 9, Rules 4 and 9. These applications may, therefore, be admitted even after the period of thirty days if the applicant satisfies the court that he had sufficient cause for not making the application within such period. If he satisfies the Court that the summons was not "duly served", or that he was prevented by sufficient "cause" from appearing when the suit was called for hearing, the Court should set aside the order on such terms as to costs or otherwise as it may deem fit.

 (b) Attention is drawn to Order IX, Rule 7, which lays down the procedure for setting aside exparte proceeding when the hearing of the suit has been adjourned exparte but no exparte decree has been passed.
4. **Default by plaintiff:-** Order IX, Rule 8, lays down that if the defendant appears and the plaintiff does not appear when the suit is called on for hearing, the Court shall make an order dismissing the suit, unless the claim is admitted wholly or in part, in which case the claim shall be decreed only to the extent to which it is admitted.
5. **Hasty dismissal not advisable:-** The above rules must be worked in a reasonable manner, otherwise they will result in a number of applications for setting aside orders passed in the absence of one or both parties. It is possible that a party may have temporarily gone away to call his counsel or to refresh himself and a person cannot be expected to be in constant attendance throughout the day. The court should to avoid hardship, lay aside the case where any party does not appear when the case is called. The case may be called again, later in the day after the other work has been finished or when both the parties turn up and the Court can conveniently take up the case that had been laid aside. If these rules are worked in a reasonable manner applications for restoration of suits or setting aside of ex parte orders would be reduced in number. Such applications generally lead to delay in the disposal of cases and waste a good deal of the time of the courts and the litigants.
6. **Hasty dismissal not advisable:-** The tendency to dismiss cases in default or to pass *exparte* orders in a hasty manner in order to show an increased out-turn is to be strongly depreciated and is not to be resorted to in any

case. The Presiding Officers should note down the time in their own hand when a case is dismissed in default or an order to proceed *ex parte* is passed.

7. **Order of "Dakhil Daftar" is irregular:-** There is a tendency for Presiding Officers of Civil Courts to pass orders that cases should be "dakhil daftar". This practice is incorrect. A Presiding Officer should invariably make it clear what the precise nature of the order is, i.e., whether the case is postponed or dismissed and the rule, if any, under which the order is passed should also be mentioned.
8. **Registration of suits:-** When a plaint is presented a suit is thereby instituted under Order IV, Rule 1, of the Code and the suit must forthwith be entered in the Register of Civil Suits (Civil Register No. I) in accordance with Order IV, Rule 2.
9. **Procedure when the plaintiff is not present on the preliminary date:-** It is customary, when a plaint is presented, to fix a short preliminary date in order to permit the examination of the plaint. On this preliminary date the plaintiff is expected to appear to receive notice of the date fixed for the hearing of the suit. It sometimes happens that the plaintiff does not appear on this date and several cases have come to the notice of the Judges in which Courts have forthwith dismissed the suit in default by orders purporting to be made under Order IX.

This procedure is incorrect as it has been held that the preliminary date is not a date fixed for hearing and therefore, the provisions of Order IX do not apply. The correct procedure in such cases may be deduced from the Code and has been referred to in several rulings of the High Court. It is as follows:—

- (i) If the plaint is in order and process fee for the summoning of the defendant has been filed with the plaint, the Court should issue summons to the defendant and a notice to the plaintiff to appear on the date for which the defendant is summoned. If on that date the plaintiff does not appear inspite of the service of the notice on him, the suit can be dismissed under Order IX, Rules 3 or Rule 8 of the Code whichever is applicable.
- (ii) If the plaint is in order but process fee has not been filed with it, the Court should fix a date for the appearance of the defendant and issue notice to the plaintiff calling upon him to appear on that date and to deposit process fee by a specified date so that the defendant may be summoned. If on the date fixed it is found that no summons has issued owing to non- payment of process fees, or that the summons could not be served owing to late payment of process fees, the suit can be dismissed under Order IX, Rule 2. If process fee has been paid as directed, the other provisions of Order IX will apply.
- (iii) If the plaint is not in order and the defects are such as to entail its rejection under Order VII, Rule II, the Court should record an order rejecting it. If it is to be rejected for failure to pay court fees, it will be necessary first to issue a notice calling on the plaintiff to make up the deficiency unless he has already been given time to do so (See also paragraph 7 of Chapter 1- C ante). In such cases the final order to be entered in Civil Register No. 1 is "plaint rejected."

If the defects in the plaint are not such as to call for its rejection under Order VII, Rule 11, the Court should proceed in accordance with the procedure outlined in sub-clauses (i) and (ii) above, the question of remedying the defects being taken up at the first hearing.

PART K

SPEEDY DISPOSAL OF CASES

1. **Cause-diary:-** The speedy disposal of Court business is a matter which requires the earnest attention of every judicial officer. Delays of law are notorious in this country and tardy justice is often no better than injustice.

The proper despatch of Court work depends not merely on the ability of an officer, but also to a large extent on the personal attention paid by him to its adjustment and control. Amongst the important matters, which should receive his personal attention is the cause diary. The practice of leaving the fixing of dates to the clerical staff, leads to abuses and results frequently in confusion of work. The fixing of an adequate cause list which can be got through without difficulty during the Court hours requires some intelligence and forethought, and unless the officer pays personal attention to the matter and fixes the list with due regard to the time likely to be taken over each case, there is risk of a considerable number of cases being postponed from time to time with consequent delay in their disposal and inconvenience to the litigant public.

District Judges should from time to time examine the diaries of Subordinate Judges in their districts in order to see that too much or too little work is not fixed for any day. A sufficient number of cases should, however, be fixed for hearing, so that even if some cases collapse there would be sufficient work to keep the Judge fully occupied throughout the day.

2. **Causes of delay in disposal of cases:-** As a result of annual inspections, it has been found that the delay in the disposal of cases is mainly due to the following errors :—
 - (i) Orders for the issue of notice to parties and summonses to witnesses are given without specifying the date by which process-fees must be paid into Court. Two days should be the usual time allowed.
 - (ii) On failure of service, orders for the issue of fresh process are given without ascertaining the cause of the failure of the service and fixing the responsibility therefore.
 - (iii) Documents, instead of being accepted either with the plaint or at the first hearing, are accepted at every stage of the case.
 - (iv) Applications for the issue of interrogatories, which should be accepted at the earliest stage of the case only, are accepted at a very late stage.
 - (v) Witnesses, who are present in Court are often sent away un-examined on all kinds of inadequate pretexts.
 - (vi) Cases are not proceeded with from day to day, and evidence is taken in dribblets.
 - (vii) Adjournments are granted for the preparation of arguments at all stages even in the matter of interlocutory orders.
 - (viii) Un-necessary long adjournments are granted, when adjournments are unavoidable.
 - (ix) Suits are dismissed or restored without adequate reasons.
 - (x) Orders are written by the Reader instead of the Presiding Officer.
 - (xi) Personal attention is not paid to service of processes. The instructions given in Chapter 7-D, Volume IV, should be carefully observed.
 - (xii) The adjournment on insufficient grounds on cases which have already become old.
 - (xiii) Fixing a large number of cases for a particular day and then postponing some of them for want of time.
 - (xiv) Delay in the disposal of appeals against preliminary decrees, etc.

Of all the foregoing, the most serious causes of delay are errors (i) and (ii).

All orders of whatever nature which are passed after the admission of a plaint (except those of a purely routine character) should be written by the Presiding Officer himself.

A Court should not adjourn any case for more than three months. If for any reason the diary for the next three months is full, a request for the transfer of some cases to some other court should be made to the District Judge.

Intermediate dates should be fixed to watch the return of files requisitioned from other courts and States.

3. **Commissions and Arbitrations:-** Delays also occur frequently in cases in which a commission has been issued or reference made to arbitration. Courts should insist on submission of reports and awards by the Commissioners or Arbitrators, as the case may be, within a reasonable time and should not grant adjournments without satisfying themselves that the Commissioners or Arbitrators are doing their duties and that sufficient cause has been shown for the grant of an adjournment. Parties and arbitrators should be made to understand that a reference to arbitration is liable to be cancelled if the award is not filed within time. It will be found useful to make a part of the Commissioners' fees depend upon punctual submission of his report, and to make this fact clear in the courts order and the letter of request to the Commissioner.
4. **Adjournment caused by absence of the Judge or unexpected holiday:-** On the concurrence of an unanticipated holiday or in the event of the presiding Officer of a court being absent owing to sudden illness or other unexpected cause, all cases fixed for the day in question shall be deemed to have been automatically adjourned to the next working day when the Presiding Officer is present and it shall be the duty of the parties or their counsel (but not of witnesses) to attend Court on that day.
^[5][deleted]
{Para deleted vide C.S. no. 32 dated 7.5.88}

In the case of a Small Cause Court where there are Additional Judges, the provisions of sub-section(4) of section 8 of the Provincial Small Cause Court Act (IX of 1887) should be followed.
5. **Transfers:-**Whenever cases are transferred from one Court to another, the instructions contained in Chapter 13 of this Volume should be followed.
6. **Cases held up owing to records being in the appellate Court or pending decision of another case:-** Efforts should be made to give priority to cases, for the decision of which other cases are held up. Subordinate Judges are authorised to bring to notice of appellate Courts cases where a suit has already been postponed for more than 3 months merely because the records happen to be with the appellate Court. The Presiding Officer of the appellate Court should then treat the appeals in which records have been sent for by the lower Courts as "urgent" and dispose of them as early as possible. Appellate Courts should also treat all appeals in which proceedings have been stayed in a lower Court as "urgent."
7. **Interlocutory orders:-** Applications for interlocutory orders, the admission of which will hold up the original proceedings, should be carefully scrutinized and promptly disposed of.
8. **[Old cases and abstracts of order sheets:-**All Civil Courts are required to furnish to the High Court a statement of old civil cases pending over two years every month before the 10th of the following month in the proforma appended below together with their explanations where necessary and the comments of the Sessions Judge concerned thereon. The proceedings of monthly meeting of Judicial Officers should accompany the aforesaid statement.]

{substituted by C.S. no. 29 dated 19.6.1980}

Proforma 'A'

Consolidated statement of more than two years old Civil cases pending in the Courts of Subordinate Judges of___, District for the month of _____

Na me of the Court	Nature of Civil cases	No.of cases pending at the end of the last month	No. of cases which became over two years old during the month	Total No. Of cases	No. of cases disposed of during the month	Balance	No. of stayed cases
1	2	3	4	5	6	7	8

- 1. Civil Appeal
- 2. Civil Suits
- 3. Rent Act cases
- 4. Execution cases]

9. **Priority to certain cases:-** Attention is invited to the instructions as regards the speedy disposal of cases in which Government servants, military officers, soldiers, etc., are involved or to which the Government is a party (See Chapter 6 and 8 of this Volume).

Cases under section 28 of the Sikh Gurdwaras Act, 1925, should also receive priority and be disposed of as quickly as possible (Vide Circular Memo. No. 3823-G, dated the 20th May, 1927).

10. **Commercial Cases:-** "Commercial Cases" should be disposed of as speedily as practicable. The term "Commercial Case" is taken to include cases arising out of the ordinary transactions of merchants, bankers and traders; amongst others, those relating to the construction of mercantile documents, export or import of merchandise, affreightment, carriage of goods by land, insurance, banking and mercantile agency, mercantile usage, and infringements of trade marks and passing off actions and debts arising out of such transactions.

In the early stages of the trial or appeal the Court should, either on its own motion or on the application of either party mark a case as a 'Commercial Case', if it appears to the Court to justify that classification.

All cases which have been marked as "Commercial cases" under the preceding paragraph shall be brought to a hearing as early as may be practicable. Such cases shall be given priority on the day of hearing over other cases, except part-heard cases, and shall, so far as possible, be heard from day to day until they are finally decided.

11. **Compromise:-** Order XXIII, Rule 3 of the Code, relating to 'Compromises of Suits' has been amended in Punjab and the two provisos added to this rule should be carefully studied. The dispute about a compromise or adjustment or the parties' negotiations for the same, should not, as far as possible, be allowed to hold up the trial of the issues on merits and the witnesses in attendance should not ordinarily be sent back unexamined. When the case can not be proceeded with as indicated the reasons should be recorded in writing. The judgment in the suit should not, however, be announced until the question of adjustment or satisfaction has been decided.

Chapter 1
PART L.—INCIDENTAL PROCEEDINGS

{(a) Attachment before Judgment, temporary injunctions and appointment of receiver etc."}

{The heading is amended vide C.S. No. 84 Rules/II.D4 dated 21.11.2022}

- 1. Attachments or arrest before judgment:-** If at the time of filing the plaint, or at any other stage of the suit, an application is made by the plaintiff, under Order XXXVIII of the Code, for the arrest of the defendant or for the attachment of his property before judgment, the Court should proceed to consider the application with reference to the provisions of the Code and the following instructions.
- 2. Attachment or arrest before judgment:-** Orders for arrest or attachment before judgment ought not to be made on insufficient grounds. The circumstances which justify a Court in passing an order of this nature are distinctly stated in Order XXXVIII of the Code of Civil Procedure. The Court should, in every such case, be satisfied (Order XXXVIII, Rules 1 and 5) that the defendant has or is about to dispose of or remove the property from its jurisdiction or that he has or is about to leave its jurisdiction,
- 3. Temporary injunction:-** It has been noticed that temporary injunctions are frequently issued *ex-parte* by subordinate Courts, without realising fully their consequences. The following instructions in respect of such orders should therefore be ordinarily followed :—
 - (i) The Court should scrutinise carefully the plaint, the application and the affidavit before interfering with the defendants' rights and should satisfy itself that some recent happenings have justified the interference without notice to the defendant.
 - (ii) Court should use the rules in Order XXXIX, Civil Procedure Code, with great discrimination, and should not overlook the significance of the word "may" wherever it occurs. It should not treat the exception in Rule 3 as the normal procedure. Interlocutory injunctions should be granted *ex- parte* only in very exceptional circumstances, and only when the plaintiff can convince the Court that by no reasonable diligence could he have avoided the necessity of applying behind the defendants' back.
 - (iii) Such injunctions, when granted, should be limited to a week or less, i.e., the minimum time within which a defendant can come before the Court, assuming that to get rid of the injunctions, he will be prepared to use the greatest expedition possible.
 - (iv) The Court should state clearly what acts it has restrained. Vague orders such as 'Issue of temporary injunctions as prayed' should be avoided. Where only some of the acts mentioned in the petition need to be urgently restrained the *ex-parte* order should be confined to these only. The plaint or petition should not merely be copied out.
 - (v) When the defendant appears and files his affidavit, the plaintiff should be given only a few days to answer it. The contested application should then be heard, as soon as possible, and if the Judge cannot dispose of it at once, should, for the term of the adjournment, which should be as short as possible, either grant an ad interim injunction, or obtain an undertaking from the defendant not to do any acts complained against.
 - (vi) After the plaintiff has obtained an interim or *ex parte* order, the court should take care to see that he does not abuse the advantage by resorting to the usual dilatory tactics; such as delay in deposit of process fees, evasion of service of summons on a pro-forma defendant interested with the plaintiff in delaying the suit or in other manners.
- 4. Exparte injunctions:-** The above instructions are not intended to restrict the

discretion of Courts, but every application for an *ex parte* injunction should be very carefully considered in the light of these instructions and should not be granted unless sufficiently good grounds are made out.

5. **{Appointment of Receiver:-}** Under Order XL Rule 1 of CPC the Court may appoint receiver to monitor the status of the property in question as *custodial legis* (in custody of law) for proper adjudication of the matter specifying as to whether receiver shall take actual physical or symbolic possession thereof.}
{Rule 5 inserted vide C.S. No. 84 Rules/II.D4 dated 21.11.2022}
6. **{Ensuring satisfaction of decree:-}** In suit for payment of money, the Court may in appropriate cases at any stage of the suit demand security from the defendant to ensure satisfaction of decree exercising the powers under Section 151 CPC}
{Rule 6 inserted vide C.S. No. 84 Rules/II.D4 dated 21.11.2022}

(b) Death, Marriage or Insolvency of Parties.—

Death, Marriage or Insolvency of parties - Abatement.- The procedure to be followed in the event of death, marriage, or insolvency of parties is laid down in Order XXII, Civil Procedure Code. Proper steps must be taken to bring the legal representatives of the person concerned (the Receiver in the case of a person who is declared an insolvent) on the record within the period of limitation. Otherwise the suit is liable to abate wholly or partly in certain cases. The abatement takes place automatically and a formal order of abatement, though not essential, should be usually recorded. The abatement can be set aside on an application by the 'aggrieved party, if sufficient cause is shown (Order XXII, Rule 9).

There is no abatement if a party dies after the conclusion of the case but before judgment. In such cases judgment may be pronounced and will take effect as though it had been pronounced while the party was alive.

In certain cases, the abatement of a suit as against one defendant results in the dismissal of the whole suit. Reference may be made in this connection to I.L.R. X, Lah. 7F.B.

(c) Compromise or Adjustment Of Suits.

Compromise:- Where a Court is satisfied that a claim has been adjusted by any lawful agreement or compromise or the claim has been satisfied wholly or in part, the Court shall order such agreement, compromise or satisfaction to be recorded and shall pass a decree accordingly so far as it relates to the suit, in cases where the compromise goes beyond the subject matter of the suit, the directions given in 46- 1-A 240, 244 and I. L. R. 1\$ Cal, 485 should be followed in preparation of decrees.

When a minor is concerned, the Court should consider and record a finding as to whether the compromise or adjustment is for the benefit of the minor, and pass an express order granting or refusing leave, for the purpose as it may think fit.

As to compromises in cases of minors see Chapter 1-M. (d).

As to forms of decrees based on compromises see Chapter 11-B, paragraph 5.

As to stay of hearing on the ground of compromise see Chapter 1-K, paragraph 11.

(d) Amendment and Review

Amendment and Review.—When a case is decided on the merits, the Court has no power to vary the judgment or decree, except by way of amendment under Sections 151 and 152 or by review under Order XLVII, Civil Procedure Code. The scope of amendment is very limited, being confined to clerical or arithmetical errors, accidental slips, etc. Review can be granted only on the grounds specified in Order XLVII. The words "any other sufficient cause" occurring in Rule 1 of Order XLVII have been held by their Lordships of the Privy Council to mean "a reason sufficient on grounds at least analogous to those specified immediately previously." (See *I. L. R. III, Lahore 127-P C.*).

(e) Inherent Powers under Section 151, Civil Procedure Code

Section 151, Civil Procedure Code.—The scope of Section 151, Civil Procedure Code, is frequently misunderstood and applications are made under that section, which do not properly fall within its purview. The section is widely worded to enable Courts to do justice in proper cases, but it cannot be used so as to over ride the express provisions of Statute. For instance, a suit which is barred by limitation, cannot be heard in the exercise of inherent powers under Section 151. But where there is no express provision of law on a particular point inherent powers may be used in proper cases in the interests of justice. For instance, it has been held that when an application for execution is dismissed in default, it may be restored in the interests of justice on sufficient cause being shown, although there is no express provision of law for restoration of such an application dismissed in default (I.L.R. II Lahore 66).

PART M
SPECIAL FEATURES OF CERTAIN CLASSES OF CASES
(a) Cases under Punjab Customary law.

1. **Punjab Laws Act:-** Custom forms a dominant feature of the Civil litigation in the Punjab. Section 5 of the Punjab Laws Act, 1872, lays down that in all questions regarding successions, special property of females, betrothal, marriage, divorce, dower, adoption, guardianship, minority, bastardy, family relations, wills, legacies, gifts, partitions, or any religious usage or institution, the rule of decision shall be custom, when there is any custom applicable to the parties, provided the custom is not contrary to justice, equity, or good conscience and has not been altered or abolished by any statute or declared void by any competent authority. In other cases, Muhammadan Law in the case of Muhammadans and Hindu Law in the case of Hindus, is to be applied.

2. (a) **Proof of Custom:-** The vast majority of the rural population in the Punjab follow custom. It is the exception rather than the 'rule for the Hindu and Muhammadan Law to be applied in their entirety. The ascertainment of custom, when it is disputed is often a matter of difficulty. The records of tribal custom (*Riwaj-i-am*) prepared by Government officers for the various Districts are helpful and are accepted *prima facie*, as good evidence of the customs stated therein (See 45)P. R. 1917-P. C.). Judicial decisions have also to a large extent defined customs in respect of various tribes and the rules deduced therefrom will be found summarised in a convenient form in Rattigan's "Digest of Customary Law."

Rights of Females:- The value of entries in *Riwaj-i-am* may, however, be small if these affect adversely the rights of females or any other class of persons who had no opportunity of appearing before the revenue authorities. A few instances may in such cases suffice to rebut the presumption of correctness attaching to such records. (Vide, I.L.R. 1941 Lah. 154 (P.C.) Subhani's case and (1955) I Supreme Court Reports 1191.)

(b) **Migrants and Displaced persons:-** In view of the wholesale migrations of population after the partition of Punjab, the question may often arise whether a person is governed by the Customary Law of home of origin or of the land where he has settled down. The consensus of authority is that persons or tribes may be presumed to be governed by the customs of their original home and not by the customs of the land where they settled down unless it is shown that in any matters they have adopted the customs of their new habitation. The presumption is however rebuttable on proof of special circumstances. See Rattigan's "Digest of Customary Law" and Mulla's "Hindu Law."

3. **Personal Law:-** When in any particular instance, no rule of custom can be found, the Court must fall back upon the personal law of the parties (See 110 P. R. 1906-F. B.)

4. **Limitation in certain custom suits:-** The provisions of Punjab Act I of 1920 which prescribes the limitation for suits relating to alienations of ancestral immoveable property and appointments of heirs by persons who follow custom, and Punjab Act II of 1920 which restricts the power of descendants or collaterals to contest such alienations or appointments should also be studied.

5. **Law applicable to Muslims.** Attention is drawn to Act XXVI of 1937 which lays down that notwithstanding any custom or usage to the contrary, in all questions (save those relating to agricultural land) the rule of decision in case where the parties are Muslim shall be the Muslim Personal Law. In order to obtain the benefit of this Act, a declaration has to be obtained.

(b) Money Suits

1. **Typical money suits:-** (i) Some features of money suits deserve attention.
(ii) The typical money suit in the Mufassil is one between a creditor and an illiterate debtor. The suit is generally based on a running account consisting of petty items in the account book of the former with balances struck from time to time, or an agreement recorded in it with regard to larger loans borrowed on occasions of marriage, etc., and occasionally on a bond. Allegations of fraud want of consideration, etc., are frequently made in defence and owing to the ignorance of the debtor, on the one hand and the frequent absence of regular accounts on the other, the cases require careful sifting. The examination of the parties themselves under Order X, Rule 2, Civil Procedure Code, before framing the issues is generally very useful (See Part F of this Chapter.) When fraud misrepresentation, undue influence, etc., are pleaded, the particulars thereof should be carefully elicited.
2. (a) **False entry:-** Where the creditor or some one at his instance has shown a higher amount in such documents than the amount actually advanced, the court shall disallow the whole claim with costs unless the creditor can satisfy the court that the mistake was accidental or bona fide (please see section 37 of Punjab Relief of Indebtedness Act, as amended by Punjab Act XII of 1940).

(b) **Punjab Regulation of Accounts Act:-** Special attention is drawn to the provision of the Punjab Regulation of Accounts Act 1 of 1930. This Act applies generally to all loans advanced after the commencement of the Act which came into force on 1st July, 1931.
3. **Suits on bahi account. Copy of the account:-** When a suit is based on a bahi account, the account must be produced with the plaint. To avoid inconvenience to the plaintiff, he is allowed to file a copy, but the copy must be supported by an affidavit by the party producing it to the effect that it is a true copy or by a certificate on the copy that it is a full and true translation or transliteration of the original entry. No examination or comparison by any ministerial officer shall be required except by the special order of the Court. It should be noted, however that although a copy is allowed to be filed, the original account must be produced (except when it is permissible to produce a certified copy e. g., under the Banker's Books Evidence Act, 1891), later in the course of the trial when evidence is led in order to prove it.
4. **Presumption as to entries in account books:-** Entries in books of account are relevant under section 34 of the Indian Evidence Act, if the books are shown to be regularly kept. Such entries are however not by themselves sufficient to charge any person with any liability and must be supported by other evidence. There may be cases where the plaintiff's statement alone may be considered sufficient corroboration of these entries.
5. **Bonds and agreements:-** An agreement for the payment of a debt if attested by a witness would be liable to be stamped as a 'bond'. For definition of bond please see section 2 (5) of the Indian Stamp Act. A document insufficiently stamped may be taken in evidence on payment of the deficiency in stamp and penalty as provided in section 135 (*ibide*). For further instructions please see Chapter 4 of Volume IV.
6. **Registration of bonds:-** Registration is not obligatory in the case of simple bonds creating no charge on any immovable property. As regards bonds creating such a charge section 17 of the Indian Registration Act should be consulted.
7. **Thumb-mark and signatures:-** When the thumb-mark or signature on a document is denied, it must be proved in the proper manner. As regards thumb-marks the most convenient method is to obtain thumb-marks of

the person concerned in Court, if possible, and send the same together with the disputed thumb-mark for comparison by an expert to the Finger Print Bureau at Phillaur. The report of the expert must be supported by his testimony on oath or solemn affirmation. Such testimony can be conveniently obtained by issuing a commission for the purpose to the Sub Judge at Phillaur. (For further instructions on the subject, see Volume IV Chapter 9). As regards proof of signatures, Sections 45-47 of the Indian Evidence Act may be consulted, also Chapter I-G of this Volume.

8. **Proof of consideration:-** When the execution of document is admitted or proved the onus will be shifted to the executant to prove absence of consideration, if he relies on any such plea. Section 12 of the Punjab Debtor's Protection Act, (Act No. II of 1936), however, provides an exception to this rule and should be carefully studied.
9. **Costs and interest:-** The instructions contained in Chapter 11-C about the "Award of costs" and in Chapter 11-D about the "Award of interest" should be noted carefully.
10. **Payment by debtors:-** Section 31 of Punjab Relief Indebtedness Act enables any person who owes money to deposit the same in court in full or part payment to his creditor. It is not necessary that the creditor should have filed a suit or taken any other steps to recover the debt. Interest ceases to run from the date of the deposit. A notice about the deposit should always be sent to the creditor. For form of notice see form No. 218, Vol. VI-A, Part A-II.
11. **Rules as to deposits:-** The State Government has made the following rules *under section 32 of the Punjab Relief of Indebtedness Act:—

Punjab Relief of Indebtness (Deposit in Court) Rules, 1935
***Notification No. 2461-J-36/16796, dated the 26th May,1936.**

- (1) These rules may be called the Punjab Relief of Indebtedness (Deposit in Court) Rules, 1935, and shall apply to all deposits to be made under section 31 of the Act.
- (2) In these rules "the Act" means the Punjab Relief of Indebtedness Act, 1934.
- (3) Sums less than Rs. 1,000 may be deposited in any stipendiary Civil Court having jurisdiction within the district in which the debtor resides.

Provided that where there is more than one such Court in the same town the deposit shall be made in the Court exercising the highest pecuniary jurisdiction.

- (4) Sums of Rs. 1,000 or over shall be deposited only in the Court of the Senior Sub Judge of the district in which the debtor resides.
- (5) Deposits may be made either by postal money order or by the debtor in person.
- (6) All sums deposited shall be accounted for and dealt with according to the ordinary rules for the time being in force in the Courts into which they are paid.
- (7) Notices under sub-section (2) of section 31 of the Act shall be served upon the creditor by registered letter acknowledgment due at the expense of the debtor.

12. **Punjab Registration of Money Lender's Act:-** Attention is drawn to the Punjab Registration of Money Lenders' Act, 1938 (Punjab Act III of 1938) according to which suits and applications for execution by moneylenders are barred unless the money lender is registered and licensed. (section 3).

(c) Pre-emption Suits

1. **Prevailing law:-** The law of pre-emption in the Punjab is now governed by the Punjab Pre-emption Act, 1913, and custom plays a comparatively minor part in it.
2. **Deposit of security for costs:-** In every pre-emption suit, the Court is bound to require the plaintiff before the settlement of issues to deposit a sum not exceeding one-fifth of the probable value of the property which is the subject matter of the suit or give security to that extent, within a specified time. If the plaintiff fails to comply with the order within the specified time, or such further time as the Court may allow, his plaint must be rejected. (Section 22 Punjab Pre-emption Act).
3. **Court to enquire suo motu certain matters:-** Order XX Rule 14 of the Code directs that a pre-emption decree shall specify a day on or before which the purchase money with costs if any shall be paid into court. The courts should not fix a period of time for the deposit of the money but should mention a definite date. Care should further be taken to see that the specified date is not a day on which the Courts may be expected to be closed.

(d) Suits by and against minors and persons of unsound mind.

1. **General:-** The Procedure to be followed in the case of suits by or against minors is laid down in the rules in Order XXXII of the Code of Civil Procedure. Attention is invited to the additions and alterations made in these rules by the High Court (vide Chapter 21 of this Volume).
 2. **Next friend and guardian ad litem defined:-** A minor being legally incapable of acting for himself, the law requires that every suit by or against such a person should be conducted on his behalf by a person who has attained majority and is of sound mind. A person conducting a suit on behalf of a minor plaintiff is called his "next friend", while a person defending it on his behalf is called a guardian *ad litem* for the purpose of the litigation.
 3. **(a) Permission to sue:-** Any person as described above may institute a suit on behalf of a minor and no permission of the Court is necessary for the purpose. An exception to this general rule has however been made by sub-rule (2) of Rule 4 of Order XXXII. If the minor plaintiff has a guardian appointed or declared by competent authority, no person other than such guardian shall act as the next friend of the minor, unless the Court considers, for reasons to be recorded, that it is for the minors' welfare that another person be permitted to act.
- (b) The next friend of a minor plaintiff can be ordered to pay any costs in the suit as if he were the plaintiff.
4. **Minor may not be proceeded against ex parte:-** A "guardian ad litem" for a minor must be appointed by the Court and the trial of the suit cannot proceed until such an appointment is made. The Court cannot proceed, or pass an order or decree, *ex-parte* against a minor.

An application for the appointment of a guardian ad litem of a minor and the affidavit filed therewith shall state:—

- (a) Whether or not the minor has a guardian appointed under the Guardians and Wards Act, 1890, and if so, his name and address;
- (b) the name and address of the father or other natural guardian of the minor;
- (c) the name and address of the person in whose care the minor is living;
- (d) a list of relatives or other persons who *prima facie* are most likely to be capable of acting as guardians for the minor;
- (e) how the person sought to be appointed guardian or next friend is related to the minor;
- (f) that the person sought to be appointed guardian or next friend has no interest in the matters in controversy in the case adverse

to that of the minor and that he is a fit person to be so appointed;

(g) whether the minor is less than fifteen years of age.

5. Notice to minors, & relatives, etc.:- No order should be made appointing a guardian ad litem unless notice is issued to the guardian of the minor appointed or declared by a Court (if any), or where there is no such guardian, to the father or other natural guardian, or where there is no father or natural guardian, to the person in whose care the minor is, and the objections of such persons (if any) are heard. A notice to the minor is not essential under the rules (as amended) but should ordinarily issue when the minor is shown to be over fifteen years of age as he may in that case be able to take an intelligent interest in the selection of his guardian and the conduct of the proceedings.

6. Choice of guardian, appointment of court officers or pleader, fund for defence and accounts to be kept:- Duties of guardian:- In appointing a guardian ad litem, the following order of preference shall be observed:-

(i) If there is a guardian appointed or declared by a Court, he must be appointed unless the Court considers that it is for the welfare of the minor that some other person should be appointed. If any other person is appointed, the Court must record its reasons;

(ii) in the absence of a guardian appointed or declared by a Court, a relative of the minor best suited for the appointment should be selected;

(iii) in the absence of any such relative, one of the defendants should be appointed, if possible;

(iv) and failing such a defendant, a Court official or a pleader may be appointed.

It should be remembered that no person can be appointed to act as a guardian *ad litem* without his consent. Consent may, however, be presumed unless it is expressly refused.

When a Court official or a pleader is appointed to act as a guardian the Court has power to direct the plaintiff or any other party to the suit to advance the necessary funds for the purposes of defence. The Court official or a pleader should be required to maintain and produce accounts of the funds so provided and these should ultimately be recovered from such party as the Court may think it just to direct after the result of the suit.

The court official or pleader appointed by the Court as the guardian-ad-litem of a minor defendant, should to the best of his ability communicate with the minor and his relatives in order to ascertain what defence can properly be taken in the case and further try to substantiate that defence by adducing proper evidence.

7. Rejection of plaint where minor is not represented:- The plaint may be "taken off the file" and all orders made may be set aside, if a minor is not properly represented and the person filing the plaint or obtaining the orders whether a legal practitioner or not, may be liable to pay costs.

8. Appointment of guardian ensures for appeal and execution:- When a guardian ad litem is appointed by a Court the appointment ensures for the whole of the litigation including appeals and execution proceedings arising out of the suit.

9. Compromise and agreement:- A next friend or guardian-ad-litem cannot enter into any compromise or agreement with reference to the suit without the leave of the Court expressly recorded in the proceedings. The court should be satisfied after applying its mind to all the circumstances of the case that the compromise is really for the benefit of the minor and should record its opinion to that effect. A failure to observe these directions may result in the compromise or agreement being avoided at the instance of the minor.

10. Rules relating to suits by or against minors apply mutatis mutandis to suits by or against persons of unsound mind.

(e) Suits by Paupers.

1. **General:-** Attention is called to Order XXXIII of the Code on the subject of suits by paupers and the steps which should be taken to protect the interests of Government in such cases.
2. **Examination of plaintiff, and evidence for admission - Notice to Government:-** Before a pauper suit is admitted, the petitioner or his authorised agent, when the applicant is exempted from appearance in Courts should be examined regarding the merits of the claim and the property of the applicant. If it appears to the Court that the suit is not framed and presented in the manner prescribed by Rules 2 and 3 of Order XXXIII, or that the applicant is not a pauper, or that he has fraudulently made away with any property within the two months preceding the presentation of the plaint, or that his allegations do not show a cause of action, or that he has entered into any agreement with reference to the subject-matter of the proposed suit under which any other person has obtained an interest in such subject-matter the application must be rejected. If the Court sees no reason to refuse the application, it must fix a day (of which at least ten days' previous notice must be given to the opposite party and to the Government Pleader *on behalf of Government) for receiving such evidence as the applicant may adduce in proof of his pauperism, and for hearing any evidence which may be adduced in disproof thereof, and can only pass final orders on the application after hearing the evidence and arguments brought forward on the day so fixed.

***NOTE.**—The Deputy Commissioner of each district in the Punjab has been declared to be the "Government Pleader" for his district for purposes of Order XXXIII Rule 6, Civil Procedure Code (Punjab Notification No. I.C., dated 1st January, 1909)

3. **Dispaupering:-** Under the provisions of Order XXXIII, Rule 9, of the Code of Civil Procedure, the Court may, under certain circumstances order a plaintiff to be dispaupered.
4. **Copy of decree to be sent to collector:-** Order XXXIII, Rule 14, directs that where an order is made under Rule 10, 11, or 12, the Court shall forthwith forward a copy of the decree to the Collector.

(f) Suits for Redemption and Foreclosure of Mortgages.

1. **Notice to mortgagor, conditional sale in case of land not permitted:-** The law regulating the procedure in cases where the mortgagee whose mortgage-deed also contains a provision for conditional sale, desires to foreclose the mortgage is often misunderstood. Regulation XVII of 1806 is still the law on the subject. It will be seen that, whatever the terms of conditional sale the mortgagee cannot enforce them till he has, by summary petition to the Court, caused notice to be served on the mortgagor to the effect that, if the latter does not pay the sum secured within one year, the mortgage will be held foreclosed. After the lapse of this year, and not till then, the mortgagee can sue for possession, as owner, or, if in possession, to be declared owner in accordance with the terms of the mortgage.
2. **Court competent to hear:-** Only a District or Additional Judge can deal with applications under Sections 7 and 8 of Regulation XVII of 1806. The procedure prescribed in the Regulation should be very strictly observed as otherwise the notice may have no legal effect.
3. **Dismissal for default:-** According to Order IX, Rule 9, of the Civil Procedure Code (as amended by the High Court), when a suit for redemption is dismissed in default under Order IX, Rule 8, the plaintiff is not precluded from bringing another suit for redemption of the mortgage.
4. **Summary procedure for redemption:-** The Redemption of Mortgages

(Punjab) Act, 1913, provides a summary procedure for redemption of land through the Collector in the State. But any party aggrieved by the decision of the Collector, can under certain circumstances institute a suit in a Civil Court to establish his right (see Section 12 of that Act).

(g) Suits for Declaratory Decrees.

1. **Issue as to possession:-** The proviso to section 42 of the Specific Relief Act lays down that a declaratory decree cannot be passed in a case in which other relief than a mere declaration can be sought. Hence in a suit for a declaration of title to immoveable property, where the defendant denies that the plaintiff was in possession of the property on the date of the suit, the Court should first of all decide this point. If it is found that the plaintiff was not in possession of the property on the date of the institution of the suit, his suit must fail unless the court, having regard to all the circumstances allows the plaint to be amended.
2. **All issues to be framed:-** These instructions are not to be taken to imply that the whole of the pleadings should not be exhausted and issues drawn on all points of conflict between the parties at the first hearing, but that at the trial of the issues, the issue as to possession should be first tried and disposed of where this can be conveniently done.

(h) Suits for Accounts.

1. **Account may be preferably taken after disposal of other points:-** Order XX, Rule 16, of the Code directs that in all suits where it is necessary in order to ascertain the amount of money due to or from any party, that an account should be taken, the court shall before passing its final decree pass a preliminary decree directing such accounts to be taken as it thinks fit. This is the general rule though where the matter appears to be simple the Court may pass a final decree straightaway.
2. **Filing of accounts and evidence:-** At the time of passing the preliminary decree, directing the rendition of accounts, the Court should decide the rights of the parties and as to who the accounting parties are and for what period the accounts are to be taken. In case of partners, their respective shares in the profits and loss of the joint business should be stated. Under Order XX Rule 17, the Court can also give directions, in the preliminary decree or by any subsequent order, as to the mode in which the accounts have to be taken or vouched and may in particular direct what books of account shall be taken as *prima facie* evidence of the truth of the matters therein contained; with liberty to the interested parties to object to any portion of this account. In partnership cases books of account should be treated as *prima facie* evidence of the truth of the matters stated therein under the general law and a special direction in this regard is not necessary.
3. **Commission:-** After the preliminary decree the Court may go into the accounts itself but in cases where the accounts are lengthy or complicated it may be helpful to issue a commission for the purpose. Rules 11 and 12 of Order XXVI indicate that the commission may be for examination and adjustment of accounts only or the commissioner may also be asked to report his opinions on the points referred for his examination. When the Court decides to issue a commission, his duties shall be stated with precision and particularity. The Commissioner is neither an arbitrator nor the Judge and the determination of any issue in the case cannot be delegated to him. The Commissioner is to place himself as an assistant to the Court so as to explain the accounts and give to the Court all the information which the accounts give in order to enable the Court to decide; unless he is also ordered to report under Order XXVI, Rule 12 (1) his own opinion on the points referred to for his examination.
4. **(1) Directions of Commissioner:-** If in any suit or matter it is necessary to take an account the order or preliminary decree of the Court shall contain the following direction as far as in the opinion of the Court issuing

the commission they are adopted to the requirements of the case:

- (a) The nature of the account to be taken.
- (b) The date from which and the date to which the account is to be taken.
- (c) The name of the party by whom a statement of account is to be filed.
- (d) The periods within which the statement of account, objection and surcharge are to be filed.
- (e) The date on which the Commissioner is to submit his report.
- (f) Any other matter on which the Court may think it necessary to give, or the Commissioner may desire to obtain, its instructions.

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

(3) The statement of an objection to an account, or to the report of a commissioner, shall specify the items to which objection is taken by reference to their number in the account or report, or the date of the item and page of a particular book of account.

(4) The statement of surcharge shall specify the amount with respect of which it is sought to charge the accounting party, the date when, the person from whom, and the particular account on which, the same was received by him.

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

(6) If any party fails to file his statement of account or objection and surcharge, within the period allowed, the Commissioner shall report the fact to the Court, and on the application of defaulting party, the Court may extend the period or direct the commissioner to proceed ex parte as regards such party or direct any other party to file a statement of account, or the Court may proceed to decide the suit forthwith on the evidence before it. Evidence shall not be admitted with respect to an objection or surcharge not included in a statement of objection or surcharge.

(7) If the Commissioner is unable to submit his report within the time fixed by the Court he shall apply to the Court for an extension of the time giving reasons thereof and the Court may extend the time or cancel the Commission and appoint a new Commissioner.'

(8) When the case before him is ready for hearing, the Commissioner shall, after reading the statements filed before him and after examining the parties, if necessary, ascertain the points on which the parties are at issue and require them to produce their documentary or oral evidence on such points.

(9) After the evidence has been duly taken and the parties have been heard, the Commissioner shall submit his report together with a statement in the form of a diary of the proceedings heard before him each day. If he is empowered under Order XXVI, Rule 12 (1) to state his opinion on the matter referred to him he shall append to his report schedules setting out (a) the contested items allowed or disallowed, (b) the reasons for allowing or disallowing them, (c) the amount found due, (d) the name of the party to whom it is due and (e) the name of the party by whom it is due.

(i) Procedure in "Hadd Shikni" cases.

1. **Local inquiry:-**In "Hadd-Shikni" suits and other suits of boundary disputes of land falling within the jurisdiction of a Civil Court it is generally desirable that enquiry be made on the spot. This can usually be done in the following ways:
 - (a) by suggesting that one party or the other should apply to the Revenue Officer to fix the limits, under section 101 (1) of the Punjab Land Revenue Act. Time for such purpose should be granted under Order XVII, Rule 3, of the Code of Civil Procedure;
 - (b) by appointing a local Commissioner, and
 - (c) by the Court itself making a local enquiry.
2. **Enquiry by Revenue Officer:-** An order of the Revenue Officer made under Section 101 of the Land Revenue Act is not conclusive; but when his proceedings have been held in the presence of, or after notice to, the parties of the suit, and contain details of enquiry and of the method adopted in arriving at the result, it would be a valuable piece of evidence. It may be noted that an Assistant Collector of the second grade can deal with cases in regard to boundaries which do not coincide with the limits of an estate.
3. **Appointment of Commissioner:-** Similarly the report of the local Commissioner should contain full details so that the Court may satisfactorily deal with the objections made against it.
 No person other than a Revenue Officer (or retired Revenue Officer) not below the rank of a Field Kanungo should usually be appointed a local Commissioner. The appointment of retired Revenue Officers is to be preferred as these Officers have the spare time and the inclination for completing the work with expedition. A commission issued to a Revenue Officers in service necessitates the obtaining of permission of the higher authorities and this along with the fact that such Revenue Officers are usually busy often results in delay in the disposal of the case. The wishes of the parties in regard to the appointment of a particular individual as commissioner for local investigations should be taken into consideration while making such appointments.
4. **Instructions for the guidance of Commissioners:-**
 - (1) On the motion of the Judges, the Financial Commissioners have issued the following detailed instructions for the guidance of Revenue Officials or Field Kanungos appointed as Local Commissioners in Civil suits of this nature.

(Financial Commissioner's Instructions)

- (i) If a boundary is in dispute, the Field Kanungo should relay it from the village map prepared at the last Settlement. If there is a map which has been made on the square system he should reconstruct the squares in which the disputed land lies. He should mark on the ground on the lines of the squares the places where the map shows that the disputed boundary intersected those lines, and then to find the position of points which do not fall on the lines of the squares. He should with his scale read on the map, the position and distance of those points from a line of a square, and then with a chain and cross staff mark out the position and distance of those points. Thus he can set out all the points and boundaries which are shown in the map. But if there is not a map on the square system available, he should then find three points on different sides of the place in dispute, as near to it as he can, and, if possible, not more than 200 kadam apart which are shown in the map and which the parties admit to have been undisturbed. He will chain from one to another of these points and compare the result with the distance given by the scale applied to the map. If the distances, when thus compared, agree in all cases, he can then draw lines joining these three points in pencil on the map and draw perpendiculars with the scale from these lines to each of the points which it is required to lay out on the ground. He will then, lay

them out with the cross-staff as before and test the work by seeing whether the distance from one of his marks to another is the same as in the map. If there is only a small dispute as to the boundary between two fields the greater part of which is undisturbed then such perpendiculars as may be required to points on the boundaries of these fields as shown in the field map can be set out from their diagonals, as in the field book and in the map, and curves made as shown in the map.

- (ii) In the report to be submitted by him, the Field Kanungo must explain in detail how he made his measurements. He should submit a copy of the relevant portion of the current Settlement field map of the village showing the fields, if any, with their dimensions (*karu kan*) of which he took measurements, situated between the points mentioned in Instruction No. (i) above and the boundary in dispute. This is necessary to enable the Court to follow the method adopted and to check the Field Kanungo's proceedings.
- (iii) If a question is raised as to the position of the disputed boundary according to the field map of the Settlement preceding the current Settlement, that also should be demarcated on the ground, so far as this may be possible, and also shown in the copy of the current field map to be submitted under Instruction No. (ii).
- (iv) On the same copy should be shown also, the limits of existing actual possession.
- (v) The areas of the fields, abutting on the boundary, in dispute, as recorded at the time of the last Settlement and those arrived at as a result of the measurement on the spot should be mentioned in the Field Kanungo's report with an explanation of the cause or causes of the increase or decrease, if any, discovered.
- (vi) When taking his measurements the Field Kanungo should explain to the parties what he is doing and should enquire from them whether they wish anything further to be done to elucidate the matter in dispute. At the end, he should record the statements of all the parties to the effect that they have seen and understood the measurements that they have no objection to make to this (or if they have any objection he should record it together with his own opinion) and that they do not wish to have anything further done on the spot. It constantly happens that when the report comes before the Court, one or other party impugns the correctness of the measurements and asserts that one thing or another was left undone. This raises difficulties which the above procedure is designed to prevent.
- (vii) The above instructions should be followed by Revenue Officers or Field Kanungos whenever they are appointed by a Civil Court as Commissioners in suits involving disputed boundaries.

- (2) **[Delimitation or Demarcation using Electronic Total Station Machine etc.:-** The delimitation of boundary and demarcation can also be carried out with the help of "Electronic Total Station (ETS) Machine" and by using Dual Frequency Global Navigation Satellite System (GNSS) receiver in post processing mode or by "Real Time Kinematic (RTK)" method using Continuously Operating Reference System (CORS) Network and GNSS Rover or by any other electronic method recognized by the State Government by way of notification/instruction issued from time to time.]

{Rule 4(2) inserted vide Correction Slip No. 89 dated 31.05.2024}

PART N.—MISCELLANEOUS NOTIFICATIONS ETC.**General Remarks**

1. All references in Government Notifications to the Chief Court of the Punjab or High Court of Judicature at Lahore or East Punjab High Court at Simla shall be construed as referring to the Punjab High Court at Chandigarh.
2. All references in the Notifications to the Lieutenant Governor, Lieutenant-Governor in Council, Local Government and Governor in Council shall be construed as referring to Punjab Government.
3. All references in the notifications to the Governor-General of India in Council, Governor-General of India, Governor-General in Council, Governor-General, Government of India shall be construed as referring to Central Government or the President as the case may be.

I. Court Language

- (a) English has been declared to be language of the High Court (*Vide* Punjab Government Notification No. 316-G, dated 18th January, 1906).
- (b) The language of the Courts subordinate to the High Court shall be:-
 - (i) Hindi in Devnagri script in the Hindi Region and Punjabi in Gurmukhi script in the Punjabi Region.
 - (ii) "Hindu, Punjabi and Urdu" is the language of Union Territory at Chandigarh.

Provided that English shall continue to be used for those Court purposes within the State for which it was being used immediately before the 2nd October, 1962.

Explanation: The expression 'Hindu Region' and 'Punjabi Region' shall have the meaning assigned to them in the Punjab Regional Committee Order, 1957.

(*Vide Punjab Govt. Notification No. 69 (243)-4J-62/42279, dated the 28th September, 1962*)

II. Powers under section 91 and 92 of the Code of Civil Procedure.

The powers conferred by Sections 91 and 92 of the Civil Procedure Code on the Advocate-General may be exercised by all Deputy Commissioners in the Punjab. (Punjab Government Notification No. 1-E., dated the 1st January, 1909).

III—Extension of certain provisions of the Transfer of Property Act to Punjab.

- (a) Punjab Government, Revenue Department, Notification No. 1433-St. dated the 14th September, 1940 In exercise of the powers conferred by section 1 of the Transfer of Property Act, IV of 1882, the Governor of the Punjab is pleased to direct that the provisions of section 129 of the said Act, shall be extended to the following areas in the Punjab, namely:—
 - (1) All Municipalities, and
 - (2) All Notified Areas notified under section 241 of the Punjab Municipal Act, 1911.
- (b) Punjab Government, Revenue Department, Notification No. 1605-R (CH)-551589, dated the 26th March, 1955.....In exercise of the powers conferred by section 1 of the Transfer of Property Act, IV of 1882, and all other powers enabling him in this behalf, the Governor of Punjab is pleased to extend the provisions of Section 54: 107 and 123 of the said Act with effect from the 1st April, 1955, to the entire State of Punjab. Punjab Government Notification No. 183-St dated the 27th April, 1935, is hereby cancelled.

VI—Appointment of Government Pleaders in Punjab

Legal Assistants of the Transport Department – Punjab appointed to the Government pleaders for the whole State of Punjab and are authorized to appear, apply and act generally in relation to any suit by or against the Government of Punjab in Transport Department in any Court Subordinate to the High Court of Punjab and Haryana and in particular, in the Court of Labour, Tribunal and Motor Accident Claiming Tribunals in connection with the proceedings in which Government of Punjab in the Transport Department is party, on behalf of the State Government.]

Alternative Disputes Resolution Rules

Rule 1:

These Rules shall be called the 'Alternative Disputes Resolution Rules, 2003'.

Rule 2:

Procedure for directing the parties to opt for alternative modes of settlement:

- (a) If after recording admissions and denials at the first hearing of the suit under Order X Rule 1, it appears to the Court that there exist elements of a settlement which may be acceptable to the parties, it shall formulate the terms of settlement and give the same to the parties for their observations. The parties shall furnish their observations to the Court within next fifteen days.
- (b) On the next date of hearing, which shall be not later than fifteen days fixed for furnishing the observations of the parties, the Court may re-formulate the terms of possible settlement and direct the parties to opt for one of the modes of settlement of disputes out of Court as specified in clauses (a) to (d) of sub-section (1) of Section 89 read with order X Rule 1A in the manner stated hereunder:

Provided that the Court, in exercise of such power, shall not refer any dispute to arbitration or for settlement through Lok Adalat or judicial settlement under the Legal Services Authorities Act, 1987, as envisaged under clauses (a) and (c) of sub-section (1) of Section 89, without the written consent of all the parties to the suit.

Rule 3:

Persons authorized to take decision on behalf of the Union of India, State Governments and others.

Where one of the parties to the suit is the Union of India, State Government, Union Territory, Local Authority, a Public Sector Undertaking, a Statutory Corporation or body or Public Authority, such party shall be directed by the Court concerned at the time of issuing notice to nominate a person or group of persons who will be empowered to take a final decision as to the mode of alternative dispute resolution which it may prefer to opt for. Such a decision shall be communicated to the concerned Court within the period specified in the notice and latest within a period of 30 days from the date of receipt of notice:

Provided that the High Court may direct such parties to nominate one or more persons who may be authorized to take final decision as to mode of alternative dispute resolution which the party concerned may prefer to opt. Within three months of the receipt of direction from the High Court, such party shall furnish a list of nominated persons, which shall circulate the same to all the Courts in the two States and Union Territory Chandigarh.

Rule 4:

Court to give guidance to parties while giving direction to opt:

Before directing the parties to exercise option under clause (b) of Rule 2, the Court shall give such guidance to them as it deems fit, by drawing their attention to the following factors which they shall take into account, before exercising their option as to the particular mode of settlement:

(i) That it will be to the advantage of the parties, so far as time and expenses are concerned, to opt for one of the modes of settlement rather than seek a trial of the dispute arising in the suit;

(ii) that where there is a relationship between the parties which requires to be preserved, it will be in their interest to seek reference of the matter to conciliation or mediation, as envisaged in clauses (b) or (d) of sub-section (1) of Section 89;

(iii) That where there is no relationship between the parties which requires to be preserved, it will be their interest to seek reference of the matter to arbitration as envisaged in clause (a) of sub-section (1) of section 89.

Explanation: Disputes arising in matrimonial, maintenance and child custody matters shall, among others, be treated as cases where a relationship between the parties is required to be preserved.

(iv) That where the parties are interested in final settlement which may lead to a compromise, it will be in their interest to seek reference of the matter to judicial settlement including Lok Adalat as envisaged in clause (c) of sub-section (1) of Section 89.

(v) the difference between the various modes of settlement, namely, arbitration, conciliation, mediation and judicial settlement as explained below:

‘Arbitration’ means the process by which an arbitrator appointed by the parties or by the Court, as the case may be, adjudicates the disputes between them and passes an award by applying the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) in so far as they refer to arbitration.

‘Conciliation’ means the process by which a conciliator who is appointed by the parties or by the Court, as the case may be, conciliates the disputes between them by applying the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) in so far as they relate to conciliation, and in particular, in exercise of his powers under Sections 67 and 73 of that Act, by making proposals for a settlement of the dispute and by formulating or reformulating the terms of a possible settlement; and has a greater role than a mediator.

‘Mediation’ means the process by which a mediator appointed by the parties or by the court, as the case may be, mediates the disputes between them by applying the provisions of the Mediation Rules contained in Part II and in particular by facilitating discussion between the parties directly or by communicating with each other through the mediator, by assisting the parties in identifying the issues, reducing misunderstandings, clarifying priorities, exploring areas of compromise, generating options in an attempt to solve the dispute and emphasizing that it is their own responsibility for making decisions which affect them.

‘Judicial Settlement’ means a final settlement by way of compromise before a Lok Adalat or before a suitable institution or person, which shall be deemed to be a settlement before a Lok Adalat within the meaning of the Legal Services Authorities Act, 1987 (39 of 1987).

Rule 5: Procedure for reference by the Court to the different modes of settlement:

- (a) Where all the parties to the suit decide to exercise their option and agree for settlement by arbitration, they shall apply to the Court, within fifteen days of the direction of the Court under clause (b) of Rule 2 and the Court shall, within fifteen days of the receipt of such application, refer the matter to arbitration and then the provisions of the Arbitration and Conciliation Act 1996 (26 of 1996) shall apply as if the proceedings were referred for settlement by way of arbitration under the provisions of that Act;

- (b) Where all the parties to the suit decide to exercise their option and to agree for settlement by the Lok Adalat, they shall apply to the Court within fifteen days of the direction under clause (b) of Rule 2 and the Court shall, within fifteen days of the receipt of application, transfer the matter to the Lok Adalat and then all the provisions of the Legal Services Authorities Act, 1987 shall apply as if the proceedings were referred for settlement by Lok Adalat under the provisions of that Act.
- (c) Where all the parties to the suit decide to exercise their option and to agree for judicial settlement, they shall apply to the Court within fifteen days of the direction under clause (b) of Rule 2 and the Court shall, within fifteen days of the receipt of application, transfer the matter to a suitable institution or person and such institution or person shall be deemed to be a Lok Adalat and all the provisions of the Legal Services Authorities Act, 1987 (39 of 1987) shall apply as if the proceedings were referred for settlement under the provisions of that Act;
- (d) Where all the parties are unable to opt or agree to refer the dispute to arbitration Lok Adalat or judicial settlement, within fifteen days of the direction of the Court under clause (b) of Rule 2, they shall consider if they could agree for reference to conciliation or mediation, within the same period.
 - (i) where all the parties opt and agree for conciliation, they shall apply to the Court within fifteen days of the direction under Rule 2 and the Court shall, within fifteen days of the receipt of application refer the matter to conciliation and then the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply, as if the proceedings were referred for settlement by way of conciliation under the provisions of that Act;
 - (ii) where all the parties opt and agree for mediation, they shall apply to the court, within fifteen days of the direction under Rule 2 and the Court shall, within fifteen days of the receipt of application, refer the matter to mediation and then the Mediation Rules contained in Part II shall apply.
- (e) Where under clause (d), all the parties are not able to opt and agree for conciliation or mediation, one or more parties may apply to the Court within fifteen days of the direction under clause (b) of rule 2, seeking settlement through conciliation or mediation, as the case may be, and in that event, the Court shall, within a further period of fifteen days issue notice to the other parties to respond to the application, and

- (i) In case all the parties agree, the Court shall refer the matter to conciliation or mediation, as the case may be, as stated in clause (e);
 - (ii) In case all the parties do not agree and where it appears to the Court that there exist elements of a settlement which may be acceptable to the parties and that there is a relationship between the parties which has to be preserved, the Court shall refer the matter to conciliation or mediation, as the case may be.
- (f) (i) Where none of the parties apply for reference either to arbitration, Lok Adalat, judicial settlement, conciliation or mediation, within fifteen days of the direction given under clause (b) of Rule 2, the Court shall, within a further period of fifteen days, issue notices to the parties or their representatives fixing the matter for hearing on the question of making a reference either to conciliation or mediation.
- (ii) After hearing, the parties or their representatives on the date so fixed, the Court shall decide whether parties agree or not, and if there exist elements of settlement which may be acceptable to them, refer the matter to : (a) conciliation, if the court considers that the matter is fit for conciliation and then the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply, as if the proceedings were referred for settlement by way of conciliation under the provisions of that Act; or
- (b) mediation, if the Court considers that the matter is fit for mediation and then the provisions of the Mediation rules contained in Part II shall apply.

Rule 6: Appearance before the Court upon failure of attempts to settle disputes by judicial settlement, conciliation or mediation :

- (1) Where a suit has been referred for settlement under one of the modes referred to in clause (b) to (d) of sub-section (2) of Section 89 read with Rule 1A of Order X and clause (b) to (g) of Rule 5 of these Rules and has not been settled or where it is felt that it would not be in the interest of justice to proceed with the matter, the suit shall be referred back to the Court with a direction to the parties to appear before it on a specified date.
- (2) Upon reference of the matter back to the Court, it shall proceed with the suit in accordance with law.

Rule 7: Training in alternative methods of resolution of disputes and preparation of manual :

- (a) The High Court shall take steps to have training courses conducted by requesting bodies recognized by it or the Universities imparting legal education or retired faculty members or other persons who, according to the High Court are well-versed in the techniques of alternative methods of disputes resolution, to conduct training courses for lawyers and judicial officers.
 - (i) The High Court shall nominate a committee of judges, faculty members including retired persons belonging to the above categories, senior members of the Bar, members of the Bar specially qualified in the techniques of alternative disputes resolution, for the purpose of preparing a detained manual of procedure for alternative disputes resolution to be used by the courts in the State as well as by the arbitrators, members of the Lok Adalat, conciliators and mediators.
 - (ii) The said manual shall describe the various methods of alternative disputes resolution, the manner in which any one of the said methods is to be opted for, the suitability of any particular method for any particular type of dispute and shall specifically deal with the role of conciliators and mediators in disputes which are commercial or domestic in nature or which relate to matrimonial, maintenance and child custody matters.
- (b) The High Court and the District Courts shall periodically conduct seminars and workshops on the subject of alternative disputes resolution procedures throughout the state over which the High Court has jurisdiction with a view to bring awareness of such procedures and to impart training to lawyers and judicial officers.
- (c) Persons who gain experience in the matter of alternative disputes resolution procedure, and in particular with regard to conciliation and mediation, shall be given preference for purpose of appointment in the matter of resolution of disputes by the said procedures.

Rule 8: Applicability to other proceedings :

The provision of these Rules may be applied to proceedings before the Courts, including Family Courts constituted under the Family Courts Act (66 of 1984), while dealing with matrimonial, maintenance and child custody disputes.

PART II
^[9][MEDIATION AND CONCILIATION RULES]

Rule 1 :

These Rules shall be called the Mediation Rules.

Rule 2 : Appointment of ^[10] [mediator/conciliator]:

- (a) The parties to a suit may agree on the name of a sole ^[10] [mediator/conciliator] for mediating between them. In that event he shall be appointed as ^[10] [mediator/conciliator]. If the parties fail to agree on the name of a mediator, then the Court shall appoint one or more ^[10] [mediators/conciliators] out of the panel of ^[10] [mediators/conciliators] referred to in Rule 3.
- (b) Where the parties are unable to agree on the name of a sole ^[10] [mediator/conciliator], then each set of parties shall nominate a ^[10] [mediator/conciliator].
- (c) Where the parties agree on the name of a sole ^[10] [mediators/conciliators]; he need not necessarily be a person from the panel of ^[10] [mediators/conciliators] referred to in Rule 3, nor bear the qualifications referred to in Rule 4 but should not be a person who suffers from any of the disqualifications referred to in Rule 5.
- (d) Where there are more than two sets of parties having diverse interests, each set shall nominate a person on its behalf and the said nominees shall select the sole ^[10] [mediators/conciliators] and failing unanimity in that behalf, the Court shall appoint a sole ^[10] [mediator/conciliator].

Rule 3 : Panel of ^[10] [mediators/conciliators]:

- (a) The High Court shall, for the purpose of appointing ^[10] [mediators/conciliators] in the cases filed on its original side prepare a panel of ^[10] [mediators/conciliators]. Such panel shall be published on the notice board of the High Court, within three months of the coming into force of these Rules. A copy of the panel of ^[10] [mediators/conciliators] shall be sent to the High Court Bar Association.
- (b) (i) The District Judge in each District shall, for the purpose of appointing ^[10] [mediators/conciliators] to mediate between parties in the suits filed on the original side, prepare a panel of ^[10] [mediators/conciliators], within a period of three months of the commencement of these Rules. Such panel shall be published on the notice boards of various Courts after obtaining approval of the High Court.
(ii) Copies of the panels referred to in clause (i) shall be forwarded to all the Courts subordinate to the District Judge and the Bar Associations attached to each of the Courts.

- (c) The consent of the persons whose names are included in the panel shall be obtained before empanelling them.
- (d) The panel of names of ^[10][mediators/conciliators] shall be accompanied by an Annexure containing details of the qualifications of the ^[10][mediators/conciliators], and their professional or technical experience in different fields.
- ^[11][(e) The panel of mediators/conciliators appointed under clause (a) and (b) shall normally be for a period of three years from the date of appointment/further extension of the panel of mediators/conciliators or any mediator/conciliator shall be at the discretion of the High Court of District and Sessions Judge with the prior approval of the High Court as the case may be.]

Rule 4 : Qualifications of persons to be empanelled under Rule 3 :

The following persons shall be treated as qualified and eligible for being empanelled as ^[10][mediators/conciliators] under Rule 3:-

- (a) (i) Retired Judges of the Supreme Court of India;
(ii) Retired Judges of the High Courts;
(iii) Retired District and Sessions judges / Additional District and Sessions Judges and retired Civil Judges.
- ^[12][(b) Legal practitioners with at least five years standing at the Bar in the Supreme Court/High Court/District Court.]
- (b) Experts or other professionals with at least fifteen years standing or retired senior bureaucrats or retired senior executives.
- (c) Institutions which are themselves experts in mediation and have been recognized as such by the High Court.

Rule 5 : Disqualifications :

The following shall be the disqualifications for being empanelled as ^[10][mediator/conciliator] :

- (i) any person who has been adjudged insolvent;
- (ii) any person against whom criminal charges involving moral turpitude have been framed by a criminal court and are pending ; or
- (iii) any person who has been convicted by a criminal court for any offence involving moral turpitude;
- (iv) any person against whom disciplinary proceedings have been initiated by the competent authority or who has been punished in such proceedings;
- (v) such other categories of persons as may be notified by the High Court.

Rule 6 : Preference :

The Court shall, while nominating any person from the panel of ^[10][mediators/conciliators] referred to in Rule 3, consider his suitability for resolving the nature of dispute involved in the suit and shall give preference to those who have proven record of successful mediation or who have special qualification or experience in mediation.

Rule 7 : Duty of ^[10][mediator/conciliator] to disclose certain facts :

- (a) When a person is approached in connection with his possible appointment as a ^[10][mediator/conciliator], he shall disclose in writing to the parties the factors which may give rise to a justifiable doubt as to his independence or impartiality. If any such factor comes into existence after his appointment as ^[10][mediator/conciliator], the same shall be disclosed to the parties in writing without delay.

Note:- While appointing ^[10][mediator/conciliator] the Court concerned shall ensure that the person to be appointed is not interested or connected with the subject-matter of the dispute and is not related to any of the parties or to those who represent them. However, the parties shall be free to waive such objection in writing.

- (b) Every ^[10][mediator/conciliator] shall, from the time of his appointment and throughout the continuance of the mediation proceedings, without delay, disclose to the parties in writing, about the existence of any of the circumstances referred to in clause (a).

Rule 8: Cancellation of appointment :

Upon information furnished by the ^[10][mediator/conciliator] under Rule 6 or upon any other information received from the parties or any other person, if the Court concerned is satisfied after conducting such inquiry as it deems fit and after giving opportunity of hearing to the ^[10][mediator/conciliator], that the said information has raised a justifiable doubt as to the mediator's independence or impartiality, it shall cancel the appointment by a reasoned order and replace him by another ^[10][mediator/conciliator].

Rule 9 : Removal or deletion from panel :

The name of a person placed in the panel referred to in Rule 3 may be removed or deleted from the said panel by the Court concerned if :-

- (i) he incurs any of the disqualifications referred to in Rule 5;
- (ii) he resigns or withdraws his name from the panel for any reason;
- (iii) he exhibits or displays conduct, during the continuance of the mediation proceedings, which is unbecoming of a ^[10][mediator/conciliator];
- (iv) upon receipt of an information and after conducting such enquiry as it deems fit, the Court concerned is satisfied that it is not desirable to continue the name of that person in the panel.

Provided that, before removing or deleting his name, under clauses (iii) or (iv), the Court shall hear the ^[10][mediator/conciliator] whose name is proposed to be removed or deleted from the panel and shall pass a reasoned order.

Rule 10 : Procedure of mediation :

- (a) The parties may agree on the procedure to be followed by the ^[10][mediator/conciliator] in the conduct of the mediation proceedings.
- (b) Where the parties do not agree on any particular procedure to be followed by the ^[10][mediator/conciliator], the ^[10][mediator/conciliator] shall follow the procedure herein after mentioned, namely:-
 - (i) he shall fix in consultation with the parties, a time schedule, the dates and the time of each mediation session, where all the parties have to be present ;
 - (ii) he shall hold the mediation at any convenient location agreeable to him and the parties, as he may determine ;
 - (iii) he may conduct joint or separate meetings with the parties;
 - (iv) each party shall, ten days before a session, provide to the ^[10][mediator/conciliator] a brief memorandum setting for the issues, which according to it, need to be resolved, and its position in respect of those issues and all information reasonably required for the ^[10][mediator/conciliator] to understand the issues such memoranda shall also be mutually exchanged between the parties;
 - (v) each party shall furnish to the ^[10][mediator/conciliator] such other information as may be required by him in connection with the issues to be resolved.
- (c) Where there is more than one ^[10][mediator/conciliator], the ^[10][mediator/conciliator] nominated by each party shall first confer with the party that nominated him and shall thereafter interact with the other ^[10][mediators/conciliators], with a view to resolve the disputes.

Rule 11 : ^[10][Mediators/conciliators] not bound by Evidence Act, 1872 or Code of Civil Procedure, 1908 :

The ^[10][mediator/conciliator] shall not be bound by the provisions of Evidence Act, 1872 or Code of Civil Procedure, 1908, but shall be guided by the principles of fairness and justice, having regard to the rights and obligations of the parties, usages of trade, if any, and the circumstances of the dispute.

Rule 12 : Non-attendance of parties at sessions or meetings on due dates:

- (a) The parties shall be present personally or through their counsel or power of attorney holders at the meetings or sessions notified by the ^[10][mediator/conciliator].
- (b) If a party fails to attend a session or a meeting notified by the ^[10][mediator/conciliator], other parties or the ^[10][mediator/conciliator] can apply to the Court in which the suit is filed, to issue appropriate directions to that party to attend before the ^[10][mediator/conciliator] and if the Court finds that such party is absenting himself before the ^[10][mediator/conciliator] without sufficient cause, the court may take action against the said party by imposition of costs or by taking action for contempt.

Rule 13 : Administrative assistance :

In order to facilitate the conduct of mediation proceedings, the parties or the ^[10][mediator/conciliator] with the consent of the parties, may arrange for administrative assistance by a suitable institution or person.

Rule 14 : Offer of settlement by the parties :

Any party to the suit may, without prejudice, to the rights of either party, offer a settlement to the other party at any stage of the proceedings with notice to the ^[10][mediator/conciliator].

Rule 15 : Role of ^[10][mediator/conciliator] :

The ^[10][mediator/conciliator] shall attempt to facilitate voluntary resolution of the dispute by the parties and communicate the view of each party to the other, assist them in identifying issues, reducing misunderstandings, clarifying priorities, exploring areas of compromise and generating options in an attempt to solve the dispute, emphasizing that it is the responsibility of the parties to take decision which affect them. However, he shall not impose terms of settlement on the parties.

Rule 16 : Parties alone responsible for taking decision :

The parties must understand that the ^[10][mediator/conciliator] only facilitates in arriving at a decision to resolve disputes and that he will not and cannot impose any settlement nor does the ^[10][mediator/conciliator] give any warranty that the mediation will result in a settlement.

^[13] **Rule 17:** Time limit for completion of mediation:

On the expiry of ninety days from the date fixed for the first appearance of the parties before the ^[10][mediator/conciliator], the mediation/conciliation shall stand terminated, unless the Court, which referred the matter, either *suo moto* or upon request by any of the parties and upon hearing all the parties, is of the view that extension of time is necessary or may be useful, then he may extend the time but such extension shall not be beyond a further period of thirty days.]

Rule 18 : Parties to act in good faith :

All the parties shall participate in the mediation proceedings in good faith with the intention to settle the dispute.

Rule 19: Confidentiality disclosure and inadmissibility of information :

(1) When a ^[10][mediator/conciliator] receives information concerning the dispute from any party, he shall disclose the substance of that information to the other party, so that the other party may have an opportunity to present such explanation as it may consider appropriate:

Provided that, when a party gives information to the ^[10][mediator/conciliator] subject to a specific condition that it be kept confidential, the ^[10][mediator/conciliator] shall not disclose that information to the other party.

(2) Receipt or perusal, preparation of records, reports or other documents by the ^[10][mediator/conciliator], while serving in that capacity, shall be confidential and the ^[10][mediator/conciliator] shall not be compelled to divulge information regarding those documents nor as to what transpired during the mediation:

(3) Parties shall maintain confidentiality in respect of events that transpired during mediation and shall not rely on or introduce the said information in any other proceedings as to :

- (a) views expressed by a party in the course of the mediation proceedings;
 - (b) documents obtained during the mediation which were expressly required to be treated as confidential or notes, drafts or information given by parties or ^[10][mediators/conciliators];
 - (c) proposals made or views expressed by the ^[10][mediator/conciliator];
 - (d) admission made by a party in the course of mediation proceedings;
 - (e) the fact that a party had or had not indicated willingness to accept a proposal.
- (4) there shall be no stenographic or audio or video recording of the mediation proceedings.

Rule 20 : Privacy :

Mediation sessions and meetings are private. Only the concerned parties or their counsel or power of attorney holders can attend. Other persons may attend only with the consent of the parties and with permission of the ^[10][mediator/conciliator].

Rule 21 : Immunity :

No ^[10][mediator/conciliator] shall be held liable for anything *bona fide* done or omitted to be done by him during the mediation proceedings for civil or criminal action nor shall he be summoned by any party to the suit to appear in a Court of law to testify in regard to information received by him or action taken by him or in respect of drafts or records prepared by him or shown to him during the mediation proceedings.

Rule 22 : Communication between ^[10][mediator/conciliator] and the Court:

- (a) in order to preserve the confidence of the parties in the Court and neutrality of the ^[10][mediator/conciliator], there shall be no communication between the ^[10][mediator/conciliator] and the Court, except as stated in clauses (b) and (c) of this Rule.
- (b) If any communication between the ^[10][mediator/conciliator] and the Court is necessary, it shall be in writing and copies of the same shall be given to the parties or their counsel or power of attorney holder.

- (c) Communication between the ^[10][mediator/conciliator] and the Court shall be limited to communication by the ^[10][mediator/conciliator]:
- (i) with the Court about the failure of party to attend;
 - (ii) with the Court with the consent of the parties;
 - (iii) regarding his assessment that the case is not suitable for settlement through mediation;
 - (iv) that the parties have settled the dispute or disputes.

Rule 23 : Settlement Agreement :

- (1) Where an agreement is reached between the parties in regard to all the issues in the suit or some of the issues, the same shall be reduced into writing and signed by the parties or their power of attorney holders. If any counsel have represented the parties, they shall attest the signatures of their respective clients.
- (2) The agreement of the parties so signed and attested shall be submitted to the ^[10][mediator/conciliator] who shall, with a covering letter signed by him, forward the same to the Court in which the suit is pending.
- (3) Where no agreement is arrived at between the parties, before the time limit specified in Rule 17 or where the ^[10][mediator/conciliator] is of the view that no settlement is possible, he shall report the same to the Court in writing.

Rule 24 : Court to fix a date for recording settlement and passing decree :

- (1) Within seven days of the receipt of a settlement, the Court shall issue notice to the parties fixing a date for their appearance which date shall not be beyond 14 days from the date of receipt of the settlement and the Court shall then take the settlement on record.
- (2) Thereafter, the Court shall pass a decree in accordance with the settlement, so taken on record, if the same disposes of all the issues in the suit.
- (3) If the settlement disposes of only certain issues arising in the suit, the Court shall take on record the settlement on the date fixed and shall include the terms of the said settlement in the judgment, while deciding the other issues.

Rule 25 : Fee of ^[10][mediator/conciliator] and costs] :

- (1) The remuneration/fee to be paid to the mediator for each successful and failed mediation shall be such as may be determined by Mediation and Conciliation Committee of this High Court from time to time and approved by Hon'ble the Chief Justice.

The Court may, however, in its discretion fix a higher fee in either case.”

{Earlier Rule 25(1), amended vide Correction Slip no. 70/Rules/II.D4. dated 08.5.2015.}

{Now Rule 25(1), amended vide Correction Slip no. 88/Rules/II.D4. dated 31.5.2024.}

^[16][Clause (2) deleted]

- (2) ^[14]Where there are two ^[10][mediators/conciliators] as in clause (b) of Rule (2), the Court shall fix the fee payable to them, which shall be shared equally by the parties.
- (3) ^[14]Besides, the expenses of the mediation/conciliation, costs of administrative assistance and other ancillary expenses concerned shall be borne equally by the various contesting parties or as may be otherwise directed by the Court.
- (4) Each party shall bear the costs for production of witnesses on his side including experts, or for production of documents.
- (5) The ^[10][mediator/conciliator] may, before the commencement of mediation, direct the parties to deposit equal sums tentatively, to the extent of 50% of the probable costs of mediation, as referred to in clause (3), including his fee. The remaining 50% shall be deposited with the ^[10][mediator/conciliator], after the conclusion of mediation. The amount deposited towards costs shall be expended by the ^[10][mediator/conciliator] by obtaining receipts and a statement of account shall be filed, by the ^[10][mediator/conciliator] in the Court.
- (6) If any party or parties do not pay the amount referred to in sub-rule (5), the Court shall, on the application of the ^[10][mediator/conciliator], or any party, issue appropriate directions to the defaulting party. If the defaulting party does not pay the amount of expenses including fee, the Court shall recover the same as if it was a decree for the said amount.

Rule 25-A: Funds, Audit and Accounts of the Committee.

- (1) The Committee shall maintain a fund to be called the High Court Mediation & Conciliation Committee Fund to which shall be credited.
 - (a) Such amount as may be allocated and granted to it by the States/ State Legal Services Authorities of Punjab, Haryana and Union Territory of Chandigarh.
 - (b) All Such amounts as received by the Committee by way of donations; costs, charges and expenses recovered from the persons or parties concerned as per orders of the Court concerned.
- (2) All the amounts credited to the said Fund shall be deposited in a Nationalized Bank.

Explanation:- In this sub-regulation “Nationalised Bank” means corresponding new bank as defined in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.

- (3) For the purpose of meeting incidental minor charges, such as serving of tea, biscuits etc., to the litigants and Mediators, a permanent advance of Rupees [Ten] thousand shall be placed at the disposal of the Nodal Officer.

{word 'Ten', amended vide Correction Slip no.71/Rules/II.D4. dated 08.5.2015.}

- (4) All expenditure on Mediation & conciliation Programmes viz Training and awareness Programmes, Workshops & Seminars and various other functions of the committee shall be incurred out of the funds of the Committee with the prior approval of the Chairman.
- (5) The funds of the Committee may be utilised for meeting the expenses incurred on or incidental to journeys undertaken by the Chairman or other members of the Committee or the Secretary in connection with Mediation & Conciliation activities. The travelling allowance and dearness allowance payable to the expert trainers or other dignitaries invited for various training programmes and functions organised by the Mediation & Conciliation Committee.
- (6) The Secretary of the Committee shall operate the bank account of the Committee in accordance with the directions of the Chairman.
- (7) The Cashier of High Court shall maintain regular accounts of receipts and disbursement of income and expenditure and submit annual returns to the Committee. The account shall be subject to audit.

Rule 26 : Ethics to be followed by ^[10][mediator/conciliator] :

The ^[10][mediator/conciliator] shall –

- (1) follow and observe these Rules strictly and with due diligence;
- (2) not carry on any activity or conduct which could reasonably be considered as conduct unbecoming of a ^[10][mediator/conciliator];
- (3) uphold the integrity and fairness of the mediation process;
- (4) ensure that the parties involved in the mediation are fairly informed and have an adequate understanding of the procedural aspects of the process;
- (5) satisfy himself / herself that he / she is qualified to undertake and complete the assignment in a professional manner ;
- (6) disclose any interest or relationship likely to affect impartiality or which might seek an appearance of partiality or bias ;
- (7) avoid while communicating with the parties, any impropriety or appearance of impropriety.

- (8) Be faithful to the relationship of trust and confidentiality reposed in the office of ^[10][mediator/conciliator] ;
- (9) Conduct all proceedings related to the resolution of a dispute, in accordance with the applicable law ;
- (10) Recognize that mediation is based on principles of self-determination by the parties and that mediation process relies upon the ability of parties to reach a voluntary, undisclosed agreement;
- (11) Maintain the reasonable expectations of the parties as to confidentiality ;
- (12) Refrain from promises or guarantees of results.

Rule 27 : Transitory provisions :

Until a panel of ^[10][mediators/conciliators] is prepared by the High Court or the District Court as provided under Rule 3, the Court concerned may nominate a ^[10][mediator/conciliator] of its choice provided that he is fully qualified and does not suffer from any disqualification.

[17] PUNJAB AND HARYANA HIGH COURT CASE FLOW
MANAGEMENT RULES, 2007

In exercise of the powers conferred by Part X of the Code of Civil Procedure 1908 (5 of 1908), amended up to date and all other enabling powers, the High Court of Punjab and Haryana hereby makes the following Rules, in regard to case flow management in the subordinate courts with an object to set a time-table and to monitor every case from its filing to its disposal; for enhancing and expediting the disposal; and to control the delay in dispensation of justice by the Subordinate Courts and the High Court.

These Rules will be called Punjab and Haryana High Court Case Flow Management Rules, 2007.

These Rules will come into operation w.e.f. the date of publication in the official Gazettes of States of Punjab, Haryana and U.T., Chandigarh.

RULES FOR SUBORDINATE COURTS (TRIAL AND APPELLATE)

- (A) Division of Civil Suits into Tracks.- (1) Based on the nature of the dispute, the quantum of evidence to be recorded and the time likely to be taken for the completion of trial of suits, the suits shall be channeled into different tracks.

Track I (Fast Track):

- (i) Rent petitions on the ground of personal necessity including petitions filed by specified landlords and Non-Resident Indians;
- (ii) Cases of maintenance, custody of children including visitation rights;
- (iii) All cases relating to senior citizens i.e. where plaintiff is above 65 years of age on the date of filing of the suit;
- (iv) Cases relating to grant of succession certificates;
- (v) Money suits based on Negotiable Instruments filed under Order XXXVII where leave to defend has been granted.
- (vi) Uncontested applications for grant of probate and letters of administration.

Track II:

All other cases.

All efforts shall be made to decide the cases of Track I within a period of 6 months and suits of Track II shall be decided within a period of one year. The time period for deciding the suit shall commence on the date of framing of issues. However, on the date of settlement of issues, the Trial Court may, for reasons to be recorded, place any suit not covered under Track I in track, if circumstances of the case so demand.

Note.- Where statute requires that suits/proceedings have to be completed within a specified period then the above mentioned period for deciding the suit shall not apply, and the Court shall decide the suit within the given statutory period. Time limit fixed for various stages of civil suits as per Code of Civil Procedure shall be adhered to.

B. Appeals :

Appeals arising out of a Track I case shall be decide within 6 months. All other appeals shall be decided within I year. Notice shall always be issued to the counsel who appeared for the respondent in the Trial Court in view of Order 41 Rule 14 CPC.

II ORIGINAL SUIT ;

1. Fixation of time limit while issuing notice ;

- (a) whenever notice is issued in a suit, the notice shall indicate that the Code prescribes a maximum period of 30 days for filing written statement.
- (b) The notice referred to in clause (a) shall be accompanied by a complete copy of the plaint and all its annexure/enclosures and copies of the interlocutory applications, if any.
- (c) If interlocutory applications are filed along with the plaint, and an *ex-parte* interim order has not been passed and the court is desirous of hearing the respondent, it may while sending the notice along with the plaint, fix an earlier date for the hearing of the application (other than the date of filing written statement) depending upon the urgency for the interim relief.

2. Service of Summons/notice and completion of pleadings:

- (a) Summons may be served as indicated in clause (3) of Rule 9 of Order 5.
- (b) In the case of service of summons by the plaintiff or through a courier and a return is filed that the defendant has refused notice, the return will be accompanied by an undertaking that the plaintiff or the courier, as the case may be, is aware that if the return is found to be false, he can be punished for perjury or summarily dealt with for contempt of Court for abusing the provisions of the Code. Where the plaintiff comes forward with a return of 'refusal' the provisions of Order 9A Rule (4) will be followed by re-issue of summons through the Court.
- (c) If it has not been possible to effect service of summons under Rule 9 of Order 5, the provisions of Rule 17 of Order 5 shall apply and the plaintiff shall, within 7 days from the date of his inability to serve the summons, request the Court to permit substituted service. The dates for filing the written statement and replication, if any, shall accordingly stand extended.

3. Procedure on the grant of interim orders:

- (a) if an interim order is granted at the first hearing by the Court, the defendant would have the option of moving appropriate applications for vacating the interim order even before the returnable date indicated in the notice and if such an application is filed, it shall be listed as soon as possible even before the returnable dates.
- (b) If the Court passes an ad-interim *ex-parte* order in an interlocutory application, and the reply by the defendant is filed, and if, thereafter, the plaintiff fails to file the rejoinder (if any) without good reason for the delay, the Court shall consider whether the stay or interim order passed by the Court should be vacated and shall list the case for that purpose. This is meant to prevent parties taking adjournments with a view to have undue benefit of the ad-interim orders. The plaintiff may, if he so chooses also waives his right to file a rejoinder. A communication of option by the plaintiff not to file a rejoinder will be deemed to be the completion of pleadings in the interlocutory applications.

4. Settlement of disputes outside the Court under Section 89 of the Code of Civil Procedure:

In the hearing before the Court, after completion of pleadings, a time limit for discovery and inspection, and admission and denial of the documents shall be fixed, preferably restricted to four weeks each.

After the completion of admission and denial of documents by the parties, the suit shall be listed before the court for examination of parties under Order 10 of the Code of Civil Procedure. A joint statement of admitted facts shall be filed before the said date. The court shall thereafter, follow the procedure prescribed under the Alternative Disputes Resolution and Mediation Rules, 2003.

5. Procedure on the failure of Alternative Disputes Resolution :

On the filing of report by the Mediator under the Mediation Rules that efforts at Mediation have failed, or a report by the Conciliator under the provisions of the Arbitration and Conciliation Act, 1996, or a report of no settlement in the Lok Adalat under the provisions of the Legal Services Authority Act, 1987 the suit shall be listed before the registry within a period of 14 days. At the said hearing before the registry all the parties shall submit the draft issues proposed by them. The suit shall be listed before the Court within 14 days thereafter, for framing of issues.

When the suit is listed after failure of the attempts at Settlement of dispute outside the Court, the Judge would merely inquire whether it is still possible for the parties to resolve the dispute. This should invariably be done by the judge at the first hearing when the matter comes back on

failure of arbitration, conciliation, Lok Adalat or mediation.

If the parties are not keen about settlement, the court shall frame the issues and direct the plaintiff to start examining his witnesses. The possibility of further negotiation and settlement should be kept open and if such a settlement takes place, it shall be open to the parties to apply for getting the matter listed at an earlier date for disposal.

6. Reference to Commissioner for recording evidence :

- (a) In every case, the Court should appoint a Commissioner for recording of evidence except in cases where the Court considers it expedient to record evidence itself for the reasons to be recorded.

The Court should direct that the matter be listed for arguments fifteen days after the Commissioner files his report with the evidence recorded.

The Court may initially fix a specific period for the completion of the recording of the evidence by the Commissioner and direct the matter to be listed on the date of expiry of the period, so that Court may know whether the parties are cooperating with the Commissioner and whether the recording of evidence is getting unnecessarily prolonged.

- (b) The Commissioner shall file an undertaking in the Court upon their appointment, that he shall keep the record handed over to him and that may be filed before him, safe and secure and shall not allow any party to inspect the record in the absence of the opposite party/counsel. If there is delay of more than one month in the dates fixed for recording evidence, it would be advisable for him to return the file to the Court and take it back on the eve of adjourned date.

7. Costs :

The costs to be so awarded would include costs for :

- (i) time and money spent by the successful party, to meet the points unnecessarily raised by the other party;
- (ii) the transportation and lodging, if any;
- (iii) typing charges; and
- (iv) other incidental costs in relation to the litigation.

8. Proceedings for perjury :

If the Trial Judge, delivering the judgment, is of the view that any of the parties or witnesses have willfully and deliberately uttered blatant falsehoods, he shall consider, at least in grave cases, whether prosecution should be initiated for perjury and order prosecution accordingly.

9. Adjournments :

The amendments to the Code have restricted the number of adjournments to three in the course of hearing of the suit, on

reasonable cause being shown. When a suit is listed before a Court and any party seeks an adjournment, the Court shall verify whether the party is seeking adjournment due to circumstances beyond the control of the party, as required by clause (b) proviso to Rule 2 Order 17. The Court shall impose costs as specified in Rule 2 of Order 17.

10. Miscellaneous Applications :

The proceedings in a suit are not be stayed merely because of the filing of Miscellaneous Application in the course of suit unless the Court in its discretion expressly thinks it necessary to stay the proceedings in the suit.

III FIRST APPEALS TO APPELLATE (SUBORDINATE) COURTS ;

1. Service of Notice of Appeal :

First Appeals being appeals on question of fact and law, whenever filed before the Appellate court, advance notice should simultaneously be given by the counsel for the party, who is proposing to file the appeal, to the counsel for the opposite party, who appeared in the subordinate Court, so as to enable the respondents to appear, if they so choose, even at the first hearing stage.

2. Fixation of time limits in interlocutory matters :

Whenever notice is issued by the Appellate Court in interlocutory matters, the notice should indicate the date by which the reply should be filed. The rejoinder, if any, should be filed within four weeks of receipt of the reply. If there are more parties than one, who are respondents, each one of the respondent should comply with this requirement within the time limit and rejoinder may be filed within four weeks from the receipt of the last reply.

3. Procedure on grant of interim orders :

- (a) If any interim order is granted at the first hearing by the Court, the respondents would have the option of moving appropriate applications for vacating the interim order even before the returnable date indicated in the notice and if such an application is filed, it shall be listed as soon as possible even before the returnable date.
- (b) If the court passes an *ad interim ex parte* order, and if the reply is filed by the respondent and if, without good reasons, the appellant fails to file the rejoinder, the court shall consider whether it is a fit case for vacating the stay or interim order and list the case for that purpose. This is intended to see that those who have obtained *ad interim* orders do not procrastinate in filing replies. The appellant may also waive his right to file the rejoinder. Such choice shall be conveyed to the Court on or before the date fixed for filing of rejoinder and such communication of option shall be deemed to be completion of pleadings.

4. Filing of written submissions:

Both the appellant and respondent shall be required to submit their written submissions two weeks before the commencement of the arguments in the appeal. The cause list should indicate if written submissions have been filed or not. Wherever they have not been filed, the court must insist on their being filed within a particular period to be fixed by the court and each party must serve a copy thereof on the opposite side before the date of commencement of argument. There is no question of parties filing replies to each other's written submissions.

The Court may consider having a Caution List/Alternative List to take care of eventualities, when a case does not go before the court and those cases may be listed before the court, when the scheduled cases are not taken up for hearing.

5. Costs :

Awarding of costs must be treated generally as mandatory in as much as it is the liberal attitude of the courts in not awarding costs that has led to frivolous points being raised in appeals or frivolous appeals being filed in the courts. Costs should invariably follow the event and reasons must be assigned account the costs that may have been incurred at the time of adjournments.

IV. APPLICATION/PETITION UNDER SPECIAL ACTS :

This deals with an application/petitions filed under Special Acts like the Hindu marriage Act, Indian Succession Act, Motor Vehicles Act, 1988, Land Acquisition Act, 1894.

The directions in regard to original suits, apply *mutatis mutandis* in respect of such applications/petitions.

V. CRIMINAL TRIALS AND CRIMINAL APPEALS BEFORE CRIMINAL COURTS (AT SUBORDINATE LEVEL):

(a) Criminal Trials :

1. Criminal trials should be classified on the basis of offences, sentence and whether the accused is on bail or in jail. Capital punishment cases, rape cases and cases involving sexual offences or dowry deaths should be kept in Track I. Other cases where the accused have been denied bail should be kept in Track II. Cases which affect a large number of persons, such as cases of mass cheating, economic offences, illicit liquor tragedy and food adulteration cases etc. should be kept in Track III. The offences, which are tried by special courts such as POTA, NDPS Act, Prevention of Corruption Act, etc. should be kept in Track IV whereas all other offences are to be listed in Track V.

The endeavor should be to complete Track I trials within a period of nine months, Track II and Track III trials within a period of one year, Track IV within fifteen months and Track V trials within eighteen months. The period shall commence from the framing of charges.

(b) Criminal Appeals :

2. Whenever an appeal is filed by a person in jail, and also when appeals are filed by the State, as far as possible, the appeal may be accompanied by important documents, if any, having a bearing on the question of suspension of sentence and bail.

3. In respect of appeals against acquittals, steps for appointment of amicus curiae or State Legal Aid Counsel in respect of the accused who are unrepresented by a lawyer should be undertaken by the Registry / (State Legal Services Authority) immediately after completion of four weeks of service of notice. It shall be presumed that in such an event the accused is not in a position to engage counsel.

4. Advance notice should simultaneously be given by the counsel for the party, who is proposing to file the appeal, to the counsel for the opposite party in the Subordinate Court, so as to enable the other party to appear, if they so choose even at the first hearing stage.

VI. NOTICE ISSUED UNDER S. 80 OF CODE OF CIVIL PROCEDURE:

Every public authority shall appoint an officer responsible to take appropriate action on a notice issued under S. 80 of the Code of Civil Procedure. Every such officer shall act on receipt of such notice. If the Court finds that the concerned officer, on receipt of the notice, failed to take necessary action or was negligent in taking the necessary steps, the Court shall hold such officer responsible and recommend appropriate disciplinary action by the concerned authority.

VII. NOTE :

Whenever there is any inconsistency between these rules and the provisions of either the Code of Civil Procedure, 1908 or the Code of Criminal Procedure 1973 or the High Court Rules and Orders or any other Statutes, the provisions of such Codes and Statutes shall prevail.

Part-Q

Electronic Filing (e-filing) Rules for Subordinate Courts in the States of Punjab, Haryana and U.T. Chandigarh.

Pursuant to the 'Model Rules on Electronic Filing (e-filing) sent by Hon'ble the Supreme Court of India, The High Court of Punjab and Haryana hereby makes the following rules :-

"The procedure for Electronic Filing (e-filing) in Subordinate Courts shall be followed as prescribed in Part-J of Chapter-1 of Rules & Orders of Punjab and Haryana High Court, Volume-V titled as '**THE ELECTRONIC FILING (E-FILING)**'".

{Chapter 1 Part-Q inserted vide correction slip No. 85 Rules/II.D4 dated 07.02.2023}

CHAPTER 2

Jurisdiction

PART A.—JURISDICTION OF CIVIL COURTS.*General*

1. **General:-** The first question which a Court in which a suit or other proceeding is instituted has to consider, is whether it has jurisdiction to hear and decide it. In view of section 9 of the Code the Civil Courts have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred. But this general rule is subject to various limitations, depending upon the nature, value, or the locality of the subject-matter the residence of the defendant and so forth.
2. **Pecuniary Limits:-** The District Judge, Additional Judge and Subordinate Judge of the 1st class have jurisdiction to hear suits without any limit as to their value. In the case of Subordinate Judges of a lower class, however, jurisdiction depends, *inter alia*, on the value of the suit. The value of a suit for purposes of jurisdiction has to be calculated in accordance with the provisions of the Suits Valuation Act and the rules there under. (see Chapter 3, Valuation of Suits.)
3. **Special Jurisdiction:-** Under certain enactments, Courts of Subordinate Judges have no jurisdiction at all to take cognizance of proceedings under those enactments (e.g., under the Companies Act, 1956 the Indian Divorce Act, 1869, etc.). There are proceedings under certain other enactments of which Subordinate Judges can take cognizance only if specifically empowered in that behalf (see e. g., Section 4-A of the Guardians and Wards Act, 1890, Section 388 of the Indian Succession Act, etc.) See Chapter 20 of this volume for powers conferred on various judicial officers.
4. **Other matters governing jurisdiction:-** Section 15 of the Civil Procedure Code lays down that every suit must be instituted in the Court of the lowest grade having jurisdiction to hear it. Sections 16 and 17 lay down certain restrictions as to the locality where certain suits affecting immoveable property can be instituted. Section 20 lays down a further restriction that a suit must be instituted where one or more of the defendants actually and voluntarily reside or carry on business or personally work for gain or where the cause of action arises, "Wholly or in part".
5. **Jurisdiction barred by Small Cause Court Act:-** When a Court of Small Causes under the Provincial Small Cause Courts Act, 1887, has jurisdiction in any locality, ordinary Civil Courts cannot try suits, which are cognizable by that Court unless it is expressly provided otherwise by the aforesaid Act or any other enactment (see Section 16 of the Provincial Small Cause Courts Act, 1887).
6. **Jurisdiction where defendant sets up a claim which is beyond pecuniary jurisdiction of the Court:-** It sometimes happens that though a suit is *prima facie* within the jurisdiction of a Court, it becomes necessary to order the payment of an amount which is more than the limits of the pecuniary jurisdiction of the Court. In suits for pre-emption of land or suits challenging alienations under custom the value for purposes of jurisdiction may be much less than the amount for which the alienation has taken place. In such cases where the court has to order the payment of a higher amount than its pecuniary jurisdiction it should report the case to the District Judge for its transfer to a court of competent jurisdiction. The Senior Sub-Judge should also keep the scale and mortgage amount in view at the time of distribution of such cases to various courts.
7. **Jurisdiction in respect of persons amenable to Military law:-** For the jurisdiction of Civil Courts in respect of persons amenable to Military Law, see Chapter 6, regarding suits by or against persons in Military Service.

PART B

JURISDICTION OF CIVIL AND REVENUE COURTS

1. **Matter raised in defence which is solely triable by Revenue Court:-** If in a suit which, as framed, is within jurisdiction of a Civil Court, a defendant raises a plea with respect to a matter which can be taken cognizance of only by a Revenue Court the procedure laid down in the proviso to subsection (3) of Section 77 of the Punjab Tenancy Act must be followed and the plaint returned for presentation to the Collector.
2. **Suit for correction of entries in Revenue records:-** A civil suit will not lie for the correction of an entry in a Record of Rights, or Annual Record under section 158 (2) (vi). Any person however, considering himself aggrieved as to any right of which he is in possession by such an entry may institute a suit for a declaration of his right under Chapter VI of the Specific Relief Act, 1877. (*Vide* Section 45 of Punjab Land Revenue Act).
3. **Question of title arising in land partition Proceedings before Revenue officers:-** A Civil Court can only entertain a suit relating to a dispute as to title in revenue-assessed land arising in partition proceedings, when a Revenue Officer declines to determine the question himself as though he were a civil court and refuses to proceed to partition until the question is determined by a competent Court. The plaint should, therefore, refer to the order of the Revenue Officer, made under Section 117, sub-section (1), of the Punjab Land Revenue Act, 1887, and the Civil Court should satisfy itself that an order giving it jurisdiction has been so made. A copy of such order should accompany to plaint.
4. **Reference to civil Court by revenue court:-** Section 98 of the Punjab Tenancy Act, 1887, contains a provision empowering a Revenue Court to refer any party to a Civil suit for settlement of any question which the Revenue Court considers proper for decision by a Civil Court. Such reference must be by an order in writing, and such order must have the previous sanction of the Controlling Revenue Court, if any.
5. **Reference to High Court in cases of doubt as to jurisdiction of civil or revenue court:-** Provision has been made for the disposal by reference to the High Court of cases in which doubts may arise as to whether the Civil or Revenue Courts have jurisdiction, and for the registration in the proper Court of decrees passed under a misapprehension as to jurisdiction by either a Revenue or a Civil Court. These provisions will be found in Sections 99 and 100 of the Punjab Tenancy Act: The rules under this head will be found in Chapter 15, References to the High Court.
6. **Succession to occupancy holding:- Suits** relating to succession to occupancy holdings, under Section 59 of the Punjab Tenancy Act, lie in the Civil Courts.
7. **Hadd Shikni cases:-** Hadd-Shikni cases are triable by Civil Courts. Section 158, sub-section 2 (1) of Punjab Land Revenue Act of 1887 does not apply to such cases. That section merely means that a Civil Court is not competent to question the decision of a Revenue Officer as to the delimitation, for the purposes of the Punjab Land Revenue Act, of land which is occupied as the site of a town or village and is not assessed to land revenue.

CHAPTER 3
Valuation of Suits
 PART A.—GENERAL

1. **General:-** It should be remembered that the value of a suit for the purposes of the Court-fees Act, 1870, and its value for the purposes of jurisdiction are not necessarily identical, and are frequently very different. The value for the purposes of court-fee is determined by the Court-fees Act, 1870 (as amended), and for purposes of jurisdiction by the Suits Valuation Act, 1887, and the rules made thereunder. In certain classes of suits the value for the purposes of court-fee also can be fixed by rules under section 9 of the Suits Valuation Act.
2. **Part I of Suits Valuation Act extended to Punjab:-** Part I of the Act was extended to this State by Central Government, Home Department, Notification No. 210, dated the 20th February, 1889, and the Punjab Government has made rules under section 3 of the Act determining the value of land and of certain interests therein, for purposes of jurisdiction in the suits mentioned in the Court-fees Act, 1870, section 7, paragraph (v) and (vi) and paragraph (x), clause (d), which are republished in Part D of this Chapter.
3. **Rules under section 3 of the Act apply to all classes of land in the Punjab:-** No restrictions under section 3, sub-section (2), of the Suits Valuation Act have been imposed as to the classes of land to which the rules apply, or as to the local extent of their operation, and they apply, therefore to all land generally throughout the State, whether assessed to land revenue or not.
4. **Land suits falling under section 7(iv) or article 17, 22, Schedule II of the Court Fees Act:-** Section 4 of the Suits Valuation Act provides that, where a suit mentioned in the Court-fees Act, section 7, paragraph (iv), or Schedule II, Article 17 or 22, relates to land or an interest in land, of which the value has been determined by the rules made under section 3, the amount at which the relief sought in the suit is valued for purposes of jurisdiction shall not exceed the value of the land or interest as determined by those rules.
5. **Other suits under section 7 of court fees Act:-** The suits falling under the Court-fees Act, section 7, paragraphs (i, ii, iii, iv, vii, viii, x) (a), (b), and (c), and (xi), (a) to (f), inclusive, are either such as are subject to an ad valorem court-fee, in regard to which the value for the purposes of computing the court-fee and the value for the purpose of determining jurisdiction are, under section 8 of the Suits Valuation Act, 1887, the same; or suits dealt with by directions made by the High Court under section 9 of the Suits Valuation Act.
6. **Value of suits governed by rules made under section 9, Suits Valuation Act:-** Section 8 of the Suits Valuation Act gives the general rule as stated above, but when the value of a suit for purposes of jurisdiction and court-fees is determined by rules under section 9, (ibid) the value as determined by the rules must be accepted.
7. **Plaint should show value for purposes of Court-fees and jurisdiction:-** In order to guard against mistakes as to the value of a suit for purposes of jurisdiction and of court-fees, respectively, every plaint ought upon its face to show the value for purposes of jurisdiction as well as the value for the purpose of computing court-

fees. The former information is requisite in order that the Court may determine whether the plaint should be returned under Order VII, Rule 10, of the Code of Civil Procedure. When a plaint omits to disclose the value of the suit for the purposes of jurisdiction, the person presenting it should be questioned, and his answer recorded on the plaint, unless he consents to amend it then and there.

8. **Value in cases governed by Section 7 (iv) and Schedule II, article 17 of the Court Fees Act:-** Special care is necessary with respect to cases falling under the provisions of section 7, paragraph (iv) and Schedule II, Article 17, of the Court-fees Act, in valuing suits for the purposes of jurisdiction and court-fees. A table showing the value of different classes of suits for purposes of jurisdiction and court-fees, following the classification of suits in the Court fees Act, has been prepared and attached to this Chapter. It must be clearly understood, however, that this table in itself has no legal force, and that it is merely intended for ready reference by the Courts in dealing with questions of value.

9. **Value of certain suits left to judicial decision:-** There is no express provision in the Suits Valuation Act 1887, in regard to the classes of suits mentioned below, and they do not admit of being disposed of by rules under Part I, nor are they dealt with by directions under Part II of the Act. The Valuation of such suits, therefore, must be left to judicial decision, as occasion arises. The suits are:-
 - Suits for houses;
 - suits for pre-emption in respect of houses;
 - Suits for removal of attachment of houses;
 - Suits falling under Schedule Article 17, clause (iv), which are not provided for by the rules under-section 3 or directions under section 9, or by section 4 of the Suits Valuation Act; suits falling under section 7, sub section (x) clause (d) of the Court-fees Act, and relating to property other than land.

10. **Fixing valuation not necessary in certain cases:-** In the case of some classes of suits or petitions, e.g. suits under section 28 of the Sikh Gurdwaras Act, 1925, or petitions under the Guardians and Wards Act, 1890 the law allows no choice as regards the Court in which proceedings must be taken. There is, therefore, no necessity in such cases to fix any valuation for the purpose of determining jurisdiction.

PART B.
VALUE OF THE SUBJECT-MATTER OF
SUITS FOR THE PURPOSES OF APPEAL.

1. **General:-** Under the Punjab Courts Act, 1918, the number of appeals in a suit and the Court of Appeal are determined partly by the nature of the suit and partly by its value; and serious inconvenience results to Judges of superior Courts, as well as Suitors when the record of the original Court does not disclose the value of the suit.
 The value of the suit as fixed by the plaintiff or as determined by the Court in the event of its being disputed should, therefore be always stated on the face of the final judgment and the decree in the suit.
 The term "value", as used in the Punjab Courts Act with reference to a suit, means the amount or value of the subject-matter of the suit.
2. **Valuation should be stated in judgment and decree. Meaning of value:-** When the copies filed with the memorandum of appeal do not disclose the value, the Appellate Court should, if in doubt, send for the record, which may show the value. In all cases in which the record does not show the value, the Appellate Court must ascertain and determine whether the value of the suit as instituted (not the value of the subject matter of appeal) does or does not exceed the limits of its appellate jurisdiction.
3. **Objections as to value:-** When either the appellant or the respondent takes exception to the valuation determined by the lower Court, the point must be decided like any other point taken in appeal or by way of cross-objection. It should be noted, however, that, according to section 11 of the Suits Valuation Act, no objection as to valuation can be entertained in appeal unless it was taken in the trial Court before the issues were framed and recorded ; or in the lower Appellate Court, in the memorandum of appeal to that Court and unless the Appellate Court is satisfied (for reasons to be recorded in writing) that the suit or appeal was not properly valued, and that the mistake in valuation had prejudicially affected the disposal of the suit or appeal on merits. This rule applies in all cases of erroneous valuation except in suits for accounts where value for purposes of jurisdiction as determined by the Court at any stage shall be final and conclusive and shall not be liable to be contested in appeal or revision (Punjab Act XIII of 1942). In this connection also please see A.I.R. 1952 Punjab 200.
4. **Suits for accounts:-** In a suit for the amount found to be due after taking accounts, it is not the tentative valuation of the plaintiff, but the amount found to be due and decreed by the Court, that determines the forum of appeal (I.L.R. IX. Lah. 23).
5. **Suits for redemption of mortgage:-** The valuation of a suit for redemption of mortgaged property is now governed by rules framed under section 9 of the Suits Valuation Act, 1887. (*vide* rule 9 of Part C of this Chapter). This rule governs only the value for the purposes of the suit and for the purposes of the appeal the rule laid down by a Full Bench of the High Court in I. L. R. VII Lahore 570 still holds good. In I.L.R. 1954 Punjab 342 (D.B) it has been held, following I.L.R. VII Lahore 570, that the forum of appeal in a redemption suit is governed, not by the original, jurisdictional value of the suit but by the amount which is found by the court to be due. Where the amount of the jurisdictional value in appeal is over Rs. 5,000/-, the appeal under the Punjab Courts Act, 1918, lies to the High Court and not to the District Judges Court. The District Judge when he comes to the conclusion that the amount which would be due on taking of the accounts would be more than Rs. 5,000/- cannot pass a decree. (*vide*) I.L.R. 15 Lahore 512 (F.B.). If on the other hand, the decree had been passed on payment of a sum less than Rs. 5,000/- the appeal would have been entertainable by the District Court, and the mere fact that the mortgagee claimed a greater amount than Rs. 5,000/- would not have affected the question of jurisdiction for the purposes of appeal. (*vide*, 54 P.R. 1912).

PART C.—MANNER OF DETERMINING OF THE VALUE OF SUITS
FOR PURPOSES SPECIFIED IN SECTION 9 OF THE SUITS
VALUATION ACT, 1887.

RULES

Rules made by the High Court with the previous sanction of the State Government, under the powers conferred by section 9 of the Suits Valuation Act, 1887, and all other powers in that behalf, for determining for the purposes specified therein, the value of the subject-matter of certain classes of suits which do not admit of being satisfactorily valued, and for the treatment of such classes of suits as if their subject-matter were of the value as hereinafter stated:-

1. (i) Suits in which the plaintiff in the plaint asks for a decree against the other party to an alleged marriage, either alone or with other defendants, for restitution of conjugal rights;

(ii) Similar suits for a decree establishing, annulling or dissolving a marriage or for a declaration that a marriage is void or has been annulled, dissolved or otherwise terminated;

(iii) Suits in which the plaintiff in the plaint asks for a decree establishing an adoption or declaring it void including under the expression "adoption" the customary appointment of an heir-

Rs.

the Court-fees
1887.

Value—(a) For the purposes of

Act,

200

purposes of the Suits Valua-
1887, and the Punjab

(b) For the
tion Act,

Act, 1918. 1,000

Explanation.—Classes (i) and (ii) do not include petitions under any special Act relating to the dissolution of marriage.

2. Suits by a plaintiff, during the lifetime of a person alleged to have a restricted power of alienation in respect of immoveable property, in which the plaintiff in the plaint seeks to have an alienation of immoveable property made by such person declared to be void, except for the life of such person or for some other determinate period-

Value—(a) For the purposes of the Court-fees Act,
1870—
as determined by that Act;

(b) For the purposes of the Suits Valuation Act, 1887, and the Punjab Courts Act, 1918—

- (i) When the alienation is by a written instrument which declares the value of the interest purporting to be created, or the amount of the consideration for which the alienation is made—such value or amount;
- (ii) In other cases—the market value, at the date of the institution of the suit, of the property alienated;

Subject in either case to the provisions of Part I of the Suits Valuation Act, 1887, and of the rules in force under the said Part, so far as those provisions are applicable.

3. Suits in which the plaintiff in the plaint asks for accounts only not being—

- (i) Suits to recover the amount which may be found due to the plaintiff on taking unsettled accounts between him and the defendant;
- (ii) Suits of either of the kinds described in Order XX, rule 13 of the Code of Civil Procedure.

Rs.

Value—(a) For the purposes of the Court-fees Act, 1887
200

(b) For the purposes of the Suits Valuation Act, 1887, and the Punjab Courts Act, 1918
1,000

4. (i) Suits in which the plaintiff in the plaint seeks to recover the amount which may be found due to the plaintiff on taking unsettled accounts between him and the defendant;

(ii) Suits of either of the kinds described in Order XX, rule 13 of the Code of Civil Procedure;

Value for the purpose (a) As determined by the Court-of Court- fee. fees Act, 1870.

Value for the purpose (b) For the purposes of the of jurisdiction Suits Valuation Act, 1887, and the Punjab Courts Act 1918, as valued by the plaintiff in the plaint, subject to determination by the Court at any stage of the trial.

5. Suits in which the plaintiff in the plaint seeks to establish or to negative any right hereinafter mentioned, with or without an injunction, and with or without damages, namely:—

a right of way; a right to open or maintain or close a door or a window, or a drain, or a water spout (parnala); a right to or in a water course or to the use of water; a right to build, or raise alter or demolish a wall; or to use an alleged party wall or joint staircase-

Value.—(a) For the purpose of the Court-fees Act, 1870—

Rs.

(i) Suits to establish a right—whether or not injunction is prayed for -

130

(ii) Suits to establish a right and for damages whether or not injunction is prayed for ..

130

Plus such sum as is claimed as damages;

(b) For the purposes of the Suits Valuation Act, 1887, and the Punjab Courts Act, 1918, as for the purposes of the Court-fees Act, 1870.

6. Suits in which the plaintiff in the plaint seeks to set aside an award, and applications registered as suits under the provisions of sections 20 and 31 of the Indian Arbitration Act, X of 1940 (to file an agreement to refer to arbitration or to file an award), when or so far as the award or the agreement relates to property:-

Value.----(a) For the purposes of the Court-fees Act, 1870, as determined by that Act.

(b) For the purposes of the Suits Valuation Act, 1887, and the Punjab Courts Act, 1918 (as amended), the market value of the property in dispute, subject to the Provisions of Part I of the Suits. Valuation Act, 1887, and of the rules, in force under the said Part, so far as those provisions are applicable.

7. Suits in which the plaintiff in the plaint asks for a mere-declaration without any consequential relief in respect of property other than land assessed to land revenue

Value—(a) For the purposes of the Court-fees Act, 1887, as determined by that Act.

- (b) For the purposes of the Suit Valuation Act, 1887, and the Punjab Courts Act, 1918—the market value of the property in dispute, at the date of institution of the suit, subject to the provisions of Part I of the Suits Valuation Act, 1887, and the rules in force under the said Part, so far as those provisions are applicable.
- 8. Suits for partition of property—
 - Court-fee*—(a) As determined by the Court-fees Act, 1870.
 - Value*—(b) For the purposes of the Suits Valuation Act, 1887, and the Punjab Courts Act, 1918—the value of the whole of the property as determined by sections 3, 8 and 9 of the Suits Valuation Act, 1887.
- 9. Suits in which the plaintiff in the plaint asks for redemption of the property mortgaged or foreclosure of the mortgage ;—
 - Value*—(a) For the purposes of the Court-fees Act, 1870 — as fixed by section 7 (ix) of that Act.
 - (b) For the purposes of the Suit Valuation Act, 1887, and the Punjab Courts Act, 1918—the amount of the principal and interest calculated on the terms of the mortgage at the date of the institutions of the suit.
- 10. Suits in which the plaintiff asks for cancellation of a decree for money or other property having a money value, or other document securing money or other property having such value,—
 - Value*—(a) For the purposes of the Court-fees Act, 1870,— as determined by that Act.
 - (b) For the purposes of the Suits Valuation Act, 1887, and the Punjab Courts Act, 1918,—according to the value of the subject-matter of the suit, and such value shall be deemed to be'
 - (i) If the whole decree or other document is sought to be cancelled, the amount or the value of the property for which

the decree was passed or the other document executed;

- (ii) If a part of the decree or other document is sought to be cancelled, such part of the amount or value of the property.

11. The foregoing rules are subject to the following explanations:—

- (i) the term "plaint" includes an amended as well as original plaint,
- (ii) a suit falling within any of the above description is not excluded therefrom merely by reason of the plaint seeking other relief in addition to that described in any of the foregoing rules.

Note. These rules came into force on the 2nd January 1943.

(High Court Notification No. 363-R/XXX-3, dated the 2nd December 1942).

PART D.—MANNER OF DETERMINING THE VALUE OF LAND FOR
PURPOSES OF JURISDICTION IN CERTAIN CLASSES OF SUITS.

Rules made by the State Government, under the power conferred by section 2 of the Suits Valuation Act, 1887, and published as Punjab Government Notification No. 255, dated the 4th March, 1889, for determining the value of land for purposes of jurisdiction in the suits mentioned in the Court fees Act, section 7, paragraphs (v) and (vi), and paragraph (x), clause (d).

1. In suits for the possession of land the value of the land, for purposes of jurisdiction, shall be held to be as follows:—

(a) Where the land forms an entire estate, or a definite share of an estate paying annual revenue to Government or forms part of such an estate, and the annual revenue payable for such part is recorded in the Collector's register, and such revenue is permanently settled;—sixty times the revenue assessed on the land.

Suits for
possession of
land.

(b) Where the land forms an entire estate, or a definite share of an estate paying annual revenue to Government, or forms part of such estate and is recorded as aforesaid, and revenue is settled, but not permanently,—thirty times the such revenue so payable.

Explanation to clause (b)—Where the land is a fractional share or a portion of part of an estate, and the land-revenue payable for such part is recorded in the Collector's register and such revenue is not permanently settled, the value, for purposes of Jurisdiction, shall be held to be thirty times such portion of the revenue recorded in respect of that part as may be rateably payable in respect of the share or portion.

Illustrations.—(1) In a suit for possession of a one-third of the entire holding of ten ghummaons forming part of an estate, and recorded as paying Rs. 20 annual revenue, the value of the land, for the purposes of jurisdiction, is one-third of thirty times Rs. 20 or Rs. 600;

(2) In a suit for possession of one ghummaon out of the same holding the value of the land is one-tenth of thirty times Rs. 20, or Rs. 60,

(c) Where the land pays no such revenue, or has been partially exempted from such payment, or is charged with any fixed payment in lieu of such revenue, and net profits have arisen from the land during the year next before the date

of presenting the plaint,—fifteen times such net profits. But where no such net profits have arisen therefrom—the market-value.

(d) Where the land forms part of an estate paying revenue to Government, but is not a definite share of such estate and does not come under clauses (a), (b) or (c) of this rule,—the market-value of the land.

^[18][(dd) Where land holding tax is leviable on the land, the market value of the garden.]

(e) Where the Subject-matter is a garden,— the market-value of the garden.

Suits for pre-emption.

2.In suits to enforce a right of pre-emption in land the value of the land, for the purpose of jurisdiction shall be calculated by the preceding rules.

Suits falling in different classes.

3.When the land or interest in suit falls partly under one and partly under another, of the classes enumerated in Rule 1, the value of the land in each class shall be separately calculated.

'Land' defined.

4.In the application of the above rules the word "land" includes all such right, e. g., shares in village common and in wells as are accessory to the land in suit, and the word "revenue" as used in the preceding rules, when applied to land irrigated from canals, shall be held to include owners' rate for the year next before the date of presentation of plaint, or half the occupier's rate for the same period in cases in which no owners rate is chargeable.

Suits for specific performance of award.

5.In suits for specific performance of an award so far as the award relates to land,—the market value of the land.

Suits *re.* life interest in land and to occupancy rights.

6.Suits relating to a life-interest in land and suits relating to an occupancy right shall, for purposes of jurisdiction, be deemed to be half of the value provided for suits for possession under Rule 1.

A TABLE SHOWING THE VALUE OF SUITS FOR PURPOSES OF COMPUTING COURT-FEE AND FOR DETERMINING THE JURISDICTION OF THE COURTS RESPECTIVELY

1	2	3	4	5
Nature of suit	Provision of court-Fee Act or rules applicable	Value for purposes of court-fee under court, fees act 1870	Provisions of suits valuation Act or rules applicable	Value for purposes of determining jurisdiction of court under the suits valuation Act 1887 and the rules and directions made thereunder
Suits for money including damages, compensation, arrears of maintenance etc.	Section 7 (i)	<i>Ad valorem</i> , on the amount claimed	Section 8	Same as in column 3.
Suits for maintenance or annuities or other sums payable periodically	Section 7 (ii) (a)	<i>Ad valorem</i> , on ten times the amount claimed to be payable for one year.	Ditto	Ditto Ditto
Suits for reduction or enhancement of maintenance or other sums payable periodically.	Section 7 (ii) (b) P. Amendment Act XXVI of 1949	<i>Ad valorem</i> , on ten times the amount sought to be enhanced or reduced for one year	Ditto	Ditto Ditto
Suits for movable property where it has a market value	Section 7 (iii)	<i>Ad valorem</i> , on such value on date of presentation of plaint	Ditto	Ditto Ditto
Suits for movable property where it has no market value	Section 7 (iv) (a) and Punjab Amendment Act XXVI of 1949	<i>Ad valorem</i> , on the amount on which the relief sought is valued in plaint or memo of appeal; this value shall be stated by the Plaintiff; provided that the minimum court fee shall be Rs 10. Ditto	Ditto	Value of the relief sought as stated in the plaint
Suit to enforce the right to share in any property on the ground that it is joint Family Property.	Section 7 (iv) (b) and Punjab Amendment Act, XXVI of 1949		When suit relates to land or interest in land : Section 4 and rules under section 3 (Chapter 3—D) In other cases Section 8.	Value of relief sought as stated in plaint, but not exceeding the value of the land under rules. Value of Relief sought as stated in the plaint.

A TABLE SHOWING THE VALUE OF SUITS FOR PURPOSES OF COMPUTING COURT-FEE AND FOR DETERMINING THE JURISDICTION OF THE COURTS RESPECTIVELY

1	2	3	4	5
Nature of suit	Provision of court-Fee Act or rules applicable	Value for purposes of court-fee under court-fee Act 1870	Provision of suits valuation Act or rules applicable	Value for purposes of determining jurisdiction of court under the suits valuation Act 1887 and the rules and directions made thereunder
Suit to obtain a declaratory decree or order where consequential relief is prayed	Section 7(iv) (c) and P. Amendment Act XXVI of 1949 and P. Amendment Act XXXI of 1953	<i>Ad valorem</i> on the amount of relief sought as valued and stated in the plaint or memo of appeal by the plaintiff: Provided that minimum court-fee shall be Rs. 10 and provided further that when relief sought is with reference to property such valuation shall not be less than value of property as calculated in manner provided in Section 7 (v) Court-Fees Act 1870	Same as above but subject to Rule 10 of rules framed under Section 9 (Ch. 3-C) (cancellation of documents or decrees etc.)	Same as above but subject to rule 10 (Which relates to suits for cancellation of documents or decree) of Rules framed under Section 9 (Vide Chapter 3-C)
Suit to obtain an injunction	Section 7(iv) (d) and P. Amendment Act XXVI of 1949	<i>Ad valorem</i> on the amount of relief sought as valued and stated in the plaint or memo of appeal by the plaintiff: Provided that minimum court-fee shall be Rs. 10	Same as above but subject to Rule 5 of Rules under Section 9 (Ch. 3-C)	Same as above but subject to Rule 5 of Rules under Section 9 (vide Ch. 3 Part-C)
Suit for a right to some be nefit (not herein otherwise provided for) to arise out of land	Section 7(iv) (e) and P. Amendment Act XXVI of 1949	Ditto	Section 8	Value of Relief sought as stated in the plaint

Suits for accounts:- In which the plaintiff in the plaint seeks to recover the amount which may be found due on taking unsettled accounts or suits under XX R. 13 C.P.C. Note:- As to suits for accounts only, not being for recovery of amount found due see Art. 17 (vi) Schedule II, Infra.	Section (iv) (f) and Amendment Act XXVI of 1949	<i>Ad valorem</i> , on amount of relief sought as valued and stated in plaint or memo of appeal by the plaintiff, provided that minimum court fee shall be Rs. 10.	Section 8 and Rule 4 of Rules framed under Section 9 (Ch. 3-C)	Value stated by the plaintiff in the plaint; subject to the determination by the Court at any stage of the trial.
Suit for possession of land:- (a) Where land forms an entire estate or a definite share of an estate paying annual revenue; to Government forms part of such estate and is recorded in collector's registers as separately assessed with such revenue and such revenue is permanently settled.	Section (v) (a)	<i>Ad valorem</i> on ten times the revenue payable	Section 3 and Rules framed thereunder. Rule 1 (a) and 3 of Ch. 3-D.	Sixty times the revenue assessed on the land.
(b) Where land forms an entire estate, or a definite share of an estate paying annual revenue to Government; or forms part of such estate and is recorded as aforesaid; and such revenue is settled but not permanently	Section 7(v) (b)	Ditto	Section 3 and Rules framed thereunder. Rules 1 (b) & 3 Chapter 3-D.	Thirty times the revenue assessed on the land.
(c) Where the land pays no such revenue or has been partially exempted from such payment or is charged with any fixed payment in lieu thereof, and net profits have arisen from the land during the year next before the date of present the plaint.	Section 7(v) (c)	<i>Ad valorem</i> , on fifteen times the net profits	Section 3 and Rules framed thereunder. Rules 1 (c) & 3 Chapter 3-D.	Fifteen times the net profits.

A TABLE SHOWING THE VALUE OF SUITS FOR PURPOSES OF COMPUTING COURT-FEE AND FOR DETERMINING
THE JURISDICTION OF THE COURTS RESPECTIVELY

1	2	3	4	5
Nature of suit	Provision of court-Fee Act or rules applicable	Value for purposes of court-fee under court-fees Act 1870	Provision of suits valuation Act or rules applicable	Value for purposes of determining jurisdiction of court under the suits valuation Act 1887 and the rules and directions made thereunder
But where no such net profits have arisen	Section 7 (v) (c)	<i>Ad valorem</i> , on value fixed by Court with reference to value of similar land in the neighborhood	Section 3 and Rules framed thereunder Rules 1 (c) & (3) Ch 3-D.	The market value of the land
(d) Where land forms part of an estate paying revenue to Government; but is not a definite share of such estate and is not separately assessed as above mentioned	Section 7 (v) (d)	Market value of the land	Section 3 and Rules framed thereunder Rules 1 (d) & (3) Chapter 3-D	Ditto
(e) Where subject matter is a garden	Section 7 (v) (e)	Market value of the garden	Section 3 and Rules framed thereunder Rules 1 (e) & (3) Chapter 3-D	Market value of the garden
(f) In all the above cases (a) to (e) under "suits for possession of land" if the suit relates to life-interest in land or to an occupancy right	Section 7 (v) (a) to (e)	Same as (a) to (e) above	Rules 6 framed under Section 3 Chapter 3-D	Half of the value as determined in (a) to (e) above against suits for possession of land
(g) Suit for possession of a house	Section 7 (v) (e)	Market value of the house	No provision	Presumably the market value but this has to be left to judicial decisions.
Suits to enforce a right of pre-emption	Section 7 (vi)	<i>Ad valorem</i> on value computed as in Section 7 (v) above of the land garden or house in respect of which the right is claimed.	Same as in suits for possession of the land garden or house (above)	Same as in suits for possession of the land, garden or house (above)

Suit for the interest of an assignee of land revenue	Section 7 (vii)	Fifteen times the net profits during the previous year	Section 8	Same as in column 3.
Suit to set aside an attachment of land or of an interest in land or revenue	Section 7 (viii)	Amount for which land or interest was attached ; provided that where such amount exceeds value of the land or interest, same value as in a suit for possession of such land or interest.	Section 8 and rules under Section 3 (Ch. 3-D).	The amount for which land or interest attached but not exceeding the value of the land or interest. N. B.—The case of attachment of a house is not provided for and must be left to Judicial decision.
In suits against a mortgagee for the recovery of the property mortgaged	Section 7 (ix) and P. Amendment Act XXVI of 1949	According to half the principal money expressed to be secured by the instrument of mortgage.	Rule 9 framed under Section 9 Chapter 3-C.	The amount of principal and interest calculated on the terms of the mortgage at the date of the Institution of the suit
Suits by a mortgagee to foreclose the mortgage or where mortgagee is by conditional sale to have the sale declared absolute	Section 7 (ix)	According to principal money expressed to be secured by the instrument or mortgage	Ditto	Ditto
Suits for specific Performance: (a) of a contract of sale.	Section 7 (x) (a)	(a) According to sale consideration	Section 8	Same as in column 3
(b) of a contract of mortgage	Section 7 (x) (b)	(b) According to amount agreed to be secured	Ditto	Ditto
(c) of a contract of lease	Section 7 (x) (c)	(c) On the amount recoverable in the first year	Ditto	Ditto
(d) of an award	Section 7 (x) (d)	(d) Amount or value of property in dispute	For land Section 3 and Rules 1 and 5 thereunder (Ch. 3-D) In other cases no provision	Market value of land as determined by rules In regard to other property presumably market value though matter can be determined by judicial decisions only.
Suits between landlord and tenant as described in clauses (a) to (f) of Section 7 (xi) Court-Fees Act 1870.	Section 7 (xi)	Amount of rent the preceding year	Section 8	Same as in Column 3

*Miscellaneous applications and petitions described in Articles 1 to 14 of Schedule II of Court-Fees Act 1870	Articles 1 to 14 Schedule II. Pb. Amending Acts No. VII of 1922 No. VI of 1926 No. XXVI of 1949	A fixed court-fee stamp as indicated in column III of the Scheduled II, in each case.	-	No jurisdiction value necessary as the office or court to which the application or petition is to be made is indicated in the Schedule or in the Statue under which application or petition is made
*****Every petition, application or memorandum of appeal under special Marriage Act (No. 43 of 1954) or Hindu Marriage Act (No. 25 of 1955) Plaintiff or memorandum of appeal in a suit.	Sch. II, Article 14-A Pb. Act No. 14 of 1956	A fixed court-fee stamp of Rs. 15 leviable	-	Ditto
(i) to alter or set aside a summary decision or order of a civil court not established by Letters patent or of any Revenue Court	Schedule II, Article (17) (i) Pb. Act No. XXVI of 1949	A fixed court fee stamp of Rs. 15 leviable	(a) As to land:-Section 4 and Rule made under Section 3 (Ch. 3-D)(b) (b) in other cases No provision	(a) Not to exceed the value of the land as determined under the rules (Ch. 3-D) (Please see entries against Section 7(v) Court-Fees Act above) Presumably the objective valuation of the subject matter

*Attention In this connection is invited to Punjab Court- Fees (Amendment) Acts. No. VII of 1922, VI of 1926 and XXVI of 1949.

*****Added by Punjab Act No. 14 of 1956

A TABLE SHOWING THE VALUE OF SUITS FOR PURPOSES OF COMPUTING COURT-FEE AND FOR DETERMINING THE JURISDICTION OF THE COURTS RESPECTIVELY

1	2	3	4	5
Nature of suit	Provision of court-Fee Act or rules applicable	Value for purposes of court-fee under court-fees Act 1870	Provision of suits valuation Act or rules applicable	Value for purposes of determining jurisdiction of court under the suits valuation Act 1887 and the rules and directions made thereunder
(ii) to alter or cancel any entry in a register of the names of proprietors of revenue paying estate	Schedule II, Article 17 (ii) P. Act XXVI of 1949	Ditto	Ditto	Ditto
(iii) to obtain a declaratory decree where no consequential relief is prayed	Schedule II, Article 17 (iii) P. Act XXVI of 1949	Ditto	(a) As to land Section 4 and Rules under Section 3 (Ch. 3-D) (b) Rules 1 (ii), (iii) (Establishing or annulling a marriage or adoption) Chapter 3-C. (c) Rules 2, and 7 under Section 9 (Chapter 3-C) Alienations by limited owner)	(a) Not to exceed the value of land as determined under the rules (b) Rs. 1000 (c) Market value of the property in dispute on date of institution of suit subject to Part I of Section V. Act and rules framed under that Part, so far as applicable or amount of the consideration of the alienation challenged where it is by written instrument. (In each case please refer to the rule applicable.

A TABLE SHOWING THE VALUE OF SUITS FOR PURPOSES OF COMPUTING COURT FEE AND FOR DETERMINING THE JURISDICTION OF THE COURTS RESPECTIVELY

1	2	3	4	5
Nature of suit	Provision of court-Fee Act or rules applicable	Value for purposes of court-fee under court-fees Act 1870	Provision of suits valuation Act or rules applicable	Value for purposes of determining jurisdiction of court under the suits valuation Act 1887 and the rules and directions made thereunder
(iv) to set aside an award	Schedule II, Art. 17 (iv) P. Act XXVI of 1949	Ditto	Rule 6 under Section 9 (Ch. 3-C)	Market value of property in dispute subject to provisions of Part I, Section V Act and Rules under said Part so far as applicable
(v) to set aside as adoption	Schedule II, Article 17 (v) P. Act XXVI of 1949	Ditto	Rule 1 (iii) under Section 9 (Ch. 3-C)	Rs. 1000
(vi) Other suits not provide for by Court Fees Act, where subject-matter cannot be valued in money	Schedule II, Article 17 (vi) P. Act XXVI of 1949	Ditto	(a) conjugal rights Rule 1 (i) under Section 9 (Ch. 3-C.)	(a) Rs. 1,000
			(b) Accounts only not being for recovery of amount found due. Rule 3 Ch. 3-C	(b) Rs. 1,000
			(c) Partition suits Rule 8 Chapter 3-C.	(c) Value of whole of property as determined by Section 3, 8 and 9 Section V Act.
			(d) Other cases	(d) According to judicial decision or rules that may be framed from time to time
Application under Section 20 Indian Arbitration Act 1940	Schedule II, Article 18 (v) P. Act XXVI of 1949	A fixed court-fee stamp of Rs. 10 leviable	Rule 6 under Section 9 (Chapter 3-C)	Market value of property in dispute subject to Part I of Section V Act and rules under that Part, so far as applicable
Agreement in writing stating a question for the opinion of the court under the Code of Civil Procedure, 1908	Schedule II Art. 19 P. Act XXVI of 1949	Ditto	Section 4 and Rules under Section 3 (Ch. 3-D)	Ditto
Petitions under the Indian Divorce Act except petitions under Section 44 of that Act and memo of appeal under section 55 of that Act.	Schedule II Art. 20 P. Act XXVI of 1949	A fixed court-fee Stamp of Rs. 30 leviable		Tribunal having jurisdiction is indicated in the Act mentioned in column No. 1
Plaint or memo of appeal under Parsl Marriage and Divorce Act, 1865	Schedule II Art. 21 P. Act XXVI of 1949	Ditto		Ditto

**Plaint or memo of appeal in suites by a reversioner under Punjab Customary Law for Declaration in respect of alienation of ancestral land.	Schedule II Art. 22 P. Act XXVI of 1949	A fixed court-fee Stamp of Rs. 15 leviable	Section 4 and rules under Section 3 (Ch 3-D) (Punjab Act 1 of 1938)	Not to exceed the value of land as determined under the rules in Ch. 3-D.
***Application or memo of appeal for relief under Punjab Urban Rent Restriction Act	Schedule II Art. 23	Fixed court-fee Stamp of Rs. 13/- leviable		Tribunal having jurisdiction is indicated in the Act mentioned in column No. 1
****Claims for money (whether secured) or (unsecured) or a claim to set off made against such claims or counter-claims under the Banking Companies Act 1949 (Act X of 1949)	Schedule II Art. 24	Rs. 15 where the amount does not exceed Rs. 2500. Rs. 30 where the amount exceeds Rs. 2500 but does not exceed Rs. 10,000		Ditto
****Memorandum of appeal from an order or decision passed under the provisions of section 45-B of the Banking Companies Act, 1949 (Act X of 1949)	Schedule II Art. 25	Rs. 50 where the amount exceeds Rs. 10,000 Rs. 60 where the amount exceeds Rs. 5,000 but does not exceed Rs. 10,000 Rs. 100 where the amount exceeds Rs. 10,000		Ditto

**Added by Punjab Act VII of 1922.

***Added by Punjab Act
XXVI of 1949.

****Added by Punjab Act
XXXV of 1954.

CHAPTER 4

Arbitration

PART A.-ARBITRATION

1. By section 49 (1) and the Third Schedule of the Indian Arbitration Act, 1940 (X of 1940), the whole of the Indian Arbitration Act of 1899, the whole of the Second Schedule to the Code of Civil Procedure, section 89 of the Code of Civil Procedure and Clauses (a) to (f) (both inclusive) of sub-section (1) of section 104 of the Code of Civil Procedure, have been repealed. These provisions have been consolidated in the Indian Arbitration Act, 1940. The instructions contained in this part are only administrative. Statutory rules under section 44 of the Indian Arbitration Act, 1940, are contained in Part B of this Chapter.
2. The following rules have been laid down by the Government of India in regard to the appointment of public officers to act as arbitrators for the settlement of disputes:—

Extract from proceeding of the Government of India, Home Department (Public) No. 544, dated Fort William, the 12th February 1873.

- (1)An officer shall not act as an arbitrator in any case without the sanction of his immediate superior, or unless he be directed so to act by a court having authority to appoint an arbitrator.
- (2)No public officer shall act as an arbitrator in any case which is likely to come before him in any shape in virtue of any judicial or executive office which he may be holding.
- (3)If any officer acts as arbitrator at the private request of disputants, he shall accept no fees.
- (4)If he acts by appointment of a court of law, he may accept such fees as the Court may fix.

3. (i) In the event of an officer in any public department being nominated as arbitrator in a civil suit, the Court, before appointing him arbitrator, should refer to the official superior of the officer nominated to ascertain whether his services can be made available.

(ii) The Punjab Government have directed in their circulator letter No. 5795-G-43/64326 (H-Gaz), dated the 14th October, 1943, that their servants should not be allowed to undertake arbitration without the previous permission of the competent authority.

[19] [Scheme for Appointment of Arbitrators by the Chief Justice of Punjab and Haryana High Court, 2003]

In exercise of the powers conferred on the Chief Justice of the High Court of Punjab and Haryana under sub-section (10) of Section 11 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the Act) and in supercession to the Notification No. 398 Rules/XVI.A.129, dated 19th December, 1996, I hereby make the following scheme:-

1. Short Title:- This Scheme may be called the scheme for Appointment of Arbitrators by the Chief Justice of Punjab and Haryana High Court, 2003.

2. Submission of Request:- 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, signed and verified and accompanied by:-

- (a) the original arbitration agreement or a duly certified copy thereof;
- (b) the names and addresses of the parties to the arbitration agreement;
- (c) the names and addresses of the arbitrators, if any, already appointed;
- (d) the names and address of the person or institution, if any, to whom or which any function has been entrusted by the parties to the arbitration agreement under the appointment procedure agreed upon by him;
- (e) the qualifications required, if any, of the arbitrators by the agreement of the parties;
- (f) a brief written statement describing the general nature of the dispute and the points at issue;
- (g) the relief or remedy sought; and
- (h) an affidavit, supported by the relevant documents to the effect that the condition to be satisfied 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 has been satisfied and how it has been so satisfied.

^[20]**3. Authority to Deal with the Request:-** (1) The request made under para 2 shall be dealt with by the Chief Justice himself or any Judge of the High Court designated by him for this purpose by a general or special order]

4. Requests and Communications to be sent to Registrar:- (1) All requests under the Scheme and communications relating thereto, which are addressed to the Chief Justice, shall be presented to Registrar of the High Court, who shall maintain a separate Register of such requests and communications;

(2) The Registrar shall examine the memo of request and submit his report to the Chief Justice or to his designate, as the case may be, as to whether the request has been made in accordance with para 2 and payment of Court fee in accordance with para 10.

5. Seeking Further Information:- The Chief Justice or his designate may seek such further information or clarification or documents from the party making the request under this Scheme as he may deem fit and the party making the request shall file as many copies of the written information or clarification or copies of documents as may be required.

6. Rejection of:- Where the request made by any party is not in accordance with the provisions of this Scheme the Chief Justice or his designate may reject the same.

7. Notice to Affected Persons:- Where the request is not rejected under para 6 the Chief Justice or his designate shall direct that 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 should not be made or taken and such notice shall be accompanied by copies of all documents referred to in para 2 or, the information or clarification or copies of documents, if any, sought under para 5, as the case may be.

8. Intimation of Action Taken on Request:- The appointment made or measures taken by the Chief Justice or his designate shall be communicated in writing to:-

- (a) the parties to the arbitration agreement;
- (b) the arbitrator, if any, already appointed by the parties to the arbitration agreement;
- (c) the person or the institution referred to in para 2(d); and
- (d) the arbitrator appointed in pursuance of the request.

9. Delivery and Receipt of Written Communication:- The provisions of sub-sections (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.

^[20]**10. Cost for Processing Requests:-** A request under para 3 shall be accompanied by Court fee stamps of Rs. 1000.]

11. Interpretations:- If any question arises with reference to the interpretation of any of the provisions of this Scheme, the question shall be referred to the Chief Justice whose decision shall be final.

12. Power to Amend the Scheme:- The Chief Justice may from time to time amend by way of addition or variation any provision of this Scheme.]

^[21]**PART B-1**

***PUNJAB, HARYANA AND UNION TERRITORY, CHANDIGARH
ARBITRATION AND CONCILIATION RULES, 2003***

No.45 Rules/II.D.4- In exercise of the powers conferred by Section 82 of the Arbitration and Conciliation Act, 1996 (26 of 1996), the High Court of Punjab and Haryana makes the following Rules in relation to the proceedings before the Court under the Act. These Rules shall be added as Part B-1 after the existing Part B and before Part C of Chapter 4 of Rules and orders of the Punjab High Court Volume-1:-

1.(a) These Rules may be called the Punjab, Haryana and Union Territory, Chandigarh Arbitration and Conciliation Rules, 2003.

(b) These, Rules shall come into force in the States of Punjab, Haryana and Union Territory, Chandigarh from the date of publication in their respective official Gazette.

(c) These Rules shall be applicable to the Arbitration and Conciliation Proceedings ordered by the competent Court under the Act.

2. Definitions.- (a) 'Act' means the Arbitration and Conciliation Act, 1996.

(b) 'Application' means an application made to the Court under the provisions of the Act.

(c) 'Typewritten Copy' includes legible copy prepared by any mechanical process.

3. Every application shall be made in writing, duly signed and verified in the manner prescribed under Order 6 Rules 14 and 15 of the Code of Civil Procedure and if the Court, so directs, shall be supported by an affidavit. It shall be divided into paragraphs, numbered consecutively, and shall contain the name, description and place of residence of the parties. It shall contain a statement, in concise form:

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

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

(c) relief asked for; and

(d) names and addresses of the persons likely to be affected by the applications.

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 proved to the satisfaction of the Court to be acquainted with the facts of the case.

4. An application for enforcement of an arbitral award under Section 36 or a foreign award under Section 47 or Section 56 shall be in writing, signed and verified by the applicant or by some other person in this behalf duly authorized and proved to the satisfaction

of the Court to be acquainted with the facts of the case 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.

5. Following documents or attested copies thereof shall be annexed with the application:

- (i) Agreement to arbitrate, if any.
- (ii) Documents relevant to and throwing light on the dispute;
- (iii)List of witnesses to be examined or summoned for production of documents;
- (iv) Copies of pleadings of the parties filed before the Arbitral Tribunal;
- (v)Party filing the aforesaid documents shall supply sufficient number of copies thereof for other parties;

6. Deposit:- The Court may require the parties to deposit in advance of any hearing, such amount as it deems necessary to cover Arbitration expenses including the Arbitrator’s fee and Traveling Allowance(TA) and Dearness Allowance (DA). The balance, if any, shall be paid to the party who deposited the same.

SCHEDULE

A-Applications

S.No.	Nature of application	Amount of Court Fee
1	2	3
1	Application under Section 9.	Rs.150/-
2	Application under sub-section (1) of Section 17	Rs.50/-
3	Application under Section 34	Rs.300/-
4	Application under Section 14, 27, 36, 39 and 43	Rs.200/-
5	Application under Section 47 and 56	Rs.1000/-
6	Any other application	Rs.50/-
7	Vakalatnama	Rs.5/-

B-Appeals

S.No.	Nature of Appeal	Amount of Court Fee
1	2	3
1	Appeal against an order on an application under Section 9	Rs.300/-
2	Appeal against order of Arbitral Tribunal accepting the plea preferred to in sub-section (2) or sub-section (3) of Section 16	Rs.300/-
3	Appeal against an order on an application under Section 34	Rs.500/-
4	Appeal against an order refusing to refer the parties to arbitration under Sections 45 and 64	Rs.300/-
5	Appeal against an order refusing to enforce a foreign award under Section 48 and Sub-section (2) of Section 57	Rs.500/-

(1) Save as otherwise expressly provided in the Act or these Rules the following provision of the Code of Civil Procedure, 1908 (V of 1908) shall apply to the Proceedings before a Court in so far as those may be applicable thereto, namely:-

- (i) Sections 28, 31, 35, 35-A, 35-B, 107, 133, 135, 148-A, 149, 151 and 152; and
- (ii) Order III, V, VI, IX, XIII, XIV, XVI to XIX, XXIV & 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 adopt to the matters before it; and
- (b) The Court may, for sufficient reasons, proceed otherwise than in accordance with the said provisions if it is satisfied that the interests of the parties shall not thereby be prejudiced.

PART B.—RULES UNDER THE INDIAN ARBITRATION ACT, 1940
(Act X of 1940.)

Rules made by the High Court under the powers conferred by section 44 of the Indian Arbitration Act, 1940 (Act X of 1940), and published in its notification No. 45-RIX. W-5, dated the 9th March, 1945.

1. *Citation*.—The following rules shall be cited as the Arbitration Rules. All references therein to 'Act' shall be read as meaning the Arbitration Act, 1940.

2. *Title of application*.—(a) Save as hereinafter provided, all applications, affidavits and proceedings under the Act, shall be intitled in the matter of the Act, and in the matter of the Arbitration.

(b) Applications under Chapter IV of the Act shall be intitled in the suit or matter in which order or reference is made.

(c) Applications under section 34 of the Act shall, be intitled in the suit which the applicant seeks to have stayed.

(d) Applications under section 7 (2) of the Act shall be intitled in the matter of the insolvency in which the reference to arbitration is sought or claimed.

3. *Mode of application*.—All applications under the Act shall be made only to the proper Court and all applications shall be made by petition and shall be presented in the same manner as complaints or other applications to the Clerk of the Court or to such other officer as the Court appoints in that behalf who shall cause them to be registered and take such orders as are necessary from the Presiding Judge. Where application is made with the consent of all the parties affected thereby, the written petition shall be endorsed with the consent of the parties affected and shall bear their signature.

4. *Contents of petition*.—The petition shall be divided into paragraphs numbered consecutively and shall contain the name, description and place of residence of the petitioner of the opposite party, with a statement in summary form—

(a) of the material facts.

(b) of facts showing that the Court to which the application is presented has jurisdiction, and

(c) of the nature of the relief asked for, and shall specify the persons liable to be affected by the

application. A copy of the arbitration agreement, the special case or the award relating to the petition shall be annexed to the application:

Provided that where a party is, by reason of absence or for any other good cause, unable to sign the same, it may be signed on his behalf by any person duly authorised by him to sign the same.

5. *Registering petitions and a ward.*—Applications under section 14 of the Act shall be numbered and registered as regular suits. Other applications under the Act shall be numbered and registered as miscellaneous applications requiring judicial enquiry.

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

7. *Copy of petition.*—A copy of the petition shall be served on each person notified by virtue of the last preceding rule and the applicant shall supply a copy of the petition or affidavit for service on the opposite party.

8. *Court fees and process fees.*—(a) The Court fees and process fees chargeable for all petitions shall be in accordance with the Court Fees Act and the rules for the levy of process fees in force for the time being.

(b) The petitioner or the plaintiff shall deposit the necessary process fees for notice to the other party concerned within three days of the presentation of his petition or within such further time as the Court may permit.

(c) The party who has requested the arbitrator or umpire to cause an award to be filed shall, within three days after the filing of the award, or within such further time as the Court may permit, deposit the process fees for notice to the other parties concerned.

9. *Notice to arbitrators.*—*Except* where misconduct on the part of an arbitrator or umpire is alleged as a ground for setting aside an award or for removing an arbitrator or umpire, or unless the Court otherwise orders, it shall not be necessary to serve notice of the application upon

an arbitrator or umpire and he shall not be allowed his costs of appearing thereto.

10.*Filing of award.*—(a) The arbitrator or umpire or any of the parties to the arbitration may cause the award or a signed copy thereof to be filed in Court in the manner prescribed in rule No. 3.

(b) When the award is filed by the arbitrator or umpire, he shall, together with the award, send to the Court any depositions and documents which have been taken and proved before him, and the opinion pronounced by the Court on the special case submitted by him, if any, in accordance with Section 14 of the Act, by forwarding the same under a sealed cover addressed to the Court. He shall also send together with the award a copy of the notice given to the parties concerned and affidavit of service of such notice and of attestation of his signature on the award.

(c) When the award is filed by any of the parties to the arbitration under clause (a), the party may move the Court for directing the arbitrator to produce in original such of the documents as were produced before him together with the record of the arbitration.

11.*Notice of filing award.*—When the award has been filed in Court, the Court shall forthwith issue notice of such filing to the parties interested in the award.

12.*Limitation for application for Judgment on Award.*— An application for judgment in terms of an award shall not be made until after the expiration of 30 days from the date of service of the notice of filing the award.

13.*Court to issue notice on application under section 20.*— When an application under section 20 of the Act is filed and registered, the Court shall, on the application, issue a notice, returnable within not less than 10 days from the service thereof, calling upon the opposite party to show cause why arbitration agreement should not be filed .

14.*Processes to be issued on application by arbitrator or umpire.*—Processes to the parties to arbitration proceedings or to witnesses shall be issued by the Court on the written application of the arbitrator or the umpire.

15.*Accompaniment of the above application.*—If the proceedings are under Chapter II of the Act, the application for such processes must be accompanied by a copy of the agreement under which the arbitrator or the umpire is acting. If otherwise, the date of the order appointing

him arbitrator or umpire shall be mentioned in the application.

16. *Special case.*— Every special case for the Court's opinion under section 13 (b) of the Act shall be made in Form No. 1. The arbitrator or umpire, as the case may be, shall at the same time give notice of such action to the parties. When the Court has announced its opinion under section 14 (3), it shall be the duty of the arbitrator or umpire concerned to have a certified copy of such opinion added to and made part of the award.

17. *Application of Code of Civil Procedure and the High Court Rules and Orders.*—In the cases not provided for in the foregoing rules or in the Act, the provisions of the Code of Civil Procedure, 1908, and the High Court Rules and Orders, *mutatis mutandis*, shall apply, to all the proceedings before the Court and to all appeals under the Act.

18. *Forms.*—The forms prescribed by these rules shall be used for the purposes to which they severally relate with such variations as the circumstances of each case may require.

FORM No. 1

SPECIAL CASE

(Title of suit)

In the matter of arbitration between A. B. of.....
.....and C. D. of the following special case is
stated for the opinion of the Court :—

(Here state the facts concisely in numbered paragraphs).

The questions of law for the opinion of the Court are :—

First—Whether
X

Second—Whether
Y

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

FORM No. II

APPLICATION FOR AN ORDER OF REFERENCE

(Title of suit)

- 1.This suit is instituted for (state nature of claim).
- 2.The matter in difference between the parties is (state matter of difference).
- 3.The applicants being all the parties interested have agreed that the matter in difference between them shall have referred to arbitration.
- 4.The applicants, therefore, apply for an order of reference.

A. B.

C. D.

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

NOTE:—If the parties are agreed to the arbitrators, it should be so stated.

FORM No. III

ORDER OR REFERENCE

(Title of suit)

Upon reading the application presented on the.....
....day of.....19 , it is ordered that the following matter
in difference arising in this suit, namely:—
be referred for determination to X and Y, or in case of their
not agreeing then to the determination of Z, who is hereby
appointed to be umpire; and such arbitrators are to make
their award in writing on or before the.....day of.....
...19 , and in case of the said arbitrators not agreeing in an
award the said umpire is to make his award in writing
within.months after the time during which it is within the
power of the arbitrators to make an award shall have
ceased.

Liberty to apply

Given under my hand and the seal of the Court, this
.....day of..... 19 .

Judge

FORM No. IV

ORDER FOR APPOINTMENT OF NEW ARBITRATOR

(Title of suit)

Whereas by an order, dated the.....day of.....
.....19 (state order of reference and death, refusal, etc; of
arbitrator), it is by consent ordered that Z be appointed in the
place of X deceased (or as the case may be to act as arbitrator
with Y, the surviving arbitrator, under the said order; and it is
ordered that the award of the said arbitrators be made on or
before the day of..... 19 .

Given under my hand and the seal of the Court, this
day of..... 19 .

FORM No. V

AWARD

(Title of suit)

In the matter of an arbitration between A. B. of
..... and C. D. of.....

Whereas in pursuance of an order of reference made by
the Court of and dated the.....day of
..... 19 .
the following matter in difference between A. B. and C. D.
namely :-
has been referred to us for determination :-

Now we, having duly considered the matter referred to
us do hereby make our award as follows:—

We award.....

(1)That	..	..
	..	
X		
(2)That	..	..

.. Y

Dated the day of.....19 .

****FORM No. VI**

NOTICE OF FILING OF AN AWARD

(Title)

.....

.....

WHEREAS the petitioner, _____ arbitrator under
_____ an arbitration
party to
agreement, dated, between you and..... ...
.....has filed
_____ in Court an award dated.....
.....
caused to be filed
made
by _____,
[Name (s) of arbitrator (s)]
notice is hereby given to you of the filing of the same in this
Court.

Unless an application to have the award set aside or
remitted for reconsideration is made within thirty days of the
date of service of this notice, a judgment in terms of the award
may be pronounced by the Court and on the judgment so
pronounced a decree shall follow.

Given under my hand and the seal of the Court, this
day of.....19 ..

Sd/-.....

(SEAL).

.....Judge.

at.....

****FORM No. VII**

NOTICE OF THE FILING OF AN ARBITRATION AGREEMENT.

(Title)

To

.....

.....

WHEREAS the plaintiff has applied that you are a party to an arbitration agreement dated., and that differences have arisen with regard to the subject matter of this agreement or any part thereof and that the agreement should be filed in Court:—

NOTICE is hereby given calling upon you to show cause on* why the arbitration agreement should not be filed.

Given under my hand and the seal of the Court, this day of..... 19 .

Sd/-.....

(SEAL)

Judge

at

*In accordance with rule 13 of the rules contained in Chapter 4-B, High Court Rules and Orders, Volume I the notice is returnable within not less than ten days from the service thereof.

** (Forms Nos. VI and VII were added by High Court notification No. 25/ Genii X-W-5, dated the 23rd October, 1956.)

PART C.—THE ARBITRATION (PROTOCOL AND CONVENTION)
ACT, 1937

The following rules were framed by the High Court of Punjab in exercise of the powers conferred by Section 10 of the Arbitration (Protocol and Convention) Act 1937 and approved by the Governor of the Punjab under Section 224* of the Government of India Act, 1935. (25 and 26 Geo. V, Chapter 42) :-

Rules under Section 10 of the Arbitration (Protocol and Convention) Act, 1937.

1.All applications, affidavits and proceedings under the Act shall be entitled "in the matter of the Act", and in the matter of the Arbitration.	Title of application etc.
2.Applications under Section 3 shall be made to the Court whose proceedings are intended to be stayed, and applications wider Section 5 shall be made to the Court having jurisdiction-over the subject-matter of the award.	What applica-tion shall be by petition.
3.Every petition shall be divided into paragraphs, numbered consecutively, and shall contain, in a summary form, a statement of the material facts relied on, and the nature of the relief asked for, and shall specify the persons liable to be affected thereby.	Contents of petition.
4.Upon an application for stay of proceedings under Section 3 of the Act being filed, the Court shall direct notice to be given to the party or parties to the legal proceedings, other than the applicant, requiring him or them to show cause, within a time specified, why the order should not be made, unless the Court is satisfied that the object of the application would be defeated by the delay occasioned by the notice.	Stay of proceedings under Section 3 of the Act.
5.The party seeking to enforce a foreign award shall produce with his petition	Documents to be produced with the petition for enforcement of a foreign award.
(a)the document specified in Section 8 (i) of the Act and, where such document is in a foreign language, the translation thereof into English, certified in the manner prescribed in Subsection (2) of the said Section 8;	
(b)the original agreement for arbitration or an authenticated copy thereof and, when the same is in a foreign language, the translation thereof into English certified in the manner prescribed in. Sub section (2) of the said Section 8;	

*Corresponds to Article 227 of the Constitution of India.

- (c) an affidavit or affidavits showing (1) that the said agreement was valid under the law by which it was governed, (2) that the award was made by the tribunal provided for in the agreement or constituted in the manner agreed upon by the parties, (3) that it was made in conformity with the law governing the arbitration procedure and (4) that it has become final in the country in which it was made; and
- (d) Other document or documents in support of his application.

Procedure to be followed in case of non-production of documents with petition for enforcement of award.

6.If the application under section 5 of the Act be presented for admission without the document specified in Rule 5 (a) above, it shall forthwith be returned to the party presenting it. If such application is unaccompanied by the documents specified in Rule (5) (b) and (c) above, the Court may allow time within which such documents must be filed.

Execution of decrees and orders.

7.The provisions of the Code of Civil Procedure and the Rules and Orders of the High Court relating to execution of decrees and orders shall, *mutatis mutandis*, be applicable to the execution of decrees and orders under the Act.

Fees payable on proceedings.

8.The fees in respect of proceedings under the Act shall be according to the scale of fees applicable to proceedings under Section II of the Code of Civil Procedure.

II. As regards the powers which have been notified to be parties to the Convention and the territories to which the Convention applies see Central Government (Department of Commerce) Notification 103 (4)/II-Tr, dated the 8th January, 1938.

CHAPTER 5

Witnesses—Civil Courts

PART A.—ATTENDANCE OF WITNESSES (GENERAL).

1. A Court can compel the personal attendance of any witness residing within the local limits of its jurisdiction, or without such limits if the person to be summoned is at a place, not more than fifty miles from the Court house or not more than two hundred miles if there is a railway communication or public conveyance for 5/6th of distance, provided that he is not exempted under any of the provisions of the Code of Civil Procedure, 1908. A proviso has been added to Order XVI, Rule 19, Civil Procedure Code in Punjab with the result that a Court situate in the State of Punjab may require the personal attendance of any witness residing in the State of Punjab or the Union territory of Delhi. (High Court Notification No. 60—General/IX. Y. 8 dated the 4th March, 1955)

Compulsory attendance.
2. Under Section 132 of the Code of Civil Procedure 1908, women, who, according to the customs and manners of the country, ought not to be compelled to appear in public shall be exempt from personal attendance in Court.

Attendance of pardah nashin ladies.
3. The Court has a discretion to exempt from attendance as witness any person who in the opinion of the Court, is, from sickness or infirmity unable so to attend (0.26 R. 1. C. P. C.) or who, being a Civil or Military Officer of the Government, cannot attend without detriment to the Public Service (0.26, R. 4, C. P. C.). As regards the attendance of Patwaries in Civil Courts Part B of this Chapter should be referred to.

Other exemptions.
4. The Court may issue a Commission for the examination of a witness, whose attendance cannot be compelled according to law, or cannot be secured for any other sufficient reason, in the circumstances specified in Order XXVI of the Civil Procedure Code.

Evidence by commission.
5. The general procedure for issue of processes to Service of witnesses is the same as that in respect of defendants. For detailed instructions on the subject, see Volume IV, Chapter 7 and Volume I, Chapter 1-D.

Service of processes.
6. Where a witness summoned to attend evidence or produce a document, fails to attend or to

Non-attendance, proof of service.

produce the document, without lawful excuse, the Court shall, on return of the service of the summons, examine the serving officer on oath, if his certificate has not been verified by affidavit and it may do so even when the certificate has already been so verified, to satisfy itself that the summons was duly served.

Proclamation
attachment and
arrest in case of
non-attendance.

7. The Court, on being satisfied that the person the document in compliance with such summons without any lawful excuse and that his evidence or the document is material, may issue a proclamation requiring him to attend to give evidence or produce the document at a time and place to be named therein. Or, the Court may, in lieu thereof, or in addition to it, issue a warrant, with or without bail, for the arrest of such person and may make also an order for the attachment of his property to such an amount as it deems fit to cover the costs of the attachment and any fine which may be imposed for his failure to attend, not exceeding Rs. 500. (vide Order XVI, Rule 10, Code of Civil Procedure, 1908).

Fine.

8. Whenever such person appears and satisfies the Court that he did not, without lawful excuse, fail to comply with the summons, the Court may release the attachment or cancel the warrant of arrest, as the case may be. Where such person does not appear, or appears but fails to satisfy the Court that there was a lawful excuse for his absence, the Court may impose a fine, not exceeding Rs. 500 to be recovered by the attachment if not already effected) and sale of his property (Order XVI, Rule 12, Code of Civil Procedure, 1908).

Party witness.

9. It should be noted that, where a party to a suit is required to give evidence or produce a document, the provisions as to witnesses apply to him, so far as they are applicable.

Warrants against
Government
servants for non-
attendance.

10. The Judges wish to impress upon the Subordinate Courts the desirability of caution in issuing warrants of arrest against a person in Public Service, unless and until the Court is fully satisfied that he is willfully omitting to obey the summons. In most cases, it will produce the desired effect if a notice is issued to the person at fault to show cause why he should not be proceeded against under the penal provisions of Order XVI and the attention of the superior officer is drawn to the conduct of his subordinate. Of course, in cases of pronounced refractoriness, the

Courts can set the law in motion in any one or all of the forms, available to them.

11. In cases where proper service of summons has been effected but the witnesses fail to attend, either through negligence or in collusion with the party on whose behalf they have been cited, Civil Courts should use their powers to take penal action freely, and if parties are unwilling to take coercive action against their own witnesses, the issue of any further summons through the Court for their attendance should be refused. The Courts should also, where necessary, take action themselves against defaulting witnesses. The provisions of Order XVI, Rule 16, should be studied and used, and if parties refuse to make an application under Order XVI, Rule 16 (2), the Court may refuse to grant any further adjournment.
Non-attendance
duty of parties and
Courts.
12. When witnesses are in attendance, every effort should be made to record their evidence promptly and they should not be required, as far as possible, to attend again at any adjourned hearing. In the case of business men and Government servants, the Court should, if possible, give them some indication as to the hour when their evidence is likely to be recorded, so as to avoid their being detained on the Court premises longer than may be necessary.
Prompt disposal of
witnesses.
13. (a) In any case where a party to a suit wishes to prove the fact of a birth or death by reference to one of the registers of vital statistics he should be directed in the first instance to file a certified copy of the entry on which he relies. Civil Courts should refrain from summoning the clerks of Civil Surgeons' offices with the registers except where their presence is deemed absolutely necessary.
Summoning
Government
servants to prove
birth or death
entries.
(b) Similarly, the Court should not, without sufficient reasons, summon the origin records of Municipal Committees and Property Tax authorities where the purpose could be served by the production of certified copies of these public documents. Whenever it appears necessary to summon the original records, as for instance where signatures of a person on an application or plan etc; have to be proved, the courts should, as a rule, return the original record to the official producing the same soon after the witnesses relating to the document and present on that hearing have been examined. The original record should not be retained in court except under exceptional circumstances such as where the authority concerned has declined to give the party a duly certified copy or where the original document appears to have been tampered with.
Municipal
records.

Agreements
with rulers of
former Indian
States.

(c) In civil suits involving rights and property of Rulers of former Indian States, it often becomes necessary to prove the agreements respecting their accession to the Indian Union or their merger and integration into new political units. Such agreements with the Union Government are the acts of the sovereign authority and are therefore public documents within clause 1 (1) of section 74 of the Indian Evidence Act. These are also printed in "White Paper on Indian States", a Central Government publication and are therefore admissible under section 78 (1) of the Act. These agreements can also be proved by the production of certified copies under section 77 of the Act. A summons to the Government of India should therefore be avoided where all that is necessary is to prove the agreement. Apart from the trouble and expense involved to an officer of the Ministry concerned, there is risk of mishap to or loss of these valuable documents. The Courts should not therefore summon the original agreements except in very special circumstances as for example, where the direct testimony of an officer of the Ministry is necessary to elucidate any material point arising in the case.

PART B.—ATTENDANCE OF PATWARIS IN CIVIL COURTS

Officers presiding over Civil Courts should be careful to see that Patwaris are not summoned unnecessarily to give merely formal evidence regarding entries in the village records and annual papers, information as to which could be as well obtained from an inspection of the records in the District office or from an examination of the District Kanungo or Record-keeper. It should be remembered that Patwaris have very important duties to perform, and that the discharge of these duties should not be hindered by making them attend Court except when their examination as witnesses is really necessary. In view of these considerations, the following instructions are issued with the concurrence of the Financial Commissioners. The Court should see that every application for summoning a Patwari as a witness contains a note stating why a copy of the Revenue Record or an excerpt prepared by a Kanungo would not be sufficient and why the attendance of the Patwari is essential.

Patwari should not be summoned unless absolutely necessary.

2. Officers presiding over Civil Courts should not summon Patwaris (except in cases of great urgency) during the times when the principal crop girdawaris are going on, viz; ordinarily the months of March, April and October, (Financial Commissioners' Standing Order No. 22).
Summoning Patwari during girdawari season.
3. When a Civil Court requires the attendance of a Patwari at a time other than that above-referred to, such a Court should forward the summons to the Tahsildar of the Tahsil to which the Patwari belongs. The Tahsildars should serve the summons with as little delay as possible. A certificate should be furnished by the Court to every Patwari who attends in obedience to a summons, showing the date of his appearance before the Court and the date on which he was permitted to leave.
Channel of service and Court certificate.
4. When a Settlement is in progress, it is especially undesirable that Patwaris should be summoned to attend in the Civil Courts, and, when they are required to give evidence which cannot be obtained in the manner indicated in paragraph 1, this should usually be obtained by the issue of a Commission under Order XXVI, Rule 4 (1) (c), of the Code of Civil Procedure. Such Commissions should ordinarily be addressed to the Settlement Superintendent of the Tahsil; but any wish expressed on this point by the
Summoning during Settlement operations.

Settlement Officer should be responded to, and the period to be ordinarily allowed for the execution of a Commission should be arranged in consultation with him.

The Civil Court issuing the Commission should always note thereon the date to which the case has been adjourned, and the officer to whom the Commission is sent should then be careful either to return the Commission by that date, or to inform the Court, before such date, of the circumstances which will prevent the return of the Commission within the time fixed, and what further time will be required.

PART C.- REMUNERATION

1. Order XVI, Rule 2 of the Civil Procedure Code, requires that the party applying for a summons shall, before the summons is granted and within a period to be fixed by the Court, pay into Court such sum of money as appears to the Court to be sufficient to defray the traveling and other expenses of the person summoned in passing to and from the Court in which he is required to attend, and for one day's attendance. Government is exempt from the operation of this rule when applying for a summons for any of its own officers. In the case of witnesses summoned as "experts", the Court is authorized to allow remuneration in addition, for performing any necessary work of an expert character for the purposes of the case.
Payment of expenses by a Party: exception
2. According to Order XVI, Rule 3 of the Code, the sum so paid into Court shall, except in the case of a Government servant who is not entitled to receive such sums, be tendered to the person summoned at the time of serving the summons, if it can be served personally.
Expenses to be paid at the time of service.
3. (i) A Government servant shall not accept any subsistence allowance from the Court.
(ii) A Government servant who is required to give evidence in a Court situated ^[22][omitted] more then ^[23][8 Kilometers] from his headquarters may accept such actual traveling expenses as the Court may allow provided that he is not in receipt of permanent traveling allowance from Government.
(iii) A Government servant who is summoned to give evidence in a civil case to which Government is a party or in a Criminal Court may draw traveling allowance from Government as for a journey on tour provided that
(a) the facts as to which he is to give evidence have come to his knowledge in the discharge of his public duties,
(b) he attaches to his bill a certificate of attendance given by the Court, and (c) he does not accept any payment of his traveling expenses from the Court.
Any expenses which may be deposited in the Court for this purpose must be credited to Government under head "XXI-Administration of Justice-Miscellaneous Fees and Fines".
(iv) A Government servant or a Railway employee who is summoned to give evidence in a civil case to which government is not a party, of facts which come to his knowledge in the discharge of his public duties or to produce

official documents before the Court shall, subject to the provisions of rule 49 of Chapter 8-D, High Court Rules and Orders, Vol. II, be allowed by Court traveling expenses as for a journey on tour in accordance with the Traveling Allowance Rules applicable to him.

(v)A Government servant summoned to give evidence in circumstances other than those mentioned in clauses (iii) and (iv) may receive traveling expenses from the Court according to the scale to which he may be entitled by his status.

(vi)In the case of employees of the Central Government or a State Railway or any other Commercial Department of Government, however, sums deposited for diet money will be credited in the Treasury to the credit of the Government concerned, i.e. Central Railway or any other Commercial Department of Government, as the case may be.

The following is the proper head of account under which subsistence allowance etc; of Government servants of Himachal Pradesh and other states etc; should be deposited when they appear as witnesses in the Civil Courts in Punjab:
—

Serial No.	Classification of Employees	Head to which creditable
1	Employees of States other than Punjab State	S. Remittances Inter State Suspense A/C-A/C with State
2	Employees of Himachal Pradesh Government.	S. Remittance Central, H.P. Government suspense.
3	Employees of Central Government. Under the audit control of AGCR, New Delhi.	S. Remittances. Adjusting A/C between Central and Provincial Government A/C between Civil and Civil A/C between AGCR and Punjab III items adjustable by AGCR.
4	Employees of the Central Government under the audit Control of A.G. Punjab.	To the corresponding receipt head in the Central section of A/C of the Department of the Central Government to which the Government servant belongs.

- 4. Order XVI, Rule 4, empowers the Court to require a further sum to be paid in for the expenses of a witness, if the sum at first paid is found to be insufficient, or if the witness is detained for more than one day.
- 5. Order XVI, Rule 2 (3), provides that in fixing the scale of expenses to be allowed to witnesses, Subordinate Courts shall be guided by such rules as may be made by competent authority. The rules passed in connection with the scale of expenses are given in Appendix I to this Chapter.
- 6. When a summons is sent by a Court in one district for service through a Court in another district the expenses must be remitted by money order at the cost of the party taking out the summons. The practice of sending remittances by postage stamps should never be resorted to. The Court to which a remittance is made should be informed by letter, on the day on which application is made to the post Office for the Money order, and all necessary information should be furnished regarding the person or persons to whom the money is to be paid. The same procedure will apply when a summons issued by one Court in a district has to be served through the process serving agency of another Court within the same district.
- 7. In all cases in which an officer of Government is summoned to give evidence, the Court should give him a certificate in the prescribed form A given in Appendix II to this Chapter, specifying the dates on which the officer was required to attend and the amount, if any, paid to him by the Court. This certificate will be attached by the officer concerned to any traveling allowance bill which he may submit under the rule quoted above.
- 8. A process-server who is called upon in ex-parte proceedings to prove service of a summons by affidavit or statement in Court, is not entitled to any subsistence or other allowances for attendance. Such attendance must be regarded as the discharge of one of the ordinary duties of his office.

Further sum for expenses.

Scale of expenses.

Sending expenses by money order.

Court certificate in case of Government servants.

Expenses of process server.

APPENDIX I

The rules contained in this Appendix have been framed by the High Court under Order XVI, rule 2 (3), Civil Procedure Code. They are merely for the guidance of Courts and are not statutory.

I. The annexed scale of daily expenses for each witness or other person summoned to attend in the Civil

Courts of the Punjab is prescribed for general observance. These rates will be allowed not only for the period of actual attendance, but for any reasonable time spent in the journey to and from the place of sitting, the mode of conveyance available being taken into consideration.

2. The Presiding Officer of each Court will exercise his discretion in determining the class of each witness where this may be doubtful; and the remuneration fixed in respect to each class will be understood to be exclusive of the bonafide traveling expenses of the witness.

3. In estimating traveling expenses the amount allowed should cover the actual cost of the journey by the means of conveyance considered by the Court to be suitable to the person summoned with reference to the class under which he falls.

[24][RATES OF REMUNERATION TO BE PAID TO WITNESSES
ATTENDING THE CIVIL COURTS.

Class I: Eighteen Rupees per diem

All Commissioned Officers of Armed Forces, Distinguished personalities including Members of Parliament, Members of State Legislature and Members of Municipal Corporations, Chairman and Members of Corporate Bodies, Statutory Undertakings and Autonomous Organisations.

All Gazetted Class I and II officers of Central and State Governments, and officers of corresponding or comparable categories in the service of corporate Bodies, Semi-Government Undertakings and other statutory organizations.

Class II : Fourteen Rupees per diem

All non-gazetted Class III officials including ministerial employees of the Central and State Governments and those of comparable or corresponding categories in the employment of Corporate Bodies, Semi-Government Undertakings and other statutory Organisations.

Non-Commissioned and other ranks of the Armed Forces, members of the Panchayat Samaties, Zila Parishads, Municipal Commissioners, Sarpanches and Panches and well-to-do Zamidars and Tradesmen.

Class III : Ten Rupees per diem

All other persons not included in any of the classes.

(Note.- The rates in relation to the attendance of prisoner witnesses and escorts accompanying them, shall be regulated by the rules framed by the State Government under the Prisoners (Attendance in Court) Act, 1955 (Act No. XXXII of 1955).]

4.If in any case the highest rate of remuneration above prescribed appears to be insufficient, the Court may, for reason to be stated in writing, allow such remuneration exceeding ten rupees, but not exceeding fifty rupees per diem, as it may think fit. The discretion thus allowed should be used only in very special cases.

5.Registered Accountants as defined in Rule 12 of the Auditors' Certificate Rules, 1932, attending Civil Courts for giving expert evidence, should be paid fees ranging between Rs. 50 and Rs. 150 according to the professional standing of the witness, for each day spent in attendance or traveling, in addition to expenses for traveling.

Note.—The Auditors' Certificates Rules 1932, are published at page 299 of the Gazette of India, Part I, dated the 26th March, 1932.

For rules regulating applications for and payment of the services of the Government Examiner of Questioned Documents or the Finger Prints Expert at Phillaur, please see Chapter 9 of Volume IV, of High Court Rules and Orders.

APPENDIX II

(FORMS)

A.

Form of certificate to be given by the Court to an officer of Government summoned to give evidence at a Court.

In the Court of the.....in
the
..... District.

1. Certified that..... was summoned to give evidence in this Court in his public/private capacity in the case of..... and was required to attend for a period of days, that is from the to the.....19 .

To be cut
out when
nothing is
paid

**2. He was paid the following amounts in accordance with the rules of the Court:—

3. The amount of..... as his diet money has been recovered from the litigants and has been/ will be deposited in the local Treasury/Sub Treasury on (date).....

B

Detailed Statement of Subsistence Allowances and Compensation (apart from allowance for travelling expenses)

paid to Government Servants order of the†.....

• • • •

At.....during the quarter ending.....

• • • • •

19 . for attending as witnesses

in civil cases to which Government as not a party.

1	2	3	4	5	6	7
Date of payment	Court under whose order the payment was made	Name and official designation of witnesses	Amount paid	Nature of subsistence or compensation allowance	Nature of case and names of parties thereto	REMARKS
			Rs. np.			

*Here enter the name and official designation of the officer,

****Paragraph 2 is only required in the following cases, namely:-**

(1) in cases in which Government servants have to give evidence at a Court, situate not more than ^[25][8 Kilometers] from their headquarters, or in their private capacity actual travelling expenses incurred by them may, when the Court considers it necessary, be paid to them.

(2) A Government servant whose salary does not exceed Rs. 10 per mensem may receive his expenses from the Court.

Here insert the Court or Courts to which the return relates.

PART D.—COPYING AND SEARCH FEES PAYABLE TO BANKS
FOR PRODUCTION OF DOCUMENTS IN LAW COURTS.

- (1)On receipt of a summons addressed to a Bank requiring the production of documents or of certified copies of entries in books of account, the managing authority must arrange for the production of the documents or the copies by an official of the Bank qualified to give evidence thereon in accordance with the terms of the summons. Unless the documents or entries are incorrectly or insufficiently described in the summons, or are not in the possession of the Bank, the managing authority must comply with the summons, and will be liable to all the penalties prescribed for failure to comply with a summons, whether the rates fixed by the Court for search or copying fees are acceptable to him or not. Any representation regarding rates of diet money, etc; must be made to the Court, and dissatisfaction with these rates is no ground for refusing to obey the summons.
- (2)If the information given is not exact but is sufficient to enable the Bank to trace the documents by making a search, the Bank should communicate at once with the Court mentioning the amount of search fee it wishes to charge and wait for further orders. The Court will communicate with the party concerned and if the party deposits the search fee, it will ask the Bank to comply with the summons.
- (3)If no information Whatsoever is given in the summons or if the information given is not sufficient to enable the Bank to trace the document, the summons should be returned with a report to this effect.
- (4)Search fees will be fixed by the Court in proportions to the work involved. Rupees five may be taken as a fair amount for the search fee for a single document not easily accessible; but in the case of documents easily traced, such as cheques, the rate should be less; and when several documents of the same nature, such as cheques, have to be produced, the rate should be further reduced.
- (5)Copying fees for all documents other than entries in account books should be paid for at the Court rates.
- (6)Copying fees for certified copies of entries in account books will be paid at rupees five per ledger folio, part of ledger folio up to Rs. 20/- and Rs. 2-8-0 for each

Responsibility of managing authority for production of documents even if fees allowed insufficient.

Search fees.

Report if documents cannot be traced.

Scale of search fees.

Scale of copying fees.

Scale of copying fees.

ledger folio or part of a folio after the first four folios. Copying fees for all other documents not being ledger folios will be paid at the Court rates.

Prohibition
against
summoning
higher officers
of the Banks.

7. All Courts must scrutinize carefully all applications for summonses to Banks and should refrain from summoning the Banks' higher officers unless they are satisfied that their personal attendance is necessary.

PART E.-GOVERNMENT SERVANTS SUMMONED TO PRODUCE OFFICIAL DOCUMENTS

The following instructions have been issued by the government of India, Ministry of Home Affairs, to all State Governments and with minor modifications, have been circulated by the Punjab Government to all Heads of Departments, Commissioners of Divisions and Deputy Commissioners in Punjab—*vide*, letter No. 5591-J-54/ 20066, dated the 31st August, 1954, (Punjab High Court endorsement No. 11321-Genl/XX. C. 24, dated 15th September, 1954, to all District and Sessions Judges.)

1. The law relating to the production of unpublished official records as evidence in courts is contained in sections 123, 124 and 162 of the Indian Evidence Act, 1872 (Act 1 of 1872).
2. For the purposes of section 123 of the said Act, the expression 'Officer at the head of the department concerned' may be held to mean the officer who is in control of the department and in whose charge records of the department remain. Ordinarily such an officer would be the Secretary to the State Government in the case of State Governments and the Secretary, Additional Secretary or Joint Secretary in charge of the Ministry in the case of the Government of India. But in case of attached offices like Director of Industries, Punjab or Director of Agriculture, Punjab, the Director concerned may be regarded as 'the head of the Department' for the purposes of this Section. Only such an officer should be treated as the authority to withhold or give the necessary permission for the production of official documents in evidence. In case of Union territories the Chief Commissioner or the Lieutenant Governor, as the case may be, may be regarded as the head of department and not his Secretaries.
3. In respect of documents (1) emanating from a higher authority i. e. the Government of India, or the State Government, or which have formed the subject of correspondence with such higher authority, or (2) emanating from other Governments, whether foreign or members of the Commonwealth, the head of the Department should obtain the consent of the Government of India or of the State Government, as the case may be, through the usual official channels before giving permission to produce the documents in court or giving evidence based on them unless the papers are intended for publication or are of a purely formal or

routine nature, when a reference to higher authority may be dispensed with.

4. In the case of documents other than those specified in paragraph 3 above production of documents should be withheld only when the public interest would by their disclosure be injured, as where disclosure would be injurious to national defence, or to good diplomatic relations or where the practice of keeping a class of documents secret is necessary for the proper functioning of the public service. Some High Courts have pointed out the circumstances under which no such privilege should be claimed, e. g. privilege is not to be claimed on the mere ground that the documents are State documents or are official or are marked confidential or, if produced, would result in Parliamentary discussion in or public criticism or would expose want of efficiency in the administration or tend to lay a particular department of Government open to a claim for compensation. The mere fact that the head of the department does not wish the documents to be produced is not an adequate justification for objecting to their production. The High Courts have also observed that refusal to produce documents relating to affairs of State implies that their production will be prejudicial to public interest. Consequently the reasons therefore should be given in an affidavit in form I at the appropriate place.
5. In the case of doubt the head of the department should invariably refer to higher authority for orders.
6. These instructions apply equally to cases in which Government is a party to the suit. In such cases, much will depend on the legal advice as to the value of the documents but before they are produced in court, the considerations stated above must be borne in mind, and reference to higher authority made, when necessary.

6.-A. A Government servant other than the Head of a Department who is summoned to produce an official document should first determine whether the document is in his custody and he is in a position to produce it. In this connection, it may be stated that all official records are normally in the custody of the Head of the Department and it is only under special circumstances that an official document can be said to be in the custody of an individual Government servant. If the document is not in the custody of the Government servant summoned, he should inform the court accordingly. If, under any special circumstances, the document is in the custody of the Government servant

summoned, he should next determine whether the document is an unpublished official record relating to affairs of State and privilege under section 123 should be claimed in respect of it. If he is of the view that such privilege should be claimed or if he is doubted of the position should refer the matter to the Head of Department, who will issue necessary instructions and will also furnish the affidavit in form No. 1 in suitable cases. If the document is such that privilege under section 123 could not be claimed but if the Government servant considers that the document is a communication made to him in official confidence and that the public interest would suffer by its disclosure, he should claim privilege under section 124 in form No. 11. In case of doubt, he should seek the advice of the Head of the Department.

The expression 'Head of Department' used in this paragraph will have the same meaning as the expression 'Head of Department' in paragraph 2 of these instructions.

7. The Government servant who is to attend a court as a witness with official documents should, where permission under section 123 has been withheld, be given an affidavit in form 1 duly signed, by the head of the department in the accompanying form. He should produce it when he is called upon to give his evidence, and should explain that he is not at liberty to produce the documents before the court, or to give any evidence derived from them. He should, however, take with him the papers which he has been summoned to produce.
8. The Government servant who is summoned to produce official documents in respect of which privilege under section 124 has to be claimed, will make an affidavit in the accompanying form No. II. When he is not attending the Court himself to give evidence, he shall have it sent to the court along with the documents. The person through whom the documents are sent to court should submit the affidavit to the court when called upon to produce the documents. He should take with him the documents which he has been called upon to produce but should not hand them over to the court unless the court directs him to do so. They should not be shown to the opposite party.
9. The head of the department should abstain from entering into correspondence with the presiding officer of the court concerned in regard to the grounds on which the documents have been called for. He should obey the

court's orders and should appear personally, or arrange for the appearance of another officer in the court concerned, with the documents, and act as indicated in paragraph 7 above, and produce the necessary affidavit if he claims privilege.

FORM I

In the Court of

Suit No..... of 19

I,..... do hereby solemnly affirm and state as follows:—

A summons bearing No....., dated.....

issued by the Court of.....
in suit No..... of 196 (.....)
Vs) has been received
on..... 19, requiring production in the said
Court on..... 19, of documents
stated below. I, as the Head of the Department am in control
of, and in charge of, its records. I have carefully considered
the relevant documents and have come to the conclusion
that they are unpublished official records relating to affairs of
State and their disclosure will be prejudicial to public
interest for the following reasons:—

*(here insert the name, designation and address of the
person making the affidavit).

LIST OF DOCUMENTS SUMMONED

I do not, therefore, give permission to anyone under
section 123 of the Indian Evidence Act, 1872, to produce the
said documents or to give any evidence derived therefrom.

Solemnly affirmed at this day of 19.

*Name and Designation of the Person Making
the Affidavit.*

FORM No. II

FORM OF AFFIDAVIT

In the High Court of

Suit No.....of 19 .

I, *
.....do hereby solemnly affirm and state as follows:—

A summons bearing No.....
dated..... issued by the Court
of.....in suit No.
of 196 . (..... Vs.....)
has been served on me on..... 19 requir-
ing production in the said court on..... 19 of the
documents stated below. I have carefully considered them and
have come to the conclusion that they contain
communications made in official confidence and I consider
that the public interest would suffer by their disclosure for the
following reasons.

*Here insert the name, designation and address of the
person making the affidavit.

LIST OF DOCUMENT SUMMONED

I, therefore, claim privilege under section 124 of the Indian
Evidence Act, 1872.

Solemnly affirmed at
day of..... 19 .

(Here write the name and designation of the officer making
the affidavit.)

Sworn before me.-

CHAPTER 6

Suits by or against persons in Military Service.

PART—A. AMENABILITY TO THE CIVIL COURTS OF PERSONS
SUBJECT TO MILITARY LAW.

1. All persons belonging to the Armed Forces are now amenable to jurisdiction of ordinary Civil Courts subject to certain restrictions as regards their personal appearance in Court and execution of decree against their persons, pay and allowances and military equipment.

Jurisdiction of Civil Courts.
2. A Memorandum, drawn by the Government of India, showing the legal position of persons belonging to Army Officers. the Armed Forces in the matter of arrest for debt, attachment of their pay and allowances and priority in disposal of litigation involving them, is attached as an appendix at the end of this Chapter. This Memorandum is only for the guidance of the civil courts. This memorandum is not applicable to the personnel of Indian Navy who continue to be governed by the Memorandum issued with the Government of India, late Home Department letter No. F. 311/37-Judicial, dated the 29th July, 1937, as amended by letter No. 113/37—Judicial, dated the 29th May, 1939 (Appendix to Chapter 6—A of the 1942 edition of High Court Rules and Orders, Volume 1)

Execution Against army Officers.
3. Attention is also invited to clause (j) of the proviso to sub-section (1) of section 60, of the Code. The pay and allowances of persons to whom the Air Force Act, 1950 or the Army Act, 1950, applies or of persons other than commissioned officers to whom the Indian Navy (Discipline) Act, 1934, applies are exempted from attachment in execution of decrees of civil Courts.

Exemption from attachment of Pay and Allowances.
4. When any officer or soldier actually serving Government in military capacity is a party to a suit and cannot obtain leave of absence for prosecuting or defending a suit, he can appoint some other person to act on his behalf by an authority in writing given in the manner prescribed in Order XXVIII of the Code of Civil Procedure.

Authority for conducting litigation.

In the case of Indian Officers or soldiers the following form has been prescribed for the authority in writing.

"Whereas I (name) Inhabitant of village
Paragunnah in the district of son of.....
.....the caste of.....
.....at present rank

in..... Company

.....

Regiment.....stationed at.....

..... having occasion to institute (or defend) an action for (nature and object of suit and name of adverse party), do hereby nominate and appoint (name, residence and caste and relationship, if any) to be my attorney and I bind myself to abide by whatever he, the said attorney may do in my behalf, in the prosecution (or defence) of the said suit. The said attorney will either prosecute (or defend) the suit in person or will appoint one or more of the authorised Vakils of the Court to prosecute (or defend) the same under the instructions of the said attorney as he may think proper. In the event of an appeal being preferred from the Judgement passed in the suit the said attorney is hereby empowered to act for me on the appeal in a like manner as in the original suit.

Signed in my presence.

Signature

O.C."

(*Vide* Paragraph 285, Regulations for the Army in India, 1927)

A power of attorney to institute or defend a suit executed as above is not chargeable with Court fee (*vide* section 19, clause (1) of the Court fees Act, 1870).

Service of Processes.

5. As regards service of processes on officers and soldiers, see Order V, Rules 28 and 29 of the Civil Procedure Code, 1908 and Rules and Orders Volume IV, Chapter 7, Processes (Civil).

Speedy disposal
of cases.

6. Civil Courts should dispose of all suits, for the prosecution or defence of which officers, soldiers or reservists have obtained leave of absence as speedily as is consistent with the administration of justice, irrespective of the order in which they stand on the register.

Priority certificate,
Extension of leave
by Court.

7. When a person subject to the Army Act, 1950, or the Air Force Act 1950, obtains or applies for leave of absence for the purpose of prosecuting or defending a civil suit, he is provided by his Unit Commander with a certificate to enable him to obtain priority of hearing (I. A.F. D. 902). This certificate must be presented by him in person to the Court. If the case cannot be disposed of within the period of leave granted, the civil officer concerned may grant leave for such period as will admit of the receipt of a reply to an application to the Unit Commander for the necessary extension of leave. The civil officer will atonce report to the Unit Commander any grant of leave sanctioned by him. (See paragraph 288, Regulations for the Army in India, 1927).

CHAPTER 6-A.

APPENDIX

(Referred to in Para 2)

Memorandum showing the Legal position of persons belonging to the armed forces in the matter of arrest for debt, attachment of their pay allowances and priority in disposal of litigation involving them.

1. Cases have occurred where Civil Courts have issued orders attaching the pay and allowances of persons belonging to the Armed Forces. There have also been cases of delay by courts in the hearing and final disposal of cases involving such persons. The intention of this memorandum is to state in simple terms the existing provisions in regard to exemption from arrest for debt and attachment of pay and allowances and other property of persons belonging to the Armed Forces and the priority to be given by Civil Courts for the hearing and final disposal of any suits or other proceedings in which they may be involved.
2. The privileges granted to such persons by the Army and Air Force Act, 1950 (Acts XLVI and XLV of 1950 respectively) are detailed below. These rights and privileges are in addition to any other rights and privileges conferred by any other law for the time being in force.
3. (a) *Immunity from attachment.*—Under Sec. 28 of the Army/Air Force Act, no arms clothes, equipment, accountrements or necessities of any person subject to either of these Act nor any animal used by him for the discharge of his duties can be seized, nor can his pay and allowances or any part thereof be attached by direction of any civil or revenue court or any revenue officer in satisfaction of any decree or order enforceable against him.

(b) *Immunity from Arrest for debt.*—Sec. 29 of the Army/Air Force Act provides that no person subject to either of these Acts, so long as he belongs to the Armed Force, can be arrested for debt under any process issued by, or by the authority of a civil or revenue court or a revenue officer. Where, inspite of the above any such arrest is made, the court of the revenue officer concerned on receipt of a complaint by such person or by his superior officer to that effect, may discharge him and award reasonable costs to the complainants. The costs may be recovered

in like manner as if they were awarded to him by a decree against the person obtaining the processes. No court fees are payable for the recovery of such costs.

(c)*Immunity of persons attending courts martial from arrest.*

—Under Section 30 of the Army/Air Force Act, no presiding officer or member of a court martial, no Judge advocate, no party to any proceedings before a court martial, or his legal practitioner or agent, and no witness acting in obedience to a summons to attend a court martial while proceeding to, attending or returning from, a court martial is liable to be arrested under civil or revenue process. If any such person is arrested under any such process, he may be discharged by order of the court martial.

(d)*Priority in respect of Army Air Force personnel's litigation.*

—Under Section 32 of the Army/Air Force Act on the presentation to any court by or on behalf of any person subject to either of these Acts of a certificate, from the proper military/air force authority, of leave of absence having been granted to or applied for by him for the purpose of prosecuting or defending any suit or other proceeding in such court, court shall on the application of such person, arrange, so far as may be possible, for the hearing and final disposal of such suit or other proceedings within the period of the leave so granted or applied for.

The certificate from the proper military air force authority shall state the first and last day of the leave or intended leave and set forth a description of the case with respect to which the leave was granted or applied for. No fee is payable to the court in respect of the presentation of any such certificate, or of any application by or on behalf of any such person, for priority for the hearing of his case. Where the court is unable to arrange for the hearing and final disposal of the suit or other proceeding within the period of such leave or intended leave as aforesaid, it shall record its reason for its inability to do so, and shall cause a copy thereof to be furnished to such person on his application without any payment whatever by him in respect either of the application for such copy or the copy itself. If in any case a question arises as to the proper Military/air force authority qualified to grant such certificated as aforesaid, the court shall refer the question at once through the authority granting the certificate to---

- (i) An officer having power not less than a Brigadier or equivalent commander in the case

6-A

of military personnel;

- (ii) an officer having power not less than a group commander or equivalent commander in respect of air force personnel.

The decision of the officer so referred to shall be final.

4. Persons subject to the Army and Air Force Act who are entitled to the privileges mentioned above are detailed in Sections 2 and 31 of those Acts. They are-

- (a) Officers, Junior Commissioned officers and warrant officers of the Regular Army and Officers and warrant officers of the Air Force;
- (b) Persons enrolled under the Army or the Air Force Acts;
- (c) Persons belonging to the Indian Reserve Forces or Air Force Reserve when called out for, or engaged in, or returning from, training or service;
- (d) persons belonging to the Indian Supplementary Reserve Forces when called out for service or when carrying out the annual test;
- (e) Officers of the Territorial Army when doing duty as such officers;
- (f) enrolled persons of the Territorial Army when called out or embodied or attached to any regular forces;
- (g) Persons holding commissions in the Army in India Reserve of Officers and officers appointed to the Regular Reserve of Officers when ordered on any duty or service for which they are liable as such members;
- (h) persons belonging to the Indian Air Force Volunteer Reserve in the circumstances specified in section 3 of the Indian Air Force Volunteer Reserve (Discipline) Act, 1939 (XXXVI of 1939).
- (i) persons not otherwise subject to military/air force law, who on active service, in camp on the march, or at any frontier post specified by the Central Government are employed by, or are in the service of or are followers of, or accompany any portion of the Regular Army Air Force.

PART B:—THE INDIAN SOLDIERS' LITIGATION ACT, 1925.

1. An 'Indian soldier' is defined in the Indian Soldiers' Litigation Act, 1925, as a person subject to the Army Act 1950 or the Air Force Act 1950. Section 3 defines the circumstances in which an Indian Soldier shall be deemed to be serving "under special conditions". According to Section 6, when a court (Civil or Revenue), has reasons to believe that a party to a suit before it is an Indian soldier who is not duly represented and is unable to appear, it must give notice thereof to the 'prescribed authority' in the 'prescribed manner' and suspend proceedings in the meantime. If the 'prescribed authority' certifies that the soldier is serving under "special conditions" the case must be postponed. Section 10 confers power on the Court to set aside decrees and orders passed against an Indian soldier serving under 'War' or 'special conditions' in certain circumstances. Section 11 permits the period spent in such service to be deducted from the normal period of limitation, except in the case of pre-emption suits. For the purposes of section 10 and Section 11, the Court may refer the question as to whether a soldier has been serving under 'special or 'War conditions' to the prescribed authority, and certificate granted by that authority is conclusive on the point.

Explanation of various sections

2. The rules framed by the Central Government under section 13 of the Indian Soldiers (Litigation) Act, 1925, are given in the following notification:—

Rules under the Act.

DEFENCE DEPARTMENT

Simla, the 14th May, 1938.

No. 455—In exercise of the powers conferred by Section 13 of the Indian Soldiers' (Litigation) Act, 1925 (IV of 1925), the Central Government after consulting the High Courts concerned, is pleased to make the following rules, namely:-

1.(1) These rules may be called the Indian Soldiers (Litigation) Rules, 1938.

* (2) They extend to the whole of India.

2.(1) In these rules, 'the Act' means the Indian Soldiers (Litigation) Act, 1925, (IV of 1925).

Definitions.

*Added by Government of India, Defence Department Notification No. 1864, dated the 11th November, 1941, and then amended on the lines of Adaptation of Laws Order, 1950, and the Part B States (Laws) Act, 1951, (No. III of 1951) and Act 62 of 1956.

(2) All words used herein and defined in the Act shall be deemed to have the meanings respectively attributed to them by the Act.

Prescribed authority.	^[26] 3. The prescribed authority for the purposes of sub clause (iv) of clause (b) of section 3 and section 6, 7 and 8 of the Act shall be the Authority competent to sanction leave of absence to an Indian Soldier.
Form of Collector's certificate.	4. The certificate given by a Collector under section 5 of the Act shall be in Form A of the Schedule.
Notice by Court	5. ^[27] [(1) The notice given by the Court under section 6 of the Act shall be in Form B of the Schedule and shall be sent:- (a) In the case of persons subject to the Army Act, 1950, to the prescribed authority, care of the General Officer Commanding-in-Chief of the Command in which the court is situated; and (b) In the case of persons subject to the Air Force Act, 1950, to the prescribed authority, care of the Assistant Chief of the Air Staff (Personnel) Air Headquarters, New Delhi.
Certificate as to that postponement not required.	(2) The certificate of the prescribed authority under section 7 of the Act, shall be in Form C of the Schedule.] 6. If at any time it appears to the prescribed authority that the circumstances in which he certified to the Court under Section 7 of the Act that a postponement of the proceedings was necessary in the interests of justice, no longer exist, he shall forthwith certify to the Court to that effect in Form D of the Schedule.
Postponement by Court.	7. On receipt of a certificate from the prescribed authority under section 7 of the Act that a postponement of the proceedings is necessary in the interests of Justice the court shall postpone the proceedings until the receipt of a certificate in Form D from the prescribed authority or until the soldier is represented in the proceedings by some person duly authorised to appear, plead or act in his behalf.
Prescribed authority.	8. ^[28] [The prescribed authority for the purposes of section 12 of the Act shall be:- (a) In the case of persons subject to the Army Act 1950, the General Officer Commanding-in-Chief of the Command in which the court is situated; and (b) In the case of persons subject to the Air Force Act, 1950, the Assistant Chief of the Air Staff (Personal), Air Headquarters, New Delhi.]

SCHEDULE

FORM A.

(See rule 4)

Collector's certificate under section 5 of the Indian Soldiers (Litigation) Act, 1925.

From

The Collector,
District.....

.....

To

.....
.....

.....

In re..... No.....of 19 .

.....

Versus

.....

No..... , dated.....

Sir,

I HAVE the Honour to certify under section 5 of the Indian Soldiers (Litigation) Act, 1925 (IV of 1925), that I have the reason to believe that son of....., who is an Indian soldier ordinarily residing in my district and who is a party in the above mentioned (enter suit, appeal application of other proceedings) now pending in (enter name of court) is unable to appear therein.
Yours faithfully,

Collector.

(2) It should be addressed in the case of High Court, to the Registrar of the Court, or in the case of a Board of Revenue to the Secretary of such Board, or in the case of a Financial Commissioner, to the Clerk of the Court, or in other cases to the Presiding Officer of the Court.

Notes.—(1) This Certificate should be sent by post in a registered cover or by hand and an acknowledgement should be obtained for it.
*schedule, as substituted by Government of India, Defence Department, Notification No. 540, dated the 5th April, 1941.

FORM B.

(See Rule 5)

Notice under section 6 of the Indian Soldiers (Litigation) Act, 1925.

In the.....

.....No.....of.....

.....

Versus

.....

To

The ^[29][Prescribed Authority %][Care of the
General Officer Commanding-in-Chief..... Command.
the Assistant Chief of the Air Staff (Personnel), Air Headquarters, New Delhi.]

Please take notice ^[30][that @][upon the certificate of the
Collector of under Section 5 of the Indian Soldiers (Litigation)
Act, 1925 (IV of 1925)][having had reason to believe]* that.....
....., son of..... an Indian
Soldiers who is a party in the above-mentioned proceeding now
pending in this Court and is not represented by any person duly
authorised to appear, plead or act on his behalf, is unable to
appear therein, this Court has, under section 6 of the said Act,
suspended the proceedings, if within the period prescribed in
section 8 of the said Act, no certificate is received from you under
section 7 thereof, the Court will, if it thinks fit, continue the pro-
ceeding.

Given under my hand and the seal of the Court, this the
..... day of..... 19 ..

Presiding Officer of the Court Registrar.

^[31] [Note.— Note.—This notice should be sent by post in a registered cover, or by hand, and an acknowledgement should be obtained for it.

*Strike out whichever is not applicable.

% The prescribed authority is the authority competent to sanction leave of absence to an Indian Soldier. On receipt of the notice from the Court, the General Officer Commanding-in-Chief/Assistant Chief of the Air Staff (Personnel) (as the case may be) shall cause the notice to be forwarded, as soon as possible to the authority competent to sanction leave of absence to the Indian Soldier concerned. The time limit within which the prescribed authority certificate should reach the court is two months in the case of a soldier resident in the district in which the court is situated, and three months in other cases. (Section 8 of the Indian Soldiers (Litigation) Act, 1925, refers).

@ The service number, rank, full name, and unit of the Indian Soldier or such full service particulars as are known to the Court should be stated.]

B.

FORM C.

(See Rule 5).

*Certificate under section 7 of the Indian Soldiers
(Litigation) Act, 1925.*

From

[32] [-----

-----]

.....No of 19.....

.....

Versus

.....

No.....,dated.....

Sir,

I HAVE the honour to acknowledge receipt of your notice dated....., under section 6 of the Indian Soldiers (Litigation) Act, 1925 (IV of 1925), in the above mentioned proceeding, and to certify under section 7 of the said Act that son of, in respect of whom the above mentioned notice has been given, is serving under special conditions and that a postponement of the proceeding in respect of that soldier is necessary in the interest of justice.

Yours

faithfully,

[17][Prescribed Authority].

Notes.—(1) This certificate should be sent by post in a registered cover or by hand, and an acknowledgement should be obtained for it.

(2) It should be addressed in the case of a High Court, to the Registrar of the Court, or in the case of a Board of Revenue to the Secretary of such Board, or in the case of a Financial Commissioner, to the Clerk of Court, or in other cases to the Presiding Officer of the Court.

FORM D.

(See Rule 6).

*Certificate under rule 6 of the Indian Soldiers (Litigation) Ruls,
1938.*

From

.....
.....
.....

To

.....
.....
.....

In re.....No.....of 19.....
....

Versus

.....

No....., dated.,.....

.....

Sir,

I HAVE the honour to invite a reference to my letter No.....
....., dated....., and to certify
under rule 6 of the Indian Soldiers (Litigation) Rules, 1938. that
circumstances no longer exist for the postponement of the above
mentioned (enter suit appeal, application or other proceeding),
now pending in (enter name of court), wherein
....., son of.....an Indian Soldier, is a party.

Yours faithfully,

^[33]*/Prescribed Authority/*.

Notes.—(1) This certificate should be sent by post in a registered cover, or by hand, and an acknowledgement should be obtained for it.

(2) It should be addressed, in the case of a High Court, to the Registrar of the Court, or in the case of a Board of Revenue to the Secretary of such Board or in the case of a Financial Commissioner, to the Clerk of the Court or in other cases to the Presiding Officer of the Court.

PART C. — PROCEEDINGS WITH RESPECT TO SUCCESSION
CERTIFICATES.

As some doubt and difference of opinion existed in connection with the application of Sections 5 and 6 of the Indian Soldiers' Litigation Act, 1925, to cases for the grant of succession certificates under the Indian Succession Act, 1925 (No. XXXIX of 1925), the following instructions have been issued for the guidance of subordinate Courts.

- (1) A "party to any proceeding" is a person actually impleaded e.g., a plaintiff or defendant or an appellant or respondent—and the phrase does not include persons named under section 372, sub section (1), clause (c) of the Indian succession Act, 1925, in an application for the grant of a certificate until the Court has, by order under Section 373 (1) (a) of that Act, expressed the opinion that special notice of the application should be given to them. Party to a proceeding.
- (2) When the Court finds that a person falling under clause (c) of Section 372 (1) aforesaid , is an Indian soldier serving under special or War conditions, and there is no special and obvious reason for suspecting the good faith of the members of the family actually applying for the certificate, the Court should declare that, in the circumstances, it is unnecessary to make the soldier a party to the proceeding or to issue notice to him; but in such cases the Court should always demand security under section 375 of the Act. If, on the other hand, there is any good reason to suspect the good faith of the applicant, then he should be required to get a power of attorney from the absent soldier or some written assurance from him that he does not object to the application. Notice to Soldiers under section 6 of the Succession Act.

CHAPTER 7

Suits by Aliens and by or against Rulers, Ambassadors, Envoys etc.

1. The Code of Civil Procedure (Amendment) Act, 1951 (No. II of 1951) has substituted new Sections 83 to 87B in the Code for the old sections 83 to 87. The changes made in the law on the subject should be carefully studied.

Changes in Law.
2. (1) Alien friends may sue in any court of competent jurisdiction as if they were citizens of India. Alien enemies can also sue in the like manner but with the permission of the Central Government Provided they are residing in India. Every person residing and carrying on business without a licence of the Central Government in a foreign country at war with India, is for this purpose, deemed to be an alien enemy residing in a foreign country (Section 83).

Aliens.
- (2) The Provisions in this part of the Code are silent as to suits against aliens, whether friends or enemies. Such suits would be governed by the general provisions of Civil Procedure Code.
3. (1) Any 'foreign State' can sue in a competent court in India to enforce a private right vested in the Ruler or in any of its officers in his public capacity. (Section 84.) The Central Government can appoint recognised agents for such Foreign Rulers by whom appearances, acts and applications under the Code may be made on behalf of such Ruler. The appointment can be for a specified suit or suits or for all such suits in which the Ruler may be a party. A recognised agent so appointed by the Central Government can authorise or appoint any other person to perform the above acts as if he were himself a party to such suit (s) (Section 85).

Foreign States and Foreign Rulers.
- (2)No Ruler of a Foreign State may however be sued except with the consent of the Central Government certified in writing by a Secretary to that Government. Exception is however made in cases of suits field by a person as a tenant of immovable property against his Ruler landlord [Section 86 (1)]. The grant of the permission by the Central Government is governed by the conditions laid down in sub-section (2) of section 86.

Ditto
- (3)A ruler of a foreign State cannot be arrested under the Civil Procedure Code. A decree can be executed against his property; but only with the consent of

Immunity from arrest etc.

the Central Government certified in writing by one of its Secretaries [Sub-Section (3) of Section 86.]

Ambassadors etc.	(4) Ambassadors and Envoys of foreign State and High Commissioners of Commonwealth countries and their specified staff enjoy the same immunity from process of Civil Courts as Foreign Rulers enjoy under Section 86 of the Code [Sub Section (4) of section 86.]
Definitions.	(5) Expressions 'Foreign State' and 'Ruler' in relation to such a State have been defined in section 87 of the Code. A Foreign State and Ruler of such a State require recognition by the Central Government and every court shall take judicial notice of the fact whether a State has or has not been so recognised and as to who has been recognised for the time being, as the head of the state.
Former Indian Rulers	4. (1) The immunities and privileges extended to Rulers of foreign States under Section 85 and sub-sections (1) and (3) of section 86 are enjoyed by Rulers of those former Indian States which may, by notification in the Official Gazette, be specified for the purpose. The expression 'former Indian State' and 'Ruler' in relation to such a state are again defined in section 87 B of the Code.
Notification under section 87B of the Code of Civil Procedure.	(2) A notification issued by the Central Government specifying the former Indian State for the purposes of clause (a) of sub-section (2) of section 87 B of the Code is reproduced in the Appendix to this Chapter.
Exemption from. personal appearance in Courts.	5. The persons entitled to exemption from personal appearance in Courts are specified in section 133 (1) of the Code of Civil Procedure as substituted by Act No. 66 of 1956. The persons to whom section 87B applies are also entitled to this exemption.

APPENDIX

[Paragraph 4 (2)]

Notification under
section 87B of
the Code.

*[Published in the Gazette of India (Extraordinary)
Part II, section 3, dated the 1st April, 1951]*

Ministry of States, notification No. S.R.0.468, dated the 1st April 1951.

In pursuance of clause (a) of sub-section (2) of section 87B of the Code of Civil Procedure, 1908 (Act B of 1908), the Central Government hereby specifies the former Indian States mentioned in the Schedule hereto annexed for the purposes of the said section.

The Schedule

1. Athgarh	44. Pataudi
2. Athmalik	45. Banganapalle
3. Bamra	46. Pudukkottai
4. Baramba	47. Sandur
5. Baudh	48. Ambaliara
6. Bonai	49. Balasinor
7. Daspalla	50. Bansda
8. Dhenkanal	51. Baria
9. Gangpur	52. Bhaderwa
10. Hindol	53. Cambay
11. Kalahandi	54. Chhotta Udepur
12. Keonjhar	55. Danta
13. Khandpara	56. Dharampur
14. Mayurbhanj	57. Ghodasar
15. Narsinghpur	58. Idar
16. Nayagrah	59. Ilol
17. Nilgiri	60. Jambughoda
18. Pal Lahara	61. Jawahar
19. Patna	62. Khadal
20. Rairakhol	63. Katosan
21. Ranpur	64. Lunawada
22. Sonapur	65. Malpur
23. Talcher	66. Mohanpur
24. Tigiria	67. Mansa
25. Kharsawan	68. Palanpur
26. Seraikella	69. Punadra
27. Nandgaon	70. Radhanpur
28. Bastar	71. Ranasan
29. Kanker	72. Rajpipla
30. Udaipur(Madhya Pradesh)	73. Sachin
31. Sakti	74. Sant
32. Chhuikhadan	75. Sudasna
33. Raigarh	76. Surgana
34. Kawardha	77. Valasna
35. Sarangarh	78. Varsoda
36. Korea	79. Vasna
37. Khairagarh	80. Vijayanagar
38. Surguja	81. Wao
39. Jashpur	82. Sanjeli
40. Changbhakar	83. Tharad
41. Makrai	84. Vakhtapur
42. Loharu	85. Likhi
43. Dujana	86. Mandwa
	87. Dehrota

88.	Hapa	134	Jaora
89.	Sathamba	135	Jhabua
90.	Umeta	136	Jobat
91.	Magodi	137	Kathiwara
92.	Pelaj	138	Khilchipur
93.	Tajpuri	139	Kurwai
94.	Kurundwad (Senior)	140	Narsingharh
95.	Kurundwad (Junior)	141	Rajgarh
96.	Akalkot	142	Ratlam
97.	Savanur	143	Sailana
98.	Miraj (Senior)	144	Sitamau
99.	Miraj (Junior)	145	Mathwar
100.	Mudhol	146	Piploda
101.	Phaltan	147	Pathair
102.	Sangli	148	Muhammadgarh
103.	Aundh	149	Nimkhera
104.	Ramdurg	150	Jamnia
105.	Bhor	151	Rajgarh
106.	Jamkhandi	152	Khaniadhana
107.	Jath	153	Alwar
108.	Sawantwadi	154	Bharatpur
109.	Wadi Jagir	155	Dholpur
110.	Jangira	156	Karauli
111.	Baroda	157	Banswara
112.	Kolhapur	158	Bundi
113.	Tehri Garhwal	159	Dungarpur
114.	Benaras	160	Jhalawar
115.	Rampur	161	Kishengarh
116.	Cooch Behar	162	Kotah
117.	Patiala	163	Mewar
118.	Kapurthala	164	Partabgarh
119.	Nabha	165	Shahpura
120.	Jind	166	Tonk
121.	Faridkot	167	Jaipur
122.	Kalsia	168	Jaisalmer
123.	Nalagarh	169	Bikaner
124.	Malerkotla	170	Jodhpur
125.	Travancore	171	Lawa
126.	Cochin	172	Kushalgarh
127.	Gwalior	173	Nirmrana
128.	Indore	174	Sirohi
129.	Alirajpur	175	Nawanagar
130.	Barwani	176	Bhavanagar
131.	Dewas (Senior)	177	Porbandhar
132.	Dewas (Junior)	178	Dhurangadhra
133.	Dhar	179	Morvi

271 Jigni
272 Kamta Rajaula
273 Kothi
274 Lugasi
275 Naigawan Rebai
276 Pahara
277 Paldeo (Nayagaon)

278 Sarila
279 Sohawal
280 Taraon
281 Tori Fatehpur
282 Hyderabad
283 Mysore
284 Jammu and Kashmir

180	Gondal	225	Bahji
181	Jafrabad	226	Kuthar
182	Wankarnor	227	Kumarsain
183	Palitana	228	Baghal
184	Dhrol	229	Mangal
185	Limbdi	230	Kunihar
186	Rajkot	231	Darkoti
187	Wadhwa	232	Sangri
188	Lakhtar	233	Beja
189	Sayla	234	Delath
190	Chuda	235	Ratesh
191	Vala	236	Rawingarh
192	Jasdan	237	Dhadi
193	Amarnagar(Thana Devli)	238	Ghund
194	Vadia	239	Khaneti
195	Lathi	240	Madhan
196	Muli	241	Theog
197	Bajana	242	Koti
198	Virpur	243	Bhopal
199	Malia	244	Bilaspur
200	Kotda Sangani	245	Kutch
201	Jetpur	246	Tripura
202	Bilkha	247	Manipur
203	Patdi	248	Ajaigarh
204	Khirasra	249	Baoni
205	Vanod	250	Baraundha
206	Barwala	251	Bijawar
207	Katodia	252	Chhatarpur
208	Lodhika	253	Charkhari
209	Vasavad	254	Datia
210	Jalia Devani	255	Maihar
211	Zainabad	256	Nagod
212	Vithalagadh	257	Orchha
213	Tharoch	258	Panna
214	Chamba	259	Rewa
215	Mandi	260	Samthar
216	Suket	261	Alipura
217	Keonthal	262	Banka Pahari
218	Sirmur	263	Beri
219	Bhagat	264	Bhaisaunda
220	Balsan	265	Bihat
221	Bashahr	266	Bijna
222	Jubbal	267	Dhurwai
223	Mahlog	268	Garrauli
224	Dhami	269	Gaurihar

CHAPTER 8

SUITS BY OR AGAINST THE GOVERNMENT AND PUBLIC
OFFICERS IN THEIR OFFICIAL CAPACITY.

- 1.ORDER XXVII, Rule 5 of the Code of Civil Procedure prescribes that in fixing the date for the hearing of a suit against the Government, the Court shall allow a reasonable time for the necessary communication with the department concerned through the proper channel. The period required will depend upon circumstances, and no invariable rule can be laid down on the point, but in most cases a period of two months will probably be suitable.

Dates
- 2.(i) In fixing the period in any case , the representations of the officer who receives the summons or who is conducting the case on behalf of the Government should meet with due consideration, as the Code of Civil Procedure clearly contemplates that reference to Government, through the proper departmental channel, involving a certain delay shall be allowed for, and an extension of time should be given on reasonable cause being shown but, on the other hand, the Civil Courts should be cautious to prevent undue delays, in these as in all other classes of suits.

Extension of time.
- (ii) Cases in which Government Departments are concerned and in which officials have to attend, should be disposed of promptly, care being taken to give due notice, where it is necessary for any reason to adjourn the case.

Priority.
- 3.It should further be remembered that Section 80 of the code of Civil Procedure provides that no suit shall be instituted against the Government or a Public Officer in respect of an official act, unless two month's notice has been given of the intention to bring such suit, and that the plaint must contain a statement that such notice has been duly given. Plaints of the nature indicated above which do not contain the required statement, should not be accepted, but should be returned for amendment or be rejected according as it may appear from the statement of the person presenting the plaint that notice has or has not been given.

Two months notice before institution of suit.
- 4.The changes effected in Section 79 of the Civil Procedure Code by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948, and

Trials of case and persons to whom notice is to be given.

Adaptation of Laws Order, 1950 as to the authority to be named as plaintiff or defendant in suits by or against the Government and in section 80 of the Code by the Code of Civil Procedure (Amendment) Act, 1948, (No. VI of 1948) as to the person to whom notice is to be given in suits intended to be instituted against the Government or against a Public Officer should be borne in mind.

Now, in a suit by or against the Central Government, the Union of India, should be named as the plaintiff or defendant, and in a suit by or against a State Government, the State should be named as plaintiff or defendant. A notice in writing under section 80 C.P.C. has to be delivered to or left at the office of Secretary to the Government when the suit is against the Central Government but where it relates to a railway the notice has to be delivered or left at the office of the General Manager of that railway. In the case of a suit against a State Government the notice has to be delivered to or left at the office of a Secretary to the Government or the Collector of the district.

Definition of
Government and
Govt. Pleader.

5. The provisions of Rule 8-B of Order XXVII, of the code of Civil Procedure, which defines the terms, 'Government' and 'Government Pleader' for the purposes of that orders, may be carefully studied.

Hearing of suits
etc. against the
Government..

^[34]6. To avoid delays in the disposal of suits and proceedings against the Government and to prevent inconvenience the Law Officers of the following directions should be observed:—

Priority.

(1) Suits and proceedings in which Government is a party should be given priority of hearing; and such cases should, when possible, be heard continuously until completion; and

Timely notice
of
adjournment.

(2) If a date is fixed in a suit affecting the Government, and the Court is not prepared to hear the case on that date, timely notice if necessary by telegram, should be given to the Law Officer concerned by the Court.]

Decree against
Government etc.
shall specify time
for satisfaction.

7. Where in a suit by or against the Government or a public officer in his official capacity a decree is passed against the Union of India or the State or as the case may be, the public officer; ^[35][The execution shall not be issued on any such decree unless it remains unsatisfied for the period of three months computed from the date of such decrees] (Section 82) As regards

the execution of such decrees see paragraph 7 of Chapter 12-C.

8. The following notifications issued by the various Government under the Code of Civil Procedure are published for information:—

I. Punjab Government Notification No. 1-C, dated the 1st January, 1909.

With reference to the definition of the expression "Government Pleader" contained in section 2(7) of the Code of Civil Procedure, (V of 1908), the Lieutenant Governor is pleased to appoint the Legal Remembrancer to the Punjab Government, the Government Advocate, Punjab, and the Assistant Legal Remembrancer, Punjab, respectively, to perform all or any of the functions expressly imposed by the said Code on the Government Pleader except the functions specified in Order XXXIII, Rule 6, and in Order XXVII, Rule 4 thereof.

Government
Pleader.

2. The Deputy Commissioner for the time being of every district in the Punjab is appointed to be the Government Pleader for his district for the purposes of Order XXXIII, Rule 6, and of order XXVII, Rule 4 of the Code of Civil Procedure.

3. Nothing in this notification shall be deemed to affect the provisions of notification No. I-H, dated the 1st January, 1909 (now superseded by Punjab Government Notification No. 1073-J-37/13015 dated the 1st April, 1937, given below), regarding the recognised agents of Government under Order XXVII, Rule 2, of the Code of Civil Procedure.

II. Punjab Government Notification No. 1073-J-37/13015, Dated the 1st April, 1937.

In supersession of Punjab Government notification No. I-H, dated the 1st January, 1909 and in accordance with the provisions of Order XXVII, Rule 2 of the First Schedule of the Code of Civil Procedure, 1908 the Governor of the Punjab is pleased to authorise all Deputy Commissioners in the Punjab, in virtue of their office to act for the Government in respect of all Judicial proceedings in which the Punjab Government is concerned and in which they may receive instructions from the financial Commissioners or the Legal Remembrancer to Government.

Recognized
Agents.

2. In the Absence of the Deputy Commissioner, from his headquarters, the Senior Assistant Commissioner,

or Extra Assistant Commissioner there present is hereby authorised to exercise the power hereby conferred on the Deputy Commissioner.

*III—Punjab Government notification No. 22963—
Judicial dated the 10th December, 1917.*

Recognised
Agents.

It is hereby notified that all Government Pleaders are, under Order XXVII, Rule 2 of the First Schedule to the Code of Civil Procedure *ex-officio* authorised to act for the Government in respect of all Judicial proceedings in the Courts within the civil districts for which they are appointed.

IV—Punjab Government notification No. 1073-J-37/13017/ H/Judicial, dated the 1st April, 1937.

Verification and
signing of
pleadings.

In supersession of Punjab Government notification No. 19798-Judicial, dated the 4th July, 1934, and in accordance with the provisions of Order XXVII, Rule 1 of the First Schedule of the Code of Civil Procedure, 1908, it is hereby ordered that in all suits by or against the Punjab Government Plaints or written statements on behalf of the Punjab Government, shall be signed and verified by the Deputy Commissioner for the time being of the district in which the cause of action in whole or in part arises or by any other gazetted officer of any department concerned who is acquainted with the facts.

V—Government of India Ministry of Law, New Delhi, the 8th April, 1953 (Published in Gazette of India, Part II, Section III, dated 18-4-1953)

Notification No. S.R.O. 699, dated 8th April, 1953.

Delegation of
function of
Central
Government.

In pursuance of clause (1) of Article 239 and clause (1) of Article 243 of the Constitution, and in supersession of the notification of the Government of India in the late Home Department No. 204/37 Judicial, dated the 5th May, 1938, and in partial modification of the notification of the Government of India in the Ministry of States, No. S.R.O. 460, dated the 24th August, 1950, in so far, as it relates to the Civil Procedure Code, 1908 (Act V of 1908) the President hereby directs that the functions assigned to the Central Government by Order XXVII of the First Schedule to the Code of Civil Procedure, 1908, (Act V of 1908), shall be discharged by the Lieutenant Governor or the Chief Commissioner, as the case may be, of every Part C State, except the State of Manipur, in respect of such Part

C States, and by the Chief Commissioner of the Andaman and Nicobar Islands in respect of these Islands.

VI.—Delhi State Secretariat, Delhi.

Notification No. F.7(9)/55-Judicial (1) dated 27th June, 1906.

In accordance with the provisions of rule 1 of Order XXVII of the First Schedule to the Code of Civil Procedure 1908, read with notification of the Government of India in the Ministry of Law No. S.R.O. 699 dated the 8th April, 1953, and in supersession of this administrations' notification No. F.233/38-General dated the 24th December 1938, it is hereby ordered that in all suits instituted in Delhi by or against the Central or State Government, Plaints or written statements as the case may be, on behalf of the Government shall be signed and verified by the Government, Pleader of the Delhi State Government or by the Deputy Commissioner, Delhi, or by any other Gazetted Officer of any Department concerned who is acquainted with the facts.

Verification
and signing of
plaint in suit
instituted in
Delhi.

VII. —Delhi State Secretariat, Delhi.

Notification No. F. 7(9)/55-Judicial (ii) dated the 27th June, 1956.

In accordance with the provisions of rule 2 of Order XXVII of the First Schedule to the Code of Civil Procedure 1908, read with the notification of the Government of India in the Ministry of Law, No. S.R.O. 699, dated the 8th April, 1953, and in supersession of this administrations' notification No. 233/38 General, dated the 24th December 1938, the Chief Commissioner, Delhi, is pleased to authorise :—

Agents of the
Government in
suits instituted
in Delhi.

(a) The Deputy Commissioner, Delhi (or in his absence from the head quarters, the Senior Assistant or E.A.C. present) and the Government Pleader of the Delhi State, to act for and on behalf of the Government in respect of all civil judicial proceedings in the subordinate Courts at Delhi.

(b) the Advocate General, Punjab any of his Assistants or the Standing Counsel of Delhi State to act for and on behalf of the Government in respect of all Judicial proceedings in the High Court of Judicature, Punjab, Chandigarh and in its Circuit Bench at Delhi.

VIII. MINISTRY OF RAILWAY
(RAILWAY BOARD)

New Delhi, the 7th September, 1951.

S.R.O. No. 1399.—In exercise of the powers conferred by Rule I of Order XXVII of the First Schedule to the Code of Civil Procedure, 1908, (Act V of 1908), read with section 141 of the said code, the Central Government hereby authorises the General Manager and the Deputy General Manager of the Southern Railway to sign and verify complaints, written statements, petitions, applications including applications for executions and any other pleadings or proceedings in any suit or other proceedings by or against the Central Government in respect of the said Railway Administration.

(No. E5ILL2/14/3).

IX.

MINISTRY OF RAILWAY
(RAILWAY BOARD)

New Delhi, the 8th March, 1952.

S.R.O. 460.—In exercise of the powers conferred by rule 1 of Order XXVII of the first schedule to the code of civil procedure 1908 (Act V of 1908) read with section 141, of the said Code, the Central Government hereby authorises the General Manager and the Deputy General Manager of the Central Railway to sign and verify complaints, written statements, petitions, applications including applications for executions and any other pleadings or proceedings in any suit or other proceedings by or against the Central Government in respect of the said Railway Administration.

X.

(No. E 5ILL2/14/3.1).

S.R.O. 461.—In exercise of the powers conferred by Rule I of Order XXVII of the First Schedule to the Code of Civil Procedure 1908 (Act V of 1908) read with section 141 of the said Code, the Central Government hereby authorises the General Manager and the Deputy General Manager of the Western Railway to sign and verify complaints, written statements, petitions, applications including applications for executions and any other pleadings or proceedings in any suit or other proceedings by or against the Central Government in respect of the said Railway Administration.

XI—New Delhi, the 10th July, 1952

S.R.O. 1250.—In exercise of the powers, conferred by rule I of Order XXVII of the First Schedule to the Code of Civil Procedure, 1908 (Act V of 1908) read with section 141 of the said Code, the Central Government hereby appoints each of the persons specified in column 2 of the Schedule annexed hereto to sign and verify complaints, written statements, petitions, applications including applications for executions and any other pleadings or proceedings in any suit or other proceedings by or against the Central Government in respect of the railway administration specified in the corresponding entry in column I of the said Schedule.

<i>Railway Administration</i>		<i>Persons Appointed to sign and Verify the complaint etc.</i>
Northern Railway	..	General Manager and Deputy General Manager.
Eastern Railway	..	General Manager and Deputy General Manager.
Northern Eastern Railway	..	General Manager and Deputy General Manager.

(No. E52LLI/19/3-I)

XII.—S.R.O. 1251.—It is hereby notified for general information that the General Manager and Deputy General Manager of the Northern, Eastern and North Eastern Railways are *ex-officio* authorised to act for and on behalf of the Central Government in respect of all Judicial proceedings in which the Northern, Eastern and North Eastern Railway administration may respectively be concerned.

(No.E52LLI/19/3-II).

XIII MINISTRY OF RAILWAYS

New Delhi the 18th June, 1953.

S.R.O. 1266.—In exercise of the powers, conferred by rule I, read with clause (a) of rule 8-B of order XXVII of the First Schedule to the Code of Civil Procedure, 1908 (Act V of 1908), the Central Government hereby appoints in addition to the persons already authorised in notifications of the Government of India in the Ministry of Railways

(Railway Board) No. E 51LL2/14/3, dated the 7th September 1951, No. E51LL2/14/3/1, dated the 8th March, 1952, No.E51LL2/14/3/II dated the 8th March, 1952 and E52LLI/19/3—I, dated the 10th July, 1952, each of the persons specified in column 2 of the Schedule annexed hereto to sign and verify written statements, petitions, applications, including applications for execution and any other pleadings or proceedings in any suit or other proceedings relating to compensation (claims) against the Central Government arising out of loss of or damage, to or deterioration of booked consignments in respect of the railway administration specified in the corresponding entry in column I of the said Schedule.

THE SCHEDULE

<i>Railway Administration</i>	<i>Persons Appointed to sign and Verify written statements, petitions etc.</i>
Southern Railway	. Chief Commercial . Superintendent.
	Deputy Chief Commercial Superintendent.
Central Railway	Chief Commercial . Superintendent.
	. Deputy Chief Commercial Superintendent.
Western Railway	Chief Commercial Supdt. Deputy Chief Commercial . Supdt.
Eastern Railway	. Chief Commercial Superintendent.
	Deputy Chief Commercial Superintendent.
North Eastern Railway	. Chief Commercial Supdt. Deputy Chief Commercial Superintendent.
Northern Railway	Chief Commercial Supdt. . Deputy Chief Commercial . Supdt.
	.
	.

(No. E52LL1/19/3).

MINISTRY OF RAILWAYS

XVI

(RAILWAY BOARD)

New Delhi, the 24th December, 1953.

S.R.Q. 36.—In exercise of the powers, conferred by rule I, read with clause (a) of rule 8-B, of order XXVII of the First Schedule to the Code of Civil Procedure 1908 (Act V of 1908) the Central Government hereby appoints the District Traffic Superintendent (Claims), North Eastern Railway, headquartered at Calcutta, in addition to the Chief Commercial Superintendent & Deputy Chief Commercial Superintendent, North Eastern Railway, already authorised in the notification of Government of India in the Ministry of Railways (Railway Board) No. E 52 LLI/1913, dated the 18th June, 1953, to sign and verify written statements, petitions, applications including applications for executions and any other pleadings or proceedings in any suit or other proceedings relating to compensation(claims) against the Central Government arising out of loss of or damage to or deterioration of booked consignments in respect of the North Eastern Railway.

(No. E52LLI/19/3).

XV

S.R.O. 37-1t is hereby notified for general information that the District Traffic Superintendent (Claims), North Eastern Railway, Headquartered at Calcutta, is ex-officio authorised to act for and on behalf of the Central Government in respect of judicial proceedings relating to compensation (claims) against the Central Government, arising out of loss of or damage to or deterioration of booked consignments in respect of the North Eastern Railway.

[No. E52LLI/19/3 (1)].

[³⁶] [XVI. Ministry of Railways (Railway Board)
New Delhi, the 11th September, 1961]

G.S.R.1138.- In exercise of the powers conferred by Rule 1 of Order XXVII of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908) and in supersession of all notifications on the subject, the Central Government hereby appoints:-

- (i) the officers specified in the Schedule annexed hereto as persons by whom complaints and written-statements in suits in any Court of civil jurisdiction by or against the Central Government in respect of the Railway Administration shall be signed:
- (ii) those of the officers referred to in sub-clause (i) who are acquainted with the facts of the case, as persons by whom such complaints and written-statements shall be verified.

SCHEDULE

1. Ministry of Railways (Railway Board)

- (i) Secretary.
- (ii) Deputy Secretary.
- (iii) Under Secretary.

2. All Railways

- (i) General Manager.
- (ii) Deputy General Manager.
- (iii) Chief Personnel Officer.
- (iv) Deputy Chief Personnel Officer.
- (v) Chief Commercial Superintendent.
- (vi) Deputy Chief Commercial Superintendent.
- (vii) In the case of the North East Frontier Railway also.
 - (a) Chief Traffic Superintendent.
 - (b) Deputy Chief Traffic Superintendent.

3. The Chittaranjan Locomotive Works, Chittaranjan.

(i) General Manager.

(ii) Deputy General Manager.

4. The Integral Coach Factory, Perambur.

Chief Administrative Officer.

5. The Railway Electrification, Calcutta.

General Manager and Chief Engineer.

6. The Indian Railways locomotive Copetent Works, Varanasi.

Chief Engineer.

7. The Dandakarnya-Bolandri-Kiriburu Railway Project, Waltiar

General Manager.

(F.No. F (G)-55-L12/19/3).

XVII-MINISTRY OF RAILWAYS

(RAILWAY BOARD)

New Delhi, the 7th October, 1961

G.S.R. 1269.- In pursuance of the provisions of rule 2 of Order XXVII in the First schedule to the Code of Civil Procedure, 1908 (5 of 1908), the Central Government hereby authorizes the Officers specified in the Schedule annexed to the notification of the Government of India in the Ministry of Railway (Railway Board) No. G.S.R. 1138, dated 11th September, 1961, to act for and on behalf of the Central Government in respect of any judicial proceeding relating to a Railway Administration.

(C.S. No. 3-Rules/X.A. 19(a), dated the 16th January, 1963)]

CHAPTER 9

Utilisation of the Services of the Special Kanungo or Patwari Muharrir

For the purpose of making the information contained in the revenue records accessible to the litigating public and to the Courts, a Special Kanungo or Patwari Muharrir has been appointed in all the districts of the Punjab, except Simla. The procedure to be followed in such cases is that the Court in which the suit is pending issues a summons to the Special Kanungo or Patwari Muharrir, who, after preparing his excerpt, goes to the Court on the date fixed, taking with him the revenue records from which the excerpt has been compiled. He is then placed in the witness box. Counsel thus have the opportunity of comparing the excerpt with the originals, and of examining him on any points they choose.

Procedure for obtaining excerpts.

2. Parties who desire to summon the Special Kanungo or Patwari Muharrir as a witness with his records must be required to state succinctly and in writing the point on which information is required, and the application must be sent along with the summons to the Special Kanungo or Patwari Muharrir. The Courts must see that the application is in a readily intelligible form before they issue it, and the practice where it occurs, of sending for the Special Kanungo, or Patwari Muharrir to tell him what is required must be discontinued, though Courts may also issue written instructions, or supplement or correct the application.

Particulars to be supplied to Kanungo or Patwari Muharrir.

3. Courts must be on their guard against using the Kanungo or Patwari Muharrir for purposes for which he is not intended, e.g., he is not to be required to give opinions, he is not to be used as a local Commissioner, or to be asked to provide instances in support of or to refute an alleged custom. Courts must also see that, if the special Kanungo or Patwari Muharrir is required, he is summoned for the first hearing after issues are framed, and not, as sometimes happens at present, at the end of the case. They must also never fail to ask him on oath whether the excerpt is in accordance with the revenue records.

Kanungo or Patwari Muharrir should be utilised for special purposes and only at earlier stages.

4. The excerpt prepared by the Special Kanungo or Patwari Muharrir is not evidence unless proved and cannot be used as such. He cannot be allowed to go to outlying Courts because he cannot take the revenue records

Excerpt to be proved utilizing of Kanungo or Patwari Muharrir by outlying Courts.

with him, and without them there would be no check over his excerpt. It is, however, very desirable that outlying Courts should be able to utilize the Special Kanungo or the Patwari Muharrir, and, as the best practicable method of securing that object, Presiding Officers of outlying Courts may issue either interrogatories for the Special Kanungo or Patwari Muharrir or an open Commission to a senior official at headquarters ordinarily and, unless there is some special reason to the contrary, the Senior Subordinate Judge. This official, who will have other duties and is described in the instructions appended as the officer-in-charge, will then comply with the directions given, summon the Special Kanungo or Patwari Muharrir, record his statement on oath and make the return to the Court. In this connection attention is drawn to Order XXVI Rule 18 (1), of the Code of Civil Procedure. The issue of a Commission should not become a source of unnecessary delay, and the officer-in-charge should in the absence of very strong reasons proceed in the absence of parties if they do not appear. Parties should be informed that their appearance at headquarters is optional if interrogatories are issued.

5. The following instructions have been issued for the guidance of the Courts and of the Special Kanungo or Patwari Muharrir and it will be the immediate duty of the officer-in-charge to see that these instructions are followed:—

INSTRUCTIONS REGARDING THE UTILIZATION OF THE
SERVICES OF THE SPECIAL KANUNGO OR PATWARI
MUHARRIR

Application
should be
made to
Court.

(i) Applications for the service of the Special Kanungo or Patwari Muharrir must be made to the Court and may not be made direct to the special Kanungo or Patwari Muharrir.

It should
specify the
points of
information

(ii) Such applications must state clearly the point on which information is required, and if this condition is not fulfilled they will be liable to be returned for amendment. They may, however, be supplemented or corrected by the Court.

Fees.

^[37](iii) Wherever an application is sent to the Special Kanungo or Patwari Muharrir, he must, at the same time, be summoned as a witness and the applicant must at once deposit into Court fee for evidence which is Rs.3/- and excerpt fee of Rs.6/- for entries is one Jamabandi or Misl-i-Haquiat for the first 15 pages.]

Note.—If the Special Kanungo or Patwari Muharrir is only required to produce a revenue record or if he is only summoned with the original revenue record in order to verify whether a copy is correct, an evidence fee of Rs. 3 only will suffice.

This deposits shall be credited at once into the treasury under the head "XXI-Administration of Justice—General Fees. Fines and Forfeitures--other General Fees, Fines and Forfeitures "and particulars of the credit noted on the application and the summons issued to the special Kanungo or Patwari Muharrir. No summons shall be issued until this amount is paid by the party concerned and credited into the treasury.

(iv) Courts to which applications are made must see that they are made promptly (within a short time to be fixed by the Court after the date on which issues are framed) so that the Special Kanungo, or Patwari Muharrir may be ready with his excerpt and to give evidence on the next date fixed.

Application should be made in time.

(v) Courts must remember that unless proved the excerpt of the Special Kanungo or Patwari Muharrir is not evidence and must not be treated as such. The Special Kanungo or Patwari Muharrir must, when he goes to Court always bring with him the original records from which his excerpt has been compiled, so that they may be available for comparison. He must always be put on oath, and be asked to say whether the excerpt is a true copy of a portion of the original records. The excerpts must be a correct copy of such portions of the revenue records as are relevant and not merely a summary or paraphrase.

Excerpt should be a true copy and should be proved.

(vi) The Court should, as a rule, compare, with the original records some of the entries in the abstract and initial and date those thus compared.

Comparison with original.

(vii)^[38] [The fee of Rs.6/- for entries in one Jamabandi or Nisl-i-Haquiat for the first 15 pages will, also cover the cost of search. This sum of Rs.6/- should be deposited by the applicant at the time of summoning the special Kanungo or Patwari Muharrir as a witness and the extra fee, if any, at the rate of Rs.3/- for additional entries in any Jamabandi or Misl-i-Haquiat for the next 15 pages, or a part thereof should be recovered at the hearing.]

Fees.

Register kept by Kanungo or Patwari Muharrir.

Register kept by Court.

(viii) A register in form "A" annexed is prescribed for the special Kanungo or Patwari Muharrir.

(ix) A very simple form of register in form "B" is prescribed for Courts using the Special Kanungo or Patwari Muharrir. The main objects of it are to facilitate inspection and to provide, if necessary, means of checking that of the Special Kanungo or Patwari Muharrir and to verify the amounts credited into the treasury.

Each entry in the Register shall be attested by the residing Officer of the Court, in the column provided for the purpose, in token that the amount has been credited to Government as required by rule (iii).

(x) If the application is made to a Court, which is not situated at the district headquarters, the

Court will forward the application to the officer-in-charge together with a certificate that the fee of Rs. 6/- has been recovered and credited to Government as in rule (iii), and will either issue an open Commission to him or will send interrogatories.

Procedure of officer-in-Charge when excerpt required by outlying Court.

(xi) The officer-in-charge will then transmit application to the Special Kanungo or Patwari Muharrir together with the interrogatories, if any, and will call upon him to prepare the excerpt required and to attend to give evidence. When he attends, his evidence, whether in the form of answers to interrogatories or other wise, must be recorded on oath. The officer-in-charge must see that the Special Kanungo or Patwari complies with rule (v) above, and his attention is particularly drawn to the provisions of Order XXVI, rule 18. The examination of the Special Kanungo or Patwari Muharrir must not be postponed for the absence of parties. The outlying Court must inform parties that their presence at Sadar is unnecessary if interrogatories have been issued.

Procedure of Officer-in-Charge, when excerpt required by outlying

(xii) When the evidence has been recorded, the officer-in-charge, will fix the excerpt fee and the application will be returned with the evidence and the report, if any, together with an intimation of the amount of the excerpt fee to the Court of issue. Any additional excerpt fee payable will be recovered from the party concerned at the next hearing before the Special Kanungo's or Patwari Muharrir's evidence is admitted to the record and will be credited to the Government in the Treasury by the Court in the manner prescribed in rule (iii) above.

Purpose for which Kanungo or Patwari Muharrir can be utilized.

(xiii)The officer-in-charge, and the Courts must understand that the Special Kanungo or Patwari Muharrir is to be used only for the purpose of obtaining information which is not readily available. Thus he must not be asked to prepare copies of pedigree-tables or of histories of villages, which can be obtained from the Copying Agency. Nor must he be required to search for instances in support of or against an alleged custom, or be used as a local Commisioner.

Kanungo or Patwari Muharrir to report when he is utilised against rules.

(xiv)The Special Kanungo or Patwari Muharrir should report atonce to the officer-in-charge any case in which he considers that rule (xiii) is being infringed.

Duty of officer-in-charge.

(xv) It is the duty of the officer-in-charge, to control generally the work of the Special Kanungo or Patwari Muharrir and the use made of him by the Courts and to report any irregularities to the District Judge.

Inspection Book.

(xvi)An inspection book in form C for recording notes on inspection of Courts will be maintained and kept in the office of the District Judge, but it may be used either by him or by the officer-in-charge.

Duty of District

(xvii)The District Judge is expected to watch the system carefully and to record his inseption notes in this inspection book.

Serial No.	1	
Date of receipt of summons from Court.	2	

REGISTER-A (FOR SPECIAL KANUNGO OR PATWARI MUHARRIR

Name of Court	3	
Number and year of institution of suit.	4	
Names of parties.	5	
Date fixed for hearing	6	
Brief description of kind of evidence required	7	
Amount of evidence fee and consolidated excerpt fee recovered in advance.	8	
Date of receipt.	9	
Amount of additional excerpt fee recovered at the hearing.	10	
Date of receipt	11	
Total of columns 8 and 10	12	
Attestation of the Presiding Officer of the Court.	13	
REMARKS	14	

Note.- Column 12 should be totalled six monthly.

REGISTER-B (FOR COURTS)

Serial No.	1	
Number and year of institution of suits.	2	
Names of parties.	3	
Brief description of kind of evidence required	4	
Date of application	5	
Date of hearing	6	
Amount of evidence and consolidated excerpt fee recovered in advance.	7	
Date of receipt.	8	
Amount of additional excerpt fee recovered at the hearing.	9	
Date of recovery	10	
Total of columns 7 and 9	11	
Attestation of the Presiding Officer of the Court.	12	
Date of Credit into the Treasury.	13	
REMARKS	14	

NOTE=Column 11 should be totalled Six monthly.
REGISTER-A (FOR SPECIAL KANUNGO OR PATWARI MUHARRIR

Serial No.	1	
Number and year of case	2	
Names of Court	3	
Date of Inspection	4	
Remarks and order, if any Passed.	5	

NOTE-The Register will be kept in the Office of the District Judge, but will be used either by him or by the officer in charge for Recording inspection Notes.

CHAPTER 10**Commissions and Letters of Request.****PART A.—GENERAL INSTRUCTIONS**

- 1. Reference to C.P.C.:-** The general law as to Commissions and Letters of Request is contained in Sections 75 to 78 and Order XXVI of the Code of Civil Procedure, and the Forms to be used are Nos. 7 or 8 of Appendix H of Schedule I.
- 2. Fees of Commissioner:-** Applications for the issue of Commissions should be made as early as possible. Notice of any such application should be given to the other side. If the Application is granted, the Court should fix a sum for the expenses of the Commission, which should, ordinarily provide a reasonable fee to the Commissioner. If, at any time, the sum so fixed is found to be insufficient, it may, for special reasons, be increased by the Court. When the Commission is executed to the satisfaction of the Court, the full sum fixed should be paid to the Commissioner; but where the Commission is not executed at all or not fully or satisfactorily executed or the work done turns out to be less than was expected, it will be in the discretion of the Court to direct a less amount to be paid, or to make any other order in the matter which it thinks just and proper in the circumstances.
- 3. Commission for local inquiry and accounts:-**
 - (i) Whenever it becomes necessary in the course of a suit to appoint a commissioner to make a local inquiry or to examine accounts (see Order XXVI), the Judicial officer who makes the order for such appointment should write the order with his own hand, and specify therein :--
 - (a) the precise matter of the inquiry;
 - (b) the reason why the evidence bearing on that matter could not reasonably have been taken in the usual way at the trial in court. A court cannot issue a Commission merely to save itself the time and trouble of examining witnesses.
 - (ii) {In suits relating to delivery of possession of property, where the possession over the property is not disputed by the parties and if the Court deems it appropriate, it may appoint a Commissioner to assess the accurate description and status of the property.}
{Rule 3(ii) inserted vide C.S. No. 84 Rules/II.D4 dated 21.11.2022}
- 4. Functions of Commissioner:-** The Commissioner's duties should be strictly limited by the order to such matters as taking accounts and depositions of witnesses, inspecting the land or other subject of dispute, and reporting to the Court, either by means of a map or plan, or in writing, or both, the existing physical features of the subject inspected, its boundaries and situation relative to other objects, and so on, as the case may be. The functions of the Commissioner are thus limited to procuring evidence and information for the purpose of the trial; and this evidence, including the maps, reports, and record of evidence made by the Commissioner, must be adduced in open Court before the parties, and placed on record like all other evidence. The Court has no power to depute to the Commissioner the final determination of any issue between the parties. The Court can take into consideration the report of the Commissioner, but must itself decide the issue.
- 5. Commissioner for partition of property:-** Under Order XXVI, Rules 13 and 14, a Commission for the partition of immovable property may be issued to such person or persons as the Court thinks fit. The wishes of the parties in the matter should also be taken into consideration.
- 6. Execution of Commission in Madras:-** Commissions for execution in the Presidency Town of Madras should be addressed either to the Registrar, Court of Small Causes, Madras, or to the City Civil Judge, Madras.

PART B.—APPOINTMENT OF COMMISSIONERS.

1. Instructions contained in this Chapter are administrative and are not to be regarded as binding the discretion of Civil Courts in making appointments of Commissioners.

Instructions for the guidance of Courts.

2. (i) Ordinarily a panel of not more than four persons including a lady lawyer, if available, shall be appointed by the High Court in each district as Commissioners for recording evidence. Such Commissioners should ordinarily be younger members of the Bar but not men in large practice and retired Civil Judicial Officers.

Panel of Commissioners for recording evidence.

(ii) All vacancies which arise for appointment of such Commissioners shall be circulated by the District Judge to the members of the Bar and all applications received shall be forwarded by him in original to the High Court with his recommendations, duly supported by reasons for recommending a particular person.

District Judge to forward all applications with his recommendations to the High Court.

(iii) Commissioners for recording evidence will normally be appointed to the panel for a period of three years or until further orders, whichever may be earlier. The term may be renewed for a further period of three years, but after six years there will normally be no reappointment.

Term for such appointment.

3. Official Receivers, should be appointed *ex-officio* to the panel on the understanding that the appointment is until further orders or until the end of the period of appointment as Official Receiver, whichever may be earlier.

Official Receivers to be appointed to the panel *ex-officio*.

4. A consolidated list of Commissioners with their addresses shall be prepared in the High Court annually and copies of the list sent to the District Judges for supply to all Courts. It is believed that by sending commissions direct to Commissioners time would be saved. In order to ensure punctuality of the return of the Commissions, only a part of the fee should be paid in advance and the balance should be paid when the Commission is returned by the Commissioner within the period fixed by the Court.

Measures to prevent delay in the return of commissioners.

5. Court Readers or other Ministerial Officers should never be appointed to make local investigations, such as finding out the market value of the property, etc. Such Commissions should be issued wherever possible to retired Revenue Officers or professional men, such as engineers, contractors, auctioneers and accountants. Legal Practitioners are not excluded from appointment as local

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investigation commissioners, but the best man for the particular commission in question should be appointed. Revenue Officers in service such as Tehsildars and Naib Tehsildars should not, as a rule, be appointed when retired officers suitable for the work are available. The wishes of the parties in regard to the appointment of a particular individual as Commissioner for local investigations should be taken into consideration while making such appointments".

Selection of
Commissioner
to examine
accounts.

6. Commissioners to examine accounts should be selected from men competent in the particular form of accounts. It is absolutely futile to issue Commissions in a particular form of account to a person who is unable even to read the script in which those accounts are written.

Selection of
Commissioners.

7. Great care should be exercised by the Courts in selecting persons for appointment as Commissioners for the purpose of making local inquiries; and District Judges should exercise strict supervision over the action of subordinate Courts in this respect. The habitual employment of the same person should not be encouraged. The issue of Commissions to petition-writers and persons who hang about the Courts should not be permitted.

PART C.—RECIPROCAL ARRANGEMENTS WITH JAMMU AND
KASHMIR STATE FOR EXECUTION OF COMMISSIONS
AND LETTERS OF REQUEST FOR EXAMINATION OF
WITNESSES.

1. Subject to such conditions and limitations as may be prescribed, the provisions of the Code of Civil Procedure, 1908 (Act V of 1908) as to the execution and return of commissions for the examination of witnesses shall apply to commissions issued by or at the instance of courts situate in any part of India to which the provisions of the said Code do not extend. [Section 78, clause (a) of the Code].

References.

2. The State of Jammu and Kashmir is a part of India (Vide, Article 1 of the Constitution of India) to which the provisions of the Code do not extend. [Section 1 (3) of the Code, as amended by Act II of 1951]. In this connection it may also be pointed out that the definition of 'India' given in section 2 (7B), as inserted in the Code by Act II of 1951, does not apply to section 78 of the Code. Section 78 therefore makes provision for the execution and return of commissions for examination of witnesses issued by Civil Courts in Jammu and Kashmir State by the Civil Courts in those parts of India where the Code extends.

Whether Jammu and Kashmir State is a part of India.

3. Arrangements exist under which commissions or interrogatories can be issued by civil courts in India to civil courts in Jammu and Kashmir and *vice versa*. Such commissions are to be and should be exchanged through the District Judge concerned of the two administrations. [High Court of Jammu and Kashmir letter No. 6053, dated the 6th January, 1956 and Punjab High Court endorsement No. 1227-Genl/X. B. 10 (c), dated 30th January, 1956, to all District and Sessions Judges in Punjab and District and Sessions Judge, Delhi].

Reciprocal arrangements with Jammu & Kashmir State.

4. Certain Rules and Orders of the Jammu and Kashmir High Court are reproduced below for the information of the Civil Courts in Punjab:-

Certain rules of the High Court of Jammu and Kashmir.

"172. *Persons to whom commission for examination of witness shall be addressed.*—Ordinarily a commission for the examination of a witness, wherever he may reside, shall be addressed to the pleader, but such commission may, if it appears desirable, be addressed to a court.

174. *Remuneration of Pleaders for executing Commission.*—For the remuneration of a pleader to whom a commission to examine witnesses is issued, the court

should require the party applying to pay a fee ordinarily not exceeding five rupees for the first witness, and two rupees eight annas for each subsequent witness to be examined if the court be that of a Munsiff; or not exceeding ten rupees for the first witness and five rupees for each subsequent witness in the case of any higher court. If payment of higher fees than the above be required, the reasons shall be recorded by the Judge with his own hand.

175. *The Same.*—The commission together with the amount of the fee, should be sent to the court in which the commissioner is a practising pleader, and the commission should be immediately delivered to him (unless he refuses to act). If the witness or witnesses are examined, so that the commissioner can make a return within the time limited, on his returning the commission duly executed the fee should be paid over to him otherwise the commission, together with such evidence as may have been taken, shall be returned to the court from which it originally issued and such court may by order allow such fee as it thinks reasonable to the commissioner for the work done.

177. *The same.*—A court receiving a commission for the examination of a witness shall not return such commission unexecuted until the expiry of one month from the date on which the commission was received and otherwise than with a letter in English or Urdu explaining the reason why the commission has not been executed.

178. *When a letter of request to be issued.*—Order XXVI, Rule 5, of the Code of Civil Procedure lays down that a court may issue a letter of request if it is satisfied that the evidence of a person residing at any place not within ^[39] [India] is necessary.

179. *Letter of request under Section 77 of Civil Procedure Code.*—When a court issues a letter of request under section 77 of the Code of Civil Procedure, to examine a witness or witnesses residing at any place outside ^[39] [India], it shall send therewith a list of the questions to be asked the witness or witnesses and a translation of the letter of request and of questions into English and where possible into the language of the court to which the letter of request is sent. In cases where both the parties are to be represented at the examination the court may, if so desired by the parties ask in the letter of request that the agents of the parties be permitted to put such further questions in examination and cross examination as they may be advised. The party on whose application the

letter of request is issued shall give an undertaking to be responsible for the expenses incurred in its execution. Nothing in this rule prohibits a court issuing a commission from enlarging from time to time the period within which the return may be made."

5.In view of section 77 of our Code the courts may, in lieu of issuing a commission, issue a letter of request to examine a witness at any place 'not within India'. For the purposes of this section the definition of 'India' in section 2 (7B) of the Code would hold good and Jammu and Kashmir would be a place 'not within India'.

Letters of request.

6.Following is a list of civil courts in the two provinces of Jammu and Kashmir which also indicates the limits of their territorial jurisdiction:—

List of Civil Courts in Jammu & Kashmir State.

JAMMU PROVINCE.

1.	District Judge, Jammu	Jammu excluding Tehsil Samba, R. S. Pura and Akhnoor
2.	Munsiff, Ranbir Singh Pura	Tehsil R. S. Pura.
3.	Munsiff, Samba	Tehsil Samba
4.	Munsiff, Akhnoor	Tehsil Akhnoor
5.	Sub Judge, Udhampur	Udhampur District excluding Ramnagar and Reasi Tahsils.
6.	Sub-Judge, Reasi	Reasi
7.	Sub-Judge, Ramnagar	Ramnagar
8.	Sub Judge, Bhaderwah	Doda District excluding Kishtwar and Ramban.
9.	Munsiff, Kishtwar	Kishtwar
10.	Munsiff, Ramban	Ramban
11.	Sub Judge, Poonch	Poonch District excluding Rajori
12.	Sub Judge, Rajouri	Rajouri
13.	Sub Judge, Kathua	Kathua District

KASHMIR PROVINCE

14.	District Judge, Srinagar	Srinagar District.
15.	Sub-Judge, Anantnag	Anantnag District and excluding Shopian and Pulwama Tehsils.
16.	Munsiff, Shopian	Shopian and Phulwara Tehsils
17.	Sub-Judge, Baramulla	Baramulla District excluding Sopore and Handwara
18.	Munsiff, Sopore	Sopore
19.	Munsiff, Handwara	Handwara
20.	Deputy Commissioner, Leh.	Ladakh District

PART D.—COMMISSIONS AND LETTERS OF REQUEST FOR THE
EXAMINATION OF WITNESSES IN FOREIGN COUNTRIES

1. There are two methods of obtaining evidence in foreign country, namely, by a Letter of Request addressed to a foreign Court or by means of a Commission appointing an individual to take the evidence thus constituting him *pro tanto* an officer of the Court. It may be noted that the Commissioner has ordinarily no power to compel the attendance of a witness. He can only invite the witness to present himself and give evidence. If the witness declines to do so, the Commissioner is helpless. If, on the other hand, recourse is had to a Letter of Request addressed to the foreign Court concerned, the latter can, if necessary, exercise its power of compulsion.

Letters of request is preferable.

Further a Commissioner can record evidence only if the local law of the country where the commission is sent permits the Commissioner to record evidence.

It will appear from the above that a letter of Request is ordinarily the more appropriate method in the case of foreign countries.

2. Whenever a court issues a Commission or other process for the examination of a witness in England, the High Court in England will itself appoint an examiner to take the evidence, if application is properly made to it for the purpose. It must, however, be borne in mind that the Court cannot act in any way unless moved to do so by a proper application. In every case, therefore in which the help of the High Court in England is desired, the party interested must instruct a solicitor in England to apply to the said court to make the necessary order. The papers are not to be forwarded through High Court. The Court has simply to make an order for the examination of a witness and handover a copy of its order with interrogatories and cross-interrogatories to the party concerned who will move the High Court in England through a solicitor to take steps for the examination of the witnesses.

Commission for England.

3. India is not a party to any civil procedure convention and, therefore, it depends entirely on the local law of the foreign country in question whether British Consular Officers are permitted to serve documents or to take evidence on behalf of courts in India and, if so, under what circumstances. Where it is not known that he is so permitted a British Consular Officer should not be appointed as a

Commission to British Consular Officer.

Commissioner or Examiner to take evidence in any case unless and until the permission of the Foreign Office has been obtained. When the permission of the Secretary of State is sought for the taking of evidence by a British Consular Officer in a Foreign country other than the United States of America, the nationality of the intended witness or witnesses should be stated .

The names of the countries where there is no difficulty as regards the taking of evidence by British Consular Officers and in the case of which it is unnecessary to apply for permission to the Foreign Office are given in the Schedule to this part of the Chapter.

Forms.

4. Commissions should be issued in form No. 7 Appendix H. C. P. Code. In countries where process to compel the attendance of the witness will not be issued by the local courts, the words "Process to compel the attendance of the witness will be issued by any Court having jurisdiction on your application" should be deleted from the form.

Special
Procedure.

5. There should be a formal order appointing a stated person to execute the Commission, and the name of the Commissioner should be filled up in the form. Orders appointing a British Consular Officer to take evidence should refer to His Majesty's Consul (Consul-General) at..... or his Deputy.

6 For special procedure in regard to particular foreign countries see Chapter 10-E.

LETTERS OF REQUEST

Addressee.

7. Letters of Request are addressed to the Judicial authorities of the country in which the evidence is to be recorded. These authorities can enforce the attendance of witnesses by civil process as Courts in India can do.

Note.—Letters of Request are not to be employed to obtain evidence from the United States of America, which prefer *the* method of commissions to be employed and will enforce the attendance of witnesses before Commissioner. All other countries receive and execute Letters of Request.

Form.

8.Commissions and Letters of Request for Burma should be forwarded by the High Court of Punjab at Chandigarh, direct to the High Court, Rangoon.

Ditto.

9.The Letters of Request should begin with the name of the Court issuing it and the title of the case in which it is issued.

11. Form No. 8 in Appendix H should be carefully read and properly filled in after making necessary alterations, e.g:—

Instructions
for filling In
form.

(a) Where *viva vow* examination is not to be made these words should be deleted.

(b) If the request is directed to a foreign Court, the words 'through the Ministry of External Affairs of the Government of India for transmission' should be inserted after the words `other witnesses' in the last line of this form.

(c) In the heading "the President and Judges etc. etc. or as the case may be", the correct designation of the presiding officer of the Court should be given. It should not be addressed to the Registrar of the Court or Consular Officer, etc., who are not presiding officers of the Court.

(d)The words "together with such request in writing, if any, for the examination of other witnesses" should be deleted where the Letter of Request is not to be returned for the examination of other witnesses.

(e)The laws of some countries e.g. Japan require that the parties to the case should be informed of the date fixed for the examination of the witnesses.

This naturally involves a great delay. So where it is desired that notice of the date fixed should not be given to the parties this fact should be mentioned in the Letter of Request and the words "in the presence of the agents of.....
attend such examination"
should be deleted.

12. Where the proper description of the Foreign Judicial Authority in question is not known, the Letter of Request should be addressed to the Competent Judicial Authority in.....(name of the country concerned).

When proper
address is not
known.

13. Where witnesses reside in different states of the same country, separate Letters of Request for each state should be sent.

Witnesses living in
different states.

14.Foreign Courts should not be asked in Letters of Request to name and appoint experts to give evidence, or themselves to collect evidence.

Foreign Courts
not to collect
evidence or
appoint experts,

Mode of
preparation.

15. The letter of Request in duplicate should be signed by the Judge or Registrar of the Indian Court and bear the official seal of the Court. The letter of Request in duplicate should either at the foot thereof contain a Schedule of all relevant documents forming part of such Letter of Request or be followed immediately by an Index of such documents. The first document should be a concise narrative of the action of the parties thereto and of the course to be pursued. This document and the other documents which should be as far as possible in chronological order should be numbered or lettered to correspond with the Schedule or Index mentioned above. If any of the documents in the Letter of Request are in original, the copies appearing in the duplicate Letters of Request should be certified by an official of the Court that they have been examined and should bear the seal of the Court.

General

General.

16. The following general instructions should be observed when issuing Commissions or Letters of Request:-

To be issued
only when
absolutely
necessary.

17. Order XXVI, Rule 5 of the Code of Civil Procedure lays down that a Court may issue a Letter of Request or Commission if it is satisfied that the evidence of a person residing at any place not within India is necessary.

Court should, therefore exercise proper discretion in dealing with applications for the issue of such letters of Request and Commissions which should be granted only in exceptional cases. In suits of a comparatively petty nature it is obviously undesirable to allow the delay in disposal which is bound to result from the issue of a Letter of Request or Commission.

Fixing of dates.

18. In no case should a precise date be fixed in the Letter of Request for the return of the service. It is impossible for a Court in India to order a date before which a foreign judicial authority must execute a request which it is under no obligation to execute at all.

A sufficiently long date, however, (in any case not less than four months) may be fixed for the appearance of the parties before the Court in expectation of the return of the service after making allowance (a) for the time which is bound to be taken by the various channels through which the documents have to pass, and (b) the distance and means of communication between the place of residence of

the witness and the place where his evidence is to be recorded and the time required for service on the person to be examined.

19. The table below shows the approximate cost required for the execution of Letters of Request and Commission etc., in various foreign countries.

Fees and how to remit them.

Mission					Deposit Required
					Rs.
Ethiopia	..	..	..	..	200
New York	..	..	..	..	700
Dacca	..	..	..	..	300
London	..	..	..	..	850
Pondicherry	..	..	..	..	150
Canada	..	..	..	..	750
Capetown	..	..	..	..	100
Singapore	..	..	..	..	100
Washington	..	..	..	..	700
Suva	..	..	..	..	250
Buenos Aires	..	..	..	..	200
Port Louis	..	..	..	..	150
Aden	..	..	..	..	60
Indo-china	..	..	..	..	400
Canberra(Tanmania)	..	..	..	..	100
Canberra (South Austrialala)	..	..	..	..	500
Canberra (Victoria)	..	..	..	..	100
Canbera (Queensland)	..	..	..	..	200

In regard to the conutries which are not included in the table, a sum of rupees two hundred may be considered to be an adequate deposit. Each individual case may be settled on its merits and with referecne to the nature and volume of work required to be performed.

Before sending such documents for execution abroad, the parties should be asked to deposit the necessary amount with the Court for meeting expenses, subject to adjustment latter on.

The fees for the execution of Commissions and Letters of Request should be remitted direct by bank drafts drawn in favour of the executing courts concerned in all Foreign Countries. Necessary permission is to be obtained for the purpose from the Reserve Bank of India, application being made to any of its offices.

Channel of transmission.	20.Commission and Letters of Request should not be sent direct (except where it is so provided) but should be forwarded to the Registrar, High Court of Punjab at Chandigarh, through the District Judge. In countries where the Government of India have diplomatic representatives of their own such documents should be routed through those diplomatic representatives, but in countries where the Government of India have not as yet appointed diplomatic representatives the issue of such documents should be between the foreign office of the country concerned and the Ministry of External Affairs and Commonwealth Relations and the Union of India. An exception is made in the case of certain countries, viz., the Federated Malaya State, Iraq and Nepal to which processes may be forwarded direct by the Indian Courts.
	21.The Chief Commissioner, Delhi, represents the Government for the Union territory of Delhi.
Translation.	22.Commissions and Letters of Request, interrogatories and cross-interrogatories and all other accompaniments should be translated in duplicate into English and in the language of the country where the writ is to be executed Such translations should be certified to be correct.
Documents should be typed.	23.All the documents should be neatly typed on superior paper of full-scape size and should be expressed in grammatical and properly spelt idiomatic English.
Signature and seal.	24.The Commission and Letter of Request and all their enclosures should be signed and sealed, by the Presiding Officer of the Court. The signature and seal impression should be clear.
Addresses of witnesses.	25.The exact postal addresses and full name and description of the persons to be examined should be given in the writ of Commission or Letter of Request and also in the forwarding letter or in the first document referred to in rule 14.
Preparation of the writ of commission.	26.A complete description of the enclosures accompanying the writ of Commission should be given in the writ as well as in the forwarding letter and such lists should be prepared in triplicate.
Translation,	27.Where the language of the country to which the Commissions or Letter of Request is sent is not English a specific request should be made that the executing Court or Consular Officer should cause translations of all the documents sent by him to be made in English and money for that purpose should be recovered in advance from the

party concerned. Similarly where a party at whose instance a Commission or Letter of Request is issued is unable to prepare a translation of the documents in the language of the country concerned, a request should be made that translation be arranged by the India Office or Consular Officer concerned and costs of such translation should be recovered in advance. Approximate* charges for translations into certain foreign languages are given below:

Per folio of 72 words.

French	}	..1/6 d.
German		
Spanish		
Portugues		
Italian		
Dutch	}	2/3 d.
Scandinavian		
Russian	}	3 d.
Polish	}	
Czechoslovak	}	4.6 d.
Hungarian		
Roumanian		
Greek		
Finish		
Serbian		

Note.--1 The above charges relate to translation of the ordinary matter. At least 50 per cent extra is charged when the documents are of a legal or technical nature.

Note.-2 Where evidence is being taken by a British Consular Officer, it is not necessary to supply translations of any document which are *in* English or in the language of the country where the Consular Officer resides, but translations should be furnished in the other cases.

28. In cases where both parties are to be represented at the examination, the Letter of Request or Commission may be sent either without interrogatories, a request being made that the local agents of the parties be permitted to appear at the examination of the witnesses and ask or submit the questions which they desire to ask, or with interrogatories, a request being made that the local agent might be permitted to ask other supplementary questions. If neither party proposed to attend or be represented at the taking of the evidence this fact should be noted in the Letter of Request or Commission in order to avoid delay.

Procedure when parties are to be represented at examination

Note.—The names and addresses of the local agents should always be given.

*Vide copy of Letter from the India Office to the Secretary to the Government of India, External Affairs Department, Simla, No. P & J 3560/38, dated 4th August, 1938.

Preparation of writ .	29.The Court sending the Commission or Letter of Request should satisfy itself that the interrogatories and cross-interrogatories which are enclosed, are legibly written in an intelligible language and all the documents to which a reference is made in them have been attached. All such documents should be duly authenticated and marks of identification should be put on them.
Signing, etc., of interrogatories.	30.The interrogatories and cross-interrogatories should be signed by the parties and their counsel, if any, and should be inserted in proper sequence in the complete Letter of Request and Commission and in the certified copies of the translation.
Duplicate copies of documents.	31.Duplicate copies of all documents should be furnished and marked as duplicate.
Binding of the papers.	32.(1) The complete Letter of request or Commission with the accompanying documents should be on strong paper and sewn together in a parchment paper cover down the left hand side, the end of the silk, tape or thread with which they are sewn being brought out on the front cover and the ends sealed down and the binding signed and sealed by the Judge so that there is no possibility of the removal, substitution or addition of any sheet without breaking the seal.
Arrangement of the papers.	(ii) The Letter of Request and accompanying documents should be in the following order :— (a) Letter of Request. (b)Index in English if not included in (a). This must be complete that is to say every document in the bundle and which follows the letter of request must be separately specified together with its serial or page number corresponding to the number opposite that document in the index or the whole bundle of documents following the letter of request must be paged consecutively. Moreover, all numbers appearing at the top or foot of any page of the documents other than the number (if any), assigned to that page by the index should be deleted. (c)Narrative if not included in (a) including, where necessary, an explanation of the reasons for the institution of two suits for the same amount.

(d) Interrogatories, cross-interrogatories and re-interrogatories. These should contain the same description of witnesses as appears in the letter of request.

(e) Other documents (in chronological order) accompanying the letter of request.

(f) Translations of (a) to (e) inclusive where necessary arranged in the same order and each one of them properly certified by an official of the Court as true translation.

(g) Duplicates of (a) to (f) inclusive and not excluding telegrams arranged in the same order and each one of them properly certified by an official of the Court as true copies.

Responsibility of the Presiding Officer for correct preparation.

33. The preparation of a letter of Request or Commission must not be left to clerks. The Presiding Officer of the issuing Court will primarily be held responsible for its accuracy and completeness in every respect before transmission to the High Court, and it is the duty of the Superintendent to the District Judge to examine the Letter of Request and Commission and its accompaniments carefully, and to see that all instructions have been complied with.

Authority to engage a lawyer to execute writ.

34. In some countries there is no machinery for summoning witnesses and to administer the interrogatories before the appropriate Court (e.g., British Columbia). It will be better if authority be given to engage a lawyer for that purpose in the forwarding letter.

35. Letters of Request and Commission should always set forth a clear and concise explanation of the exact points on which it is desired that the witnesses should be examined.

Points of examination of witnesses should be specified.

(SCHEDULE, VIDE PARAGRAPH 3, CH-10-D.)

*List of Foreign Countries in which British
Consular Officers may take evidence, if tendered
Voluntarily:—*

Argentine Republic
Bolivia
Brazil
Bulgaria
Chile
Columbia
Costa Rica
Cuba
Czechoslovakia
Denmark
Danzig
Equador
Estonia
Finland
France
Greece
Guatemala
Honduras
Hungry*
Italy (except Trieste) Lithuania.
Mexico
Netherlands
Nicaragua
Norway †
Peru
Poland
Portugal
Salvador
Spain
Sweedden
United States
Uruguay
Venezuela
Yugoslavia*

*From British Subjects only.

†In shipping matters only.

Note.—It should be noted that process to compel the attendance of witnesses will not be issued by the local courts.

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PART E.-SPECIAL PROCEDURE IN REGARD TO PARTICULAR
FOREIGN COUNTRIES.

Pakistan

1. Commissions or Letters of Request can be addressed by Courts in India to the following Courts in Pakistan.

I. PROVINCES OF SIND AND BALUCHISTAN

Sind

Registrar, Chief Court of Sind, Karachi.
District Judge,
Hyderabad.
District Judge, Sukkur.
District Judge, Larkana
District Judge, Nawabshah.
District Judge, Thar Parkar, Mirpurkhas.

BALUCHISTAN

Baluchistan.—(1) Court of District Judge in Baluchistan, Quetta.

Baluchistan States Union. (2) Court of the Wazir-i-Azam, Baluchistan State Union.

II. PROVINCE OF EAST BENGAL

District Judges at the following places.—

- 1.Barisal.
- 2.Chittagong.
- 3.Dacca.
- 4.Faridpur.
- 5.Jessore.
- 6.Pabna-Kushtia. (Pabna)
- 7.Dinajpur Bogra. (Dinajpur)
- 8.Mymensingh.
- 9.Noakhali.
- 10.Rajshahi.
- 11.Rangpur.
- 12.Sylhet.
- 13.Tippera (Comilla).
- 14.Khulna:

All Sub-Judges' Courts at the following places.

- 1.Barisal.
- 2.Chittagong.
- 3.Dacca.
- 4.Faridpur.
- 5.Jessore.
- 6.Dinajpur.
- 7.Khushtia.
- 8.Pabna.
- 9.Bogra.
- 10.Mymensingh.
- 11.Noakhali.
- 12.Rajshahi.
- 13.Rangpur.
- 14.Sylhet.
- 15.Comilla (Tippera).
- 16.Khulna.

All Munsif's Courts at the following places.

- 1.Barisal Sadar.
- 2.Perojpur.
- 3.Bhola.
- 4.Patuakhali.
- 5.Chittagong Sadar.
- 6.Satkania.
- 7.Patiya.
- 8.North Roazan.
- 9.South Roazan.
- 10.Fatikchari.
- 11.Cox's Bazar.
- 12.Dacca Sadar.
- 13.Narayanganj.
- 14.Munshiganj.
- 15.Manikganj.
- 16.Faridpur Sadar.
- 17.Coalonda.
- 18.Bhanga.
- 19.Gopalganj.
- 20.Madaripur.
- 21.Chikandi.
- 22.Jessore Sadar.
- 23.Narail.
- 24.Magura.
- 25.Jhenidah.
- 26.Pabha Sadar.

27. Serajganj.
28. Kushtia.
29. Choudanga.
30. Dinajpur Sadar.
31. Thakurgaon.
32. Rachagarh.
33. Bogra.
34. Mymensingh Sadar.
35. Netrokona.
36. Iswarganj.
37. Kishoreganj.
38. Sherpur.
39. Tangail.
40. Jamalpur.
41. Bajitpur.
42. Durgapur.
43. Noakhali Sadar.
44. Feni.
45. Lakshmipur.
46. Hativa.
47. Sandw in.
48. Rajshahi Sadar.
49. Na tore.
50. Noagaon.
51. Nawabganj.
52. Rangpur Sadar.
53. Kurigram.
54. Nilphamari.
55. Gaibandha.,
56. Sylnet Sadar.
57. Habihgan
58. Maulvi Bazar.
59. Sunamganj.
60. Comila Sadar,
61. Brahman Barial.
62. Chandpur.
63. Nabinagar.
64. Khulna Sadar.
65. Ragerhat.
66. Satkhira.

III. PROVINCE OF PUNJAB (P).

Name of Court	Judges to whom a Commission or a Letter of Request can be issued
1. District Court, Lahore Sheikhupura.	1. District Judge, Lahore
7.2. District Court, Sialkot.	2. District Judge, Sialkot.
8.3. District Court, Gujranwala and Gujrat.	3. District Judge, Gujranwala.
4. District Court, Shahpur.	4. District Judge, Shahpur at Sargodha.
5. District Court, Jehlum.	5. District Judge, Jehlum.
6. District Court, Rawalpindi.	6. District Judge, Rawalpindi.
7. District Court, Attock.	7. District Judge, Attock.
8. District Court, Mainwali.	8. District Judge, Mianwali.
9. District Court, Montgomery.	9. District Judge, Montgomery.
10. District Court, Lyallpur, Jhang.	10. District Judge, Lyallpur.
11. District Court, Multan, Muzaffargarh.	11. District Judge, Multan.
12. District Court, Dera Ghazi Khan	12. District Judge, Dera Ghazi Khan.

IV. NORTH

Courts	Officer to whom Commission and Letters of Request may be addressed
1. Judicial Commissioner's Court, N. W. F. P. Peshawar.	1. Registrar, Judicial Commissioner's Court, N. W. F. P. Peshawar.
1.2. District Court, Peshawar.	2.2. District Judge, Peshawar.
3.3. District Court, Hazara (Abbottabad).	4. District Judge, Hazara (Abbottabad).
5.4. District Court, Dera Ismail Khan.	6. District Judge, Dera Ismail Khan.

WEST FRONTIER PROVINCE

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V. KHAIRPUR STATE AND BALUCHISTAN STATE UNION

1. Khairpur State.	1. The Court of the District Judge, Khairpur.
2. Baluchistan State Union.	2. (i) Wazir-i-Azam, Baluchistan States Union,
(ii)The Court of Revenue Commissioner, Baluchistan States Union,	
(iii)The Court of Deputy Commissioner, Kalkat District.	
(iv)The Court of Deputy Commissioner, MeIran District, Turbat.	
(v)The Court of Deputy Commissioner, Lasbela, District Karachi, and	
(vi)The Court of Deputy Commissioner, Kharan.	

V1.-FRONTIER REGIONS AND STATES

I. *Mohamand Agency*.-

- (i) The Court of the Political Agent, Mohamand.

II. *Malakand Agency*.-

- (i)The Court of Political Agent, Dir, Swat and Chitra, Malakand.

- (ii)The Court of the Additional Political Agent, Chitra.

- (iii)The Court of the Assistant Political Officer, Malakand Agency, Chakdara.

III. *Khyber Agency*.—

- (i)The Court of the Political Agent, Khyber.

- (ii)The Court of the Assistant Political Officer, Khyber.

IV. *Kurram Agency*.-

- (i)The Court of the Political Agent, Kurram.

- (ii)The Court of the Assistant Political Officer, Kurram.

V. *North Waziristan Agency*.—

- (i) The Court of the Political Agent, North Waziristan.
- (ii) The Court of the Assistant Political Agent, North Waziristan.
- (iii) The Court of the Assistant Political Officer, North Waziristan.

VI. *South Waziristan Agency*.—

- (i) The Court of Political Agent, South Waziristan.
- (ii) The Court of the Assistant Political Officer, South Waziristan.

VII. BAHAWALPUR STATE

- (1) High Court of Judicature at Baghdadul Jadid.
- (2) District and Sessions Judges of Rahimyar Khan and Bahawalpur.

2. Letters of Request issued by Civil courts in India for the examination of witnesses, residing in Pakistan are often returned by the Government of Pakistan for the rectification of some defect or other in their preparation. The return of the documents for that purpose or for the issue of fresh documents instead naturally results in unnecessary delay, apart from causing avoidable work all round. The courts in India issuing the Letters of Request should, therefore, take all necessary care for the correct preparation of these processes intended for execution in Pakistan. Before transmitting these documents to the High Court, the District Judges should see that the following requirements are satisfied by the documents:--

- (i) Letters of Request should be issued under Rule 5 of Order XXVI in the First Schedule to the Code of Civil Procedure, 1908. Commissions should be issued under rule 4 of the said order.
- (ii) The letter of Request should be drawn up in accordance with form No. 8, Appendix H in the First Schedule to the Code of Civil Procedure 1908. The writ of Commission should be drawn up in accordance with form No. 7 in the said Appendix. RR. 5, 11. Ch. 10. F.
- (iii) The date for the return of the Letter of Request, if at all specified should be sufficiently long. Preferably, no such date should be

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specified in order to avoid the need for extension of the date by the issuing Court from time to time.

- (iv) The separate Letters of Request or Writs of Commission for examination of witnesses should be drawn up when witnesses reside in different districts.
 - (v) The Letter of Request or the Writ of Commission should be in the name of the Court issuing it and the title of the suit in which it is issued.
 - (vi) The full and correct addresses of the witnesses should be given in the Letter of Request or the Writ of Commission.
 - (vii) The Letter of Request, interrogatories Cross-interrogatories and other accompanying documents should be drawn up in duplicate and signed and sealed by the Presiding Officer of the Court.
 - (viii) All the documents and enclosures should be signed and sealed by the Presiding Officer of the Court.
 - (ix) The interrogatories and cross-interrogatories should also be signed by the parties and their counsel.
 - (x) Letters of Request and other accompanying documents should be sewn together in a parchment paper-cover down the left hand side the ends of the silk, tape or thread with which they are sewn being brought out to the front cover and the ends appropriately sealed.
3. An initial deposit of Rs. 200 may be considered sufficient in ordinary cases and should be sent along with the Commission or Letter of Request by a Bank draft as directed in Rule 19, Ch. 10-F.
4. Diplomatic channels laid down in Rule 20, Ch. 10 F. should be strictly followed.

Canada

It should be remembered that in Canada or other countries where there is federation, the Supreme Court of the federation does not execute letters of Request. Such Letters should be addressed to the President and Judges of the, Supreme Court of the Province in which the

person who is to be examined resides. The parties should be asked to deposit a sum of Rs. 750 as the approximate cost of execution of such commissions or Letters of Request, subject to adjustment later on. Rules 19 and 20 of Ch. 10-F govern the transmission of such documents and fees.

Aden

Aden is now a foreign country. The language of Aden Courts is English. A commission fee of Rs. 60 may be considered sufficient in ordinary cases.

British East Africa

A British possession would now be a foreign country and the diplomatic channels laid down in Rule 20, Ch. 10-F. should be followed.

Japan

Reciprocal arrangements have been made between India and Japan for the execution of letters of request as well as for the service of legal processes. These documents should be forwarded through the High Court and the State Government to the Government of India who will forward them to the proper authority. So far as letters of request are concerned, adequate sums not less than Rs. 200 for the expenses must be recovered from the parties and sent by bank draft (as laid down in Rule 19, Ch. 10-F) along with the covering letter which should state the amount sent. A translation of all documents in Japanese should be sent with the papers. The documents should be drawn up separately for each of the Japanese Courts in whose jurisdiction witness resides and detailed particulars as to name, nationality and residence of witnesses should be given.

Note.—Attention is invited to the instructions contained in letter No. D-7921-CJK 49 dated the 21st December, 1949, from the Government of India, Ministry of External Affairs, which has been endorsed to all District and Sessions Judges in the Punjab and Delhi with High Court endorsement No. 897-Genl/XIX-F. 10, dated the 4th February, 1950. In view of the instruction contained in that letter, an official of the Indian Liaison Mission with Consular Powers is deputed to administer oaths to and obtain evidence from Japanese witnesses, in legal matters utilizing, if necessary, the services of a Translator Interpreter in an appropriate answer. It is essential to furnish the mission with (i) a detailed history of the whole case, and how each one of the witnesses cited would be concerned with the case, etc. (ii) copies of the relevant documentary evidence pertaining to the case, (iii) detailed instructions as to the points in respect of which evidence should be obtained and recorded, what specific questions should be put to the witnesses, what should be the exact nature of the cross-examination and re-examination required, etc. If possible drafts of all the points to be covered and the questions to be asked should be supplied.

Thailand

- (1) Two methods are recognized :- (i) Letter of Request should be addressed to the High Court of the Justice, Bangkok (or other Court having jurisdiction), for the formal taking of evidence on commission. They have to be sent through the medium of His Majesty's Legation of Consulate-General and the Thai Foreign Office and other methods are recorded as irregular. (ii) It is optional with the British Consular Officer in Thailand to accept Letters of Request and to execute commissions by informal hearing of evidence at His Majesty's Consulate-General. The consent of the British Consular Officer (to undertaking this duty) may be presumed.
- (2) When, therefore, it is desired to issue a Letter of Request for the examination of a witness in Thailand, it would be desirable to issue, in addition to a Letter of Request addressed to the Thai Court, an alternative letter addressed to His Britannic Majesty's Consul-General at Bangkok requesting him or such other British Consular Officer as may be appointed by him to summon the said witness and so on as in form No. 7 of Appendix H, of the Code of Civil Procedure, with the omission of the expression "Process to compel the attendance of the witness will be issued by any Court having jurisdiction on your application." The Consul-General would then decide whether to move the Thai Courts to execute the Letter of Request or to arrange himself for the execution of the alternative letter. Prompt return of the testimony might be secured by adopting the second method. This is specially recommended when it is desirable to take the evidence in English and the witnesses are all British subjects and can be called to make their depositions at His Majesty's Consulate-General without the necessity of issuing subpoenas. A commission fee of Rs. 200 should in ordinary cases be remitted by a bank draft as laid down in Rule 19, Ch. 10-F. Both the Letter of Request addressed to the High Court of Judicature, Bangkok, and the alternative Letter of Request should be forwarded through the High Court and the State Government to the Government of India who will forward them to His Majesty's Consul-General at Bangkok.
- (3) The first method is, however, essential when for special reasons the record of a formally constituted Court is desired, or when the issue of summons to, or service of documents on, persons who are not British subjects is involved, as such summonses and documents can

legally by served only through the medium of the Thai Courts. It should be borne in mind that the Court language being Thai, in ordinary circumstances the courts these only receive requests in the Thai language. It is, therefore, advisable that the letter and interrogatories should be accompanied by a translation in Thai although at present there are English Advisers in some of the Thai Courts.

(4)The documents should be drawn up in a proper form, and if not typewritten, should be written in ink. They should be written in English and should be easily legible. Full translations in English should accompany all vernacular documents forming enclosures.

(5)In conformity with the requirements of the Thai Ministry of Justice relative to the Service in Thailand of writs of summonses issued by foreign courts what is required is not the original writ or copy thereof, but a. notice or certificate that the writ has been issued,

Netherland East Indies

Full translations in English should accompany all vernacular documents. The documents should be sent through the High Court and the State Government to the Government of India who will forward them to the proper authority. The State Governments except those of Bombay and Bengal have authorised the Consul-General at Batavia to incur the expenses of having the desposition in Dutch translated into English before their transmission to India in the case of the Letters of Request issued by Courts in their respective jurisdiction and executed by courts in the Netherlands East Indies, and to recover the cost from those State Governments. As regards Letters of Request emanating from courts in Bombay unless a specific request is made no English translation is made of such depositions. No translation is made in the case of Letters of Request issued by a court subordinate to the High Court at Calcutta.

Iran

Documents intended for execution in Persia (Iran), should be addressed to the Imperial Iranian Ministry of Justice and forwarded through the High Court and the State Government to the Government of India along with the necessary list of interrogatories for transmission to His Majesty's Minister, Teheran. They should be accompanied by translations into Persian of the Letters of Request or

interrogatories or by translation fees according to the scale specified below :--

Fee 104. For making or verifying a translation of a document for every 100 words or fraction thereof exclusive of fees for certificate (*see* No. 149) annas 7/6 *plus* 25 per centannas 9/6.

Fee 49.—For granting any certificate not otherwise provided for, if not exceeding 100 words, exclusive of fee for drawing (No. 99) annas 10 *plus* 25 per cent=annas 12/6/-.

These fees will be transmitted to the British Legation, Teheran, where the necessary translation will have to be made before they are forwarded to the Iranian Government. The last known address of the person concerned should be clearly indicated in English,

Nepal

Processes for service on persons in Nepal should be sent by the Indian Courts direct to the Nepalese Courts specified in the Schedule annexed to the Home Department Notification No. F-576/24 in judicial, dated the 15th August, 1925.

United States of America

Evidence is only to be obtained by means of commissions addressed in each case to the appropriate British Consular Officer, They are to be addressed to His Majesty's Consul General at New York so far as his Consular district consisting of the States of New York, Connecticut, and the Northern half of New Jersey is concerned. As regards witnesses residing elsewhere in the United States of America, if the court issuing the Commission is unable to ascertain which Consular Officer has jurisdiction in the State where the witness resides the Commission should be addressed to the British Consular Officers for the State concerned. A list of these officers is annexed. In such cases the Government of India are required to forward the Commission to the British Consul-General at New York, requesting him to transmit it to the Consular Officer having jurisdiction. If in any case it is desired to take the evidence of witnesses who reside both within and outside the particular Consular

district, the Commission should be made out substantially in the following terms:

"To His Majesty's Consul (or Consul-General) at..... or his Deputy with power to appoint any other person or persons whom he may deem fit to take the evidence on interrogatories which accompany this commission and *viva voce* of such witness to be examined at.....
.....and/or at....."

For this service the British Consular Officers maintain a scale of fees. A bank draft for Rs. 700 should accompany the papers, as an approximate cost *for* execution of commissions, subject to adjustment later on (*See* Rule 19, Ch. 10-F.). Such Commissions should be forwarded through the High Court and the State Government to the government Nadia who will transmit them to the British Consular Officer concerned:

Federated Malaya States

A. With a view to eliminate needless work and avoidable delay the Government of India have decided that Letters of Request and Commissions and other judicial documents may be routed direct from a High Court in India to a High Court in Malaya and that diplomatic channels followed in the case of other Foreign countries should not be insisted upon.

B. A sum of Rs. 200 may be considered as an adequate deposit in ordinary case and should be remitted direct by bank draft drawn in favour of the executing court along with the other papers (Rule 19, Ch. 10-F).

C. The Commission should be written in the English language or, if not so written, should be accompanied by a translation in English.

Iraq

Indian Courts are free to send processes for service to the Iraqi Ministry of Justice direct. Such documents should be accompanied by an English translation. If, for any particular reason, which should be stated in each case--it is considered necessary to transmit the documents to the Iraqi authorities through His Majesty's Embassy at Baghdad, they should be sent through the State Government to the Government of India who will forward them under cover of a despatch to the Embassy.

List of British Consular Officers in the United States of America

Residence			Rank
<i>United States-</i>			
Baltimore (Maryland)	..	..	Consul Vice-Consul
Norfold (Virginia)	..	..	Consul Vice-Consul
Boston (Massachusetts)	..	..	Consul-General Vice-Consul Pro-Consul
Chicago (Illionois)	..	..	Consul-General Vice-Consul
Detriot (Michigan)	..	..	Consul Vice-Consul Pro-Consul
Cincinnati (Ohio)	..	..	Vice-Consul
Cleveland (Ohio)	..	..	Do
Galveston (Texas)	..	..	Consul Vice-Consul
Dellas (Texas)	..	..	Do
Houston (Texas)	..	..	Do
Laredo (Texas)	..	..	Do
Honolulu (Hawaii)	..	..	Consul
Los Angeles (California)	Consul Vice Consul Pro-Consul	}	Vice-Consul
Douglas (Arisona)	..		Vice-Cousul
Manila (Philippine Islands)	..		Consul General Vice-Consul
Cebu	..	..	Vice-Consul
Davao	..	..	Vice-Consul
Iloilo	..	..	Do
Legaspi	..	..	Do
Zamboanga	..	..	Do
New Orleans (Louisiana)	..	..	Consul-General Vice-Consul

Jacksonville (Florida)	.	.	Consul (P)
	.	.	Pro-Consul
Miani (Florida)	.	.	Vice-Consul
	.	.	
New York (New York)	.	.	Consul-General
	.	.	Consul
			Vice-Consul
			Pro-Consul
Philadelphia (Pennsylvania)	.	.	Consul-General
	.	.	Vice-Consul
Pittsburgh (Pennsylvania)	.	.	Consul
	.	.	Vice-Consul
San Juan (Pureto Rico)	.	.	Consul
	.	.	Vice-Consul
Ponce	.	.	Do
	.	.	
St. Louis (Missouri)	.	.	Consul
	.	.	Vice-Consul
St. Thomas and Ste. Croid, Virgin Islands (West Indies)	.	.	Consul
Fredericksted	.	.	Vice-Consul
	.	.	
San Fransisco (California)	.	.	Consul-General
	.	.	Consul
			Vice-Consul
			Pro-Consul
Savannah (Georgia)	.	.	Consul
	.	.	
Atlanta	.	.	Vice-Consul
	.	.	
Seattle (Washington)	.	.	Consul
	.	.	Vice-Consul

PART F. LETTERS OF REQUEST AND COMMISSIONS ISSUED BY FOREIGN
COURTS

Attention is drawn to Act II of 1951 by which a new section 78 has been substituted in the Code. This Section and rules 19 to 22 of Order XXVI govern the procedure for execution in India of Commissions and Letters of Request received from foreign countries.

CHAPTER 11.**Judgment and Decrees****PART A.—PREPARATION AND DELIVERY OF JUDGMENTS.**

Early
pronouncement
advisable parties
to have due
notice of the day
fixed

1. When the trial in Court is over, the Judge should proceed at once, or as soon as possible to the consideration of his judgment. When the judgment is to be pronounced on some future day the Judge should fix a day for that purpose and the parties or their counsel should have due notice of the same. It is essentially necessary that the judge should proceed to the consideration of the judgment while the demeanour of the Witnesses and their individual characteristics are fresh in his memory. He should bear in mind that his first duty is to arrive at a conscientious conclusion as to the true state of those facts of the case about which the parties are not agreed. The oral and documentary evidence adduced upon each issue should be carefully reviewed and considered in the judgment.

Directions
judgments

2. In the preparation and delivery of judgment the attention of the Civil Courts is drawn to the following:-
 - (1) The Judgment should be written either in the language of the Court, or in English;
 - (2) when a judgment is not written by the Presiding Officer with his hand, every page of such judgment shall be signed by him;
 - (3) it should be pronounced in open Court after it has been written and signed;
 - (4) it should be dated and signed in open Court at the time of being pronounced and when once signed shall not afterwards be altered Of added to, save as provided by section 152 or on review;
 - (5) if it is the judgment of any Court other than a Court of small Causes, it should contain a concise statement of the case; the points for determination the decision thereon and the reasons for such decision;
 - (6) if it is the judgment of a Court of small Causes, it should contain the points for determination and the decision thereupon;
 - (7) it should contain the direction of the Court as to costs;
 - (8) All the paragraphs of the judgment should be serially numbered to facilitate reference;
 - (9) The Judgment rendered by the Subordinate Courts in Civil Suits, Petitions (Civil and Criminal) and the Criminal trials should have a list of witnesses and exhibits at the end in an annexure. The annexure shall be prepared by the Reader/Ahlmad in the court of the concerned Judge. The Reader/Ahlmad shall start preparation of the annexure on the day the examination of the witnesses and exhibiting of

the documents start and go on adding the names of witnesses examined and documents exhibited on each day as the trial progresses till its final conclusion.

It shall also be applicable to original petitions, criminal trials and suits tried by District and Sessions Judge/Additional District & Sessions Judge”.

LIST OF WITNESSES

S.No.	Name of Witness	Whether witness of plaintiff or defendant

LIST OF DOCUMENTS

Exhibit /Mark	Date of Exhibit	Description of Exhibit

[clause (9) amended vide Correction Slip no. 78 Rules/II.D4 dated 16.11.2018.]

Reference to evidence

3. Some Judicial Officers make a practice of prefacing judgments with a memorandum of the substance of the evidence, given by each witness examined which has to be referred to. This practice is irregular, when the memorandum is in addition to that made under Order XVIII, rule 8 of the Code of Civil Procedure. All that the law requires is a concise statement of the case and not a reproduction of the evidence. The judgment should, however, be complete in itself as regards the requirements of Order XX, rule 4, of the Code, and should set forth the grounds of decision as concisely as is consistent with the introduction of all important matters. It may be necessary, in particular cases, to refer to, and give a summary of, the statements of a witness or witnesses; but, if so, such summary should be incorporated in the reasons given for the decision of the Court on the issue to which it relates. When it is necessary to refer to the evidence of a witness in the course of a judgment, the reference should be by name as well as the number of the witness.

Postponement

4. Instances have occurred of judgments not being written until a considerable time after final arguments in a case have been heard. This practice is open to grave objection, and in any case in which judgment is not written and pronounced within 14 days from the date on which arguments were heard, a written explanation of the delay must be furnished by the subordinate Court concerned to the District Judge. This is not meant to encourage a practice of reserving Judgments; on the contrary, judgments should ordinarily be written as soon as arguments have been heard. It is only in the exceptional case where the Court has to consider many rulings and cannot conveniently give judgment at once, that

there is any justification for Judgment being reserved.

The subordinate Courts should append to their monthly and quarterly statements, a certificate to the effect that judgments have been pronounced in all cases (including rent and objection cases) within one month of the final conclusion of evidence. Explanation should be given as regards any judgments not delivered within such period.

Certificate of Postponement	
Procedure when judge gives over charge before pronouncing Judgment	5. Every District Judge or Sub-Judge proceeding on leave or transfer, must, before making over the charge, sign a certificate that he has written judgments in all cases in which he has heard arguments. Should an officer be forced to lay down his charge suddenly, he shall, nevertheless, write the judgments in such cases, and send them for pronouncement to his successor.
Persons employed for dictation of judgments	6. Subordinate Courts should note that judgments are to be dictated only to persons employed for that express purpose or employed as copyists or candidates.
Note to be written in Court before disposal of cause list	7. The practice of writing up judgments during the Court hours in the early part of the day is to be deprecated. Judgments may be written after the day's cause list has been completed.
Language	8. Presiding Officers of Subordinate Courts, who are well acquainted with the English language, should write their judgments in English in appealable cases when a Subordinate Judge writes his judgment in English, the decree also should be framed in the same language.
Information of cancellation of registered instrument to be sent to registering officer	9. It should be remembered that section 39 of the Specific Relief Act, 1877, requires that, when any registered instrument has been adjudged void or voidable, and the Court orders it to be delivered up and cancelled, the Court shall send a copy of its decree to the officer in whose office the instrument was registered with a view to such officer noting the fact of cancellation in his books.
Pronouncing judgment after death of a party	10. In Order XXII, rule 6, it is provided that, if any party to a suit dies between the conclusion of the hearing and the pronouncing of the judgment, such judgment may be pronounced, notwithstanding the death, and shall have the same force and effect as if it had been pronounced before the death took place.
Judgment not legibly written	11. Judgments (when not type-written) should always be written in a clear and legible hand. If they are not so written, such a copy should be made and placed on the record.
Civil powers to be disclosed in the record, judgment and decree	12. Every judicial officer hearing or deciding a civil suit, proceeding or appeal, is responsible that the record and the final order of judgment and the decree in such civil suit, proceeding or appeal, shall disclose the civil powers which such officer exercised in hearing or deciding such suit, proceeding or appeal.
Civil powers	13. The powers above referred to are the following:— - Subordinate Judge, fourth class. - Subordinate Judge, third class. - Subordinate Judge, second class,

- (d) Subordinate Judge, first class.
- (e) Subordinate Judge invested with appellate powers under section 39 of the Punjab Courts Act.
- (f) Subordinate Judge invested with powers of Court of Small Causes.
- (g) Judge, Small Cause Court.

Civil powers

14. When the powers exercised by any Judge invested with powers under Section 28 of the Punjab Courts Act differ from those stated in rule 14, such powers must be specifically stated.

Appellate Powers

15. By High Court notification No. 170-Gaz./XXI. C.6, dated the 16th May, 1935 (as amended by notification No. 53-Gaz./XXI-C.6, dated the 23rd February, 1940), in respect of the Punjab, and by High Court notification No. 171-Gaz./XXI.C.6, dated the 16th of May, 1935, in respect of Delhi, the Senior Subordinate Judge of the first class in each District of the Punjab (1) and Delhi has been invested with appellate powers up to a certain limit.

Special Appellate Powers

16. Certain selected Sub Judges of the 1st Class are, however, personally invested by name with appellate powers of a higher limit. To mark the distinction such Sub Judges should when exercising their enhanced powers, invariably use the words "invested with special appellate powers".

Review and amendment

17. For review and amendment of judgments see Chapter I-L (d) and (e) of this volume.

SCHEDULE

Punjab and Haryana Civil Courts Preparation and Supply of Certified Copies of Type Written Judgments Rules, 1982

In exercise of the powers conferred by Rule 6B read with Rule 20 of Order XX of Code of Civil Procedure, 1908, as amended, the High Court of Punjab and Haryana makes the following rules to regulate the preparation and supply of certified copies of type written judgments in civil cases by Courts provided with stenographers/steno-typists, namely:-

1. Short title, extent and commencement:-

- (1) These Rules may be called the Punjab and Haryana Civil Courts Preparation and Supply of Certified copies of Typewritten Appealable Interim Orders/Judgments Rules, 1982.
- (2) They shall apply to every civil court for the time being provided with a stenographer or a steno-typist, subordinate to the High Court.
- (3) They shall come into force with immediate effect.

2. **Definitions:-** In these rules, unless the context otherwise requires:-
 - (a) Copy means certified copy of typewritten appealable interim order/Judgment prepared in accordance with these rules.
 - (b) 'Code' means the Code of Civil Procedure, 1908.
 - (c) 'High Court' means the High Court of Punjab and Haryana at Chandigarh.
 - (d) All other words and expressions used in these rules but not defined shall have the meaning respectively assigned to them in the Code.
3. **Persons entitled to obtain copy:-** Any party to a civil case including proceedings of a civil nature shall be entitled to obtain copy from the Court if an application is made to the Presiding Officer of that Court at any time before the conclusion of arguments.
4. **Duty of the Court to inform the parties and their pleaders as to their right for supply of copies:-** The Court shall, before the commencement of arguments, inform the parties and their pleaders present in Court as to their right to the supply of a copy if an application is made by them at any time before the conclusion of arguments.
5. **Procedure for submission of application:-** An application for a copy shall be made by the party, his authorised agents or by his pleader on a plain paper bearing a Court fee stamp of 40 paise apart from the court fee stamp, if any, to cover the cost of a copy.
6. **Charges for copy and manner of payment thereof:-** Copying fee shall be charged @ Rs. 2/- per page subject to minimum of Rs. 5/- and for each additional carbon copy Rs. 1/- per page which shall be paid by the applicant in the form of court fee stamps before taking delivery of the copy.
7. **Preparation of copies by stenographers, stenotypists:-** The stenographers or the steno-typists as the case may be, shall prepare as many extra carbon copies of appealable interim order/judgments as are applied for by the parties or their pleaders within the prescribed time-limit at the time of transcription of interim order/judgment pronounced by this Court.
8. **Endorsement on copies:-**
 - (1) The stenographer or the steno-typist as the case may be, who prepared the copy, shall make thereof the following endorsement:-

"Certified to be a true copy"

-6-

and shall sign and date the endorsement and also subscribe his official designation below which he shall make the following further endorsement:-

“Authorised by Section 76 of the Indian Evidence Act, 1872.”

- (2) If the copy is on more than one sheet of paper, he shall endorse the word “attested” on every such sheet and shall enter his initials and the date there under. He shall at the same time cancel the Court fee stamps on the application, if not already done and also those representing the cost of the copy.

9. **Recovery of copying fee and supply of copy:-** The stenographer the steno-typist, as the case may be before delivering copy to the applicant ensure that the prescribed copying fee charges have been duly recovered in the form of Court fee stamps.

10. **Account of income in register:-**

- (1) The stenographer or the steno-typist, of every civil court shall maintain a register showing therein each day's income from the supply of copies and other particulars in the following form:-

- (i) serial No.
- (ii) date of application.
- (iii) date of pronouncement of judgment.
- (iv) number and title of the case.
- (v) name of the applicant.
- (vi) number of pages of the judgment.
- (vii) amount recovered as copying charges
- (viii) date of delivery of copy, and
- (ix) remarks by the Presiding Officer of the Court.

- (2) After the close of each month, he shall total the income and prepare a statement of monthly income which shall be sent by him after being countersigned by the Presiding Officer of the Court by the 15th of succeeding month to the Officer Incharge of the Copying Agency which is required to supply copies of the records of that Court.

11. 40 per cent of the income derived from the supply of copies prepared by a Stenographer or steno-typist as the case may be, shall be paid to him by the Officer Incharge of the Copying Agency within a period of 15 days from the receipt of statement under Rule 10 out of the contingent grant of the Court.

(Punjab and Haryana High Court Notification No. GSR. 85/257/CA/1908/R6B and 20, Order XX/82 dated 5th August, 1982.)

PART B – PREPARATION OF DECREES

1. **Points to be borne in mind:-** The decree should be framed by the Judge with the most careful attention. It must agree with the judgment, and be not only complete in itself but also precise and definite in its terms. It should specify clearly and distinctly the nature and extent of the relief granted, and what each party, affected by it, is ordered to do or forbear from doing. Every declaration of right made by it must be concise, yet accurate; every injunction, simple and plain. {In suits relating to delivery of possession of a property, before passing the decree, the Court must ensure that the decree is unambiguous so as to not only contain clear description of the property, but also having regard to the status of the property.}
{Rule 1 amended vide C.S. No. 84 Rules/II.D4 dated 21.11.2022}
2. **Directions:-** The following directions relate to the preparation of decrees:-
 - (i) **Date for delivery, of possession of land:-** In decrees for possession of agricultural land, it should be stated whether possession is to be given at once, or after the removal of any crop that may be standing on the land at the time, when the decree is executed, or on or after any specified date.
 - (ii) **Appellate decrees:-** In Appellate Courts, the language used in filling in the decretal order, shall conform to the action recognized by the law, and shall direct that the decree of the lower Courts be either "affirmed", "varied", "set aside" or "re-versed". In each case in which a decree is affirmed, the terms thereof shall be recited, so as to make the appellate decretal order complete in itself. In varying a decree, the relief granted, in lieu of that originally granted shall be fully and accurately set out. Where a decree is reversed on appeal, the consequential relief granted to the successful party shall similarly be stated. Every decretal order shall be so worded as to be capable of execution without reference to any other document, and so as to create no difficulty of interpretation.
3. **Preliminary decrees:-** Under Section 2 of the Code of Civil Procedure a decree may be either "Preliminary" or "final". A preliminary decree should be based on a preliminary judgment.
4. **Mesne Profits:-** In cases where mesne profits are asked for in the plaint, the question as to the amount thereof(if any), which should be paid to the plaintiff, in respect to the period of dispossession before and up to the date of filing the plaint, must be determined at the hearing of the suit, and decree must specify clearly the portion of this amount which each defendant is to pay, either severally or jointly with others, to the plaintiff (Order XX, Rule, 12).
5. **Decree in case of compromise:-**
 - (1) When a decree is to be passed on the basis of a compromise, the Court should order the terms of the compromise to be recorded in accordance with the provision of Order XXIII, rule 3, Civil Procedure Code, and then pass a decree in accordance with the terms. When, however, the compromise goes beyond the subject-matter of the suit, a decree can be passed only in so far as it relates to the suit. As regards the proper form of decree in the latter class of cases, the directions of their Lordships of the Privy Council in "Hemant Kumari Devi *versus* Midnapur Zamindari Company" (46 I. A. 240 and 244), should be followed.
 - (2) **Compensation by minors:-** When any of the parties to the case are minors care should be taken to see whether the compromise is for the minors benefit and to record a finding to that effect if compromise is sanctioned and made the basis of the decree.
6. **Addition or substitution of parties:-** When any parties are added or substituted in the course of the suit, care should be taken to see that their names are properly shown in the decree-sheet.

- 7. Decree in certain cases:-** As regards the proper form of decree in certain classes of suits, the provisions of Order XX and Order XXIV, Civil Procedure Code, should be consulted.
The Provisions of Order XX, Rule 14, Code of Civil Procedure, relating to the contents of the decree in a pre-emption suit, should be carefully studied. Sub-rule (2) relating to the adjudication of rival claims to pre-emption is new and requires special attention.
- 8. Decrees in suits to set aside alienation:-** In a suit by reversioners under the Punjab Customary Law, when a portion only of the consideration for an alienation is proved to be for valid necessity and the alienation is not upheld, the decree should be in the following form:-
(i) That the alienation shall not take effect as against the reversioners on the death of the alienor;
(ii) that on the death of the alienor the reversioners shall not be entitled to possession until they have paid the sum found for necessity (92 P.R.1909).
- 9. Powers of Court to be set forth:-** Every decree must set forth the powers of the Officer deciding the suit.
- 10. Pauper suits:-** In suits by paupers, when an order is passed under rules 10, 11 or 12 of Order XXXIII a copy of the decree should be forthwith forwarded to the Collector.
- 11. Review and amendment:-** For review and amendments of decree see Chapter I-L (d) and (e) of this volume.

PART C. —AWARD OF COSTS IN CIVIL SUITS.

1. The general rule as to the award of costs in civil suits is that costs follow the event of the action; that is, the costs of the successful party are to be paid by the party who is unsuccessful. General rule.

2. A wide discretion, however, is given to the Court to grant or withhold or apportion costs as it thinks fit. This discretion is to be exercised judiciously, e.g.:- When costs may be disallowed.

Costs or a portion thereof may be disallowed to a successful party and he may even be liable to be burdened with costs in the following cases: —

(a) Where a party has without just cause resorted to litigation;

(b) where a party has raised an unsuccessful plea or answer to a plea (such as fraud limitation, minority, etc.) without sufficient grounds;

(c) in cases mentioned in Order 24, rule 4, when a defendant deposits money in satisfaction of the claim;

(d) whenever the demand, whether of debt or damages or property claimed, is excessive or is only successful to a small extent; and

(e) in cases where notice to admit facts or documents has not been given (See Chapter 1-F, paragraphs 13 and 14 of this volume).

When notice to admit documents or facts has been given under Order XII, rules 2 and 4 of the Code of Civil Procedure to a party and it has withheld its admission without sufficient cause it must bear the costs incurred by the other party in proving the documents or facts whatever the result of the suit may be.

3. Costs shall be disallowed :

(a) In a suit or proceeding relating to a loan where the Court finds that the creditor has failed to regularly record and maintain an account as required by section 3 (1) (a) of the Punjab Regulation of Accounts Act, 1930. (See section 4 of the Act);

When costs shall be disallowed.

(b) When a creditor sues for recovery of a debt in respect of which a certificate has been granted by the Debt Conciliation Board (*vide*

Section 20 (2) of the Punjab Relief of Indebtedness Act of 1934);

- (c) as against a minor or a person of unsound mind, where a person has not been represented by a next friend or guardian. [Order 32, rules 2,5, (2) and 15 of the Civil Procedure Code.] In such cases pleaders may under certain circumstances be made personally liable for Costs.

Reasons for disallowing costs to be recorded.

4. Whenever the Court orders that costs shall not follow the event, it must record its reasons. [Section 35(2) Civil Procedure Code.]

Costs of applications.

5. In disposing of applications made under the Civil Procedure Code the Court may award costs at once to either party or may postpone its consideration to a later stage.

Expenses included in costs.

6. The Code of Civil Procedure is silent as to what expenses are to be considered, as included in the term "costs". Such expenses ordinarily fall under the following heads : —

(a) Court-fee stamps on all necessary petitions.

(b) Process-fees.

(c) Expenses of proving and filing copies of necessary documents.

(d) Pleadings' fees.

(e) Charges incurred in procuring the attendance of witness, whether such witnesses were summoned through the Court or not.

(f) Expenses of Arbitrators and Commissioners. Pleadings' fees are regulated by the rules contained in Chapter 16 of this Volume "Legal Practitioners".

Note.—1. Charges incurred on inspection of records (for one inspection only) may be included in costs.

Note.—2. Charges incurred in procuring the attendance of witnesses may be included as costs even though the witnesses were not actually examined if the court is of the opinion that the party bringing or summoning them was reasonably expected to procure their attendance for that hearing and the fact that the witnesses were not examined was not due to any fault of that party or was not for showing accommodation to that party.

Compensatory costs for false or vexatious Claims or pleas

7. Under S.35-A of the Code Compensatory costs for false or vexatious claims and pleas may be awarded under certain circumstances. It is no longer necessary

that an objection should have been taken by the party affected at an early stage of the trial.

The mere failure of a party to prove the claim or pleas should not be taken to justify an order under this section. The court should be satisfied that the plea or claim was put forward by a party with the knowledge that it was false or vexatious and the court should record the reasons for its opinion. Under the powers conferred by the second proviso to sub-section (2) of section 35-A of the code of Civil Procedure, the High Court has directed that the amount which any Court or class of Courts is empowered to award as costs by way of compensation shall be limited as follows:

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- (i) Courts of subordinate Judges of the fourth class Rs. 100/-;
 - (ii) Courts of Subordinate Judges of the third class Rs. 200/-;
 - (iii) Courts of Subordinate Judges of the second class Rs. 500/-;
 - (iv) Courts of Subordinate Judges of the first class shall be guided by the provisions of sub-section (2) of section 35-A of the Code.

PART D.—AWARD OF INTEREST IN CIVIL SUITS.

- 1.By Act XXVIII of 1855 (an Act for the repeal of the Usury Laws) it is provided that, in any suit in which interest is recoverable, the amount shall be adjudged or decreed by the Court at the rate (if any) agreed upon by the parties and, if no rate shall have been agreed upon, such rate as the Court shall deem reasonable. (Section 2).

Provision in Act XXVIII of 1855.
- 2.The Act further provides that, whenever a Court shall direct that a judgment or decree shall bear interest, or shall award interest upon a judgment or decree, it may order the interest to be calculated at the rate allowed in the judgment or decree upon the principal sum adjudged or at such other rate as the Court shall think fit (Section 3).

Ditto,
future interest.
- 3.Section 34 of the Code of Civil Procedure enacts that, where and in so far as a suit is for a sum of money due to the plaintiff, the Court may, in the decree, order interest at such rate as the court deems reasonable to be paid on the principal sum adjudged, from the date of the suit to the date of the decree, in addition to any interest adjudged on such principal sum for any period prior to the institution of the suit; with further interest at such rate not exceeding six per cent per annum as the Court deems reasonable on the principal sum so adjudged from the date of the decree to the date of payment. It will be observed that by this section, a discretion is given in respect of two periods of times; viz., from the date of the suit to the date of the decree, and from the date of the decree to the date of payment.

Future interest.
- 4.Section 35(3) of the Code of Civil Procedure which empowered the Court to give interest on costs has been omitted by Act No. 66 of 1956.

Interest of costs.
- 5.In awarding interest subsequent to the date of the decree, the Courts, in the exercise of the discretion which the law has conferred, should not ordinarily award a rate of interest approaching in amount that which may be obtainable in common dealings by persons who have not the security of a decree of Court to enforce payment. No inducement should be given to decree-holders to allow their decrees to remain unexecuted. It is not permissible now to award interest after decree at a higher rate than six percentum per annum.

Future Interest.
- 6.The plea is often raised that the "interest" claimed is "penal". Courts should be careful to distinguish between high or excessive interest and "penal" interest.

Penal Interest.

The mere fact that the rate of interest is high or that compound interest is charged is, by itself, no justification under the Indian Contract Act for its reduction, unless some other ground such as coercion, undue influence, etc. is established. (see 101 and 124 P.R. 1918, P.C.) there is no definition of "penalty" given in the Indian Contract Act but its nature is indicated in section 74 of that Act. It would appear from that section that if a sum is named in a contract as the amount to be paid in the event of a breach of the contract, or where there is any other stipulation in the contract making a person liable for an extra sum (e.g., in the shape of interest), for which he would not have been otherwise liable, the stipulation is to be considered penal. According to section 74 of the Indian Contract Act, in such cases, the person entitled to claim advantage of the penal clause can only recover such reasonable compensation not exceeding the penalty as the Court may think it fit to award, and cannot legally enforce the payment of the "penalty" as such.

Penal interest.

7. The question whether a particular stipulation is or is not "penal" is to be determined by the Court on the facts of each case. It has been held generally, that a stipulation which imposes a higher rate of interest, in the event of a breach of the contract with retrospective effect from the date of contract is "penal" (c.f. 99. P.R. 1894).

Effect of
Usurious Loans
Act.

8. The Usurious Loans Act 1918, gives wider powers to Courts to interfere on equitable grounds in order to do justice between the parties when it is found that interest is excessive or that the transaction was, as between the parties thereto, substantially unfair (vide section 3 of the Act). In such cases the Act empowers the Court to reopen past transactions and relieve the debtor from liability in respect of excessive interest, etc. Attention is invited in this connection to I.L.R. VIII Lah. 205. The provisions of the Act should be carefully studied and used in proper cases coming within its purview.

Changes made
by Punjab
Relief of
Indebtedness
Act.

9. The changes made in the provisions of this Act by section 5 of the Punjab Relief of Indebtedness Act, VII of 1934, as amended by Punjab Act XII of 1940, deserve attention.

(i) The existence of two conditions was formerly essential before the provisions of the Usurious Loans Act could apply. It was necessary that both

(a) the rate of interest be excessive, and

(b) the transaction be substantially unfair as between the parties.

The word "and" has now been changed to "or" and the Court can give relief even if one of these conditions only is fulfilled.

(ii) The Courts, according to the wording of the Usurious Loans Act "may" exercise all or any of the powers specified in that Act. This word "May" has now become "shall" and it is obligatory for the Court to exercise these powers for giving relief in fit cases.

(iii) The Punjab Act has also now prescribed a maximum rate of interest beyond which "the Court shall deem interest to be excessive."

The maximum limit is:—

(a) For secured loans, seven and a half per cent per annum simple interest or two per cent over the Bank rate, whichever is higher.

(b) For unsecured loans, twelve and half per cent per annum simple interest.

10. The rule of Damdupat has been made applicable to the Punjab by Section 30 of the Punjab Relief of Indebtedness Act, 1934 in respect of all 'debts' as defined in section 7 of the Act. If the loan was advanced after the commencement* of the Act, no Court shall pass or execute a decree or give effect to an award in respect of such debt for a larger sum than twice the amount of the sum found by the Court to have been actually advanced less any amount already received by the Creditor.

Rule of
Damdupat.

*Note.—The Act came into force on the 19th April, 1935, vide Home Secretary's letter No, 15639-Judl. dated the 18th April, 1935.

11. It is important to note in this connection the provisions of the Punjab Regulation of Accounts Act, 1930. The accounts prescribed by this Act have to be maintained in such a way as to show the items due by way of interest as separate and distinct from the principal sum.

Interest should be
shown separately in
accounts.

12. It is further provided that the creditor shall not in the absence of agreement include any items due by way of interest, in the principal sum. The principal and interest are to be shown separately in the opening balance of each new six-monthly account.

Interest not to be
included in
principal.

13. If the Court finds that the accounts have not been maintained as prescribed, it must disallow the whole,

Interest
disallowed if
accounts not
maintained.

or a portion of the interest found due as it thinks fit, and also disallow costs.

Interest
disallowed if
accounts not
furnished.

14.If the accounts have been maintained but not furnished to the debtor as prescribed, the Court must disallow interest for the whole period for which the creditor failed to furnish the accounts unless the creditor actually furnished the accounts after the time prescribed and can satisfy the Court that he had some sufficient casue for not furnishing them earlier.

Interest permis-
sible in case of
certificate by
Debt concilia-
tion Board.

15.It should also be noted that where any creditor sues in a civil court for the recovery of debt in respect of which a Debt Conciliation Board has granted a certificate under section 20 (1) of the Punjab Relief of indebteiness Act, the Court cannot allow and costs or interest after the date of certification in excess of simple interest at six per centum per annum on the amount due on the date of such certificate.

Future interest
not allowed on
sums deposited
in Courts.

16.Attention is drawn to section 31 of the Punjab Relief of Indebtedness Act which lays down that the debtor may deposit in court money in full or part payment of his debts and interest shall cease to run on the s um so deposited from the date of deposit.

CHAPTER 12
Execution of Decrees
PART A—GENERAL

1. **References** The Law relating to execution of decrees is to be found in sections 36 to 74, Sections 82 and 135; and Order XXI of the Code of Civil Procedure as amended by the Punjab High Court (vide Chapter 21 of this Volume). These provisions should be carefully studied and strictly followed. The changes introduced by the Punjab Relief of Indebtedness Act VII of 1934, and the Punjab Debtors, Protection Act, II of 1936, also require careful consideration.
2. **Special day to be reserved for execution work:-** Execution of decrees should receive the same attention from the Courts as original civil work and should be methodically and regularly dealt with, as expeditiously as possible. Where parties have to be heard or evidence recorded in the course of execution proceedings, notice should be given, processes issued and dates fixed as in the case of original suits. As a rule, one day during the week should be reserved for execution works so as to ensure proper attention being paid to it; sometimes two days are necessary. District Judges are responsible for seeing that proper arrangements are made for execution work by all courts subordinate to them.
3. **All orders to be recorded by the judge in his own hand:-** All orders passed in the execution proceedings should be carefully and distinctly put on record in chronological order. The practice of writing orders at the back of the talbanas or applications at stray places in the file leads to confusion and wastes the time of the courts and the lawyers. The initial office report should be put up on a separate sheet of paper which may form the first page of the Judge's autograph and all orders except those of a formal nature should be recorded by the Presiding Officer with his own hand in a separate record of proceedings as in a civil suit. Every formal order also should be signed by the Presiding officer.
4. **Distribution of execution work by District Judge:-** District Judges should record standing orders Distribution of regulating the distribution of applications for the execution of decrees among the Courts subordinate to them, providing for the disposal of cases in which decrees were passed by officers who have ceased to be attached to the district, and for carrying on the execution proceedings already pending before such officers at the time of their ceasing to be employed therein. In framing such orders, every Court should be required, as far as possible, to execute all decrees passed by itself; but, where this is not possible and it is necessary to send the decree to another Court for execution, care should be taken to see that it is a court of competent jurisdiction [Section 39 (2)].
5. **District Judge to see that execution work is not neglected in lower courts:-** Close supervision and control should be exercised by District Judges over the execution of decree business pending in all Courts subordinate to them; and where any officer is found habitually to neglect this branch of work or to dispose of it in a perfunctory manner, he should be reported to the High Court.
6. **Application for stay of execution:-** All applications for stay of execution should be treated as urgent.
7. **Presiding officer to see that money realized on warrants has been accounted for:-** To prevent defalcation, presiding officer should, while hearing execution applications, verify by personal inspection of previous warrants issued by him that any money previously realised by the execution bailiff or process server has been duly accounted for in the Nazir's accounts or otherwise disposed of through those accounts.
8. **{Expeditious disposal of Execution:-** The Executing Court must make efforts to dispose of the Execution Proceedings within six months from the date of filing, which may be extended only by recording reasons in writing for such delay. The Court may on the request of either of the parties to the suit or of its own, in appropriate cases at the time of passing the decree, for reasons to be recorded in writing fix a date for commencement of execution proceedings, register it as an execution petition and direct the parties to appear on the said date and permit the decree holder to file the formal application in the meantime."}
{Rule 8 inserted vide C.S. No. 84 Rules/II.D4 dated 21.11.2022}

PART B —COURTS COMPETENT TO EXECUTE DECREES

1. Section 37 to 39 of the Code of Civil Procedure define the Courts by which a decree may be executed. A decree may be executed by the Court which passed it, or by any Court to which it is transferred for execution. It should be noted that the expression 'Court which passed decree' has been defined in section 37 so as to include certain Courts other than the Court which actually passed the decree.

Courts competent to execute.

2. When a decree is transferred by the Court which passed it to another Court for execution, the documents mentioned in Order XXI, Rule 6, must be sent to the latter Court. The work in connection with the preparation of these documents should be done by Court officials holding permanent appointments, on payment, in the first instance, by the person applying for the transfer of the decree, of a fee of Re. I. The amount so recovered shall be credited to Government under the head 'XXI-A -Law and Justice-Courts of Law-General Fees, Fines and Forfeitures-Fees levied by Courts'.

Transfer of decree fees for preparation of unnecessary documents.

A decree-holder, however, may at his option file with his application a copy of his decree duly stamped in accordance with Article 7 of Schedule I to the Court-fees Act, VII of 1870, and when he does so, he shall be exempted from the fee of Re. I prescribed in this paragraph, the remaining documents being prepared by the officials of the Court without further payment by the decree-holder.

3. A provision has been made in Order XXI, Rule 10, Civil Procedure Code as amended by the Punjab High Court, to enable the decree-holder to apply for immediate execution through the court within whose jurisdiction the judgment-debtor is, by producing merely the decree and an affidavit of non-satisfaction pending the receipt of a formal order of transfer under section 39, Civil Procedure Code.

Execution pending receipt of order of transfer of decree.

4. Where the Court to which a decree is to be sent for execution is situate within the same district as the Court which passed the decree, the Court passing the decree, shall send the same directly to the former Court. But, where the former Court is situate in a different district the Court, which passed the decree, shall send it to the District Court

Channel of transmission of decrees transferred.

of the district in which the decree is to be executed . (Order XXI, Rule 5 of the Code).

Execution
of
transferred
decrees.

5. Under Order XXI, Rule 8, of the Code of Civil Procedure, 1908, a decree sent under the provisions of section 39 for execution to another district may be executed either by the District Court to which it is sent, or by any Subordinate Court of competent jurisdiction to which the District Court may refer it, and, under section 42, the Court executing the decree has the same powers of execution as if the decree had been passed by itself. The execution files of such cases should remain with the record of the Court by which the decree is executed, and should not be returned to the Court by which the decree was passed.

Amount
realised on
transfer of
decrees to be
certified and
noted.

6. A certificate showing the extent to which the decree has been executed is required, by section 41 of the Code of Civil Procedure, 1908 to be sent to the Court which passed the decree, as to execution so certified, and the particulars should be entered in that Court's register of Civil suits under the head 'Return of Execution' in order to prevent a double execution being taken out in any other district.

Register of
decrees
transferred and
decrees received
by transfer.

7. To ensure compliance with order XXI, Rule 6 of the Code the High Court has prescribed a register in form XXXIII of part A.-1V of High Court Rules and Order, Volume VI-A. Decrees transferred to other courts and those received by transfer are shown on the two sides of the same page in the register.

Chapter 12

PART C—POWERS OF EXECUTING COURTS.

1. **Mode of execution Receivers:-** The various modes in which execution of a decree may be ordered are given in section 51 of the Code as follows:-
 - (a) By delivery of any property specifically decreed.
 - (b) By attachment and sale, or by sale, without attachment of any property.
 - (c) By arrest and detention of the judgment- debtor.
 - (d) By appointment of a Receiver; or
 - (e) In such other manner as the nature of the relief may require.

In most cases, the methods specified in (a), (b) and (c) alone are resorted to and are found adequate. The appointment of a Receiver may be tried where the value of the property is sufficient to bear the cost and where such appointment is expected to be conducive to harmonious relations between the judgment-debtor and the decree-holder and to provide for the discharge of the decree in a satisfactory manner.

2. **Execution of a decree for delivery of property:-** When it is sought to enforce a decree in Class (a) by attachment of the judgment- debtor's property, it should be noted that the period of six months prescribed by Rule 31, sub-rule (2) of Order XXI, Civil Procedure Code, for the sale of the property has been reduced to three months by the Punjab High Court.

The Court is empowered, however, to extend this period up to six months in any special case.

The period of one year mentioned in Order XXI, Rule 32 (3) Civil Procedure Code, has also been reduced to three months.

3. **Power of executing Court to question the validity of the decree:-** An executing Court cannot go behind the decree or question the jurisdiction of the Court which passed it (22 P.R.1919, I.L.R., 5. Lah. 54). Its function is to execute the decree as it stands. It may, however, refer to the judgment to ascertain its meaning when the terms of the decree are ambiguous.

4. **Power of executing court to decide question arising in execution:-**

Section 47 of the Code of Civil Procedure confers wide powers on the executing Court to decide all questions arising between the parties to the suit in which the decree was passed, or their representatives, and relating to the execution, discharge or satisfaction of the decree. Such questions must be decided by the executing Court and no separate suit is maintainable for the purpose. A purchaser at a sale in execution of the decree would also be a party to the suit in view of the amendments made in the explanation to this section by Act No.66 of 1956. A decision under section 47 is deemed to be a decree, [vide section 2 (2)], and is, therefore, appealable as such. {If a third party claim(s) right(s) in the property subject matter of decree under execution by filing an application under Section 47 or Order XXI of the Code of Civil Procedure, 1908 and the Court is of the opinion that the application is frivolous, it shall record reasons while declining to issue notice thereof. The Court should also refrain from entertaining such application(s) that has already been considered by the Court while adjudicating the suit or which raises any such issue which otherwise could have been raised and determined during adjudication of suit if due diligence was exercised by the applicant.

The Court should allow taking of evidence during the execution proceedings only in exceptional and rare cases where the question of fact could not be decided by resorting to any other expeditious method like appointment of Commissioner or calling for electronic materials including photographs or video with affidavits.

The Court should in appropriate cases where it finds the objection or resistance or claim to be frivolous or mala fide, resort to sub-rule (2) of Rule 98 of Order XXI as well as grant compensatory costs in accordance with Section 35A.}

{Rule 4 Amended vide C.S. No. 84 Rules/II.D4 dated 21.11.2022}

5. **Execution of decree pending appeal:-** The filing of an appeal from a decree is,

by itself, no bar to its execution, and execution may proceed unless it is stayed by an order of the Appellate Court or the Court which passed the decree (vide Order XLI, Rules 5 and 6). It should be noted, however, that when an order is made for the sale of immovable property during the pendency of the appeal, and the judgment-debtor applies for stay of the sale, the Court ordering the sale is bound to stay it, though it can impose such terms as to security or otherwise as it thinks fit [Order XLI, Rule 6 (2)].

- 6. Security when execution is stayed:-** When a stay of execution is granted under Order XXI, Rule 26, Civil Procedure Code, the rules, as amended by the Punjab High Court, makes it compulsory for the Court to require security or impose such conditions as it thinks fit unless sufficient cause is shown to the contrary.
- 7. Decree against Government etc. – Stay of execution and report of non-satisfaction:-** Where the decree is against the Union of India or the State or a public officer in his official capacity and the decree remains unsatisfied within the time specified by the Court under section 82 or where no time is so specified within three months of the date of the decree the Court shall report the case for the orders of the State Government. Execution shall not be issued on such decree unless it remains unsatisfied for a period of three months from the date of such report an order or award of any Court or authority which is capable of being executed as a decree is also subject to the above provisions.

PART D. —PAYMENT INTO COURT AND CERTIFICATION OF
PAYMENTS OUT OF COURT

1. Order XXI, Rule 2 (1) provides that where money is paid or a decree is adjusted out of Court the creditor shall certify the payment. Rule 2 (2) that the judgment-debtor may do so: Rule 2 (3) that a payment or adjustment which has not been certified shall not be recognised by the, executing Court.

Payment or adjustment need not be certified.

Rule 2 (3) was omitted by section 36 of the Punjab Relief of Indebtedness Act, so that in the Punjab such certification is not now necessary.

2. No stamp duty shall be levied on an application by a judgment-debtor to deposit money under a decree of Court, and no talbana for the issue of the notice to be given to the decree-holder under Order XXI, Rule 1(2), of the Code of Civil Procedure, should be recovered. The decree-holder should be informed of any payment made by service post-card. The deposit money should be disposed of in accordance with Article 247 of the Civil Account Code, Volume 1, and paragraph 161 of the Punjab Treasury Manual.

Application to deposit decretal amount requires no stamp and no talbana required for notice to decree-holder.

3. Under the "Explanation" to sub-rule (i) of Rule 1, Order XXI, of the First Schedule to the Civil Procedure Code, a judgment-debtor may, if he so desires, pay the decretal amount or any part thereof, into the Court by money order on a form which has been specially approved by the High Court. The form to be used is Indian Money Order form No.L./M.O. 6 prescribed by the Postal authorities and can be obtained from all Post Offices.

Payment by money order or special form.

CHAPTER 12

PART E —PROCEDURE ON APPLICATION FOR EXECUTION.

1. **Form and content:-** An application for execution must be in writing except when an oral application is made under Order XXI, Rule 11 (i). Upon an application for execution being filed, the Court shall scrutinize it to see that all the requirements of Order XXI, Rules/11(2), 12, 13 and 14 of the Code of Civil Procedure, 1908, have been duly complied with. The application should state distinctly the mode in which the assistance of the Court is sought and the proceedings should be confined to that mode, unless any amendment has been allowed. When an application is for the attachment of immovable property, special care shall be taken that the specification and verification required by Order XXI, Rule 13, of the Code have been furnished. The Court may also require the applicant to produce the authenticated extract mentioned in Order XXI, Rule 14, when the property is land registered in the Collector's office. {In the case of money suit, the Court must for reasons to be recorded, invariably resort to Order XXI Rule 11 of C.P.C. ensuring immediate execution of decree for payment of money on oral application.}
{Rule 1 amended vide C.S. No. 84 Rules/II.D4 dated 21.11.2022}
2. **Limitation:-** The law of limitation as regards applications for execution will be found in Article 182 of the First Schedule of the Indian Limitation Act, 1908, and section 48 of the Code of Civil Procedure and needs careful attention. An application for execution must be filed within three years of the date of the final decree, and in the case of subsequent applications, within three years of the date of the final order passed on a previous application made in accordance with law to the proper Court for execution.
 According to section 48 of the Code, no order for execution can be passed on an application presented after twelve years from the date of the decree sought to be executed except in the cases mentioned in that section.
 By section 11 of the Punjab Debtors Protection Act the period of limitation has been reduced to six years in certain cases specified therein and the attention of the Courts is directed to that Section.
3. **Restriction placed by Punjab Relief of indebtedness Act:-** The restrictions imposed by section 21(b) of the Punjab Relief of Indebtedness Act, 1934, on the power of a civil court to execute its decrees in certain circumstances should be carefully noted.
4. **Admission and further proceeding:-** When the application for execution is in order, or has been amended under Order XXI, Rule 17, of the Code of Civil Procedure, 1908, and is within time, the Court shall proceed as directed in Order XXI, Rule 17(4) and shall cause the application to be entered in the proper register. A copy of the decree need not be filed when execution is taken out in the Court by which the decree was passed. If in any case it is not possible to verify the correctness of the application from the Court register, the original decree should be sent for and examined by the court.
5. **Amendment:-** It should be noted that according to Order XXI, Rule 17(1) Civil Procedure Code, the Court can either reject the application if it is not in order or allow the defect to be remedied. The Punjab High Court has amended this rule so as to make it compulsory for the Court to fix a time within which the defect shall be remedied.
6. **Duty of Court to ascertain the amount due:-** Whenever, on an application for the execution of a decree, or whenever, in the course of execution proceedings, it is necessary to ascertain the amount of money which is or which remains due under the decree, the judicial officer should form his own

conclusion on the matter therefrom. He should not rely on mere *kaifyats* or office notes made by ministerial officers.

- 7. Several decree-holders:-** When an application is made to judicial officer, under Order XXI, Rule 15, of the Code of Civil Procedure, for the execution of the whole decree by one or more persons, not being all the persons in whose favour the decree appears to be, he should cause notice thereof to be given to the remaining decree-holders or their representatives, and he ought not to grant the application unless, after all these parties have had an opportunity of being heard, he is satisfied that there is good reason for the application.
- 8. Several decree-holder:-** Where the decree is severally in favour of more persons than one, specifying what each is entitled to there may be applications for partial execution. But where the decree is jointly in favour of more persons than one, the application must be for the execution of the entire decree, so far as it remains unexecuted or unsatisfied; and if the application is for execution of a fraction or a proportionate part of the decree only, it should be refused.
- 9. Transferee:-** When an application for the execution of a decree is made, under the provisions of Order XXI, Rule 16, of the Code of Civil Procedure, by a person claiming to be entitled to the benefit of the decree in consequence of a transfer of the same to him from the original decree-holder by an assignment in writing, the Court must cause notice of the application to be given to the transferor, and it cannot grant the application unless it is satisfied after the transferor has had an opportunity of being heard that the transfer has in fact been effected.
 In cases in which the Court grants the application, it should record its reasons for so doing and make an order that thenceforward the name of the applicant shall stand on the record as decree-holder instead of that of the original decree-holder.
- 10. Notice to Judgment-debtor:-** When an application is made more than two years after the date of decree or against the legal representatives of a party to the decree, the Court must first issue a notice to the person against whom execution is applied for requiring him to show cause why the decree should not be executed against him, unless the case falls within the proviso to sub-rule 1 of Rule 22 of Order XXI, or the Court dispenses with the notice under sub-rule (2) of the same Rule in which latter case the failure to record any reasons is now deemed to be only an irregularity not amounting to a defect in jurisdiction (vide the rule as amended by the Punjab High Court).
- 11. Attention to service of process:-** Attention is invited to the provisions of Order XXI, Rules 24 and 25, regarding processes for execution. Rule 24 requires that in every case a day shall be specified on or before which the process is to be executed. Rule 25 makes it incumbent on the Court to examine the officer entrusted with the execution, when the process is not duly executed, to satisfy itself as regards the reasons for its non-execution and to record the result of its inquiry. If the Courts make careful inquiry in such cases and do not blindly accept the reports on the processes, the percentage of infructuous applications will appreciably diminish.
- 12. Address for service:-** It should be noted that according to order XXI, Rule 104, Civil Procedure Code, as framed by the Lahore High Court, service on any party shall be deemed to be sufficient in execution proceedings if it is effected at the address for service referred to in Order VIII, Rule 11, Civil Procedure Code,

subject to the provisions of Order VII, Rule 24, Civil Procedure Code. This rule, however, does not apply to notices prescribed by Order XXI, Rule 22, Civil Procedure Code, to show cause against execution in certain cases.

13. Period of pendency:- Execution Proceedings will, for statistical purposes, be considered as only pending for the period during which something is being done towards execution. If the decree-holder has realized his installment, or obtained the satisfaction asked for in the application for execution, the case should be struck off, even though a portion of the decree still remains unexecuted. Similarly, the case should be dismissed if the applicant for execution does not take necessary steps to prosecute his application. The Court should record its reasons for the action taken in such cases.

14. Attachment of monies due to Judgment-debtors:- A case in which the judgment-creditor prays for a prohibitory order for the attachment of monies due to the judgment-debtor (whether as his salary or otherwise) should be dismissed as soon as the prohibitory order has been duly served and the file should be sent to the Civil Nazir.

The subsequent realisation of the monies concerned forms part of the ministerial duties of the Civil Nazir. If, for any reason, such realisation is not promptly and satisfactorily effected, judgment- creditor can ask the Court to take necessary action.

Note.—When the decree has been fully satisfied, the Nazir should return the file to the Ahlmad for making the necessary entries in Registers Nos. I & X.

PART F. —EXECUTION BY ARREST AND IMPRISONMENT.

1.The law regarding arrest and imprisonment is contained in Section 51, 55 to 59, 135, 135-A and 136 Order XXI, Rules 21, 37 to 40, Order 38, rules 1 to 4 of the Civil Procedure Code and the Punjab Relief of Indebtedness Act, Section 34. References.

2.A woman is exempt from arrest or detention in execution of a decree for money. (Section 56 of the Code.) Persons exempted from arrest..

For other persons exempt from arrest under Civil Procedure Code see Sections 135 and 145-A of the Code

For exemption on the grounds of illness see Section 59.

3.In view of the amendments made in Order XXI Rule 37 of the Code by Act XXI of 1936 the Court shall issue a notice to the judgment debtor before issuing a warrant of his arrest in execution of the decree unless the Court is satisfied, by affidavit or otherwise that the judgment-debtor is likely to abscond or leave the limits of the jurisdiction of the court with the object or effect of delaying the execution of the decree. Under section 34 of the Punjab Relief of Indebtedness Act as substituted by Punjab Act X11 of 1940, no debtor as defined in that Act shall be arrested or imprisoned in execution of a decree from money. Present Law of arrest.

4.A judgment-debtor against whom no act of bad faith is proved can obtain his discharge as an insolvent under Act V of 1920; whenever a judgment- debtor is to be committed to jail, he should be informed that he may apply to be declared insolvent (Section 55(3) of the Code). Judgment-debtor should be asked whether he wants to be declared insolvent.

5.A judgment-debtor cannot be arrested in execution of a decree unless and until the decree-holder has paid into Court such sum as the judge thinks sufficient for the subsistence of the judgment-debtor from the time of his arrest until he can be brought before the Court. When the judgment-debtor is committed to the Civil prison, the Court must fix such monthly allowance for the subsistence of the judgment-debtor as it thinks fit. The first payment shall be made by the decree-holder to the proper officer of the Court for such portion of the current month as remains unexpired at the time. All subsequent payments Expenses of arrest and imprisonment.

must be made to the officer-in-charge of the Civil prison in advance before the first day of each month. (order XXI, Rule 39, Civil Procedure Code).

Sums disbursed by the decree-holder for the subsistence of the judgment-debtor shall be deemed to be costs in the suit (Vide Order XXI, Rule 39(5), Civil Procedure Code as amended by the Punjab High Court.)

Arrest during
vacation.

6. Warrants of arrest should be held in suspense during the September Vacation.

PART G.—EXECUTION OF DECREES FOR THE DELIVERY
OF IMMOVABLE PROPERTY.

The steps to be taken, under Order XXI, Rules 35 and 36 of the Code of Civil Procedure, 1908, in the case of the delivery of immovable property are as follows:

- (a) First where a decree is for delivery of immoveable property if such property, is in the possession of any person bound by the decree, such person may be called upon to vacate the property in order that possession may be delivered to the person to whom it has been adjudged, or his agent; and if he refuses to do so he may be removed from the property in order to effect such delivery of possession. Here the endorsement on the warrant should state that the property was found in the possession of A (naming the person), and that he was one of the persons bound by the decree or held on behalf of one of those persons (naming the persons); that he was required to vacate the property, and that, on his doing so, the person entitled under the decree was put in possession; or that, on his refusal to do so, he was removed from the property, and the person entitled under the decree was put in possession.
- (b) Secondly, where a decree is for joint possession of immovable property, such possession shall be delivered by affixing a copy of the warrant in some conspicuous place on the property, and proclaiming by beat of drum at some convenient place the substance of the decree. Here the endorsement on the warrant should state on what part the property the copy of the process was affixed and at what place the substance of decree was proclaimed.
- (c) Thirdly, where possession of any building or enclosure is to be delivered and the person in possession, being bound by the decree, does not afford free access, the officers of the Court may (after giving reasonable warning and facility to any woman, not appearing in public according to custom, to withdraw) remove or open any lock or bolt or break open any
- When the property is in possession of a person who is bound by the decree or who holds possession on behalf of one who is so bound.
- Decree for joint possession.
- Obtaining access to deliver possession.

door or do any other act necessary for putting the decree-holder in possession.

Here the endorsement should describe briefly the action taken, as in paragraph (a) above.

When property is in possession of a person who is not bound by decree.

- (d) Fourthly, if the property is in the occupancy of a tenant or other person entitled to occupy it and not bound by the decree to relinquish such occupancy, a copy of the warrant must be affixed in some conspicuous place on the property, and proclamation made as provided in Order XXI, Rule 36, of the Code. Here the endorsement should state that a copy of the warrent had been put up (stating where it was affixed), and that the substance of the decree had been proclaimed .

Before issuing a warrent for the delivery of immovable property, the Court should ascertain from the decree-holder, or his agent, the name of the person whom he believes to be in possession of such property, to guide it in selecting the particular mode of delivery suitable to the case.

When a decree is passed giving possession of agricultural land, the date on which possession is to be delivered should always be specified in the decree, and orders passed as to any standing crops that may be on the land. If this has not been done in the decree, it should be done in the order which is sent to the Collector by the Court executing the decree. If however, no date is specified in either the decree or the order, and the land of which possession is to be delivered is in the cultivating possession of the judgment-debtor, the Collector should atonce refer to the Civil Court for instructions as to whether or not he is to delay execution of the decree, until any crop which may have been sown by the judgment-debtor and is standing on the land, has been removed.

PART H—ATTACHMENT

1. The law as to attachment is contained in section 60-64 and Order XXI, rules 41-57, Civil Procedure Code and section 141, Punjab Land Revenue Act.

Attachment of standing crops, trees and salary.

The changes made in Rules 53 and 54 of Order XXI by the Punjab High Court (*vide* Chapter 21) should be noted as also the fact that in the Punjab standing crops, excepting cotton and sugar-cane, are not now liable to attachment or sale in execution of a decree (*vide* S. 10(1) of Punjab Debtors' Protection-Act). Standing trees, apart from land on which they stand, are also exempt from sale (*vide* section 10(2) of the Punjab Debtors' Protection Act.)

Attention is drawn to the amendments of section 60 of the Code of Civil Procedure by Act No. 66 of 1956. Now in execution of decrees for maintenance only one third of the salary would be exempt from attachment irrespective of the amount of the salary. In execution of decrees other than decrees for maintenance salary to the extent of first hundred rupees and one half of the remainder shall be exempt from attachment. Servants of the Government or a railway Company or local authority are given further protection as regards the periods for which their salary can be attached in execution of decrees other than decrees for maintenance.

2. The mode of attaching immovable property is by issuing a prohibitory order to the judgment-debtor and to the public generally (Order XXI Rule 54 when the property is land paying revenue to Government, three copies of the prohibitory order shall be prepared. In the case of other immovable property, only two copies are necessary. The details given in the schedule annexed to the order shall be identical with those given in the schedule of the property given in the warrant. Strict compliance with the provisions of law is necessary to make the attachment valid.

Mode of attachment of immovable property.

3. The warrant, together with the requisite copies of the prohibitory order, shall be delivered to the Nazir, who will himself, or through his subordinates, fix up the copies and proclaim the order, in accordance with the directions given in the warrant. The Nazir will personally make upon the warrant the endorsement required by law, and return it duly endorsed within the specified time to the Court. Any person deputed by the Nazir,

Mode of attachment of immovable property.

who performs any of the acts constituting the attachment, shall submit a separate return stating the manner in which, and the day and hour at which, he did such act. This return will be attached by the Nazir to the warrant.

Attention to
compliance with
legal
formalities.

4. The attention of all civil courts is drawn to the necessity of making it a point to scrutinize the service of warrants of attachment before they take further action with regard to the sale or temporary alienation of the property attached. The attachment of land and houses requires particular care and the court should thoroughly satisfy itself that all the formalities necessary for a legal attachment, have been complied with. Failure to comply with these legal formalities may constitute material irregularity, within the meaning of Order XXI, Rule 90, Code of Civil Procedure, and may cause very serious trouble and loss to the parties later on. It should be noted that a copy of the attachment order is first to be affixed on the property and then upon the Court house. All Courts will, therefore require the Reader to record a note on the warrant of attachment or on file, that the specific formalities required by Law in the case, have been actually complied with. The Presiding Officer will carefully scrutinize such note and initial it in token of its correctness.

Warrant of
attachment of land.
Drum beating
charges.

5. Where the order is for the attachment of land, the warrant should, in accordance with the provisions of Section 141 of the Punjab Land Revenue Act, XVII of 1887, be addressed to the Collector, and be sent to him for execution, along with the necessary copies of the prohibitory order. The Collector and his office will then be responsible for executing it in accordance with the specified legal formalities, and to affix the necessary prohibitory orders, first on the property and then on the Court house of the Judge issuing the attachment and in his own office. The Collector will return the warrant to the Court concerned when it has been duly executed, with an endorsement under his signature certifying that all the legal formalities required have actually been complied with, and the Court will thereafter proceed as directed in paragraph 4 above.

Payment of drum-beating charges may be allowed to be made at the discretion of the District Judge either:-

- (a) in cash at the spot, or
- (b) by postal stamps attached to the warrant, or
- (c) by Indian Postal Orders.

6. Upon the application of a decree-holder, the Court which passes a decree may issue a precept to another Court to attach the judgment-debtor's property, when this course is convenient, provided that the Court to which the precept is issued is competent to execute the decree (see Section 46, Code of Civil Procedure).

Precept.

7. It should be noted that on the dismissal of an execution petition, 'attachment' automatically comes to an end (see Order XXI, Rule 57.)

Effect of dismissal of execution petition.

8. The Central Government has issued the following notification under section 60 (1) (L) of the Civil Procedure Code:—

Notification.

The 2nd October, 1940.

No. 186/37. In pursuance of clause (L) of the proviso to sub-section (1) of section 60 of the Code of Civil Procedure, 1908 (Act V of 1908), the Central Government is pleased to declare that the following allowance payable to any public officer in the service of the said Government, or any servant of a Federal Railway or of a Cantonment authority or of the port authority of a major port, shall be exempt from attachment by order of a Court, namely:

(1) All kinds of travelling allowances.

(2) All kinds of conveyance allowances.

(3) All allowances granted for meeting the cost of:—

(a) Uniforms and

(b) Rations.

(4) All allowances granted as compensation for higher cost of living in localities considered by Government to be expensive localities including hill stations.

(5) All house rent allowances.

*(6) All allowances granted to provide relief against the increased cost of living.

** (7) A foreign allowance or, in the case of heads of Diplomatic missions, *frais de representation*, assigned to officers serving in posts abroad.

*Added in view of Government of India, Ministry of Home Affairs, Notification No. 57/4/49-Ests., dated the 31st May, 1949.

**Added in view of Government of India, Ministry of Home Affairs, Notification No. 57/8/51-Ests., dated the 21st September, 1951, received with Punjab Government endorsement No. 10450-JJ-51/5482, dated the 27th October, 1951.

Ditto.

9.The Punjab Government has issued the following notification under clause (1) of the proviso to sub section (1) of Section 60 of the Code of Civil Procedure:—

HOME DEPARTMENT
JUDICIAL

The 5th January 1943

No 8298J-42/489.-1n exercise of the powers conferred by clause (I) of the proviso to sub-section (1) of Section 60 of the Code of Civil Procedure, 1908 (Act V of 1908), the Governor of the Punjab is pleased to declare that the "dearness allowance" payable to any public officer serving the Government in connection with the affairs of the State shall be exempt from attachment in execution of a decree.

Officers to whom notices of attachment of salary etc may be given under order XXI, rule 48.

10.In pursuance of sub-rule (1) of rule 48 of Order XXI of the First Schedule to the Code of Civil Procedure, 1908 (V of 1908), the Central Government hereby appoints the officers specified in column 1 of the table below as officers to whom notices of orders attaching the salaries and allowances of the officers specified in the corresponding entries in column 2 of the said table shall be sent.

TABLE

Officers to whom Notice should be sent	Officers whose salaries and Allowances are attached
Accountant General Central, Revenues, New Delhi Assistant Financial Advisor (Establishment) Ministry of Finance (Defence), New Delhi Controller General of Defence Accounts, New Delhi	(1) Ministry of Finance (Defence) Gazetted Officers Non Gazetted officers
Controller of Defence Accounts, Eastern Command, Meerut.	(2) Office of the Controller General of Defence Accounts, New Delhi Gazetted and Non-Gazetted Officers.
Controller of Defence Accounts, Western Command, Meerut.	(3) Organisation of the Controller of Defence Accounts, Eastern Command, Meerut. Gazetted and Non-Gazetted Officers.
Controller of Defence Accounts, Southern Command, Poona.	(4) Organisation of the Controller of Defence Accounts, Western Command, Meerut. Gazetted and Non-Gazetted Officers.
	(5) Organisation of the Controller of Defence Accounts, Sothern Command, Meerut. Gazetted and Non-Gazetted Officers.

Joint Controller of Defence Accounts, Patna.	(6) Organisation of the Joint Controller of Defence Accounts, Patna. Gazetted or non-Gazetted Officers.
Controller, of Defence Accounts, (Other ranks) Secunderabad	(7) Organisation of the Controller of Defence Accounts (Other Ranks), Gazetted or non-Gazetted Officers.
Controller of Defence Accounts (officers) Poona.	(8) Organisationof the Controller of Defence Accounts (Officers)Poona. Gazetted or Non-Gazetted Officers.
Controller of Defence Accounts (Pensions) Allahabad.	(9) Organisation of the Controller of Defence Accounts (Pensions) Allahabad. Gazetted or Non-Gazetted Officers.
Controller of Defence Accounts (Factories) Calcutta	(10) Organisation of the Controller of Defence Accounts (Factories) Calcutta. Gazetted or Non-Gazetted Officers.
Controller of Defence Accounts (Air Force) Dehra Dun.	(11) Organisation of the Controller of Defence Accounts (Air Force)Dehra Dun. Gazetted or Non-Gazetted Officers.
Controller of Defence Accounts (Navy) Bombay	(12) Organisation of the Controller of Defence Accounts (Navy) Bombay. Gazetted or Non-Gazetted Officers.

(Government of India, Ministry of Finance (Defence), Notification No.S.R.O.1417, dated the 15th June, 1956).

PART J.—OBJECTIONS TO ATTACHMENT.

1. Objections to attachment of property under Order XXI, rule 58, are frequently responsible for great delay in the disposal of execution cases. Such objections are at times collusive and should be scrutinised with care and disposed of promptly. Investigation of such objections is of a summary character, and should be confined to the points indicated in Rules 59 to 61 of Order XXI. The decision, though not appealable, is subject to the result of a regular suit (if any) brought by the aggrieved party within a year.

Summary
Procedure.

2. It should be noted that if an objection appears to have been "designedly or unnecessarily delayed", the Court has power to refuse to investigate the claim and dismiss the petition and leave the petitioner to institute a suit for the purpose.

Power to dismiss
objection out trial.

The amendment of Rule 58 of Order XXI, Civil Procedure Code by the Punjab High Court further provides that unless an objection is made within a reasonable time of the first attachment a further right to object to the attachment and sale of the same property can be allowed only if a title acquired subsequent to the date of the first attachment, is established.

3. Order XXI, Rule 58, deals with claims by third persons. Objections by parties to execution proceedings as such or their representatives fall within the scope of Section 47 of the Code. Such objections must be decided in the execution proceedings, as a regular suit for the purpose is barred by the provisions of Section 47.

Objections by
parties.

PART K- CUSTODY AND DISPOSAL OF MOVEABLE PROPERTY
PENDING SALE

References.

- 1. Rules relating to the custody and disposal of moveable property (other than agriculture produce) attached pending sale, are contained in rules 43 to 43 (D) or Order XXI of the first schedule to the Code of Civil Procedure (Act V of 1908) as modified or added by the High Court. These have been reproduced in Chapter 21 of this Volume.
- 2. Light and readily portable articles of all kinds, and especially valuable property of small bluk, such as jewels etc., shall after seizures , be taken to the headquarters of the High Court executing the decree and be made over there to the custody of such officers as the Court may direct.

Jewels and portable property to be brought to Court.

Note:- Property of the nature described in this rule when placed in the custody the custody of the Nazir may be placed by him in his cash chest and lodged in the outer room of Treasury, if it is open, as provided in order 4(2) of the Punjab Treasury Manual, if it is closed, the presiding officer of the Court must make other suitable arrangement for its safe custody.

- 3. Live stock and other property which is bulky or not readily portable should be dealt with in accordance with the second proviso to rule 43.
- 4. The schedule of property to be annexed to the bond which a custodian must furnish under the above mentioned rule must be in the following form:-

Bulky Property and live stock

Form of schedule of property.

Schedule of property attached

Schedule of property attached and
made over to son of
of as custodian on the
of 19.....

	Detail of Property	Estimated
Value		
	Total.....	
		
Sd/.....		Sd/-
.....		
Witness.		
Custodian		
Sd/.....		Sd/-
.....		
Witness.		Attaching
Officer		
Sd/.....		Sd/-
.....		
	Judgment-debtor	

(To BE PRINTED ON THE REVERSE OF THE FORM)

Directions in regard to attached property. .

I.No person can be compelled by the Court or attaching officer thereof to take charge of attached property as a custodian.

II.A custodian may at any time terminate his responsibilities by giving notice to the Court of his desire to be relieved of his trust, and delivering to the proper officer of the Court the property made over to him.

III.When any property is taken back from a custodian he should be granted a receipt for the same.

IV.When property is made over to a custodian a schedule of property should be drawn up by the attaching officer in triplicate, dated and signed by

- (a) the custodian and his sureties;
- (b)the officer or the Court who made the attachment;
- (c)the person whose property is attached and made over; and
- (d)two respectable witnesses,

One copy will be transmitted to the Court by the attaching officer and placed on the record ; one copy will be made over to the person whose property is attached and one copy will be made over to the custodian.

V.In regard to livestock the following directions apply

- (a)The custodian is bound to take all reasonable and proper care of any live-stock entrusted to him.
- (b)The custodian is responsible for the value of any live- stock which he fails to deliver to the Court or its authorized officer, when required so to do. If any live-stock is lost or stolen or dies while in the hands of a custodian, such custodian is bound to satisfy the Court that its loss or death was not due to his fault or neglect.
- (c)If the judgment-debtor or any person claiming to be interested in any attached animal has been permitted to make arrangements for feeding the same (not being inconsistent with its safe custody, while it is under attachment),

he may, in the case of poultry, mulch cows, etc., take the eggs, milk, etc.

5. Whenever attached property kept in the village or place where it is attached is live stock, a note shall be added on the schedule to show what arrangements have been made for its keep, i.e., whether it is to be fed by the custodian, and, if so, at what charge or by the judgment-debtor or any person interested. If it is to be fed by the judgment-debtor or a person claiming to be interested as permitted by Rule 43-B (1) of Order XXI, the arrangements made should be described on the Schedule to show that they are not inconsistent with its safe custody.
Arrangement for feeding to be noted on Schedule.
6. If the property is of such a nature that its value will deteriorate unless special arrangements are made for its storage or for carrying out some preparatory process during the period of attachment the necessary arrangement shall be made and noted at the foot of the schedule; provided that, if in such cases the judgment-debtor and decree-holder agree in writing to the immediate sale of the property the officer shall proceed to sell it by auction forthwith, after giving such notice to intending purchasers as the circumstances of the case allow.
Arrangements when value of property is liable to deteriorate.
7. All arrangements made under these rules shall be made subject to the approval and confirmation of the Court executing the decree.
Arrangements subject to approval of Court.
8. If the arrangements made by the attaching officer are modified by the Court, a note of the modifications ordered shall be made on the schedule and such note shall be signed by the parties who originally signed the schedule or a fresh schedule shall be prepared in the manner provided above according as the Court may direct.
Modification of arrangements.
9. If the Court directs the release of the property, in whole or in part, the articles released shall be made over to the person to whom the Court orders them to be delivered, by an officer of the Court, in the presence of the custodian, judgment-debtor and the witnesses mentioned; or, if their presence cannot be conveniently obtained, two other respectable witnesses.
Release of property.
10. If any reclamations are then made, a note of such reclamation shall be made at the time by the officer of the Court, and such note shall be signed by the person making them. The statements of the custodian and witnesses shall, likewise, be recorded on the subject by the
Reclamations.

officer of the Court, and shall be signed by such custodian and witnesses.

Custodian
liable for
criminal
breach of
trust.

11. Any person who has undertaken to keep attached property under Rule 43 (1) (c) of Order XXI shall not only be liable to be proceeded against as a surety under Section 145 (vide Rule 43-ID), but if the facts disclose that he has been guilty of 'criminal breach of trust', he will also be liable to be prosecuted for that offence.

instructions
reattachment
of property
which is not
left in local
custody.

12. Instructions laid down in Rules 43 to 43-D of Order XXI refer, in the main, to cases in which attached property is not removed from the town or village in which it is found by the attaching officer. In cases in which the property is not left in local custody the attaching officer should still, in order to avoid, as far as possible, resistance or obstruction and to facilitate the disposal of claims be careful to attach the property in the presence of two respectable house-holders of the village or town where the attachment is made and to draw up a schedule of property attached and to procure their signatures to it.

PART L. —SALE OF PROPERTY AND DELIVERY TO THE PURCHASER

1. The provisions of the Civil Procedure Code 1908 on the subject of sales are contained in Order XXI, Rules 64 to 102 as amended by the Punjab High Court (vide Chapter 21). Rule 64 to 73 deal with "sale generally"; Rules 74 to 81, with sale of moveable property; and Rules 82 to 102 with sale of immoveable.

References.

2. Whenever a Court makes an order for the sale of any attached property under Order XXI, Rules 64, it shall, if the property be land assessed to land revenue, revenue-paying or revenue-free land, or any interest in such land, act as directed in the rules hereinafter prescribed. If the property be of any other description the Court shall fix a convenient day, not being distant more than fifteen days, for ascertaining the particulars specified in Order XXI, Rule 66 (2), and settling the proclamation of sale. Notice of the day so fixed shall be given to the parties or their pleaders.

Settlement of proclamation of sale.

3. (1) If the property be immoveable property (other than revenue paying or revenue-free land) the court may call upon the Sub Registrar within whose sub-district such property is situated to search his registers and report, before the date fixed for settling the proclamation, to what incumbrances, if any, the property is liable. It is very desirable that such searches should be ordered in all cases, with a view to the prevention of fraud, but it should be noted that they cannot be ordered if the decree-holder is not willing to pay the necessary fees. The fees payable are at the rates prescribed in the second proviso to Article II of the table of registration, fees published with Punjab Government notification No. 22850, dated the 25th September, 1923, as amended by Punjab Government notification No. 23759, dated the 15th June, 1932, which are as follows.: —

Enquiry as to encumbrances from Sub Registrar's office.

Rs . A. P.

(a) For the first year in the books of which search is to be made for each entry or document	..1-0-0
(b) For every other year in the books of which search is continued for each entry or document	..0-4-0
The fee in each case is subject to a maximum of	..5-0-0

- (2) The amount recovered in this behalf by the Court will first be placed in deposit and will then be paid to the Registration Department. by means of repayment vouchers endorsed in their favour

(3) The report of the Sub-Registrar shall be open to the inspection of the parties, or their pleaders, free of charge, between the time of its receipt by the court and-the settlement of the proclamation of sale.

4. On the day so fixed , the Court shall, after perusing the documents, if any, filed under Order XXI, Rules 13 and 14 of, the Code, and the report referred to in the preceding paragraph; after examining the decree-holder, and judgment-debtor, if present, and after making such further inquiry as it may consider necessary, settle the proclamation of sale specifying as clearly and accurately as possible the matters required by Order XXI, Rule 66(2), of the Code, in the following form :—

Description of property including name of village and boundaries , if necessary	Name of judgment debtor	Extent of interest of judgment-debtor in the property, so far as it has been ascertained by the Court	Detail of incumbrances, if any, to which the property is liable so far as they can be ascertained by the Court	Any other known particulars bearing on the nature and value of the property

This proclamation for sale is an important part of the proceedings and the details should be ascertained and noted with care. This will remove the basis for many a belated objection to the sale at a later stage.

It is not necessary for the court itself to give in this proclamation its own estimate of the value of the property It is sufficient to include in it the estimate, if any, given by either or both of the parties (Proviso added to Order XXI Rule 66 (2) (e) by the Punjab High Court).

The proclamation, when settled, shall be signed by the judge, and shall be made in the manner prescribed by Order XXI, Rule 67, of the Code.

It should be noted that the period of thirty days and fifteen days mentioned in Order XXI Rule 68, Civil Procedure Code , has been reduced by the Punjab High Court to fifteen days and one week, respectively.

Settlement of
proclamation of
sale. Estimate of
value.

5.If, after the proclamation has been published, any matter is brought to the notice of the Court which it considers material for intending purchasers to know, the Court shall cause the same to be notified to intending purchasers when the property is put up for sale.

Information obtained after proclamation.

6.The costs of the proceedings hereinbefore prescribed shall be paid, in the first instance, by the decree-holder; but they shall be charged as part of the costs of execution, unless the Court, for reasons to be specified in writing, considers that they should, either wholly or in part, be omitted therefrom.

Costs for proclamation.

7.Attention is called to the provisions of Order XXI, Rule 83 of the Code, which confers on the Court the power of postponing , at the instance of the judgment-debtor, a sale of immoveable property in execution of decree, if it is satisfied that the amount of the decree may be raised by mortgage or lease or private sale of such property or of any other property of the judgment-debtor. Care must be taken that this power is not so exercised as to inflict an injury on the decree-holder.

Grant of time to debtor to arrange private alienation.

In clause (3) of Rule 83 quoted above it is expressly laid down that the Rule does not apply to a sale of property directed to be sold in execution of decree for sale in enforcement of a mortgage of, or charge on, such property.

8.The sale shall be held at the time and place specified in the proclamation, unless the Court adjourns it to a specified day and hour, or the officer conducting the sale (with the leave of the Court, if the sale is made in or within the precincts of the Court-house) adjourns it for reasons which must be duly recorded . Whenever a sale is adjourned for a longer period than thirty days, a fresh proclamation shall be made, unless the judgment-debtor consents to waive it.

Adjournment of sale.

9.Attention is drawn to Order XXI, Rule 73, of the Code of Civil Procedure, 1908, which directs that an officer having any duty to perform in connection with any sale in execution of a decree, shall not directly or indirectly bid for, acquire or attempt to acquire any interest in the property sold ; and to Order XXI, Rule 72, of the Code, which prohibits the holder of a decree in execution of which property is sold from bidding for or purchasing the property without the express permission of the Court executing the decree.

Purchase at auction by decree-holder or officer connected with auction.

Decree-holder
need not pay
safe money.

10. Clause (2) of Rule 84 of Order XXI enables the Court to dispense with the deposit of earnest money when the decree-holder is the purchaser and is entitled to set off the purchase-money under Rule 72. Rule 86 makes the forfeiture of earnest money optional.

Submission of
statements of
forfeiture of
earnest money.

11. For procedure regarding submission of statements of forfeiture of deposits see Volume IV, Chapter 10-A, rule 6.

Purchase
money: its
payment to
decree-holder
or its refund.
Refund of
commission.

12. "Purchase money deposited in Court upon the sale of immoveable property shall be retained by the Court until the expiry of a period of fifteen days from the date of the order confirming the sales. If no notice of an appeal having been presented by the party seeking to set the sale aside, be given to the Court within that period, the purchase money less the sum which has to be credited to Government or paid to the Court Auctioneer as commission on the sale (see paragraph 22) may be paid on the demand of the decree-holder. If such notice be given within the prescribed period, the purchase money shall be retained in deposit until the appeal is decided, unless the party at the time entitled to receive it gives security, to the satisfaction of the Court to repay it at any time when he may be required by the Court, so to do.

13. The changes introduced by the Punjab High Court in Order XXI Rule 89, Civil Procedure Code, require careful attention (vide Chapter 21).

Application to
set aside.

14. Applications for setting aside sales are frequently made under Order XXI, Rule 90, Civil Procedure Code. An application under this Rule can be made not only by the decree-holder or a person entitled to rateable distribution in the assets but also by any person "whose interests are affected by the decree". But the grounds on which such an application can be made are restricted and should be carefully borne in mind. An application under this Rule can only be made on the ground of material irregularity or fraud in publishing or conducting the sale, and, secondly, it must be proved that the applicant has suffered substantial injury as a result of the material irregularity or fraud complained of. Both these conditions must be satisfied before any sale is set aside under this Rule. It has been provided further in the Punjab that no sale can be set aside on any ground which the applicant could have put forward before the sale was conducted. An application under this Rule must be made within 30 days of the sale (Article 166, Schedule I, of the Indian Limitation Act, 1908).

15. Order XXI, Rule 91, of the Code of Civil Procedure, 1908, enables the purchaser at a sale of immoveable property in execution of decree to apply to the Court to set aside the sale on the ground that the debtor had no saleable interest therein. Such an application must also be made within thirty days from the date of the sale (see Article 166, Schedule I to the Indian Limitation Act, IX of 1908). It should be noted that the Rule applies only when the judgment-debtor has no interest at all in the property sold but not when he has some interest at any rate in it, however small that interest may be.

Application to purchaser to set aside sale.

16. If no application to set aside the sale is made under Rules 89, 90 or 91 within thirty days or the application is disallowed, the Court must confirm the sale. An appeal lies from an order confirming or setting aside a sale but no separate suit is maintainable to challenge the order, (Order XXI, Rule 92.)

Confirmation of sale: Appeal.

17. When such a sale is set aside- under Order XXI, Rule 92, rule 93 provides for the recovery and repayment to the purchaser of the purchase-money. The Court should not refer him to a separate suit for the money paid by him, which should be recovered (if necessary) and refunded to him, subject to the provisions of paragraph 23.

Refund to purchaser.

18. When a sale of immoveable property has become absolute, the Court shall grant a certificate stating the property sold and the name of the person, who, at the time of the sale, is declared to be the purchaser. This certificate should be in the prescribed form, and must bear the date of the confirmation of the sale, and be stamped, at the expense of the purchaser, in conformity with the provisions of chapter Part B, and Article 18 of Schedule I-A of the Indian Stamp Act, 11 of 1899, as amended by Punjab Act, VIII of 1922. When the terms of the certificate have been finally settled, the draft shall be signed by the Judge and placed with the record of the execution proceedings, and the certificate granted to the purchaser (which should be in exact conformity with such draft) shall be engrossed on the stamp paper, free of copying charge. Instances have occurred where the purchaser has not taken his certificate, but has asked merely for a draft certificate to be appended to the file of execution, his idea being to use the draft certificate in proof of his title to the property purchased. Subordinate Courts are warned to guard against such subterfuges. No draft certificate should in

Certificate of sale.

any case be drawn up until the stamp duty required by law has been paid.

It should be noted that the title to the purchaser accrues from the date of the sale, though a certificate can only be granted after its confirmation.

Copy of certificate of sale of immoveable property to be sent to Registration office.

19. A copy of the certificate, whether the property sold be land or other immoveable property, and without regard to the amount of the purchase-money, shall be sent to the Registering Officer, within the local limits of whose jurisdiction the whole or any part of the property is situated to be filed in his supplementary Book No. I.

This copy should be drawn up in vernacular with permanent black ink or with "registration ink" obtainable from the Central Stationery Officer, Calcutta, and on the prescribed form which is obtainable on indent from the Controller of Printing and Stationery, Punjab.

Court officials for conducting sales.

20.(i) Sales in execution of decrees shall ordinarily be conducted by the Court Auctioneer. The District Judge may direct by special order that the sale in a particular case or cases shall be conducted by the Nazarat Staff.

(ii)^[41][At the head quarters of each sub-division in a district, save as otherwise directed, the District Judge shall, with the prior approval of the High Court, appoint a Court Auctioneer to conduct sales in execution of decrees within the limits of the sub-division.]

Security by Court Auctioneers.

(iii) Every Court Auctioneer shall give security in the sum of Rs. 2,000, over and above any security he may have given as Official Receiver, for the satisfactory discharge of his duties. This security shall be furnished to the satisfaction of the District Judge. The rules in Chapter 4-D, High Court Rules and Orders, Volume II, which govern the taking of security from Official Receivers shall, mutatis mutandis, apply also to Court Auctioneers.

Procedure for return of sale warrant.

21 (i) A warrant of sale shall not be delivered to the Court Auctioneer direct by the Court ordering the sale but shall be forwarded to him through the process-serving agency. After the sale the warrant and connected Papers shall be returned by the Auctioneer to the process-serving Agency which shall forward it to the court concerned.

Sale under supervision of Court Auctioneers.

(ii) All sales of property whose estimated value exceeds Rs. 500 shall be conducted under the general supervision of the Court Auctioneer. Sales of property

whose estimated value is Rs. 500 or less may be conducted by agents of the Court Auctioneer. In all cases the Court Auctioneer is responsible for proper compliance with all legal requirements and for all the acts of his agents.

The Court Auctioneer shall each morning, supply to each court a date-sheet showing the sales already fixed by all courts, in order that sales, which he has to attend may not be fixed at different places on the same day.

(iii) The Court Auctioneer shall himself deposit into the treasury all sums realised at auction sales conducted by him or his staff. All sums realised at sales conducted at places where there is a treasury shall be deposited into the treasury or the State Bank of India, as the case may be, on the first working day after the sale. The District Judge shall prescribe periods, within which the proceeds of sales conducted at other places shall be deposited. The periods so prescribed shall be reported to the High Court and shall be as short as possible.

Deposit of sale proceeds into Government treasury.

22. (i) Commission at the following rates shall be deducted from the proceeds of sales under this Chapter:—

Government commission.

(a) If the sale proceeds do not exceed rupees five thousand —at five per centum.

(b) If the sale proceeds exceed rupees five thousand at five per centum on rupees five thousand and two and a half per centum on the remainder.

(ii)^[42] [If the sale is conducted by the Court Auctioneer, 80 per cent of the Commission will be paid to him and 20 per cent will be paid into the Treasury to the credit of Government. All incidental expenditure shall be met by the Auctioneer. The amount of commission of the Court Auctioneer shall not, however, exceed Rs. 5000/- in respect of any one sale.]

(iii) If the sale is conducted by the Nazarat staff, the whole of the commission shall be credited to Government and nothing shall be paid to the officer conducting the sale. In such cases, the expenses incurred in conducting the sale, including the cost of advertisement, must not exceed the amount of commission.

(iv) The expenses incurred in the care, custody and keep of attached property (as taxed by the Court) shall be a first charge on the sale proceeds thereof, after the deduction of the commission mentioned above.

Expenses of custody etc.

23. (i) No commission shall be paid on the proceeds of sales set aside for a material irregularity in publishing or conducting the sale. The commission on the proceeds

Charges of Court Auctioneers.

of a sale set aside for any other cause shall be paid by the person at whose instance and for whose benefit the sale is set aside and the Court Auctioneer shall be entitled to his share of such commission.

(ii) If a sale is set aside the purchase money shall be refunded in full to the Auction Purchaser unless it is set aside at his instance and for his benefit in which event the commission due under paragraph 22 shall be deducted from the sum to be refunded.

(iii) Where a sale is set aside after the commission has been paid to the Court Auctioneer, the court shall recover it from him and shall refund it to the Auction Purchaser if he is entitled to the refund of the whole of the purchase money. In such cases the Government share of the commission shall also be refunded.

(iv) In cases in which auction sales are ordered, but not completed or do not take place at all, the court auctioneer shall be paid only his actual expenses, provided that if there has been, in the opinion of the Court, clear negligence on the part of the auctioneer (e.g., failure to advertise, leading to absence of bidders) he will not be entitled to any compensation. The amount of actual expenses if held due under this rule will be determined by the Court and shall be paid by the decree-holder or the judgment-debtor as the Court may direct.

Conduct of sale
by Nazarat
staff.

24 (i) Where the District Judge directs that a sale be conducted by the Nazarat Staff, the proper officer to conduct the sale is

(a) Where the sale is ordered by a Court of small Causes—the Departmental Officer or such other officer as the Court may appoint.

(b) Where the sale is ordered by a Court other than a Court of Small Causes:

(1) The Civil Nazir, for all sales ordered by Courts located at District Headquarters and for all other sales in which the value of the property to be sold is estimated to exceed Rs. 5,000.

(2) The Naib Nazir of the Court ordering the sale for other sales.

(ii) In every case in which the Civil Nazir is not required, under these directions or the directions of the District Judge, to conduct the sale in person, such

sale may be conducted under the orders and upon the responsibility of the Civil Nazir, by a Naib Nazir deputed by him for the purpose.

(iii) When it is desirable to have the sale conducted at the place where the attached property is situate and the property is of small value, and a Nazir or Naib Nazir is not available for the duty, an execution bailaiff may be deputed to conduct the sale.

(iv) A process-server shall not be employed to conduct a sale without the authority in writing of the Officer in charge of the Process-Serving Agency concerned. Such order shall not be made unless no other officer is available and the value of the property to be sold is estimated at Rs. 100 or less.

(v) The District Judge may issue instructions, consistent with these directions, for the further regulation of the conduct of sales by the Civil Nazir and his establishment.

25. Whenever guns or other arms in respect of which licenses have to be taken by purchasers under the Indian Arms Act, XI of 1878, and Rules thereunder, are sold by public auction in execution of decrees, the Court directing the sale shall give due notice to the Magistrate of the district of the names and addresses of the purchasers and of the time and place of the intended delivery to the purchasers of such arms, so that proper steps may be taken by the Police to enforce the requirements of the Indian Arms Act.

Sale of guns or arms.

26. For attachment and sale of land or interest in land see chapter 12-M of this Volume.

Sale of land.

PART M. —EXECUTION OF DECREES BY THE ATTCHMENT
AND SALE OR TEMPORARY ALIENATION OF REVENUE
PAYING OR REVENUE FREE LANDS.

1. In dealing with applications for the execution of decrees by the sale or temporary alienations of land, the provisions of section 141 of the Punjab Land Revenue Act and the Debtor's Protection Act should not be overlooked. It should be observed that land which has been built upon ceases to be land within the meaning of section 141 of the Punjab Land Revenue Act, notwithstanding the fact that it is assessed to land revenue. (See I.L.R. 1946 Lahore 52 A.I.R. 1944 Lahore 455). Law applicable.
2. It should be borne in mind that the powers of the Civil Courts to deal with objections under section 47, Civil Procedure Code, or Order XXI, rule 58, as amended by the Punjab High Court, are the same irrespective of whether the objections are received by the Court direct or through the Collector. Objections to be decided by Civil Court.
3. Objections under section 9 of the Debtors Protection Act are to be decided by the Civil Court and not the Collector. (A.I.R. 1941 Lahore 225). Ditto.
4. In cases of temporary alienations which are not governed by the Punjab Debtors Protection Act, the Civil Court may seek the Collector's advice. Seeking Collector's advice.
5. Civil Courts should submit quarterly returns in Form C printed in Part A-V, High Court Rules and Orders, Volume VI-A, under the heading "4. Returns relating to execution of decree in which the Collector is consulted", in all cases in which the Collector's advice has been sought under rule 4 above or an order is sent to the Collector under section 141 of the Punjab Land Revenue Act but execution of the decree remains in the hands of the Civil Court. Returns to be submitted by Court.
6. Forms A and B in the aforesaid part of Volume VI-A were drawn up by the judges with the concurrence of the Financial Commissioners for quarterly statements which the Collectors are required to submit to the District Judge in respect of execution proceedings transferred under section 141 of the Punjab Land Revenue Act and section 4 of the Debtors Protection Act respectively. Returns to be submitted by Collector.
7. In cases where the decree is one for the recovery of money specifically charged on the land ordered to be sold the warrant of sale has to be issued by the Civil Court. Money specifically charged on land.
Warrants of sale how sent.

In this connection attention is invited to section 141 of the Punjab Land Revenue Act, 1887, according to which orders for sale of land have to be addressed to the Collector or such revenue officer as the Collector may appoint. The warrants for sale in such cases may, therefore, after arrangement with the Collector, be sent direct to the Tahsildar or such other revenue officer, as the Collector may appoint, who will return them after execution to the Court concerned through the Collector. Duplicate copies of warrants for sale should also be sent direct to the Collector for information.

PART N. —EXECUTION OF DECREES AGAINST
AGRICULTURISTS.

1. The following property of an agriculturist is exempt from attachment and sale:

- (a) the necessary wearing apparel, cooking vessels, beds and beddings of the judgment debtor, his wife and children, and such personal ornaments as, in accordance with religious usage, cannot be parted with by any woman. (Section - 60 (1) (a) of the Code.);
- (b) implements of husbandry, and such cattle and seed-grain as may, in the opinion of the Court be necessary to enable him to earn his livelihood as an agriculturist and such portion of agriculturist produce or any class of agricultural produce as may have been declared by the State Government to be free from liability under section 61. (vide also clause (b) of the proviso to Section 60(1) of the Code);
- (c) where the judgment debtor is liable to pay land revenue, so much of the produce of the land as the Collector thinks necessary for seed-grain and the subsistence until the harvest next following, of the judgment-debtor, his family and cattle exempted under head (b) (Section 70 of the Punjab Land Revenue Act read with Section 88 of the Punjab Tenancy Act and Section 60(1) (p) of the Code of Civil Procedure). Under Section 61 of the Civil Procedure Code, the Punjab Government has declared that in the case of agriculturists, the judgment-debtor's entire fodder crops, including gram, oats chari, maize and guara, one third or 20 maunds, whichever is greater, of foodgrains, and one third of all other crops shall, subject to the provisions of clauses (b) and (p) of sub-section (1) of Section 60 of the Civil Procedure Code and of the proviso to Section 70 of the Land Revenue Act, be exempted from liability to attachment or sale in the execution of a decree for the purpose of providing, until the next harvest for the cultivation of land and for the support of the judgment-debtor and his family.
- (d) Houses and other buildings (with the materials and the sites thereof and the land immediately appurtenant thereto and necessary

Property exempt from attachment and sale etc.

for their enjoyment belonging to an agriculturist and not proved by the decree holder to have been let out on rent or lent to persons other than his father, mother, wife, son, daughter, daughter-in -Law, brother, sister or other dependants or left vacant for a period of a year or more. (section 60 (1) (c) of the Code and section 35 of Punjab Relief of Indebtedness Act as amended by Punjab Act XII of 1940).

- (e) Mulch animals, whether in milk or in calf, kids, animals, used for the purpose of transport or draught cart or open spaces or enclosures belonging to an agriculturist and required for use in case of need for tying cattle, parking carts or stacking fodder or manure (clause deemed to be added to the Proviso to section 60(1) of the Code , by P:Act XII of 1940)
- (f) standing crops except cotton and sugarcane. [Section 10(1) of the Punjab Debtors' Protection Act].
- (g) Standing trees apart from the land on which they stand cannot be sold [Section 10(2) of the Punjab Debtors' Protection Act.]

Exemption of
ancestral
immovable
property.

2.The Punjab Land Alienation Act, 1900 was repealed by the adaptation of Laws (Third Amendment) Order, 1951. (S.R.O. 508, dated the 4th April, 1951). There is now no bar to the sale in execution of a decree of the land belonging to an agriculturist.

No. bar to the
sale of land
belonging to an
agriculturist.

3.Attention is invited to the provisions of section 9 of the Punjab Debtors' Protection Act which lays down that ancestral immovable property in the hands of a subsequent holder shall not be liable in the execution of a decree or order of Court relating to a debt incurred by any of his predecessors-in-interest. This rule, however, is to be applied only "when custom is the rule of decision in regard to succession of immovable property". It is not applicable when the debt has been expressly charged by way of a mortgage.

Attachment and
sale to be carried
out through
Collector.

4.The attachment and sale of the land and its produce will be carried out by an order addressed by the Civil Court to the Collector or such Revenue Officer as he may appoint in this behalf under Section 141 of the Punjab Land Revenue Act and subject to the rules made thereunder and the provisions of the Code contained in Order 21, Rules 44, 45, 74, and 75,

PART O.—EXECUTION OF DECREES AGAINST PERSONS IN MILITARY
SERVICE. •

For instructions as to execution of decrees against persons in
military service, see Chapter 6.

PART P. —RECEIPTS FOR PROPERTY REALIZED OR RECOVERED
IN EXECUTION OF DECREES.

1. Receipts should invariably be furnished by decree holders for money paid or goods delivered through the Courts in satisfaction of decrees.

Receipts

Payment by debtor.

2. sums tendered by a judgment-debtor in payment or part payment of a decree shall be received by the Court which framed the decree or to which the decree has been sent for execution, whether the judgment creditor has taken out execution or not; and whether, in case he has taken out execution, he is actually in attendance at the Court-house or not.

3. If the judgment-creditor is in attendance at the time of such tender (whether for the purpose of prosecuting his execution or not), the money so received by the Court shall be made over to him upon his giving a receipt, duly stamped if the sum so paid exceeds Rupees twenty, and the receipt taken shall be filed with the proceedings.

Payment to decree-holder when present.

4. If the Judgment-creditor is not in attendance the sum paid in by the judgment-debtor shall be made over by the Court to the Nazir, who shall forthwith deposit it in the Treasury, at the Sadar or Tahsil, as the case may be, and notify to the Court the number, and date on, which the sum has been entered in the deposit register. A corresponding entry will be made in the Court's record.

Amount to be deposited when decree-holder is not present.

Provided that if the Treasury is closed for business when the money is paid into Court, it should be placed in the Nazir's Cash Chest, which should be lodged in the outer room of the Treasury, if it is open, as provided in Order 4(2) of the Punjab Treasury Manual, 2nd edition, page 2, and if it is closed the Presiding Officer of the Court must make other suitable arrangements for its safe custody.

5. An unstamped acknowledgement will, in every case, be given to the judgment-debtor, by the officer to whom the payment is made, for any sum paid into Court under the preceding paragraphs.

Receipt to be given to debtor by Court.

6. When the judgment-creditor appears and claims the sum received by the Court, such Court shall give the claimant (after identification) a cheque on the Treasury, payable to his order, for the amount, and shall note thereon the date of deposit and the number in the deposit register. An unstamped receipt, particularizing the amount of the cheque, its date and number, together with the deposit

Payment to decree-holder of the sum deposited.

number and date, shall be taken from the judgment-creditor in acknowledgement of such cheque, and this receipt will remain on the record, and will be deemed sufficient to mark the finality of the proceedings.

Payment to
decree-holder
of the sum
deposited.

7. The cheque mentioned in the preceeding pragraph shall be presented to the Treasury Officer for payment, and the receipt of the payee, endorsed thereon, shall be sufficient acquittance for the Treasury Officer, who will forward such endorsed cheque to the Accountant-General as -his voucher for the withdrawal of the amount from deposit.

Stamp on

8. When the amount exceeds rupees twenty the receipt will be stamped at the expense of the judgment-creditor.

Dakhalnama
does not require
stamp.

9. The practice prevailing in some districts of requiring the dakhalnama or acknowledgment taken from a decree-holder when he has been placed in possession of immoveable property in execution of decree, to be stamped, is not authorized either by the Court Fees Act or by the Stamp Act. The dakhalnama, not being an acknowledgement of the receipt of money or other moveable property, is not a receipt within the meaning of Section 2(23) of the Stamp Act, and does not require to be stamped.

Chapter 12
PART Q—RESISTANCE TO EXECUTION

- 1. Resistance by judgment-debtor or by some person on his behalf or at his instigation:-** If the holder of a decree for the possession of immoveable property, or the purchaser of any such property sold in execution of a decree, is resisted or obstructed by any person, and the decree holder complains of such resistance or obstructions, Order XXI, Rules 97 to 99, prescribe the procedure to be followed.

According to Order XXI, Rule 98, Civil Procedure Code, as amended by the Punjab High Court, a Court can now take action not only when the obstruction was occasioned by the judgment-debtor himself or by some person at his instigation but also when it was caused by any one "on his behalf". It has also been provided that the detention ordered in this rule shall be at public expense. The provision as to the limitation is contained in Article 167 of Schedule I to Act IX of 1908 which provides a period of thirty days from the date of resistance or obstruction.

- 2. Resistance by others:-** Order XXI, Rule 99, provides for cases where the resistance or obstruction has been occasioned by any person other than the judgment-debtor, claiming in good faith to be in possession on his own account or on account of some person other than the judgment-debtor.
- 3. Restoration of possession of a person who was in possession not on account of debtor but was dispossessed in execution:-** If any person not bound by the decree should be dispossessed of any property in execution, whether by decree-holder or by the purchaser in execution, he may apply to the Court executing the decree under Order XXI, Rule 100, if he disputes the right of such decree-holder or purchaser to be put in possession. Where the Court is satisfied that the applicant was in possession of the property on his own account or on account of some person other than the judgment-debtor, it should, under Rule 101, direct that the applicant be put into possession of the property. Attention is drawn to this provision, as in such cases it is not uncommon for a Court to refuse to make any inquiry and to refer the applicant to regular suit. The limitation for such applications is thirty days from the date of dispossession (see Article 165, Schedule I to Act IX of 1908).
- 4. [Direction for execution of decree with police help:-** Where the Executing Court is satisfied that it is not possible to execute the decree, warrant of arrest and/or distress without police assistance, it may direct the concerned Police Station to provide police assistance to such officials who are working towards execution of the decree. Further, in case an offence against the public servant while discharging his duties is brought to the knowledge of the Court, the same must be dealt with stringently in accordance with law."
{Rule 5 inserted vide C.S. No. 84 Rules/II.D4 dated 21.11.2022}

PART R.—COSTS IN EXECUTION PROCEEDINGS

1. Unless there is any reason to the contrary, costs of pleaders in execution cases should be allowed on the scale laid down for miscellaneous proceedings in Chapter 16. "Legal Practitioners," Part B. Cost of pleader.
2. The clothing and bedding supplied in accordance with paragraph 790 (2) of the Punjab Jail Manual (1932) to a civil prisoner committed to prison in execution of a decree, being returnable to the decree-holder at the time of the prisoner's release under paragraph 796(2) *ibid* their cost should not be included in the costs of the execution. Costs of clothing and bedding supplied to a civil prisoner.
3. Money spent by the decree-holder for the subsistence of the judgment-debtor arrested in execution shall be included in costs Subsistence expenses of the debtor arrested in execution.
- ^[43] [4. The Court can order that a party who knowingly puts forward any false or vexatious claim or defence in execution proceedings shall pay costs by way of compensation to the opposite party who objects to the claim or defence on these grounds. The amendments of Section 35A and insertion of section 35A in the Code of Civil Procedure by Act No. 66 of 1956 may be studied in this connection.] Compensatory costs for false or vexatious claims or defences.

PART S. —RECIPROCAL EXECUTION OF DECREES BY
COURTS IN INDIA AND FOREIGN COUNTRIES

1. The Law on the subject of execution of decrees of Courts in India by foreign Courts and vice versa is contained in Section 44-A of the Code of Civil Procedure.

5.44-A. C. P. C.

2. Section 44-A which was originally inserted in the Code of Civil Procedure 1908 by Act No. 8 of 1937 has been amended by Act LXXI of 1952. It now provides that a decree passed by 'a superior Court' in any 'reciprocating territory' can be executed in India by filing a certified copy of the decree in a District Court, which will treat the decree as if it has been passed by itself. 'Reciprocating territory' means any country or territory outside India which the Central Government may by notification declare to be a reciprocating territory for the purposes of Section 44-A. A 'superior court' with reference to any such territory would mean such courts as are specified in the said notification. This arrangement is confined only to decrees for payment of money not being sums payable as taxes, fines or penalties etc. Further the decree should not be based on an arbitration award.

Reciprocal
arrangement

The definition of 'India' in clause (7B) of Section 2 of the Code does not govern Section 44-A (Please see Section 4 and Third Schedule of Act No. 42 of 1953).

United
Kingdom.

3.(a) The Central Government has in exercise of the powers conferred by Explanation I to section 44-A C.P.C. declared the United Kingdom of Great Britain and Northern Ireland to be reciprocating territory for the purposes of the said section, and the High Court in England, the Court of Sessions in Scotland, the High Court in Northern Ireland, the Court of Chancery of the County Palatine of Lancaster and the Court of Chancery of the County Palatine of Durham to be the Superior Courts of that territory, *vide* Central Government Notifications Nos. 47 to 51, dated the 25th February, 1953, and 1st March, 1953, respectively, published in the Gazette of India.

Similarly, the Government of Great Britain have extended Part I of the Foreign judgments (Reciprocal Enforcement) Act, 1933 to the territories of the Union of India and the following Courts shall be deemed to be superior courts of the said territories for the purposes of Part I of the said Act :

(a) All High Courts and Judicial Commissioners' Courts.

(b) All District Courts.

(c) All other courts whose civil jurisdiction is subject to no pecuniary limit provided that the judgment sought to be registered under the said Act is sealed with a seal showing that the jurisdiction of the courts is subject to no pecuniary limits — *vide* the Reciprocal Enforcement of judgments (India) Order, 1953".

(b) Reciprocity has been established between India and Burma in the matter of execution, *vide* Government of India Notification No. 286-36- Judicial, dated the 27th March 1939, and Government of Burma Notification No. 141, dated the 7th March, 1939.

According to these notifications the following courts have been declared to be superior Courts for the purposes of section 44-A:

Burma.

Burma: —

(1) High Court at Rangoon.

(2) All District Courts in Burma.

4. Reciprocity has also been established between the colony of Aden and India and the Supreme Court of the said 'reciprocating territory' has been specified by the Central Government as a 'superior court' under Explanation I of section 44-A of the Code. (Government of India, Ministry of Law, Notification No. S.R.O. 183, dated the 18th January, 1956).

Aden.

5. Reciprocity has also been established between the colony of Fiji and India, — *vide* Central Government Notification No. S.R.O. 959, dated the 22nd March, 1954 published in the Gazette of India of 27th March, 1954.

Fiji
Colony.

6. Reciprocity has also been established between the colony of Singapore and India and the Supreme Court of the said 'reciprocating territory' has been specified by the Central Government as a 'superior Court' under Explanation I of section 44-A of the Code. (Government of India, Ministry of Law, Notification No. S.R.O. 1867, dated the 1st September, 1955.)

Colony of
Singapore.

7. Reciprocity has also been established between the Federation of Malaya and India and the High Court and the Courts of Appeal of the said 'reciprocating territory' have been specified by the Central Government as 'superior courts' under Explanation I of Section 44-A of the Code. (Government of India, Ministry of Law, Notification No. S.R.O. 4, dated the 3rd January, 1956.)

Federation
of Malaya.

PART T —RECIPROCAL ARRANGEMENTS WITH JAMMU
AND KASHMIR

1.Any decree passed by any civil court established in any part of India to which the provisions of the Code do not extend or by any court established or continued by the authority of the Central Government outside India may if it cannot be executed within the jurisdiction of the court which passed it, be executed by any civil court in India (Section 43 of the Code of Civil Procedure).

References.

2.The State of Jammu and Kashmir is a part of India (vide Article 1 of the Constitution of India) to which the provision of the Code of Civil Procedure do not extend [Section 1 (3) of the Code as amended by Act II of 1951]. Section 43 therefore, makes provision for the execution of decrees of civil courts of Jammu and Kashmir by civil Courts in those parts of India, where the Code extends.

Reciprocal
Arrangements.

3.The Jammu and Kashmir Government have substituted a new section 44 in the Jammu and Kashmir Code of Civil Procedure, 1977 by their Amending Act No. 1 of Sambat 2011. It runs as follows:

Ditto.

"Section 44. *Execution of decrees passed by Courts in other States in India:—*

(J & K state)

The Government may by notification in the Government Gazette declare that decrees of any civil or Revenue court situate in India beyond the limits of Jammu and Kashmir State or of any court established or continued by the authority of the Central Government of India outside India or any class of such decrees may be executed in the State as if they had been passed by courts of the State".

4.The Government of Jammu and Kashmir have issued the following notification under section 44 of their Code.

Notification by
Jammu and
Kashmir State.

"Government of Jammu and Kashmir Chief Secretariat-General Department.

Order No. 914-C of 1954, dated the 10th July, 1954.

*Notification:—*In exercise of the powers conferred by section 44 of the Code of civil Procedure, 1977, the

Government hereby declare that decrees of any civil court situate in India beyond the limits of the Jammu and Kashmir State or of any court established or continued by the authority of the Central Government outside India may if they cannot be executed within the jurisdiction of the Court by which they were passed, be executed in the State as if they had been passed by a Court of the State".

5. For a list of civil courts in the two Provinces of Jammu and Kashmir and the limits of their territorial jurisdictions see paragraph 6 Chapter 10 C of this Volume.

CHAPTER 13

Transfer and withdrawal of suits and appeals.

1. Section 24 of the Code of Civil Procedure provides for the transfer of suits, appeals or other proceedings pending in subordinate Courts. Although this power of transfer may be exercised at any stage of a suit, appeal or other proceedings, no part-heard case should be transferred from one Court to another, if this can possibly be avoided. Transfer of part-heard cases.
2. In submitting applications to superior authority for the transfer or withdrawal of cases under Section 24 of the Code of Civil Procedure, Civil Courts should always record a short statement of the case, with their reasons for making the application. Courts requesting for transfer should record reasons.
3. Whenever a suit or appeal comes before a Judge in which he is personally interested, or in which the order appealed against was passed by himself, a report should atonce be made to the superior Court concerned with a view to the case being transferred to another Court. Transfer of a case in which the judge personal interested or in which the order appealed against was passed by him.
4. If a subordinate Court sends a case to the District Judge with an application for its transfer, on the ground that it is beyond his jurisdiction or on similar grounds, it should give the parties the date for appearance before the district Judge. The District Judge will either hear the matter on that day, or, when this is not possible, give another date. If orders for transfer are passed, the parties present should be informed of the Court to which the case has been transferred and a date should be fixed by the District Judge, for their next appearance in the new Court. Parties should be informed of the date for appearance before District Judge when at court requests for transfer. District Judge to inform parties the date for appearance before the Court to which he transfers the case.
5. If an application is made by one of the parties for a transfer, and orders of transfer are passed after notice to the other side, the parties present should similarly be informed by the District Judge of the Court to which the case has been sent and the date on which they should appear before it. On transfer of a case to another court parties to be informed of date for appearance before the Courts.
6. When a case is transferred by administrative order from one Court to another, the Presiding Officer of the Court from which it has been transferred shall be responsible for informing the parties regarding the transfer, and of the date on which they should appear before the Court to which the case has been transferred. The District Judge passing the order of transfer shall see that the records are sent to the Court concerned and parties informed of the date fixed with the least possible delay. When a case is transferred by judicial order the Court passing the order should fix a date Records to be sent immediately to the court to which case is transferred.

on which the parties should attend the Court to which the case is transferred.

Withdrawal of
a suit by
plaintiff.

7. A plaintiff is at liberty to withdraw from a suit at any time (subject to any order as to costs that the Court may pass), but if he wishes to reserve his right to sue again, he must obtain permission of the Court under Order XXIII, Rule 1, Civil Procedure Code. Permission can only be granted on the grounds specified in the rule. The words "other sufficient grounds" have been interpreted to mean grounds of the same nature as the grounds specified in clause (a) of sub-rule 2 of Rule I of the Order. The mere fact that plaintiff has not been able to produce adequate evidence to establish his case is no justification for granting permission under this rule.

District Judge
may transfer a
case to Addi-
tional District
Judge.

8. A District Judge may with due regard to convenience, transfer a case under section 24, Civil Procedure Code, to an Officer in another district when that officer is acting as an ex-officio Additional District Judge of the district from which the case is to be transferred. In such case no reference to High Court is necessary except when any difficulty is experienced in making transfers.

District Judge
can transfer or
withdraw an
appeal without
reference to High
Court.

9. The District Judge can, without reference to the High Court, transfer or withdraw any appeal pending in the Court of the Additional or ex-officio District Judge.

But he cannot exercise jurisdiction in such a manner as to set aside the orders of the High Court. Thus an appeal once transferred under the orders of the High Court cannot be retransferred without further orders from the High Court.

Separate
record of
transfer
applications.

10. Applications for transfer of civil cases and the proceedings therein should form files separate from the record of the main case sought to be transferred and the records of such transfer applications should be separately consigned to the Record Room. The original order on transfer application should be kept on the record of the transfer proceedings and a copy of this order should be sent to the Court concerned.

Transfer of
cases on
administrative
grounds.

11. Cases transferred by a court of its own motion or on administrative grounds should not be entered in any register and it is unnecessary to keep any statement of cases so transferred. It is not necessary in such cases to make any separate record of the transfer proceedings and the original order of transfer instead of a copy, may be sent to the court concerned.

CHAPTER 14
Appeals and Revisions —Civil
PART A. —THE APPELLATE SYSTEM OF THE PUNJAB

1. Classes of appellate courts:- There are four classes of Appellate Courts in the Punjab —the High Court; the Court of the District Judge; the Court of the Additional Judge, if so directed by the District Judge under Section 21 (2) of the Punjab Courts Act ; and the Court of the Subordinate Judge of the 1st Class, if so empowered by a Notification issued by the High Court, under Section 39 (3) of the Punjab Courts Act.

Appellate powers of Senior Sub- Judges:- By High Court Notification No. 170-Gaz./XXI-C-6, dated the 16th of May, 1935, as amended by Notification No. 53-Gaz./XXI-C. 6, dated the 23rd February, 1940, the Senior Subordinate Judge of the first class in each Civil District of the Punjab has been invested with appellate powers in respect of decrees or orders passed by any Subordinate Judge in a small cause of a value not exceeding Rs. 500 and in an unclassified suit of a value not exceeding Rs. 100. High Court Notification No. 171-Gaz./XXI-C.6, dated the 16th of May, 1935, similarly empowers the Senior Subordinate Judge of the first class in respect of the Union territory of Delhi.

Enhanced powers of Senior Sub- Judges:-Some Senior Subordinate Judges of the first class have been invested personally with enhanced appellate powers in respect of decrees or orders passed by any Subordinate Judge to the following extent:-

- (a) in a small cause of a value not exceeding Rs. 1,000 (one thousand);
- (b) in a land suit of a value not exceeding Rs. 250 (two hundred and fifty), and
- (c) in an unclassified suit of a value not exceeding Rs. 500 (five hundred).

For the notifications quoted in this paragraph see Chapter 20-B, paragraph IV.

2. Forum of appeal:- (i) An appeal from a decree or order of a Subordinate Judge lies:-

- (a) to the Subordinate Judge, 1st Class, if specially empowered as indicated in paragraph 1 above;
- (b) to the District Judge, where the value of the original suit concerned does not exceed Rs, 5,000;
- (c) to the High Court, where the original suit concerned is of a value exceeding Rs. 5,000.

(ii) An appeal from a decree or order of a District Judge or Additional Judge exercising original jurisdiction lies to the High Court.

3. Forum of appeal:- When a Senior Subordinate Judge of the first class has been invested with appellate powers under section 39 (3) of the Punjab Courts Act, all appeals from decrees or orders of Subordinate Judge of the first, second, third and fourth classes, which such Senior Subordinate Judge has been empowered to hear, shall be preferred to such Senior Subordinate Judge.

4. Withdrawal of appeal from and transfer to sub-Judges:-If any such appeal is pending before a District Judge the latter may transfer it to any Subordinate Judge under his administrative control competent to dispose of it. He may also withdraw any appeal so transferred, and either dispose of it himself, or transfer it to any competent Court under his administrative control (Section 40 of the Punjab Courts Act).

5. Section 41 of the Punjab Courts Act lays down the conditions under which a second appeal lies to the High Court from a decree passed in appeal by a court subordinate to the High Court. Section 42 (2) lays down that no second appeal shall lie in a "Small Cause" of a value not exceeding Rs. 500.

6. Appeal in compromise cases:-Section 96 (3) of the Code of Civil Procedure provides that no appeal shall lie from a decree passed with consent of parties.

7. Appeal from preliminary decrees:-Section 97 of the Code provides that a preliminary decree, which has not been appealed against, shall not be questioned in any appeal preferred from the final decree.

8. Appeal from orders:- An appeal lies from any order of the kinds specified in section 104 of the Code and Order XLIII, Rule I, and from no other orders (see the first 13 words of Section 38 (1) of the Punjab Courts Act, 1918.

PART B.—GENERAL PROCEDURE OF APPELLATE COURTS

(a) *Copies to accompany the memorandum of appeal.*

1. Order XLI, Rule 1, of the Code of Civil Procedure provides that the memorandum of appeal shall be accompanied by a copy of the decree appealed against and (unless the Appellate Court dispenses therewith) of the judgment on which it is founded. A Proviso has been added to this rule in Punjab making it possible that where two or more cases are tried together and disposed off by one judgment the appellant (s) may with the permission of the proper authority file only one copy of the judgment— though he/they may have filed more than one appeal.

First Appeals.
Second Appeals.
Judgment. Disposal
of some issues.
Duty of copying
agency.

In second appeals in addition to the copies specified in Order XLI, Rule I, the memorandum of appeal shall be accompanied by a copy of the judgment of the Court of first instance, unless the Appellate Court dispenses therewith, Vide Rule 2, Order XLII, added by the Punjab High Court.

When some issues are disposed of at first and the rest by the final judgment, it is sufficient to attach a copy of the final judgment to the memorandum of appeal, for the purposes of the above Rules. (See Civil Appeal No. 2481 of 1928).

Whenever an application is made for a copy of a civil judgment for the purpose of appeal the applicant should be informed that a copy of the decree is also requisite and he should be supplied with such copy, unless he declines to pay the necessary fees in which case a certificate under the signature of the officer-in-charge of the Copying Department, should be endorsed on the copy of the judgment supplied to the applicant to the effect that he was duly informed that a copy of the decree was requisite, and, after being so informed declined to pay fees for the same. Similarly an applicant for a copy of an Appellate judgment for the purposes of a second appeal should be told that a copy of the trial Court's judgment is also requisite.

1. Section 12 of the Indian Limitation Act 1908 directs that the period allowed for appeal shall be reckoned exclusive of the time requisite for obtaining a copy of the judgment and decree appealed against. The time requisite is the time beyond the applicant's control occupied by the

Exclusion of time
spent in obtain-
ing copies for
limitation
purposes.

Copying Agency after an application for a copy has been duly made to the proper officer. In granting copies therefore, the Court or the Copying Agency should be careful to endorse on the copy the following particulars:

- (a) The date of presentation of the application for a copy;
- (b) the date on which the copy was examined and attested;
- (c) the date of delivery or dispatch of the copy.

Appellate Courts should be careful to notice any delay in furnishing these copies.

Translations.

3. Where the order appealed against is in English, it will be sufficient to file a copy of the English order without its counterpart in the vernacular. But should the appellant require it, he should be allowed to take a copy of the vernacular translation (if any) as well.

(b) *Preliminary reception of appeals.*

Reception,
service of
processes,
addresses for
service.

4. The general rules regarding the reception of plaint and service of summonses on defendants in Chapter 1, "Practice in the trial of civil suits" apply *mutatis mutandis* to the reception of appeals and service of notices on respondents. It should be noted that an address for service filed during the course of the trial holds good for the purposes of Appellate proceedings also; and such address given by the respondents must be stated in the memorandum of appeal according to Order XLI, Rule 38, as added by the Punjab High Court.

Reception by
court official.

5. In District Courts, the usual practice is for the Clerk of the Court or Superintendent to receive in the first instance the memorandum of appeal. There is no objection to this practice which is a convenient one for both the Court and suitors. It must however be distinctly remembered that the only duty which can legally be delegated to the Clerk of the Court or Superintendent is to receive the memorandum of appeal and note thereon the date of its receipt. The order as to its admission or rejection can be passed only by the Court itself.

Amendment.

6. If the grounds of objection to the decree appealed against are not set out concisely or are argumentative or in narrative form in contravention of Order XLI, Rule 1, of the Code of Civil Procedure, the petition of appeal should be returned for amendment under Order XLI, Rule 3 of the Code and Courts should exercise freely the

discretion thereby vested in them with a view to stricter compliance with the provisions of the second sub-rule of Order XLI Rule I (X) of the Code. Persistent disregard by any appeal-writer of these provisions should, after due warning lead to the withdrawal of his licence.

7. The memorandum of appeal, when bearing the proper Court fees, must be admitted, if presented in the prescribed form and within the prescribed time, unless it is rejected or returned for amendment under Order XLI, Rule 3, of the Code. When an appeal has been admitted, it will be endorsed with the date of presentation, and the date fixed for hearing, and will be registered by the proper officer of the Court.

Admission.

8.(i) In admitting the memorandum of appeal the Court should decide whether it will proceed under Order XLI, Rule 11, of the Code, and fix a time for hearing the appellant or his pleader (with or without the records) without issuing notice to the respondent, or send notice of the appeal to the respondent and to the Court against whose order the appeal is made, and fix a day for hearing the appeal.

Disposal
under Order
XLI, Rule
11.

(ii) Notice ought not to be issued to a respondent unless the Appellate Court, either without perusing the records of the lower Court or after calling for and perusing such records, is in doubt as to the correctness of the decree appealed against.

9. (a) The Appellate Courts should be careful to see that the object of the statutory provision of Order XLI, Rule 11, is not defeated and respondents put to unnecessary trouble and expense by the indiscriminate issue of notice to respondent in all cases.

Disposal under
Order XLI,
Rule 11.

When decision is confirmed under this rule, the confirmation should be notified to the lower Court.

Such confirmation falls within the definition of 'decree' as given in section 2 (2) of the Code, and being as such, appealable, a formal decree should be framed in every case disposed of under the provisions of Order XLI Rule 11.

(b) Attention is drawn to a recent Punjab amendment of Order XLI, Rule 14, which requires that every notice of appeal to a respondent other than a respondent stated to be proforma shall be accompanied by a copy of the Memorandum of appeal, or if so permitted by a concise statement. The required number of copies of the memo

or concise statements, as the case may be should be filed immediately after the appeal has been admitted and the court has fixed a day for hearing the appeal under Order XLI, Rule 12.

Amendment
after admission.

10. When an appeal has been registered and a date has been fixed for hearing, the petition cannot be returned for amendment. The appeal must be disposed of in the regular manner by dismissal, or by a judgment affirming, varying or reversing the decree of the lower Court. If the appellant should desire to urge any ground of objection not set forth in the memorandum of appeal, he can, under the provisions of Order XLI, Rule 2, of the Code of Civil Procedure, do so only with the permission of the Court and such permission should ordinarily be applied for in writing some time before the date fixed for the hearing, under Order XLI, Rule 12, of the Code, in order that the respondent may have sufficient opportunity of contesting the case on that ground, without the necessity of a postponement.

10. Attention is drawn to the definition of decree given in section 2 (2) of the Code and to sections 104, 105 and Order XLIII which specify what orders are appealable.

Pauper
Appeals.

11. Appeals in *forma pauperis* should not be admitted unless the Court, after perusal of the judgment and decree finds the decree to be contrary to law or some usage having the force of law or is otherwise erroneous or unjust. In this connection the amendments of Order XLIV, Rule 1, by Act 66 of 1956 may be studied.

(c) *Hearing and disposal of appeal.*

Default in
appearance.

12.(i) If, on the day fixed for the hearing of the appeal under Order XLI, Rule 12, of the Code or any other day to which the hearing is adjourned, the appellant does not attend in person or by agent, the appeal should usually be dismissed for default. It is illegal to take up a civil appeal in the absence of the appellant or his agent and confirm the decision of the lower Court on the merits instead of dismissing the appeal for default: for if the appellant afterwards appears, shows good cause for his absence on the day fixed for hearing and applies for re-admission of the appeal, the Court is met by the difficulty that the appeal has already been heard on the merits.

(ii) Attention is drawn to a recent amendment in Punjab making section 5 of the Indian Limitation Act

applicable to applications for re-admission of appeals under Order XLI, Rule 19.

(iii) In any case, where a party, whose non-attendance is ground for dismissal of the proceeding for default, is not present when the proceeding is called on for hearing, the Court may postpone passing final order, if there is other work, which the Court can conveniently take up in the meantime. No hard and fast rule can be laid down, and the matter is one for the exercise of proper discretion in view of all the circumstances. But Courts should endeavour to dispose of cases on merits as far as practicable and avoid dismissals in default when this can be done without wasting of time of the Court or prejudice to other litigants.

The above remarks also apply to the hearing of an appeal ex-parte owing to the absence of a respondent.

If an adjournment is necessary by reason of a party not having appeared when first called, he may properly be ordered to pay all the costs caused by the adjournment.

14 Special attention is invited to Order XLI, Rule 33, which introduces an English rule of law' whereby an Appellate Court is given the fullest power to do complete justice between the parties concerned in the suit, whether such parties have joined in the appeal or not.

Special power.

15. Appeals from orders in pending proceedings should be disposed of as promptly as possible, so as not to delay those proceedings unnecessarily.

Appeals from orders during proceedings.

(d) *Judgment in appeal.*

16.The judgment of the Appellate Court should contain the point or points for determination, the decision thereupon and the reasons for the decision, and, when the decree appealed against is reversed or varied, the relief to which the appellant is entitled (Order XLI, rule 31, of the Code of Civil Procedure). In other words, the judgment should be complete in itself and should give a concise account of the case between the parties, intelligible not only to the superior Appellate Courts, but to the public.

Contents.

16.It is not intended that the judgment of the lower Appellate Court should ordinarily be as detailed as that of the Court of first instance, e. g., it will rarely be necessary for the lower Appellate Court to deal with the evidence of particular witnesses or to examine in detail the whole of the evidence; but it should give an intelligent and clear summary of the evidence which it had to consider and

Grounds of appeal and evidence.

state the reasons for which it thinks particular portition of the evidence to have been more or less worthy of consideration. If any ground of appeal is not pressed by the counsel or is withdrawn, the Appellate Court should invariably mention this fact in the judgment. An appellant is entitled to expect not only that every objection to the judgment or the proceedings of the lower Court, which is taken in due form and is relevant and of a substantial character, should be considered, but also that a decision upon the point raised by such objection should be recorded in the Appellate Court's judgment.

Findings of fact.

18. The findings of fact arrived at by the court of first appeal are, as a rule, final and cannot be challenged in second appeal, except on certain grounds. The Courts of first appeal should therefore realise their responsibility in the matter and see that the findings of fact on which their decision is based are clear and precise. The judgment should indicate that all relevant evidence, oral as well as documentary, has been considered. Second appeals have to be frequently admitted for the reasons that the necessary findings of fact are either vague or non- existent or that important evidence on record has been ignored.

How parties to be named.

19. As confusion frequently arises from the use of the words "appellant" and "respondent" in two successive Appellate Courts, especially when the parties appealing belong to different sides, Appellate Courts should not use these terms without the addition of the words 'plaintiff' or 'defendant', as the case may be or the latter terms alone may be used.

(e) *Decrees in appeals.*

Contents of decrees.

18. Under the provisions of Order XLI, Rule 35, of the Code, the decree of the Appellate Court is required to contain the number of the appeal, the names and des- cription of the parties, a clear statement of the relief granted or other determination of the appeal, and an order as to costs.

Note.—for the directions as to filling up decretal orders of Appellate Court see Chapter 11-B, Para 2 (ii)

(f) *Remands.*

Fixing date of appearance in lower court.

19. Whenever, a case is remanded for redecision under Order XLI, Rules 23 or 23-A or for the trial of certain issues under Order XLI, Rule 25, the Court ordering the remand shall at once, in the presence of the parties, give them a date on which they shall appear before the trial court and note the fact on the record,

22. (a) When a case is remanded by an Appellate Court under Order XLI, Rules 23 or 23-A it must be restored to its original number on the register of the Court, to which it is remanded and be considered as a pending regular suit; but if it is referred for the re-investigation of certain issues, under Order XLI, Rule 25, it should remain on the register of the Appellate Court and be considered as an appeal pending in that Court.

Court in which remand case is pending.

(b) Rule' 23-A of Order XLI was inserted in 1938 by the Punjab High Court and enables the appellate court to remand a case where retrial is considered necessary, even though the court from whose decree the appeal is preferred has disposed of the case otherwise than on a preliminary point.

Framing of decree.

23. An order of remand under Order XLI, Rule 23 or 23-A of the Code of Civil Procedure not being a decree as defined in the said Code, the framing of a formal decree by the Appellate Court in cases remanded by it under these rules is incorrect.

24. When a case is remanded under Order XLI, Rule 25, of the Code of Civil Procedure, reasonable time should be fixed for the return of findings by the lower Court. The latter Court should make every effort to submit the report by the date fixed, but if this is found to be impracticable, it should apply at once for an extension of time, stating its reasons and mentioning the date by which it expects to be able to submit the required report.

Date of return by lower court.

25. Appellate Courts should pay special attention to the provisions of Order XLI, Rule 26, of the Code of Civil Procedure. They should take measures to ensure that in all cases of remand under Order XLI, Rule 25, a definite period, subsequent to the return of the record of the inquiry to the Appellate Court, shall be fixed to admit of objections being filed by any dissatisfied party, due notice of such period being given to the parties. No Court should proceed to final judgment without ascertaining that such period has been duly allowed. If it has not, the Appellate Court should either postpone the appeal or ascertain and record the objections of the parties or either of them or ascertain and record that neither party has any objection to advance.

Date of objections.

26. Appellate Courts have the power to admit additional evidence under Order XLI, Rule 27, of the Code of Civil Procedure, but this can only be done on the grounds

Additional evidence.

stated therein and the reasons for admitting the evidence must always be clearly recorded. The test for the admission of such additional evidence and the manner in which the appellate courts should exercise their discretion in this behalf are laid down in 1951, Supreme Court Reports 258.

(g) Service of processes of Appellate Courts.

Duty of lower court in the matter of service.

27. In view of Rule 38 of Order XLI (added by Punjab amendment), Service of the notice issued in appeal and other processes for service of parties to appeal shall be issued at the address filed by the appellant/parties or as per order passed under Order V Rule 19 (added by Punjab amendment) or Order VIII Rule 11 or subsequently altered under order VII Rule 24 or Order VIII Rule 12. Service effected at such address shall be as effective as personal service.

Attention is also drawn to Order V, Rule 23 of the Code of Civil Procedure, which reads as follows:-

“The Court to which a summons is sent under Rule 21 or Rule 22 shall, upon receipt thereof, proceed as if it had been issued by such Court and shall then return the summons to the Court of issue, together with the record (if any) of its proceedings with regard thereto.”

The above provisions shall be carefully attended to.

Provided that the Service of Process to the respondent/addressee can also be effected through electronic mode where the party has furnished the requisite details.

[Rule 27 substituted vide Correction Slip no. 79 Rules/II.D4 dated 16.11.2018.]

Statement of serving officer.

28. In the case of summonses from the High Court, the Court serving the summons shall record the statement of the peon as to such service on solemn affirmation, and shall verify the same with its signature before returning the summons.

PART C.- SECURITY IN REVISION CASES.

1. When an application for revision under section 44 of the Punjab Courts Act, 1918, or under section 25 of the Provincial Small Cause Courts Act, No. IX of 1887, has been made in the High Court and, it is ordered in that Court that the applicant shall give security in any Court subordinate to the High Court for the due performance of the decree or order sought to be revised, such Court shall, upon receiving intimation from the High Court of such order, accept from the applicant any amount which he may offer to deposit, or any security which he may tender for the purpose of satisfying or giving security for the performance of the said decree or order, and shall retain the same in its custody pending the further order of the High Court.

Security to
be given in
lower Court.

1. When a deposit has been made or security tendered in the Subordinate Court, such Court shall, on the request of the applicant or on receipt of a precept from the High Court, certify in writing addressed to the Deputy Registrar of the High Court what has been done by the applicant, with its own opinion, if required, as to the sufficiency of the security tendered.

Report by
lower Court
to High
Court.

1. In all cases not provided for in these directions or by a special order of the High Court, the same practice shall be followed in the Subordinate Court as prevails in such Court, when taking security in pursuance of an order made under Order XXI, Rule 26 (3) of the Code of Civil Procedure (requiring security upon stay of execution of a decree), or under Order XLI, Rule 5 (3) (c) of the Code of Civil Procedure (for the taking of security for the performance of a decree or order under appeal to a superior Court).

Proceedings
in lower
court.

1. The preceding directions shall apply, so far as may be, when a person intending to apply to the High Court under section 44 of the Punjab Courts Act, 1918, or section 25 of Act IX of 1887, has performed, or tendered security for the performance of, or deposits the amount of the decree or order which he desires to have revised, in the Court in which such decree or order is pending for execution, or by which it would ordinarily be executed under section 38 of the Code of Civil Procedure.

Procedure in
lower court.

PROCEDURE IN THE CASE OF APPEALS AND APPLICATIONS PRESENTED AFTER PERIOD OF LIMITATION.

1. **Memorandum of appeal to be checked for purposes of limitation:-**
Upon the presentation of a memorandum of appeal to an Appellate Court, the officer whose duty it is to examine such memorandum shall examine the copy or copies of Judgments and decrees attached to the appeal, and shall calculate whether, after deducting the allowance sanctioned by law, the memorandum has been presented within time.

2. **Office to note when appeal appears to be time-barred:-**
 - (i). If the memorandum of appeal appears to be presented after time, or there appears to be ground for doubting whether it is within time, such officer shall record upon or annex to the memorandum of appeal a note of his calculation, showing:—
 - (1) the date when the period expired, without any allowances ;
 - (2) the allowances to which appellant seems entitled;
 - (3) the date when the period expired, after all the allowances, to be made under head (2) have been made.
 - (ii) **Points to be borne in mind in making calculation:-** In making such calculations the following points must be borne in mind:—
 - (a) The date when the time expired under head (I) is to be calculated irrespective of such date falling upon a day when the Court is closed for a holiday (including Sunday) or for vacation, any allowance on this account being noted under head (2) of the calculation.
 - (b) The entries endorsed on copies of judgments and the like will be assumed to be correct.
 - (c) The date on which the application for copy is made and also the day on which the copy is given will each be reckoned separately as one day unless both events occur on the same day.
 - (d) The date on which a copy is ready for delivery will be deemed, for the purpose of such calculation, to be the day on which it is given.

- Calculation in case of copies sent by post:-** In this connection attention is invited to the ruling of the High Court in I. L. R. III Lahore 280, where it was held that when copies of judgments are dispatched by post, in accordance with rules, the period intervening between completion and dispatch of the copies must be excluded in computing the period allowed for an appeal.

3. **Duty of office to obtain orders of the court:-** It shall be the duty of the officer presenting the memorandum of appeal for the consideration of the Court of appeal to bring to its notice the note of calculation above prescribed.

4. **Note by court:-** Whenever, on the date fixed for taking a memorandum of appeal into consideration, it appears *prima facie* to the Court to have been presented after the expiry of the period prescribed by law, as calculated in the manner prescribed by law, the Court shall record its opinion to that effect, stating the number of days by which such period seems to have been exceeded.

5. **Appellant required to explain delay:-** In such cases, if the appellant has not tendered, with the memorandum of appeal, any explanation of the delay in presenting it, the Court shall, if the appellant is present in person or by agent, record an order thereon, or to be annexed thereto, requiring the appellant to supply such explanation in writing, and to represent such appeal within a period to be specified in the order. Such period may be enlarged in the discretion of the Court, either before or after it has expired, upon sufficient cause for such enlargement being shown to the satisfaction of the Court.

6. **Examination of appellant:-** When the memorandum of appeal is represented with the explanation required, or when the memorandum of appeal as first presented contains an explanation of the delay in presenting it, the Court shall take into consideration the explanation offered, and may examine the appellant or his agent, in order to elucidate the explanation.
7. **Court may dismiss appeal as barred by time:-** If the Court is of opinion that assuming all the facts stated by way of explanation to be true, the explanation is insufficient, the Court shall record an order to that effect, and shall reject the appeal as barred by time.
8. **Appellants to be called upon to prove facts which bring appeal within time:-** If the Court considers that if all or any of the facts stated by way of application be true, the explanation will be sufficient to justify the admission of appeal it shall give the appellant an opportunity of proving the truth of the facts stated.
9. **Mode of proof:-** Such proof may be given either by affidavit, or by oral testimony, upon a date to be fixed by the Court for that purpose, unless the appellant be ready to give, and the Court find it convenient to receive, such proof at once.
10. **Power of Court to dismiss appeal as barred by time when no explanation of delay attached to Memorandum of Appeal:-** When no such explanation is presented with the memorandum of appeal, and the appellant is not present in person or by agent, the Court, may, after recording its opinion as directed in paragraph 4 above, unless it sees cause to postpone the passing of a final order, forthwith dismiss the appeal as barred by time without considering the merits of the appeals as set forth in the memorandum.
11. **Procedure as to applications:-** Similar procedure should be observed, so far as may be, by all Civil Courts, whether of original jurisdiction or not, in respect of applications for review, and any other applications to which the provisions of section 5 of the Indian Limitation Act have been made applicable. The applications for re-admission of appeals under Order XLI, Rule 19, applications for restoration of suits under Order IX, Rules 4 and 9 and applications for setting aside of decrees passed *ex-parte* under Order IX, Rule 13, are a few examples.

**PART E.—TRANSMISSION OF APPELLATE COURT'S ORDERS
TO LOWER COURTS.**

The following rules are made by the High Court in regard to the transmission of Appellate Court's orders to lower Courts:-

RULES

- 1. District Judge to send copies of his judgments to Senior Subordinate Judge:-** The District Judge will send copies of all his judgments on appeal to the Senior Subordinate Judge.
- 2. Senior Sub-Judge to send it to Court concerned:-** The Senior Subordinate Judge will transmit the copies to the original Court for information and return direct to the Record Keeper, to whom the original records will be sent at once.
- 3. Senior Subordinate Judge to send copies of his judgments to Court concerned:-** The Senior Subordinate Judge will send copies of all his judgments on appeal to the original Court for information and return direct to the Record-keeper, to whom the original record will be sent at once.
- 4. Form to be attached by appellate Court to original record:-** Appellate Courts will attach to the original record the following form:-

Date

Copy of judgment attached by District Judge:
Copy of judgment attached by Senior Subordinate Judge:
Copy of judgment dispatched by Senior Subordinate judge:
Copy of judgment received by Record Keeper:
(Translation is/is not attached)
(It will be simpler to have only one form)

- 4 (a) Running list of the record keeper:-** The Record-keeper will maintain a running list prepared from the above form of all cases in which copies of judgments have been sent out. When the copies of judgments are returned to him by the original Courts, he will add them to the records, fill in the date of receipt, and strike those cases off his running list.
- (b)** If copies are not returned within 10 days of dispatch he will issue a reminder (which should be on a printed form) and if that is ineffective, report the matter to the dispatching Court.
- (c)** The running list will be in the following form:—

Name of case	Date of dispatch	Date of reminder, if any

- (d)** The reminder will be in the following printed form:—

To the Court of.....
A copy of the judgment of the... was
despatched to you by the.....on the.....and
has not yet been received by the Record-keeper. Please return at
once.

Date.....

_____Record-Keeper.

- 6. Sending for records from record-room:-** Officers presiding over Subordinate Courts held at the District Headquarters, if in any particular case they desire to see their original record, will be allowed to call for it, provided that it must not leave their Court room.
- 7. Fast and Secured Transmission of Electronic Records (FASTER):-** The e-authenticated copies of interim orders, stay orders and record of proceedings of the courts transmitted through Fast and Secured Transmission of Electronic Records (FASTER) system shall be valid for compliance of the directions contained therein.
{Rule 7 inserted vide C.S. no. 83 Rules/II.D.4 dated 22.9.2022}

CHAPTER 15

References to the High Court.

References to the High Court under Order XLVI of the Civil Procedure Code, 1908, and sections 99 and 100 of the Punjab Tenancy Act, 1887.

I. (a) A reference to the High Court by a District Judge or Judge of a Court of Small Causes, under the Provisions of section 113 and Order XLVI, rule I of the Code of Civil Procedure, should be made only when the presiding Judge entertains a reasonable doubt on the point of law or usage having the force of law referred, and not merely on the importunity of pleaders.

Reference under section 113 and Order XLVI Civil Procedure Code.

(b) A proviso has been added to Section 113, of the Code by the Codes of Civil Procedure and Criminal Procedure (Amendment) Act, 1951 (No. XXIV of 1951). Now where a court finds that it is necessary for the disposal of a case to decide a question about the validity of any Act, Ordinance or Regulation and the court is of the opinion that the Act, Ordinance or Regulation is invalid or inoperative but has not been so declared by the High Court of that State or the Supreme Court, the Court shall refer the matter in the manner laid down for the opinion of the High Court.

2.A Subordinate Court cannot be supposed to entertain a reasonable doubt on a point of law if it has been decided clearly in a ruling of the High Court, unless some doubt has been thrown on the correctness of the same by a ruling of the Supreme Court. Nor has an Appellate Court, which has no jurisdiction to hear an appeal, any jurisdiction to make a reference.

"Reasonable doubt on a point of law" explained.

3. In making a reference the presiding Judge should be careful to conform to the requirements of Order XLVI, Rule I, of the Code of Civil Procedure by-

Mode of reference.

- (i) drawing up a statement of the facts:
- (ii) stating the point on which doubt is entertained; and
- (iii) stating his opinion on such point.

Each of the above statements should be precise and clear, or the High Court may find itself compelled to return the reference for amendment under Order XLVI, rule 5, of the Code of Civil Procedure.

Optional and compulsory reference.

4. It should be noted that references under section

99 of the Punjab Tenancy Act, 1887, and under Order XLVI, Rule 6, of the Code of Civil Procedure are made at the discretion of the Court, as are also those under Order XLVI, rule 7, when not required by a party to the suit. There is no such discretion in cases falling under section 100 of the Punjab Tenancy Act, 1887, or Order XLVI, rule 7, if required by a party.

References under Order XLVI, rule 7.

5. It should also be noted that, by the terms of order XLVI, rule 7, a reference may be made only when it appears to the District Court that a Court subordinate to it has, by reason of erroneously holding a suit to be cognizable by a Court of Small Causes, or not to be so cognizable, failed to exercise a jurisdiction vested in it by law, or exercised a jurisdiction not so vested; unless this condition is fulfilled,—that is, unless the Court is itself of opinion that one of these errors has been committed,—it has no power to refer; when that condition is fulfilled, the Court still has a discretion to make or refuse to make a reference unless it be required to make it by a party. In the latter case, the Court is bound to make a reference.

Channel for reference.

6. References under section 100 of the Punjab Tenancy Act, 1887, and under Order XLVI, rule 6 of the Code of Civil Procedure, may be made to the High Court direct, but references under section 99 of the Punjab Tenancy Act, 1887, must be made through the District Judge who should forward them without avoidable delay.

References by Sub-Judge as a Court of appeal..

7.If a Subordinate Judge sitting as a Court of Appeal is of opinion that a reference ought to be made under Order XLVI, rule 7, of the Code of Civil Procedure, he should submit the record of the case to the District Judge for orders with a statement of reasons.

Character of suit to be described in reference.

8. It is essential that the true character of the suit should be described with precision and accuracy in the heading of the reference.

Reference under section 99, Tenancy Act.

9. When a subordinate Revenue Court has returned a plaint on the ground that the suit is one over which such Revenue Court has no jurisdiction, and the plaint is subsequently presented in any subordinate Civil Court, such Civil Court, if it considers that the suit is not in fact triable by a Civil Court, should not again return the plaint, but should refer the point at once under section 99 of the Punjab Tenancy Act, XVI of 1887.

10. A reference by a Civil Court under section 99 or section 100 of the Punjab Tenancy Act, 1887, or under Order XLVI, rule 6 or 7, of the Code of Civil Procedure shall not be made until the parties to the suit have had an opportunity of showing cause against such reference in the Court which proposes to make it.

Parties should
be heard before
making reference.

11. The Court making a reference under any of the sections mentioned in the preceding paragraph shall in its order of reference, certify that such opportunity has been given, and shall place on record the objections, oral or written (if any), of any party against the making of such reference, and, when the reference is under section 100 of the Punjab Tenancy Act, 1887, any objection of any party to the effect that he has been prejudiced by the alleged mistake as to jurisdiction.

Objections of
parties to be
placed on
record.

12. The Court making the reference shall give notice, either orally or in writing, to such parties as attended or are represented in Court when the order of reference is made.—

Notice of
references to
parties.

- (i) that the attendance of the parties in the High Court at the hearing of the reference is not obligatory;
- (ii) that any party desirous of attending at such hearing must enter an appearance at the office of the Deputy Registrar of the Punjab High Court on or before a date to be specified in the notice.

13. The date specified shall be such as to allow a reasonable time for the parties to appear in the High Court, and shall be a date not less than one month in advance of the date of making the reference.

Date fixed for
appearance
in High
Court.

14. The Court shall certify in its order (1) that the notice required by paragraph 12 has been duly given, orally or in writing as the case may be, and (2) the date specified in such notice.

Court shall
satisfy that
parties have
been informed.

15. Every reference under section 99 or section 100 of the Punjab Tenancy Act, 1887 shall state the reasons for making the reference, and shall indicate the Revenue Court which, in the opinion of the Court making the reference, has or had (as the case may be) jurisdiction under section 77 of the Act over the suit in which the reference is made. The Revenue Court in which the referring officer thinks the decree should be registered, should be accurately

Points to be noted in
references under
sections 99-100 of
the Tenancy Act.

described according to the nomenclature prescribed in section 6 of the Punjab Land Revenue Act, 1887 (read with sections 75, 76 and 77, clauses (1) and (2) of the Punjab Tenancy Act 1887).

Necessary
records to be
sent along
with order of
reference.

16.The Court making the reference shall forward, with its order, the record of the suit in which the reference is made and of all proceedings (if any) by way of execution or otherwise in such suit subsequent to the decree, and also the records of any other connected proceedings necessary for consideration of the reference in the High Court.

Application of
these
directions to
Revenue
Courts.

17.The above directions apply *mutatis mutandis* to Revenue Courts.

Reminder from
High Court if
no reply
received

18. Whenever it is found that a reference made to the High Court has not been replied to, or intimation of a date having been fixed given within two months of making such reference, the attention of the Registrar should be drawn to the fact.

CHAPTER 16

Legal Practitioners

PART A.—THE FILING OF POWERS OF ATTORNEY BY
PLEADERS IN SUBORDINATE COURTS

Whereas by Order III, rule 4, of the Code of Civil Procedure, no Pleader shall 'act' for any person in any court unless he has been appointed by an instrument in writing nor shall any pleader, who has been engaged for the purpose of pleading only, plead on behalf of any person unless he has filed in Court a memorandum-of-appearance or unless he has been engaged by another pleader duly appointed and no such pleader can be recognised in the absence of a written authority or memorandum-of-appearance as aforesaid as empowered to plead or act for any person in any proceeding governed by the Code of Civil Procedure, and it is expedient to provide for ascertaining that every such pleader is duly authorised to appear, plead or act in any such proceeding before subordinate Courts, the following instructions have been issued by the High Court :—

Pleadings
and acting by
pleaders.

- (1) Every appointment of a pleader to act shall contain in full the name of the person, or, where there are more than one, of every person who thereby appoints the pleader to act on his behalf, and shall be executed by every such person.
- (2) When such appointment or power is not executed by the principal himself, but by some person claiming to appoint or give authority on his behalf, the pleader will not be recognised by the court without proof that such person was duly authorised by the principal to execute such appointment or power.
- (3) In cross-appeals a pleader who has already filed a power of attorney or memorandum-of-appearance for the appellant shall not be required to file another power-of-attorney or memorandum-of-appearance for his client as respondent in the cross appeal.
- (4) The power of attorney or memorandum of appearance shall be filed in court by the Pleader shortly after his engagement, indicating the date of his engagement.

Power of
attorney to act
to be
executed by
the principal.

Proof required
when power of
attorney not
executed by
the principal.

Power of attorney
or
memorandum
of appearance
in cross-

Date of
engagement.

PART B.—FEES OF COUNSEL

Rules made by the High Court under the powers conferred by section 27 of the Legal Practitioners' Act, 1879, fixing and regulating the fees payable by any party in respect of the fees of adversary's Advocate, Pleader Vakil or Attorney, upon proceedings in Civil Courts subordinate to the High Court.

Rules

^[44] [1. In suits for the recovery of money or of specific property, or a share of specific property, whether immovable or movable, or for the breach of any contract for damages :—

Suit for recovery of property, breach of contract or damages.

- (a) if the amount or value of the property, debt or damages decreed shall not exceed Rs. 25,000 at 10 per cent on the amount or value decreed.
 - (a) if the amount or value shall exceed Rs. 25,000 and not exceed Rs. 50,000 on Rs. 25,000 at 10 per cent and on the remainder at 8 per cent.
 - (c) if the amount or value shall exceed Rs. 50,000 and not exceed Rs. One lakh, on Rs. 50,000 as above, and on the remainder at 4 per cent.
 - (d) if the amount or value shall exceed Rs. 1,00,000 and not exceed Rs. 5,00,000 on Rs. 1,00,000 as above and on the remainder at 2 per cent.
 - (e) If the amount or value shall exceed Rs. 5,00,000 on Rs. 5,00,000 as above and on the remainder at one per cent subject however that in no case the amount of fee shall exceed Rs. 20,000.
1. A. In the case of:-
- (i) Summary suits under Order XXXVII of the first schedule to the Code of Civil Procedure, 1908, where the defendant does not appear or where leave to defend is refused or where a decree is passed on the defendant failing to comply with the condition on which leave to defend was granted and appeals against decrees in such suits;
 - (ii) Suit, the claim in which is admitted but only time or instalment for payment is asked for;
 - (iii) Suit which is got dismissed by a plaintiff for want of prosecution before settlement of issues or recording of any evidence, except evidence under rule 2 order X of the Code of Civil Procedure;
 - (iv) Suit which is withdrawn before the settlement of issues or recording of any evidence except evidence under rule 2 of Order X of the Code of Civil Procedure;
 - (v) Suit in which judgment is given on admission under rule 6 of order XII in the First Schedule to the Code of Civil Procedure 1908, before the settlement of issues recording of any evidence except evidence under rule 2 of Order X of the Code of Civil Procedure;

- (vi))Short causes, commercial causes and long causes in which no written statement is filed, and appeals from decrees in such suits;
- (vii))Suits compromised before the settlement of issues or recording of evidence except evidence under rule 2 of order X of the Code of Civil Procedure;
- (viii) i)Any formal party to a suit or appeal e.g. a trustee or estate holder who only appears to submit to the orders of the court and asks for his costs;
- (ix)A suit or appeal which has abated;
- (x)A plaint returned for presentation to the proper Court, the amount of Advocate's fees to be allowed shall be fixed by the Court disposing of the matter and shall not exceed of that payable according to the rate specified in rule 1 above:
 - ¹[Provided that in no case falling under this sub-rule the Advocate's fees shall be less than Rs. 1500/-.]

1B. An Advocate who has been employed by the heirs of deceased party is not entitled to have fresh fees taxed.

1C. When a case after regular hearing is referred to a larger Bench / counsel shall be entitled to fee for appearing before the larger Bench on the same scale as was payable for appearing before the Bench that referred the matter to larger Bench.

1D. Where two counsel are required by rules to represent a party, the fees of the junior counsel shall be equal to two-thirds that of the senior counsel's fee.

Explanation.- As counsel designated as senior counsel are required to appear with junior counsel in every case in which a senior counsel appears, junior counsel shall be entitled to fee equal to two-thirds that of senior counsel's fees.])

^[45] ¹[2. In suits for injuries to the person or character of the plaintiff, such as for assault or defamation or for injuries to the property, or to enforce rights where the pecuniary value of such injury or right cannot be exactly defined, as in suits for interference with a right or light or water, or to enforce a right of pre-emption, or suits for the partition of joint property where partition is improperly resisted or any other suit of the kinds specified in the rules made by the High Court under section 9 of the suits Valuation Act, 1887 for the valuation of suits which do not admit of being satisfactorily valued. If the plaintiff succeeds, the court may order the fee allowed to the plaintiff to be recalculated with reference either to the amount decreed

or according to the valuation of the suit according to such a sum as the Court shall fix with reference to the importance of the subject of dispute but the same shall not be less than Rs. 1,500/- and shall not exceed Rs. 15,000/-.

2a. In any miscellaneous proceedings including arbitration proceedings, probate cases or cases under other statutory provisions or for any matter other than that of appearing acting or pleading in a suit prior to decree, the fees shall not exceed:-

- (i) Rs. 20,000/- in the Court of a District Judge or of an Officer exercising the powers of a Subordinate Judge of the 1st, 2nd, 3rd and 4th class or in a court of small causes.
- (ii) Rs. 1,000/- in the court of an officer exercising the powers of a Subordinate Judge in respect of cases of the value of which is below Rs. 10,000/-.]¹

2b. In execution proceedings or in appeals in execution proceedings, the advocate's fee to be allowed shall be one-fourth of the fee calculated at the rates specified in Rule (1) on the amount or value of the relief or money claimed in the application to execute the degree. Such fees shall be charged only on the first application and on any subsequent contested application.

Note.—The words "Valuation of the suit" in the above rule mean the value of the suit as determined for purposes of jurisdiction by the rules made by the High Court, under section 9 of the Suits Valuation Act, 1887* (See Chapter 3 of this Volume)]

Fees allowed
to defendant.

- 3. If the suit be dismissed for default, or upon the merits, the fee allowed to the defendant shall be calculated according to rules 1 and 2 on the value of the suit.

Fees in case
plaintiff's case
only partially
decreed.

- 3. If the suit shall be decreed for the plaintiff as to part only of the claim, and as to the remainder shall be dismissed, the fee allowed to each party shall be fixed with reference to the value of that part of the claim in respect of which he shall succeed, and shall be calculated according to rules 1 and 2. .

Suits for
damages.

- 3. If in any suit for damages the plaintiff shall succeed as to the whole of his cause of action, but shall fail to recover the full amount of damages claimed, the defendant shall not be entitled to any allowance in respect of the difference between the amount of damages claimed and the amount recovered, unless the Court shall be of opinion that the amount claimed for damages was unreasonable or excessive, and shall for that or any other cause to be specified direct that a fee shall be allowed to the defendant.

If specially allowed, the amount of such fee shall be fixed with reference to the amount of damages disallowed to

the plaintiff, and shall be calculated according to rule 1.

Several
defendants.

3. If several defendants, who have a joint or common interest succeed of a joint defence or upon separate defences substantially the same, not more than one fee shall be allowed, unless the Court shall otherwise order for a reason which shall be recorded. If only one fee be allowed, the Court shall direct to which of the defendants it shall be paid, or shall apportion it among the several defendants in such manner as the Court shall think fit.

Ditto.

7. If several defendants, who have separate interest, set up separate distinct defences and succeed thereon, a fee for each of the defendants who shall appear by a separate counsel may be allowed in respect of his separate interest. Such fee, allowed, shall be calculated with reference to the value of the separate interest of such defendant according to rule I.

^[46]8. [Deleted]

Undefended
suits.

9. If a suit in any Court of original jurisdiction be undefended, the fee shall be calculated at one-half the sum at which it would have been charged had the suit been defended.

Review.

10. If a review be rejected after summoning the opposite party, or if, after the admission of a review, the former judgment be upheld, the fee, if allowed to the successful party in the review, shall be fixed by the Court at an amount which shall not in any case exceed one-half of the amount allowed by these rules in case of an original decree.

Ditto.

11. If, after the admission of a review, the former judgment be revised, the fee in respect of the review, if allowed to the party who succeeds in the review, shall not exceed one half of the amount allowed by these rules in case of an original decree. The fee allowed in respect of the review will be irrespective of any fee which may be included in any costs in respect of the original suit, which may be adjudged to the successful party by the judgment in review.

Appeals.

12. In appeals, the fee shall be calculated on the same scale as in the original suits, and the principal of the above rules as to original suits shall be applied, as nearly as may be.

Several
appellants.

13. When the interest of several appellants is joint, Several appellants not more than one fee shall be allowed, unless the Court shall otherwise order. If one fee only be allowed, the Court shall direct to which of the appellants it shall be paid, or shall apportion it among the several appellants in such proportion as it shall think fit.

Several
respondents.

14. If several respondents in one appeal appear by separate pleaders, in determining whether separate fees shall be allowed, the Court shall be guided by the principles laid down in rules 6 and 7.

Discretion of Courts.
Remand. Appeal from
decree passed on
remand. Issue
referred for trial to
lower court.

15. If in any instance, the payment of fees according to the preceding rules shall not appear to the Court to be just and equitable, the Court may exercise its discretion in allowing such fee as may appear just and equitable, but in every case when a fee is allowed, the amount shall be calculated according to rule I, or according to rule 8, as the case may be;

Provided that, if the decree of a lower Court be reversed on appeal and the case be remanded to the lower Court to be tried upon the merits, the lower Court, on passing its decree, may allow to the successful party such a sum as the Court shall consider to be reasonable, not exceeding half the amount calculated according to rule 1, in respect of the re-hearing, in addition to the full amount calculated according to that scale;

Provided also that, if an appeal be preferred against the decree passed on remand, the fee, if any, allowed by the Appellate Court to the party succeeding in that appeal shall not, unless for a special reason to be recorded, be less than one-quarter, nor more than one-half, of the amount calculated at the rate mentioned in rule 1, if by the decree of the appellate Court remanding the case the same party shall have been allowed a full fee in respect of the former appeal in the suit, either absolutely or conditionally upon his succeeding upon the remand;

Provided also that, if an issue be framed and referred by the Appellate Court for trial by the lower Court, the Appellate Court may, if it thinks proper, allow to the party who shall succeed in the appeal such a sum as the Court shall consider reasonable, not exceeding half the amount calculated at the rate mentioned in rule 1, in respect of the trial of the issue in the lower court, in addition to a full fee in respect of the appeal calculated at that rate.

Certificate as to
fees to be filed by
counsel in the
Court of District
Judges.

16. Notwithstanding anything contained in these rules and notwithstanding any order of the Presiding Officer, no fee to any legal practitioner appearing in civil appeals, or original suits in the courts of District Judges shall except, as in these rules hereinafter provided, be allowed on taxation between party and party, or shall be included in any decree or order, unless the party claiming to have such fee allowed shall, before the final hearing, file in the court, a certificate signed by the legal practitioner

certifying the amount of the fee or fees actually paid by or on behalf of his client to him or to any other legal practitioner in whose place he may have appeared.

17. Notwithstanding anything contained in these rules and notwithstanding any order of the Presiding Officer no fee to any legal practitioner appearing in original suits of which the jurisdictional value is over Rs 5,000 (five thousand), pending in the Courts of Subordinate Judges shall except as in these rules hereinafter provided, be allowed on taxation between party and party, or shall be included in any decree or order, unless the party claiming to have such fee allowed shall, before the commencement of the argument at the conclusion of the evidence, file in the court a certificate signed by the legal practitioner certifying the amount of the fee or fees actually paid by or on behalf of his client to him or to any other legal practitioner in whose place he may have appeared.

Certificate in
the Court of
Sub Judge.

18. The certificate mentioned in rules 16 and 17 shall state:—

Contents of
certificate.

(a) the appeal or suit in respect of which such fee or fees was or were paid;

(b) the date or dates when such fee or fees was or were actually paid to the legal practitioner engaged in the case;

(c) the precise amount or amounts which was or were so paid;

(a) that no portion of such fee or fees has been, or has been agreed to be, returned or remitted or appropriated to the use of any other person by the legal practitioner or by any one acting on his behalf or on behalf of any one who was associated with him in the case; and

(e) the name and address of the person who made such payment;

Provided that when a higher fee that is allowed by the scale is allowed by special order of the Court, a certificate of the payment of the additional fee at any time may be accepted, if filed before taxation, in lieu of the certificate required by these rules.

19. The certificate shall so far as possible, be in the following form:—

District Judge

In the Court of _____,
Sub-Judge,

A. B. (add description and residence _____
(Plaintiff or appellant).

Versus

C. D. (add description and residence _____
(Defendant or respondent).

For the purpose of having my fee allowed on taxation as against the party or parties, who may be liable for costs under the judgment or order or the Court, I..... in accordance with rule 18 of the rules regulating the fees 4 of counsel in the Court, hereby certify that in the above case the following fees were paid to me as my exclusive fees on the dates and by the person or persons specified below, and that such fees were paid to me.

Before the final hearing of the appeal and
before the commencement of the arguments at the conclusion of the evi c

that no portion of such fees has been, or has been agreed to be returned or remitted or appropriated to the use of any other person by me or by any one acting on my behalf.

Matter	Fee	Date of payment	By whom paid	Address of person who actually made such payment

Signature.....
Date of Signature.....
Address of Legal Practitioner.....

Note.—I. In the certificates of the fees filed by legal practitioners engaged by Government in cases in which the Union of India or the State Government is a party or in which the actual party is not Government, but Government servants or some other private persons whose defence Government decides to undertake at public expense, or in which a Municipal Committee or a Local Body or an Improvement Trust is a party, it is sufficient to certify that a fee has been fixed (not paid) by the Legal Remembrancer to Government, Punjab, or other appropriate authority, as the case maybe.

Note. II. The provisions of Note I shall apply, *mutatis mutandis* in cases in which legal practitioners are engaged by the Custodian of Evacuee Property either in his own behalf or on behalf of the evacuees.

PART C.—FEES IN DECLARATORY SUITS, ETC.

1.As some diversity of practice appears to exist in regard to the fixing of counsel's fees declaratory suits, injunctions, etc., the Judges deem it necessary to point out that in such cases the value of the subject matter of the suit must first be arrived at for purposes of jurisdiction in accordance with Chapter 3. "Valuation of Suits" Part A, and then counsel's fee calculated according to the scale laid down in Part B of this Chapter.

To be calculated on the valuation of suit.

1.^[47][Several appeals have had to be admitted to a hearing by this Court solely on the ground that counsel's fees, which should have been fixed by rule, had been fixed at the discretion of the District Judge, at a rate higher than that allowed by the rules. Although rules 2 and 15 of Part B of this Chapter permit District Judges to exercise their discretion in allowing fees which appear just and equitable, it must be remembered that the fee to be allowed is to be calculated in accordance with scale laid down in Rule 1 of that Part, and any fee not exceeding the sum so arrived at may be allowed.

Miscellaneous proceedings.

To be calculated on the valuation of suit.

For instance in a suit for an injunction the maximum fee which can be allowed is Rs. 5,000.]

CHAPTER 17

Petition-Writers

PART A.—REMARKS AND DIRECTIONS

Fees.

1. All fees and charges realized from petition-writers under the authority of the rules should be forthwith paid into the treasury to the credit of Government, the treasury receipt being placed with the papers relating to the petition- writer from whom the money is realized.

Register.

2. A register of licensed petition-writers (in form I hereto annexed) will be maintained in the office of every District Judge. The name of every licensed petition- writer practising within the limits of the district, will be entered in the District Register.

Annual
return.

1. On or before the 1st of October in each year, District Judge will submit to the High Court a return (in Form II hereto annexed) showing, in exactly the same order as the last published printed list, the names of all the petition-writers of both grades borne on that list, with the names of any persons who may have been restored or added since the list was last published. The names of persons who may have been removed from the Court's register of petition-writers after the publication of the list above referred to should be entered in red ink in their proper places, and the cause of removal explained in the column of remarks. Petition-writers whose licenses have been suspended should be entered in black ink and the reason for, and the date of the order of suspension noted in the column of remarks. Petition-writers who have been restored to the list should be entered in the place they originally occupied, and a note of the date of restoration should be made in the column of remarks.

Consolidated
list.

3. From the returns thus furnished, a list of licensed petition-writers will be compiled in the High Court Office. Printed copies of this list will be furnished to all District Judges in the Punjab who, as soon as possible after receipt, should bring to notice any error or omissions which may be detected. Translations will be made and a copy of the translation should be posted in a conspicuous place of every Court house in the State.

5. In every case in which a licensed petition-writer is suspended or dismissed, a copy of the order should be submitted to the High Court for information,

Suspension or
dismissal to be
notified to High
Court.

FORM I. (PARAGRAPH 2)

Register of Petition Writers to be Maintained in District Courts.

Note.—One or more page9 to be set apart for each petition writer.

	Page of Register	Register No
Name of Petition writer		
Father's name		
Residence		
.....		
Place of business		
Date of grant of second grade license		
Date of grant of first grade	}	
license (if any).....		
Authority granting license		

Note.—On the rest of the page will be entered in chronologies' order-

- (1) the date of each annual inspection of the license under rule 8;
- (1) the date on which any license ceases to be in force under rule 7 or rule 8,
- (2) the date of and authority for every alteration in the grade of the licence under rules 6, 20, 30, 34 and 35;
- (3) the date of and authority for every transfer of place of business under rule 9;
- (4) the date of, and authority for, the grant of every duplicate licence under rule 10;
- (5) the date and nature of every penalty imposed under section 46-A of the Punjab Courts Act, 1918, as amended by Act IV of 1919;
- (6) the date and substance of every order passed under rules 8, 21, 26, 31, 32, 35 or 36;
- (1) a copy of every endorsement made on the license.

PART B.-RULES

Rules made by the High Court under the powers conferred by section 46-A as inserted by Act IV of 1919 in the Punjab Courts Act 1918, declaring what persons shall be permitted to practise as petition-writers in the Courts and Offices in the Punjab, regulating the conduct of persons so practising, and determining the authority by which breaches of rules shall be tried.)

RULES

A.—Definitions 1.

1. In these rules—

^[48]['Petition' means a document, written "including type-written" for the purpose of being presented to a Court or a Judicial or Revenue Officer, as such, and includes a plaint and memorandum of appeal.]

Definitions

To practice as a Petition-writer' means to write petitions, as defined above, for hire, and includes the writing of a single petition for hire,

A Petition-writer is said to practice in a Court when he writes petitions for the purpose of being presented to that Court.

^[49] [Explanation:- In these rules the words "write" or "written" wherever occurring shall be deemed to include "type written".]

'Court subordinate to the High Court' means any Civil Court (including a Court of Small Causes) and any Criminal Court other than the High Court.

'Revenue Officers means and includes any person having authority as Revenue Officer under the Punjab Land Revenue Act, 1887, or the Punjab Tenancy Act, 1887.

'Revenue Office' means the office of a Revenue Officer;

'Revenue Court' means and includes any Revenue Officer exercising the jurisdiction described in section 77 of the Punjab Tenancy Act, 1887;

Revenue Officers invested with jurisdiction under Chapter XI of the Punjab Land Revenue Act, 1887, shall be deemed to be subordinate Civil Courts or Revenue Courts according as they are under the control of the High Court or of the Financial Commissioners.

B.—Licensing of Petition Writers

Practice as a
petition-writer.

1. No person shall practise as a Petition-writer in the Punjab unless he has been duly licensed under these rules:

—

Provided.—

- (1) that any person licensed under any rule hitherto in force shall be deemed to have been licensed under these rules;
- (2) that these rules shall not apply to any Advocate, Pleader, or Mukhtar, in respect of a petition, written for presentation to a Court in which he is qualified to practice, whether such petition be written by himself or his clerk or on his behalf;

Provided that in the latter case it be signed by the employer.

Writing of
petition

2. No petition shall be received by a Court or an officer of a court unless it is written by the party or his recognised agent, or by a legal practitioner, or by a petition-writer, except in the case of an application filed by an accused person in custody, provided the name and status of the person writing the document appears on it. A legal practitioner's clerk may write such petition on behalf of his master provided that it is signed by the latter.

Note.—The directions contained in this rule do not apply to Panchayat Courts under the "Gram Panchayat Act".

License.

3. No person shall be licensed as a Petition-writer while he is in the service of Government or of a Legal Practitioner, nor shall any person be so licensed within six months of his quitting the service of a Legal Practitioner.

Note.—Service with a District Board is quasi Government Service.

Grades.

4.(i) Petition-writers in the Punjab are of two grades that is to say.—

- (a) Petition-writers of the first grade, who may practise petition-writing in the High Court and all courts Subordinate thereto and in the Court and office of the Financial Commissioners and all Revenue Courts and offices under the control of the Financial Commissioners;
- (b) Petition-writers of the second grade, who may practise petition-writing on the original side of the Courts of only District Magistrate, Collectors and District Judges and in Criminal,

Civil or Revenue Courts and Offices of
equal or inferior jurisdiction.

Note.—It has been decided that with effect from the 6th May, 1910, no person be licensed as a petition writer of *the* first grade.

(ii) The number of licenses of each grade shall be in accordance with the combined scale fixed by the High Court from time to time for each district.

Number of
licenses for
such grade.

5.(i) No person shall be lincensed to practice as a petition-writer unless he has qualified in an examination prescribed by the rules inforce before 20th November, 1936, which has been held or arranged to be held before that date.

Examination.

(ii) The above rule may be relaxed by the High court in special cases, where local circumstances make it desirable to do so.

(iii) The license shall be in form A annexed to these rules, and will be granted by the District Judge concerned with the previous sanction of the High Court in each case.

Form and
grant of
license.

5.A fee of Rs. 5 shall be charged for each licence on enrolment provided that this fee will be reduced to half for licences granted on or after the 1st of March in each year. Such licences will be valid only up to the 31st day of August, in each year and will be renewable between the 1st and 31st days of August on payment of a renewal fee of Rs. 5. Fees will, in all cases, be payable in court- fee stamps.

Fees and
renewal of
license.

7. A licence granted to a Petition-writer under these rules, authorizes him to practise, subject to these rules, according to its tenor, and continues inforce until,—

Conditions on
which licence
remains inforce.

(1)its operation is suspended by an order made under rule 8 or the petition-writer enters the service of Government or of a Legal Practioner;

(2)the Petition-writer is suspended or dismissed by competent authority.

8. (i) Every licensed Petition-writer shall, between the first and thirty first days of August of each year, produce, or if he ordinarily practises in a Subordinate Court, forward through that Court, his licence for the inspection of the Court under which it is held. A note of such production, with the date , will be entered on the licence. If a Petition- writer fails to comply with this rule or pay the renewal fee.

Production and
suspension.

referred to in rule 6 above, his name will be posted in a conspicuous place of the Court-house of the highest Court in which he ordinarily practises, with an order that the operation of his licence is suspended, and that he will be liable to penalties if found practising whilst such order of suspension is in force.

When order of suspension may be withdrawn.

(ii) If the Petition-writer produces his licence for inspection at any time before the thirty first day of August of the following year, the order of suspension may be withdrawn subject to a charge of rupees five;

Provided, that the charge shall not be made if it be shown to the satisfaction of the Court that the failure to produce the licence within the time appointed was due to unavoidable causes, and that the licence shall not be restored without the previous sanction of the High Court.

Transfer of place of business.

9. No licensed petitioner-writer shall transfer his place of business from any one to any other district in the Punjab except with the previous sanction of the High Court, subject to there being a vacancy in the district to which transfer is desired. But it shall be within the discretion of the District Judge to transfer any Petition-writer from any one place to any other within the boundaries of any of the districts under his charge.

Licence lost or damaged.

9. If a licensed petition-writer loses the licence granted to him under these rules, he may apply to the Court under which it was held for a duplicate licence. The application shall be made in writing, and shall be presented by the applicant in person. The Court to which it is made, if satisfied that the former licence has been lost, shall upon payment by the applicant of rupees five, cause a fresh licence to be issued in the same form and bearing the same date as the lost licence, and shall cause the words "Duplicate licence" to be enfaced thereon, with the date of issue, and shall sign such enfacement. Every matter required to be noted upon the licence by rules 8, 10, 27 (ii), 30 (ii) or 34, shall be noted on the back of the duplicate licence under the signature of the Court granting it.

Note. —If a licence becomes damaged it may be replaced in the manner here provided in the case of the licence being lost.

C.—Conduct of Petition Writers

Registers of petitions to be kept.

11. Every Petition-writer licensed under the foregoing rules shall keep only one register for each calendar year in the Form B annexed to these rules and shall enter

therein every petition written by him. Blank spaces shall not be left by a petition-writer in his register. Should one occur, the petition-writer shall forthwith have it cancelled by the Presiding Officer of a Court nearest to his ordinary place of business. Before the close of each year, or immediately thereafter, the register shall be inspected by the Administrative Subordinate Judge, where there is one for the district, otherwise by the Senior Subordinate Judge of the district, who shall also see that blank spaces, if any, have already been cancelled as provided in the preceding sentence.

12. Every licensed petition-writer shall at his own expense, provide himself with an official seal, to be made under the direction of the Court which licenses him on which shall be engraved, in the Urdu Character, his name and the year in which he was licensed. Seal
13. Every licensed petition-writer in writing petitions shall confine himself to expressing in plain and simple language, such as the petitioner can understand, and in a concise and proper form, the statements and objects of the petitioner and shall not introduce any argument or quotation from a Law Report or other Law Book, or refer to any decision not brought to his notice by the petitioner. Manner of drafting petitions.
14. Every licensed petition-writer shall record, at the foot of every petition written by him, other than a petition of a merely formal character, a declaration, under his signature, that, to the best of his knowledge and belief, the petition expresses the true meaning of the petitioner, and that its contents have been fully explained to the petitioner. Declaration to be made on the petition by petition-writer.
12. Every licensed petition-writer shall sign and seal with his official seal, every petition written by him, and shall enter on it the number which it bears in his register, and the fee which has been charged for writing it. Petition writer to sign and seal the petition and make certain endorsements.
16. A licensed petition-writer shall not dictate a petition to, or cause a petition to be written by, a person who is not a licensed petition-writer nor shall he employ any person who is not a licensed petition-writer to write petitions for him. Employments of other persons to write petitions.

Provided that a petition writer may employ typists for the purpose of typing petitions drafted by him and that the petitions so typed shall be scrutinized, verified and signed by the petition-writer concerned; such typists shall not

draft petitions themselves but shall only carry out on the typewriter the directions of the petition-writer.

Court may order a petition writer to rewrite a petition.

17. Every licensed petition-writer shall rewrite at his own cost any petition written by himself, when required to do so by order of competent authority.

Writing unnecessary petitions.

18. A licensed petition-writer shall not instigate any person to cause to be written by himself or by any other licensed Petition-writer, any petition which he knows to be unnecessary.

Fees for writing petitions.

17.^[50][(i) No petition-writer shall charge fees for writing petitions in excess of those shown in the Schedule hereto annexed, a copy of which shall be exhibited at a conspicuous place in every District Court. A copy of the Schedule shall, also be exhibited conspicuously by each petition-writer at the place where he carries on his business. The actual amount charged for each petition shall be entered in the proper column of his register. He shall issue a receipt for the amount received by him and, also, mention the said amount at the foot of the petition written by him.]

Provided that he enters correctly the actual amount agreed upon on the petition and in the proper column of his register.

Prohibition to share the profits of litigation or to contribute funds for this purpose.

(ii) A licensed petition-writer shall not take payment for his services by an interest in the result of any litigation in connection with which he is employed, nor shall he find or contribute towards the funds requisite for carrying on any litigation in which he is not personally interested.

Shall not act as recognized agent.

19. A licensed Petition-writer shall not act as a recognized agent in any case in a Civil Court or in a Revenue Court or office except a case in which he is himself a party, or in a Criminal Court, subject to the same exception.

Surrender of licence.

21. Every licensed petition-writer.—

(1) the operation of whose license is suspended under rule 8.

(2) who enters the service of Government, or of a Legal Practitioner, or

(3) who is suspended or dismissed under these rules, shall forthwith surrender his license to the Court under which it was held.

Striking off name from register.

22. Every petition-writer who gives up practising for over three years shall have his name struck off the register.

Note,—A petition writer whose name has been removed after three years' absence will be at liberty to apply for the restoration of his licence provided that there is a vacancy on the prescribed scale. He shall however, be treated in this respect on the same footing, as a fresh applicant,

23. No licensed Petition-writer shall practise,—

Rules as to
practice.

- (1) contrary to the terms of his Licence;
- (2) In any panchayat of which he is a member or Sarpanch.
- (3) in any Court or office in which he has been forbidden to practise, while such prohibition is in force.
- (3) after his licence has been or should have been surrendered under these rules; or
- (5) while under suspension.

24. No licensed Petition-writer shall engage in any business or trade without the previous permission in writing of the High Court.

Engagement in
trade or business.

24.-A. When a petition-writer has been adjudged an insolvent, his licence to practise as such shall automatically be suspended till the date of his discharge whether conditional or full or till the order of adjudication is annulled.

*D.—Procedure in dealing with breaches of rules and
Pena lit ies*

24.^[51][deleted]

24. Any Judicial or Revenue Officer or Court may order a licensed petition-writer to re-write any petition written by him which contravenes rule 13, or is illegible, obscure, or prolix, or contains any irrelevant matter, or misquotation, or is, from any other cause, in the opinion of such officer or court, informal or otherwise objectionable. An order passed under this rule shall not be open to revision by any Officer or Court other than the Officer or Court which made the order.

Reduction of
fees charged.
Order to re-write
a petition.

24.(i) The Presiding Officer of any Court, other than the High Court, or of any Revenue Officer may, for any sufficient cause to be recorded in writing under his signature, prohibit, any Petition-writer from practising in his Court or Office, pending a reference, where the prohibition is issued by the Financial Commissioner, to the High Court; and in any other case, to the District Judge.

Order prohibit-
ing practice.

(ii) Every order of prohibition passed under this rule shall be communicated to the Court under which the Petition-writer affected holds his licence and such Court shall forthwith endorse the substance and date of the order on the license under his own signature.

Failure to
obey orders.

28. Any person who practises as a Petition-writer contrary to the provisions of rule 2 or who fails to obey the orders of a competent authority passed under rule 17 ^[52][deleted] shall be liable to a penalty not exceeding rupees fifty.

Punishment for
violation of
rules.

29. Any licensed Petition-writer who acts in violation of any of the rules numbered 7, 9, 11, 12; 14, 15, 16, 18, 19, 20, 21 and 24 shall be liable to be suspended, dismissed or reduced.

30. (i) Any licensed Petition-writer who,—

Punishment for
inefficiency,
misconduct
etc.

(1) habitually writes petitions contrary to rule 3 or containing irrelevant matter, or which are informal or otherwise objectionable, or

(1) in the course of his business as a Petition-writer uses disrespectful, insulting or abusive language, or

(2) is found to be incapable of efficiently discharging the functions of a Petition-writer, or

(3) by reason of any fraudulent or improper conduct in the discharge of his duty as a Petition-writer is found to be unfit to practise as such, or

(4) is convicted of a criminal offence, shall be liable to be suspended or dismissed or reduced in addition to any punishment to which he may be liable under any other rule or enactment for the time being in force.

Authority com-
petent to impose
penalty.

31. Any breach of rules or other misconduct punishable under these rules shall be cognizable by the District Judge under whom the Petition-writer concerned holds his licence;

Provided that a breach of rule 2 shall be cognizable by the District Judge of the district in which the alleged breach occurred.

Inquiry and
trial.

32. Subject to the provisions of rule 31, the District Judge may take cognizance of any breach of rules or other misconduct punishable under these rules either of his own motion, or on the report or complaint of any other Court or person and may, after such inquiry as he may consider

necessary, impose on the person charged any penalty prescribed by these rules :

Provided that no order shall be passed against any person unless he is given a reasonable opportunity of defending himself.

33. Every order passed against a Petition-writer (including any warning given in lieu of penalty) shall be recorded on the back of his licence by the Court under which he holds his licence. Every such order passed by any Court other than the Court under which the Petition-writer holds his licence shall be communicated to such Court for being so recorded.

All orders passed to be endorsed on licence.

33. Notwithstanding anything hereinafter contained, the High Court may, for any sufficient cause, to be recorded in writing, and after such inquiry as it thinks fit.—

Punishment which High Court may inflict.

(1) dismiss any licensed Petition-writer, or suspend him from practice for a specified period; and

(2) in the case of a licensed Petition-writer of the first grade.—

(a) suspend him from practice in the High Court for a specified period, or

(b) reduce him to the second grade:

Provided, that no order shall be made under this rule unless the person charged shall have had an opportunity of defending himself.

35. No appeal shall lie from any order passed by any Court or Officer under any of the preceding rules; but the High Court, as regards orders passed by any District Judge, may in its discretion revise any such order, and in place thereof pass such order as it thinks fit. No. Petition-writer who has been suspended or dismissed for misconduct can claim to be heard through counsel

Appeal.
Engagement of counsel.

35. The High Court may, at any time, for sufficient reason, grant a new licence to any licensed Petition-writer who has been dismissed or direct that any licence of which the operation has been suspended by an order under rules 8, 30 or 33 or by the Petition-writer entering the service of Government or a Legal Practitioner, be restored to him.

High Court may grant a new licence or restore a suspended licence.

37. Nothing in the foregoing rules shall be deemed to limit or restrict the exercise by the High Court of its general powers of superintendence and control.

High Court's power of control.

SCHEDULE OF RULES, THE BREACH OF WHICH RENDERS THE OFFENDERS
 LIABLE TO PENALTY UNDER SECTION 46-A, OF THE PUNJAB COURTS ACT,
 1918

A.—Unlicensed Persons

	RULE
Practising as a Petition-writer without a Licence 	2
<i>*B.—Liceneed Petition-writer.</i>	
Practising in a higher grade than that for which licensed 	
4 Omitting to maintain prescribed register or to produce it when required or failing to have blank spaces cancelled. ...	
11 Omitting to provide seal 	
12	
Omitting to record declaration on petition	
14	
Omitting to sign, seal or give other parti- culars required on a petition... ...	15
Omitting to make true entry on petition or in register 	15
Causing petition to be written by unlicensed Person 	16
Instigating the writing of unnecessary petitions	18
Omitting to enter correctly the actual amount of remuneration agreed upon on the petition and in the register. Taking payment by an interest in the result of litigation 	19
Acting as recognized agent for any party...	20
Omitting to surrender license 	20
Practising while under suspension or while licence is surrendered 	23
Engaging in business or trade without the permission of the District Judge ...	
24	
Omitting to comply with an order made under Rule 	26
Disregarding prohibition from practice, pending reference 	
27	
Violation of rule of habitual writing of irrele- vant or informal or otherwise objectionable petitions 	
30	
Fraudulent or improper conduct in discharge of duty 	30
Participation in seditious or disloyal movement or other cases of misconduct 	34

FORM A

FORM OF LICENCE FOR A PETITION-WRITER
(Rule 5)

In the Court of the.....Judge of
the.....

Certified that..... son of.....
resident of....., has this day been licensed
as a petition-writer of the.....grade,
and is hereby permitted to practise as such in the
manner prescribed by Rule 4, clause.....of
the rules relating to petition-writers in the Punjab, and
subject to the provisions of the said rules till the 31st
day of August, I 9 .

Give under my hand and the seal of this Court,
this.....day of.....19 ,
at.....

.....
.....
Judge

Note.—Petition-writers are reminded that participation by them in any
seditious or disloyal movement will be regarded as sufficient cause for
dismissal, suspension or reduction in grade under rule 34 of the rules by
the Hon'ble Judges under Section 46-A of the Punjab Courts Act.

Ch. 17-B.

Date of the renewal of the
licence.

Renewing OFFICER

^[53]CHAPTER 18PART A.—THE PUNJAB SUBORDINATE COURTS
ESTABLISHMENT (RECRUITMENT AND GENERAL
CONDITIONS OF SERVICE) RULES 1997

General:

In exercise of the powers delegated by the Government of Punjab under the proviso to Article 309 of the Constitution of India, -vide Punjab Government, Notification No. 1863-J-54/6816, dated 25th March, 1954 and all other powers enabling them in this behalf, the Hon'ble the Chief Justice and Judges of the High Court of Punjab and Haryana are pleased to make with the previous approval of the State Government of Punjab, rules, regulating the recruitment, general conditions of service of persons appointed to class II, III and IV services in connection with the affairs of the Courts Subordinate to the High Court in the State of Punjab including Process Serving Establishment.

1. Short title Commencement and Application

- (i) These rules may be called the Punjab Subordinate Courts Establishment (Recruitment and General conditions of service) Rules, 1997.
- (ii) These rules shall come into force on the date of their publication in the official Gazette.
- (iii) These shall apply to all the posts in class II, III and IV services on the establishment of the Courts subordinate to the High Court, in the state of Punjab.

2. Definitions:

In these rules, unless the context otherwise requires:

- (a) "Appointing authority" for the posts in the service other than Superintendent means the District and Sessions Judge of the District(s).
- (b) "Cadre" means the strength of a service or a part of a service as a separate unit and includes permanent and temporary post which has remained in existence for the last one year.
- (c) "District Establishment" means the employees working in the Sessions Division.
- (d) "Direct Appointment" means an appointment made otherwise than by promotion, transfer or by deputation.

- (e) “Government” means the Government of Punjab.
- (f) “Ministerial servant” means a member of service whose duties are entirely clerical and any other class of service specially defined as such by general or special order by the High Court and shall include members of class II and III service other than ^[54][deleted] Process Servers and Class IV employees.
- (g) “Recognised University or institution” means:-
- (i) any university or institution incorporated by law in any of the State of India; or
 - (ii) any other university or institution which is declared by the Government to be a recognised university or institute.
- (h) “Service” means members of class II, class III and class IV as detailed in schedule I to these rules.
- (i) “State” means state of Punjab.

3. The Service shall comprise the posts as shown in Schedule I to these rules from time to time.

4. Nationality, Domicile and Character of persons appointed to the Service:

- (1) No person shall be appointed to the service unless he is:
- (a) a citizen of India; or
 - (b) a citizen of Nepal; or
 - (c) a citizen of Bhutan; or
 - (d) a Tibetan refugee who came over to India before 1st day of January, 1968 with the intention of permanently settling in India; or
 - (e) a person of India origin who has migrated from Pakistan, Burma, Sri Lanka and East African countries of Kenya, Uganda and United Republic of Tanzania (formerly Tanganyika and Vietnam with the intention of permanently settling in India:

Provided that a person belonging to any of the categories (b), (c), (d) and (e) shall be a person in whose favour a certificate of eligibility has been given by the Government of Punjab in the Department of Home Affairs and Justice.

- (2) A person in whose case a certificate of eligibility is necessary may be admitted to an examination or interview conducted by the appointing authority, on his furnishing proof that he has applied for the certificate but he shall not be appointed to the service unless the necessary certificate is given to him by the Government in the Department of Home Affairs and Justice.
- (3) No person shall be recruited to the service by direct appointment unless he produces:
- (a) a certificate of character from the principal academic officer of the university, college, school or institute last attended, if any and similar certificates from two responsible persons not being his relatives, who are well acquainted with him in his private life and are unconnected with his university, college, school or institution; and
 - (b) An affidavit to the effect that he was never convicted for any criminal offence involving moral turpitude and that he was never dismissed or removed from a service of any State Government or of Government of India or of any public sector undertaking.

5. Disqualification:

No person:-

- (a) who has entered into or contracted a marriage with a person having a spouse living or;
- (b) who, having a spouse living has entered into or contracted a marriage with any person

shall be eligible for appointment to the service. Provided that the High Court, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage may exempt any person from the operation of this rule.

6. Age:

- (1) No person shall be recruited to the service by direct appointment if he is less than eighteen years or is more than thirty years of age in the case of non-technical posts and thirty-three years in the case of technical posts on the 1st day of January of the year immediately preceding the last date fixed for submission of applications by the appointing authority or unless he is within such range of minimum and maximum age limits as may be specifically fixed by the Government from time to time:

Provided that where different lower and upper age limits have been specifically prescribed for posts in the service, rules, these limits shall be made applicable for appointment to such posts:

Provided further that the upper age limit may be relaxed up to forty-five years in the case of persons already in the employment of the Punjab/Haryana Government, other state Government or the Government of India, High Court, other Subordinate Courts and Union Territory, Chandigarh.

Provided further that in the case of candidates belonging to Scheduled Caste and other Backward Classes, the upper age limit shall be such as may be fixed by the Government from time to time.

(2) In the case of ex-servicemen the upper age limit shall be such as has been prescribed by the Government from time to time.

(3) In the case of appointment on compassionate grounds on priority basis, the upper age limit shall be such as may be specifically fixed by the Government from time to time.

7. Mode of Appointment and Qualifications to the Posts:

Class-II:

(i) Superintendent:

Post of Superintendent to District and Sessions Judge shall be in State Cadre and shall be filled up by the High Court by selection from amongst graduate Superintendents, Grade-II, Judgment Writers (Senior Grade), Assistants, Judgment Writers (Junior Grade) and Stenographers who are not below 40 years of age as on the date on which applications are invited. Preference will however, be given to Law Graduates:

Provided that the District and Sessions Judge concerned may make an officiating appointment to the post of Superintendent in a leave vacancy or otherwise for a period not exceeding three months or till regular appointment is made by the High Court subject to the confirmation by the Hon'ble Judges of the High Court.

A select list of candidates for appointment as Superintendent to District and Sessions judge shall be prepared/maintained by the High Court. This list shall contain only such number of candidates as can be absorbed within 2 years.

Before any person is considered for acceptance as a candidate he shall sign a declaration that if appointed as such, he shall be prepared to be posted anywhere in the State of Punjab and in the event of protest against the transfer he shall be liable to disciplinary action.

CLASS III:

(ii) Judgement Writer (Senior Grade):

Judgement Writer (Senior Grade) shall be appointed by promotion from amongst the Stenographers/Judgement Writers (Junior Grade) within 3 years experience, on the basis of seniority- cum-merit.

(iii) Superintendent Grade-II:

Superintendent Grade II shall be appointed by promotion from amongst the Assistants with 3 years experience, on the basis of seniority-cum-merit.

(iv) Judgment Writer (Junior Grade/Stenographer):

Judgment Writer (Junior Grade)/Stenographer shall be appointed by promotion from amongst the Steno-typists with 3 years, experience, on the basis of seniority-cum-merit.

(v) [Assistants:

Assistant shall be appointed by promotion from amongst the graduate Clerks, and; the Clerks already in service (before coming into force of these rules) having five years experience on the basis of seniority-cum-merit.

One post of Assistant shall be designated as Library Assistant and shall be filled up from amongst the B.Lib/M.Lib Clerks having two years experience on the basis of seniority-cum-merit. If no Clerk is found eligible for the post of Library Assistant; then the post shall be filled from amongst the Clerks on the basis of seniority-cum-merit.]

{Rule 7(v) amended vide correction slip no. 62 Rules/II.D4. dated 26.09.2012}

^[55][(vi) Steno-typists:

Appointment to the post of Steno-typist shall be made by direct recruitment from;

Candidates who possess a degree of Bachelor of Arts or Bachelor of Science or equivalent thereto from a recognised university and pass a test at a speed of 80 W.P.M. in English shorthand and 20 W.P.M. in Transcription of the same and have proficiency in computers (Word Processing and Spread Sheets). The select list so prepared on the basis of merit shall remain in force for one year from the date of declaration of result.]

[(vi)(a) Punjabi Steno-typist :

Appointment to the post of Punjabi Steno-typist shall be made by direct recruitment from Candidates who possess a degree of Bachelor of Arts or Bachelor of Science or equivalent thereto from a recognized university and pass a test at the speed of 35 W.P.M. in Punjabi Shorthand and 20 W.P.M. in Transcription of the same. The select list so prepared on the basis of merit shall remain in force for one year from the date of declaration of result.]

{Rule 7(vi)(a) Added vide correction slip no. 48 Rules/II.D.4. dated 17.09.2003}

(vii) Clerks:

Appointment to the post of Clerk shall be made in the ratio of 90% in case of direct recruitment and 10% by way of promotion.

Appointment to the post of Clerk shall be regulated as under:-

- (a) No candidate for direct recruitment shall be eligible to apply for the post of Clerk unless he holds a degree of Bachelor of Arts or Bachelor of Science or equivalent thereto from a recognised university and has passed matriculation examination with Punjabi as one of the subject.

- (b) Candidates shall have to take a written examination in the following subjects:-

Sr. No.	Subject	Max. Marks	Qualifying Marks
1.	English Composition	50	33%
2.	General Knowledge	50	33%

- (c) ^[56] [No candidate shall be considered for appointment unless he obtains 40% marks in aggregate in the written examination and having proficiency in operation of computers.]
- (d) Select list of successful candidates in order of merit shall be prepared as a result of competitive examination which shall remain in force for one year from the date of declaration of the result.
- (e) ^[56] [10% vacancies in the cadre of Clerks shall be filled up by promotion from amongst the Bailiffs, Process Servers, Daftri and Record Lifter possessing minimum Matric qualification or equivalent thereto having 5 years service as such subject to having proficiency in operation of computers.]

(viii) Bailiffs:

Bailiffs shall be appointed by promotion from amongst Process Servers with 3 years experience, on the basis of seniority-cum-merit.

^[57](ix) Driver:

Appointment to the Post of Driver shall be made by direct recruitment. The candidate should possess following academic qualifications/requirements:-

- (i) the candidate should be at least middle pass with Punjabi/Hindi as one of the subject.
- (ii) he should possess a valid licence for L.T.V.
- (iii) he should not have been convicted of any offence for negligent driving and should have a minimum of two years experience of driving of car.

CLASS IV

^[57](x) Process Servers:

Appointment to the post of Process Servers shall be made in the manner hereinafter provided:-

- (a) 50% by direct recruitment, (b) 50% from amongst class IV employees having 3 years experience:

Provided that no candidate shall be eligible for appointment/promotion unless he is a matriculate with knowledge of Hindi and Punjabi.

(xi) Daftri, Usher, Record Lifter:

Daftri, Ushers, Record Lifters shall be appointed by promotion from amongst peons working in the District Establishment on the basis of seniority-cum-merit.

(xii) Peon:

Appointment to the post of Peon shall be made by the District and Sessions Judge or his delegates by:-

- (i) direct appointment from candidates who have passed Middle standard examination and possess knowledge of Hindi/Punjabi.
- (ii) by transfer from any other Sessions Division with the permission of the High Court.

Explanation to Rule 7:

(i) District and Sessions Judge shall determine mode of inviting applications for the posts in the service where direct recruitment is to be made in consultation with the Chief Justice or by the Judge nominated by him by a general or special order.

(ii) A member of service rendered surplus for any reason shall have a right for re-appointment on availability of a vacancy on the principle of last go first come.

(iii) Reservation:

The policy as framed by Government for the reservation of post for member of the Scheduled-Castes, Scheduled Tribes, other Backward Classes, Physically handicapped and Ex-servicemen shall be applicable to the member of the service at the stage of initial recruitment:

Provided that where no candidate of reserved category is available then appointment be made from general category.

8. Probation of Persons Appointed to service:

(1) Persons appointed to any post in the service shall remain on probation for a period of two years, if recruited by direct appointment and one year in the case of promotion, provided that-

(a) Period spent on deputation on a corresponding or a higher post shall count towards the period of probation;

(b) In the case of an appointment by transfer any period of work on an equivalent or higher rank period to appointment to the service may in the discretion of the appointing authority be allowed to count towards the period of probation;

(c) Any period of officiating appointment to the service shall be reckoned as period spent on probation.

(2) If, in the opinion of the appointing authority the work or conduct of a member of service during the period of probation is not satisfactory, it may-

If such person is recruited by direct appointment dispense with his services, or revert him to a post, on which he held lien prior to his appointment.

If appointed otherwise:-

- (i) revert him to his former post; or deal with him in such other manner as the terms and conditions of the previous appointment permit.
- (3) On the completion of the period of Probation of a person, the appointing authority may-
 - (a) if his work and conduct has, in its opinion been satisfactory:
 - (i) Confirm such person from the date of his appointment if appointed against a permanent vacancy.
 - (ii) Confirm such person from the date from which a permanent vacancy occurs, if appointed against a temporary vacancy.

OR

Declare that he has completed his probation satisfactorily if there is no permanent vacancy:

Provided that the total period of probation including extension if any, shall not exceed three years.

9. SENIORITY OF MEMBERS OF SERVICE:

The Seniority *interse* of members in each cadre of the service shall be determined by the length of continuous service on a post of the same category in that cadre:

Provided that in the case of members appointed by direct appointment seniority shall be determined in the order of merit in which they are selected for appointment and persons appointed as a result of an earlier selection shall be senior to those appointed as a result of subsequent selection:

Provided further that in the case of two or more members appointed on the same date, their seniority shall be determined as follows:-

- (a) a member appointed by direct appointment shall be senior to a member appointed otherwise;
- (b) a member appointed by promotion shall be senior to a person appointed by transfer; and
- (c) in the case of members appointed by promotion or transfer, seniority shall be determined according to the seniority of such members in the cadre from which they were promoted or transferred; and

- (d) in the case of members appointed by transfer from different cadres their seniority shall be determined according to pay preference being given to a member who was drawing a higher rate of pay in his previous appointment and if the rates of pay drawn are also the same then by their length of service in these appointments and if the length of such service is also the same, the elder in age shall be senior to the younger.

Note 1.- This rule shall not apply to members appointed on purely *ad hoc* basis.

Note 2. In the case of members whose period of probation is extended under rule 8 the date of appointment for the purpose of this rule shall be deemed to have been deferred to the extent the period of probation is extended.

Note 3. In the case of the two candidates possessing equal merit as a result of competitive test and they are placed in a bracket the older in age shall be senior to the younger.

10. LIABILITY OF SERVICE TO TRANSFER:

A member of a service may be transferred to any equivalent post:

- (1) Within the Sessions Division, by the District and Sessions Judge.
- (2) Every member of the service shall be liable to transfer under the orders of the Chief Justice anywhere within the state of Punjab.
- (3) On his written request, anywhere within the State by the High Court, if post is available subject to the following conditions:-
 - (a) That he will not claim any seniority over and above the officials already working in the cadre of the Sessions, Division to which he is seeking transfer.
 - (b) No. T.A./D.A. will be permissible and he will not avail joining time provided that official has put in at least 5 years of service in the Sessions Division in which he is initially appointed:

Provided that High Court in a given case relax the requirements of condition of 5 years service.

11. LEAVE, PENSION AND OTHER MATTERS:

In respect of pay, leave, pension, superannuation and all other matters not expressly provided for in these rules, a member of the service shall be governed by such rules and regulations as framed by the State Government. The instructions issued by the State Government from time to time shall apply after their due adoption by the Chief Justice.

12. DISCIPLINE AND PUNISHMENT:**(1) General order regarding discipline etc :**

Whenever any official/office is personally interested in a case to be heard by the Court to which he is attached, we must bring this fact to the notice of the Presiding Officer.

(2) Punishment :

The following penalties may for good and sufficient reasons be imposed upon members of the service working in the sessions Division, by the authority as specified in Rule 13.

- (i) Censure;
- (ii) Withholding of his promotion;
- (iii) recovery from pay of the whole or part of any pecuniary loss caused by him to the Government by negligence or breach of orders;
- (iv) withholding of increment of pay without cumulative effect;
- (iv-A) withholding of increment of pay with cumulative effect;
- (v) reduction to a lower stage in the time scale of pay for a specified period, with further directions as to whether or not the Government employee will earn increments of pay during the period of such reduction and whether on the expiry of such period the reduction will or will not have the effect of postponing the future increments of his pay;
- (vi) reduction to a lower time-scale of pay, grade, post or service which shall ordinarily be a bar to the promotion of the Government employee to the time-scale of pay, grade, post or service from which he was reduced, with or without further directions regarding conditions of restoration to the grade or post or service from which the Government employee was reduced and his seniority and pay on such restoration to that grade, post or service.

- (vii) Compulsory retirement;
- (viii) removal from service which shall not be a disqualification for future employment under the Government;
- (ix) dismissal from service which shall ordinarily be a disqualification, for future employment under the Government.

Note 1.- Penalties mentioned at Sr. No. (i) to (iv) shall be termed as 'minor penalties' whereas from Sr. No. (iv-A) to (ix) are to be termed as 'major-penalties';

Note 2.- In the matter of procedure for imposing any of the above penalties a member of a service will be governed by Punjab Civil Services (Punishment and Appeal) Rules, 1970.

13. PUNISHING AUTHORITY:

(i) The District and Sessions Judge may impose on a member of Class II service any of the minor penalties specified in rule 12(2) as amended from time to time.

(ii) The Chief Justice of the High Court or Judge nominated by him in this behalf may impose any of the penalties specified in rule 12(2) on a member of Class-II service.

(iii) The District and Sessions Judge may impose any of the penalties specified in rule 12(2) of these rules on a member of class III and IV of the service.

14. APPEAL:

Appellate Authority:

(1) An appeal shall lie to the High Court against order of a District and Sessions Judge imposing any penalty and such appeal may be disposed of by the Chief Justice or a Judge nominated by him in this behalf.

(2) An appeal shall lie to a Division Bench of the High court against an order of the Chief Justice or of a Judge imposing any of the penalties on members of Class II service.

A. Orders against which no appeal lies :

Notwithstanding anything contained in these rules, no appeal shall lie against:-

- (i) Any order of inter-locutory nature to step-in-aid of the final disposal of a disciplinary proceeding.

- (ii) any order passed by an inquiring authority in the course of an inquiry held under Punjab Civil Services (Punishment and Appeal) Rules, 1970.

B. Subject to the provisions of rule 14A, a member of service may prefer an appeal against all or any of the following orders, namely:-

- (i) an order of punishment passed by the District and Sessions Judge inflicting penalties mentioned in rule 12(2) IV A to IX.
- (ii) an order of substantive appointment by promotion or otherwise to a permanent and pensionable post.
- (iii) an order of temporary appointment which is to last more than 3 months or has in fact lasted more than 3 months.

C. (i) Persons appealing to the High Court under this rule shall do by petition. Such petition, accompanied by a copy of the order complained against, shall be presented to the District and Sessions Judge who passed the order within 45 days of the date of such order (the period between the date of application of the copy and the date on which it is supplied being excluded):

Provided that the appellate authority may entertain the appeal after the expiry of the said period, if it is satisfied that the appellant and sufficient cause for not preferring the appeal in time.

(ii) The District and Sessions Judge will forward the petition to the Registrar of the High Court without unnecessary delay along with his parawise comments thereon.

D. After reading the petition, the High Court may either:-

- (i) reject it without hearing the petitioner after passing a speaking order; or
- (ii) hear the petitioner, and in cases where other persons are held to be concerned in the subject of the petition, such other persons in open court:-

E. While disposing of an appeal against order under this rule or any penalty specified in rule 12, the High Court shall consider:-

- (i) Whether the facts on which the order was based have been established;

- (ii) whether the facts established afford sufficient ground for taking action; and
- (iii) whether the penalty is excessive, adequate or inadequate and after consideration shall pass such order as it thinks proper:

Provided that no penalty shall be increased unless opportunity is given to the person concerned to show-cause why such penalty should not be increased.

F. The District and Sessions Judge from whose order the appeal is preferred under these rules shall give effect to any order made by the High Court.

G. Nothing in these rules shall debar the High Court from altering, if deemed fit, any order of punishment or appointment not provided for above which may be passed by District and Sessions Judge in respect of member of service, when an aggrieved person, petitions or otherwise, District and Sessions Judge should not therefore, withhold any petition addressed to the High Court whether an appeal lies to it in the case or not under these rules. In a case in which no appeal lies, the District and Sessions Judge should forward it without any comments and relevant documents unless he wishes to do so or is so required by the High Court. Petitioners are forbidden to attend personally at the High Court unless summoned to do so. Order on their petition will be communicated to them through the District and Sessions Judge concerned.

15. LIABILITY FOR VACCINATION AND RE-VACCINATION:

Every member of the service shall get himself vaccinated or re-vaccinated when the High Court so directs by a special or general order.

16. OATH OF ALLEGIANCE:

Every member of service, unless he has already done so, shall be required to take oath of allegiance to India and to the Constitution of India as by law established.

17. DEBARRING FOR CONSIDERATION FOR PROMOTION OF A GOVERNMENT EMPLOYEE WHO REFUSES TO ACCEPT PROMOTION:

In the event of refusal to accept promotion by a member of service he shall be debarred by the appointing authority for consideration for promotion for all the consequent chances which may occur in future within a period of two years from the date of such refusal to accept promotion:

Provided if the appointing authority in the event of refusal to accept promotion by member of a service is satisfied that the refusal is not in the interest of administration may notwithstanding such refusal promote him:

Provided that in a case, where the appointing authority is satisfied that a member of a service has refused to accept promotion under the circumstances beyond his control, it may exempt such a member for reasons to be recorded in writing from the operation of this rule.

18. POWER TO RELAX:

Where the District and Sessions Judge is satisfied that the operation of any rule causes undue hardship in any particular case, he may by order subject to the confirmation by the Chief Justice dispense with or relax the requirement of that rule to such extent and subject to such conditions as he may consider necessary for dealing with the case in a just and equitable manner provided that the case is not dealt with in a manner less favourable to the officer or official concerned than in accordance with the rules.

19. REPEAL AND SAVING:

The rules framed by the High Court under Section 35(3) of the Punjab Court's Act, 1918 for subordinate services attached to Civil Courts other than the High Court incorporated in Chapter 18-A of the Rules and Orders of the High Court, Volume I and the rules relating to the appointment and control of clerks of court (now Superintendents) to the District and Sessions Judges framed by the High Court in 1947 in exercise of the power delegated to it by the Governor of Punjab under Section 241 of the Government of India Act, 1935 are hereby repealed:

Provided that such repeal shall not except as otherwise expressly provided in these rules-

- (i) affect the previous operation of any order or decision given under the rules so repeated or anything duly done or suffered thereunder; or
- (ii) affect any right, privilege, obligation incurred thereunder:-

20. INTERPRETATION:

If any question arises as to the interpretation of these rules, the Chief Justice or a Judge nominated by him in this behalf shall decide the same, and the decision shall be final.

SCHEDULE-I

Statement showing the posts with different proposed Nomenclature in
the Subordinate Courts with Pay Scales

Sr. No.	Post	Old Scale	Revised Pay Scale
	CLASS II:	(Rs.)	(Rs.)
1.	Superintendent to District and Sessions Judge	2,200-4,000	7,220-11,660
	CLASS III:		
2.	Superintendent Grade-II	2,000-3,500+100 (Spl. Pay)	6,400-10,640
3.	Judgment Writer (Sr. Scale) to District & Sessions Judge/Addl. District Judge	2,000-3,500+100 (Spl. Pay)	6,400-10,640
4.	Reader to District and Sessions Judge/Addl. District and Sessions Judge	2,000-3,500+100 (Spl. Pay)	6,400-10,640
5.	Judgment Writer (Jr. Grade) / Stenographer	1,800-3,200+80 (Spl. Pay)	5,800-9,200
6.	Reader to Civil Judge (Sr. Division)/ Addl. Civil Judge (Sr. Division) Chief Judicial Magistrate, Civil Judge (Jr. Division) English Clerk Copying Assistant Translator Record Keeper Addl. English Clerk Library Assistant Clerk of Court of Civil Judge (Sr. Division) Civil Nazir Record Keeper to Civil Judge (Sr. Division)	Assistant 1,800-3,200	5,800-9,200
7.	Steno-Typists Leave Reserve Steno-Typists	1,020-1,800	3,330-6,200
8.	Ahlmad Addl. Ahlmad Inspection Clerk Copyist Record Clerk Copying Clerk Library Clerk Leave Reserve Clerk G.P.F. Clerk Typist Naib Nazir Madad Naib Nazir Execution Clerk Fine Clerk Summary Clerk Malkhana Nazir Asstt. Nazir Asstt. Malkhana Nazir	Clerk 950-1,800	3,120-5,160

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9.	Bailiff	950-1,800	3,120-5,160
10.	Driver	1,020-2,130+150 (Spl. Pay)	3,330-6,200
11	CLASS-IV:		
	(i) Daftri	800-1,455	2,720-4,260
	(ii) Usher	800-1,455+40(Spl. Pay)	
	(iii) Record Lifter	800-1,455	
	(iv) Process Server	800-1,455	
	(v) Peon Waterman Orderly Library Peon Mali-cum-Chowkidar Peon-cum-Driver Addl. Peon Record Peon Malkhana Peon Malkhana Chowkidar	Peon 750-1,410 (initial start Rs. 770)	2,520-4,140 (with a minimum start of Rs. 2,620)
	(vi) Mali	750-1,410 (initial start Rs. 770)	2,520-4,140 (with a minimum start of Rs. 2,620)
	(vii) Chowkidar	750-1,410 (Spl. Allowance Rs. 200(initial Start Rs. 770)	2,520-4,140 (with a minimum start of Rs. 2,620)
	(viii) Sweeper	750-1,410 (initial start Rs. 770/-)	2,520-4,140 (with a minimum start of Rs. 2,620)

K.K. GARG.
Registrar (General).

PART IV

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CORRECTION SLIP

No. 61/Rules/11.04

Dated 30th August, 20 12

CHAPTER 18 PART A OF RULES AND ORDERS OF
PUNJAB AND HARYANA HIGH COURT, VOLUME-I

The following shall be substituted for the existing Punjab Subordinate Courts Establishment (Recruitment and General Conditions of Service) Rules, 1997 in respect of Group D Service.

In exercise of the powers delegated by the Government of Punjab under the proviso to Article 309 of the Constitution of India vide Punjab Government Notification No. 1863-J-54/6816, dated the 25th March, 1954 and all other powers enabling him in this behalf and with previous approval of the Government of Punjab, the Hon'ble Chief Justice and Judges of the High Court of Punjab and Haryana are pleased to make rules regulating the recruitment, general conditions of service of persons appointed to the Punjab Subordinate Courts Establishment (Recruitment and General Conditions of Service) Group 'D' Service, namely:-

RULES

1. Short title, commencement and application.- (I) These rules may be called the Punjab Subordinate Courts Establishment (Recruitment and General Conditions of Service) Group 'D' Service Rules, 2012.
 - (2) They shall come into force on the date of their publication in the Official Gazette.
 - (3) They shall apply to the posts specified in Appendix 'A'.
2. Definitions.- In these rules, unless the context otherwise requires:-
 - (a) "Appointing Authority" means the District and Sessions Judge;
 - (b) "Chief Justice" means the Chief Justice of Punjab and Haryana High Court at Chandigarh.

- (c) "direct appointment" means an appointment made otherwise than by promotion;
- (d) "Government" means the Government of the State of Punjab;
- (e) "High Court" means the Punjab and Haryana High Court at Chandigarh.
- (f) "Recruitment Committee" means the Committee constituted under rule 6; and
- (g) "Service" means the Punjab Subordinate Courts Establishment (Recruitment and General Conditions of Service) Group 'D' Service

3. Number and Character of posts.- The Service shall comprise the posts shown in Appendix 'A'.

Provided that nothing in these rules shall affect the inherent right of the Government on the recommendation of the Chief Justice to add to or to reduce the number of such posts or to create new posts with different designations and scale of pay whether permanently or temporarily.

4. Mode of appointment, Qualifications and experience.-

- (1) Subject to the provisions of sub-rule (3) all appointments to the Service shall be made in the manner specified in Appendix 'B'.
- (2) No person shall be appointed to a post in the Service unless he possesses the qualifications and experience as specified against that post in Appendix '13'.
- (3) A candidate selected for a post in the Service shall, before being appointed to the service, undergo training of such period and of such nature as may be determined by the Chandigarh Judicial Academy in consultation with the High Court and the period of such training shall not be counted towards the period of probation.

5. Recruitment Cell.- There shall be a recruitment cell established in each District Court for the purpose of collecting information continuously as to the vacancies arising upon retirement or promotion or resignation. This cell

shall assist the recruitment committee and process the applications received for the posts and short list them as per the guidelines of the Recruitment Committee. The cell shall be provided with adequate staff. It will be responsibility of this cell to ensure that recruitment takes place every year well in time before the vacancy arises.

6. Recruitment Committee.- There shall be a Recruitment Committee for each District, which shall consist of-

(a) District and Sessions Judge	Chairman
(b) Senior most Additional District and Sessions Judge	Member
(c) Civil Judge (Sr. Div.)/Chief Judicial Magistrate	Member

7. Home Peon.- (I) The Home Peon may be selected by the Judicial Officer concerned, who shall then be employed on contractual basis by the District & Sessions Judge on the written recommendation of such Judicial Officer.

(2) The Home Peon shall initially be appointed on contractual basis on a consolidated sum of Rs. 5000/- per month .

(3) Subject to the satisfactory work and conduct of the contractually appointed Home Peon to be certified by the Officer concerned, he shall be entitled to an increase of Rs. 2000/- in his monthly emoluments, on completion of three years service.

(4) On further completion of three years satisfactory service i.e. total six years service, the contractually appointed Home Peon may be given minimum of the basic pay scale as admissible to a regularly appointed Peon on the establishment of the District & Sessions Judge, which shall, however, be not less than the consolidated salary of Rs. 7000/- per month admissible to him under sub-rule (3) above.

(5) The contractually appointed Home Peons shall be eligible to be

considered for appointment as a probationer Peon on regular basis on the establishment of District & Sessions Judge in the pay scale of Rs. 4900-10600+GP 1300/-, as may be revised from time to time, subject to his suitability, eligibility and availability of vacancy earmarked for absorption of such contractually appointed employees, after he completes ten years of satisfactory contractual service.

8. Reservation.- The policy as framed by the State Government for the reservation for the members of the Scheduled Castes, Scheduled Tribes, other Backward Classes, Physically handicapped, Freedom Fighters and Ex-Servicemen shall be applicable to the member of the Service at the stage of initial recruitment only;

Provided that where no candidate of reserved category is available then appointment be made from general category.

9. Age.- (1) No person shall be recruited to the service by direct recruitment if he is less than 18 years or is more than 35 years of age;

Provided that the upper age limit may be relaxed up to forty five years in the case of persons already in the employment of the Punjab Government, Haryana Government, other State Government or the Government of India, High Court, other subordinate courts or Union Territory.

Provided further that in the case of candidates belonging to Scheduled Caste, Scheduled Tribe and other Backward Classes, the upper age limit shall be as such as may be fixed by the State Government from time to time.

10. Probation of persons appointed to the service - (1) Persons appointed to any post in the service shall remain on probation for a period of two years, if recruited by direct appointment and one year in the case of promotion, provided that-

- (a) Period spent on deputation on a corresponding or a higher post shall be reckoned as the period of probation.
- (b) In the case of an appointment by transfer any period of work on an equivalent or higher rank to the appointment to the service may in

the discretion of the appointing authority be allowed to be reckoned towards the period of probation.

- (c) Any period of officiating appointment to the service shall be reckoned as period spent on probation.

(2) If, in the opinion of the appointing authority the work or conduct of a member of service during the period of probation is not satisfactory, it may.

If such person, is recruited by direct appointment dispense with his services or revert him to a post, on which he held lien prior to his appointment. If appointed otherwise-

- (i) Revert him to his former post or deal with him in such other manner as the terms and conditions of the previous appointment permit.
- (ii) Extend the period of probation, if his work and conduct is not found satisfactory.

(3) The appointing authority on satisfactory completion of probationary period may confirm such person from the date of his appointment if appointed against a permanent vacancy;

- (i) confirm such person from the date of his appointment if appointed against a permanent vacancy;
- (ii) confirm such person from the date from which a permanent vacancy occurs, if appointed against a temporary vacancy or declare that he has completed his probation satisfactorily if there is no permanent vacancy.

Provided that the total period of probation including extension, if any, shall not exceed three years.

11. Seniority of members of service – The inter se seniority of members in each cadre of the service shall be determined by the length of continuous service on a post of the same category in that cadre:

Provided that in the case of members appointed by direct appointment

seniority shall be determined in the order of merit in which they are selected for appointment and persons appointed as a result of an earlier selection shall rank senior to those appointed as a result of subsequent selection:

Provided further that in the case of two candidates possessing equal merit as a result of competitive test and they are placed in a bracket, the elder in age shall be senior to the younger:

Provided further that in the case of two or more members appointed on the same date, their seniority shall be determined as follows:-

- (a) A member appointed by direct appointment shall be senior to a member appointed otherwise;
- (b) A member appointed by promotion shall be senior to a person appointed by transfer;
- (c) In the case of members appointed by promotion or transfer, seniority shall be determined according to the seniority of such members in the cadre from which they were promoted or transferred ; and
- (d) In the case of members appointed by transfer from a different cadre, their seniority shall be determined according to pay and preference is to be given to a member who was drawing a higher rate of pay in his previous appointment and if the rates of pay drawn are also the same then by their length of service in these appointments and if the length of such service is also the same, the elder in age shall be senior to the younger.

Note:-Seniority of a member in service recruited and appointed prior to coming into operation of these rules shall remain the same as in his parental district even after his transfer to some other district.

12. Liability of members of service to transfer:- A member of service may be transferred to an equivalent post -

- (1) Within the Sessions Division by the District and Sessions Judge;
- (2) Every member of the service shall be liable to transfer under the

orders of Chief Justice anywhere within the State of Punjab;

(3) On his written request, anywhere within the State by the High Court, if post is available subject to the following conditions-

(a) That he will not claim any seniority over and above the official already working in the cadre of the Sessions Division in which he is seeking transfer;

(b) No. T.A./D.A . will be permissible and he will not avail joining time:

Provided that official has put in at least five years of service in the Sessions Division in which he is initially appointed.

Provided further that the High Court, in a given case, may relax the requirement of five years of service.

13. Leave, Pension and other matters.- In respect of pay, leave, pension, superannuation and all other matters not expressly provided for in these rules, a member of the service, shall be governed by such rules and regulations as framed by the State Government. The instructions issued by the State Government from time to time shall apply after their due adoption by the Chief Justice.

14. General order regarding discipline etc.- Whenever any official/officer is personally interested in a case being heard by the Court to which he is attached, he must bring this fact to the notice of the Presiding Officer.

15. Penalties.- The following penalties may, for good and sufficient reasons, and as hereinafter provided be imposed upon the members of the Service by the authority as specified in rule 17 of these rules, namely:-

Minor Penalties

- (i) Censure;
- (ii) Withholding of promotion;
- (iii) recovery from pay of the whole or part of any pecuniary loss caused by him to the Government by negligence or breach of orders;

- (iv) withholding of increment of pay without cumulative effect;

Major Penalties

- (v) withholding of increments of pay with cumulative effect or reduction to a lower stage in the time scale of pay for a specified period, with further directions as to whether or not the members of the Service will earn increments of pay during the period of such reduction and whether on the expiry of such period the reduction will or will not have the effect of postponing the future increments of his pay;
- (vi) reduction to a lower time-scale of pay, grade, post or service which shall ordinarily be a bar to the promotion of the members of the Service to the time scale of pay grade, post or service from which he was reduced, with or without further directions regarding conditions of restoration to the grade or post or service from which the member of the Service was reduced and his seniority and pay on such restoration to that grade, post or service;
- (vii) Compulsory retirement;
- (viii) removal from service which shall ordinarily be a disqualification for future employment under the Government and
- (ix) dismissal from service which shall ordinarily be a disqualification for future employment under the Government.

16 Procedure for imposing penalties:- In the matter of procedure for imposing any of the penalties specified in rules, a member of the Service shall be governed by the Punjab Civil Services (Punishment and Appeal) Rules, 1970 as amended from time to time.

17 Punishing Authority:- In the case of the members of the Service, the appointing authority shall be the punishing authority.

18 Orders against which no appeal lies:- Notwithstanding anything contained in these rules, no appeal shall lie against:-

- (i) any order interlocutory nature to step-in-aid of the final disposal of a disciplinary proceedings; and

- (ii) any order passed by an inquiring authority in the course of an inquiry held under Punjab Civil Services (Punishment and Appeal) Rules, 1970.

19 Appellate Authority:- A members of the Service may prefer any appeal to the High Court against all or any orders passed by the punishing authority except the orders specified in rule 18.

20 Period of limitation of appeal:- No appeal under these rules shall be entertained unless such appeal is preferred which in a period of forty five days from the date on which a copy of the order appealed against is delivered to the appellant :

Provided that the appellate authority may entertain the appeal after the expiry of the said period, it is satisfied that the appellant had sufficient cause for not preferring the appeal in time.

21 Procedure for preferring appeal :-A Petition shall be presented by the appellant to the District & Sessions Judge, who shall furnish his para-wise comments thereon and forwarded the same to the Registrar General within a period of one month.

22 Consideration of appeal:- (1) In the case of any appeal against order including an order of any penalty specified in rule 9, the High Court shall consider:-

- (i) Whether the facts on which the order was based have been established
- (ii) whether the facts established afford sufficient ground for taking action; and
- (iii) whether the penalty is excessive, adequate or inadequate and after consideration shall pass such order as it thinks proper:

Provided that no penalty shall be increased unless opportunity is given to the appellant to show cause why such penalty should not be increased.

(2) The order passed on the appeal filed shall be communicated to the member of the Service through the District and Sessions Judge concerned .

23 Over-riding power.- (1) Nothing said in these rules shall be construed to debar the High Court from altering, if deemed fit, any order of punishment or appointment, which may be passed by the District & Sessions Judge in respect of a member of the Service.

(2) A member of the Service is forbidden to attend personally the High Court unless he is summoned.

2 4 Interpretation :- If any question arises as to the interpretation of these rules, the Chief Justice or a Judge nominated by him in this behalf shall decide the same and that decision shall be final.

25 Repeal and Saving:- The Subordinate Courts Establishment (Recruitment and General Conditions of Service) Rules, 1997 in so far as they are applicable to the members of the Service are hereby repealed :

Provided that any order issued or any action under the rules so repealed shall be deemed to have been made or taken under the provision of these rules.

Appendix 'A'

(See rule 3)

Sr. No.	Designation of the post	Number of Posts			Scale of Pay (in rupees)
		Permanent	Temporary	Total	
I	Group=D Process Server	462	166	628	Rs. 4900-10680+ 1650 GP
II	Dafti Usher Record Lifter	82	136	218	Rs. 4900-10680+ 1400 GP Rs. 4900-10680+ 1400 GP Rs. 4900-10680+ 1400 GP

m	Peon includes,- Watenman Orderly Library Peon Mali-cum-driver Orderly Additional Peon Record Peon Malkhana Peon Malkhana- Chowkidar Mali Chowkidar Sweeper	282	723	1005	Rs.4900-10680+ 1300 GP

Appendix 'B'

(See rule 5)

Sr. No.	Designation of the post	Percentage of appointment by		Method of appointment, Qualification and <u>Experience</u> for appointment by -	
		Direct Appointment	Promotion	Direct Appointment	Promotion
I	2	3	4	5	6
I	Process Server	Fifty Percent	Fifty Percent	Should be matriculatewith knowledge of Punjabi language	From amongst other Group'D' employees in a lesser pay scalehaving three years' expenence on the basis of eniority-cum- merit.

1	2	3	4	5	6
2	Daftri Usher Record Lifter	-	Hundred PerCent	-	From amongst Peons working in the District Establishmen t on the basis of seniority- cum-merit.
3	Peon includes,- Waterman Orderly Library Peon Mali i-cum-driver Orderly Additional Peon Record Peon Malkhana Peon Malkhana- Chowkidar Mali Chowkidar Sweeper	Ninety Five Per cent	Five Per cent	Should have knowledge of Punjabi language upto middle standard.	From amongst the Home Peon, who have knowledge of Punjabi language upto middle standard.

BY ORDER OF HON'BLE THE CHIEF JUSTICE AND JUDGES

KARUNESH,
REGISTRAR RULES

[58]Chapter- 18 PART-B

Haryana Subordinate Courts Establishment (Recruitment and General Conditions of service) Rules, 1997

General: In exercise of the powers delegated by the Government of Punjab under the proviso to Article 309 of the Constitution of India, -vide Punjab Government Notification No. 1863-J-54/6816, dated 25th March, 1954 and all other powers enabling them in this behalf, the Hon'ble the chief Justice and Judges of the High Court of Punjab and Haryana are pleased to make with the previous approval of the State Government of Haryana rules, regulating the recruitment, general conditions of service of persons appointed to class II,III and IV services in connection with the affairs of the Courts Subordinate to the High Court in the State of Haryana including Process Serving Establishment.

1. Short title Commencement and Application:-

- (i) These rules may be called the Haryana Subordinate Courts Establishment (Recruitment and General Conditions of service) Rules, 1997.
- (ii) These rules shall come into force on such date of their publication in the official Gazette.
- (iii) These shall apply to all the posts in Class II,III and IV services on the establishment of the Courts subordinate to the High Court, in the state of Haryana.

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

- (a) "Appointing authority" for the posts in the service other than Superintendent means the District and Sessions Judge of the District(s).
- (b) "Cadre" means the strength of a service or a part of a service as a separate unit and includes permanent and temporary post which has remained in existence for the last one year.
- (c) "District Establishment" means the employees working in the Sessions Division.
- (d) "Direct Appointment" means an appointment made otherwise than by promotion, transfer or by deputation.
- (e) "Government" means the Government of Haryana.
- (f) "Ministerial servant" means a member of service whose duties are entirely clerical and any other class of service specially defined as such by general or special order by the High Court and shall include members of class II and III service other than [deleted] Process Servers and Class IV employees.
- (g) "Recognised University or institution" means:-
 - (i) any university or institution incorporated by law in any of the State of India; or
 - (ii) any other university or institution which is declared by the Government to be a recognized university or institute.
- (h) "Service" means members of Class II, Class III and Class IV as detailed in schedule I to these rules.
- (i) "State" means state of Haryana.

3. The Service shall comprise the posts as shown in Schedule I to these rules from time to time.**4. Nationality, Domicile and Character of persons appointed to**

the Service:

- (1) No person shall be appointed to the service unless he is:
- (a) a citizen of India; or
 - (b) a citizen of Nepal; or
 - (c) a citizen of Bhutan; or
 - (d) a Tibetan refugee who came over to India before 1st day of January, 1962 with the intention of permanently settling in India; or
 - (e) a person of India origin who has migrated from Pakistan, Burma, Sri Lanka and East African countries of Kenya, Uganda and United Republic of Tanzania (formerly Tanganyika and Zanzibar) Zambia, Malawi, Zaire, Ethiopia and Vietnam with the intention of permanently settling in India:
1. Provided that a person belonging to any of the categories (b), (c), (d) and (e) shall be a person in whose favour a certificate of eligibility has been given by the Government of Haryana in the Department of Home Affairs and Justice.
 2. A person in whose case a certificate of eligibility is necessary may be admitted to an examination or interview conducted by the appointing authority, on his furnishing proof that he has applied for the certificate but he shall not be appointed to the service unless the necessary certificate is given to him by the Government in the Department of Home Affairs and Justice.
 3. No person shall be recruited to the service by direct appointment unless he produces:
 - (a) a certificate of character from the principal academic officer of the university, college, school or institute last attended, if any and similar certificates from two responsible persons not being his relatives, who are well acquainted with him in his private life and are unconnected with his university, college, school or institution; and
 - (b) An affidavit to the effect that he was never convicted for any criminal offence involving moral turpitude and that he was never dismissed or removed from a service of any State Government or of Government of India or of any public sector undertaking.

5. Disqualification:

No person who has entered into or contracted a marriage with a person having a spouse living or who, having a spouse living has entered into or contracted a marriage with any person shall be eligible for appointment to the service.

Provided that the High Court, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage may exempt any person from the operation of this rule.

6. Age:

- (1) No person shall be recruited to the service by direct appointment if he is less than eighteen years or is more than thirty years of age in the case of non-technical posts and thirty three years in the case of technical posts on the 1st day of January of the year immediately preceding the last date fixed

for submission of applications by the appointing authority or unless he is within such range of minimum and maximum age limits as may be specifically fixed by the Government from time to time:

Provided that where different lower and upper age limits have been specifically prescribed for posts in the service rules, these limits shall be made applicable for appointment to such posts:

Provided further that the upper age limit may be relaxed upto forty five years in the case of persons already in the employment of the Punjab/Haryana Government, other state Government or the Government of India, High Court, other Subordinate Courts and Union Territory, Chandigarh.

Provided further that in the case of candidates belonging to Scheduled Caste and other Backward Classes, the upper age limit shall be such as may be fixed by the Government from time to time.

- (2) In the case of ex-servicemen the upper age limit shall be such as has been prescribed by the Government from time to time.
- (3) In the case of appointment on compassionate grounds on priority basis, the upper age limit shall be such as may be specifically fixed by the Government from time to time.

7. Mode of Appointment and Qualifications to the Posts:

Class-II:

- (i) **Superintendent:** Post of Superintendent to District and Sessions Judge shall be in State Cadre and shall be filled up by the High Court by selection from amongst graduate Superintendents, Grade-II, Judgment Writers (Senior Grade), Assistants, Judgment Writers (Junior Grade) and Stenographers who are not below 40 years of age as on the date on which applications are invited. Preference will, however, be given to Law Graduates:

Provided that the District and Sessions Judge concerned may make an officiating appointment to the post of Superintendent in a leave vacancy or otherwise for a period not exceeding three months or till regular appointment is made by the High Court subject to confirmation by the Hon'ble Judges of the High Court.

A select list of candidates for appointment as Superintendent to District and Sessions Judge shall be prepared/maintained by the High Court. This list shall contain only such number of candidates as can be absorbed within 2 years.

Before any person is considered for acceptance as a candidate he shall sign a declaration that if appointed as such, he shall be prepared to be posted anywhere in the State of Haryana and in the event of protest against the transfer he shall be liable to disciplinary action.

CLASS III:

- [(ii) **Stenographer Grade I:** Stenographer Grade I shall be appointed by promotion from amongst the

Stenographers Grade II with three years experience on the basis of seniority-cum-merit.]

{Rule 7(ii) amended vide correction slip no. 73 Rules/II.D4. dated 09.11.2015}

- (iii) Superintendent Grade-II:** Superintendent Grade II shall be appointed by promotion from amongst the Assistants with 3 years experience, on the basis of seniority-cum-merit.

- (iv) [Stenographer Grade II:** Stenographer Grade II shall be appointed by promotion from amongst the Stenographers Grade III with three years experience on the basis of seniority-cum-merit.]

{Rule 7(iv) amended vide correction slip no. 73 Rules/II.D4. dated 09.11.2015}

- (v) [Assistants:** Assistant shall be appointed by promotion from amongst the graduate Clerks, and; the Clerks already in service (before coming into force of these rules) having five years experience on the basis of seniority-cum-merit.

One post of Assistant shall be designated as Library Assistant and shall be filled up from amongst the B.Lib/M.Lib Clerks having two years experience on the basis of seniority-cum-merit. If no Clerk is found eligible for the post of Library Assistant; then the post shall be filled from amongst the Clerks on the basis of seniority-cum-merit.]

{Rule 7(v) amended vide correction slip no. 63 Rules/II.D4. dated 26.09.2012}

- (vi) [Stenographer Grade III (English):** Appointed to the post of Stenographer Grade III shall be made by direct recruitment from:

Candidates who possess a degree of Bachelor of Arts or Bachelor of Science or equivalent thereto from a recognized university and pass a test at a speed of 80 W.P.M. in English Shorthand and 20 W.P.M. in Transcription of the same and have proficiency in computers (Word Processing and Spread Sheets). The select list so prepared on the basis of merit shall remain in force for one year from the date of declaration of result.]

{Rule 7(vi) amended vide correction slip no. 73 Rules/II.D4. dated 09.11.2015}

- (vi)(a)[Stenographer Grade III (Hindi):** Appointed to the post of Stenographer Grade-III shall be made by direct recruitment from:

Candidates who possess a degree of Bachelor of Arts or Bachelor of Science or equivalent thereto from a recognized university and pass a test at the speed of 35 W.P.M. in Hindi Shorthand and 20 W.P.M. in Transcription of the same. The select list so prepared on the basis of merit shall remain in force for one year from the date of declaration of result.]

{Rule 7(vi)(a) amended vide correction slip no. 73 Rules/II.D4. dated 09.11.2015}

[Note. The Stenographers may be permitted to switch over to ministerial/supervisory cadre after they have completed a minimum period of ten years service subject to the condition that the option once exercised shall not be revoked.]

{Note. added vide correction slip no. 73 Rules/II.D4. dated 09.11.2015}

(vii) Clerks: Appointment to the post of Clerk shall be made in the ratio of 90% in case of direct recruitment and 10% by way of promotion.

Appointment to the post of Clerk shall be regulated as under:-

- (a) No candidate for direct recruitment shall be eligible to apply for the post of Clerk unless he holds a degree of Bachelor of Arts or Bachelor of Science or equivalent thereto from a recognized university and has passed matriculation examination with Hindi as one of the subject.
- (b) Candidates shall have to take a written examination in the following subjects:-

Sr. No.	Subject	Max. Marks	Qualifying Marks
1.	English Composition	50	33%
2.	General Knowledge	50	33%

- (c) No candidate shall be considered for appointment unless he obtains 40% marks in aggregate in the written examination and ^[61][having proficiency in operation of computers.]
- (d) Select list of successful candidates in order of merit shall be prepared as a result of competitive examination which shall remain in force for one year from the date of declaration of the result.
- (e) 10% vacancies in the cadre of Clerks shall be filled up by promotion from amongst the Bailiffs, Process Servers, Daftri and Record Lifter possessing minimum Matric qualification or equivalent thereto having 5 years service as such subject to ^[61] [having proficiency in operation of computers.]

(vii) Bailiffs: Bailiffs shall be appointed by promotion from amongst Process Servers with 3 years experience, on the basis of seniority- cum-merit.

(ix) Driver: Appointment to the Post of Driver shall be made by direct recruitment. The candidate should possess following academic qualifications/ requirements:-

- (i) The candidate should be at least middle pass with Punjabi/Hindi as one of the subject.
- (ii) he should possess a valid licence for L.T.V.
- (iii) he should not have been convicted of any offence for negligent driving and should have a minimum of two years experience of driving a car.

CLASS IV

(x) Process Servers: Appointment to the post of Process Servers shall be made in the manner hereinafter provided:-

- (a) 50% by direct recruitment, (b) 50% from amongst class IV employees having 3 years experience:
- (b) ^[62][Provided that no candidate shall be eligible for appointment/promotion unless he is a matriculate with knowledge of Hindi or Punjabi.]

- (xi) **Daftri, Usher, Record Lifter:** Daftri, Ushers, Record Lifters shall be appointed by promotion from amongst peons working in the District Establishment on the basis of seniority-cum-merit.
- (xi) **Peon:** Appointment to the post of Peon shall be made by the District and Sessions Judge or his delegates by:-
- (i) direct appointment from candidates who have passed Middle standard examination and possess knowledge of Hindi/Punjabi.
 - (ii) by transfer from any other Sessions Division with the permission of the High Court.

Explanation to Rule 7:

- (i) District and Sessions Judge shall determine mode of inviting applications for the posts in the service where direct recruitment is to be made in consultation with the Chief Justice or by the Judge nominated by him by a general or special order.
- (ii) A member of service rendered surplus for any reason shall have a right for re-appointment on availability of a vacancy on the principle of last go first come.
- (iii) Reservation: The policy as framed by Government for the reservation of post for member of the Scheduled- Castes, Scheduled Tribes, other Backward Classes, Physically handicapped and Ex-servicemen shall be applicable to the member of the service at the stage of initial recruitment:

Provided that where no candidate of reserved category is available then appointment be made from general category.

8. Probation of Persons Appointed to service:

- (1) Persons appointed to any post in the service shall remain on probation for a period of two years, if recruited by direct appointment and one year in the case of promotion, provided that-
 - (a) Period spent on deputation on a corresponding or a higher post shall count towards the period of probation;
 - (b) In the case of an appointment by transfer any period of work on an equivalent or higher rank period to appointment to the service may in the discretion of the appointing authority be allowed to count towards the period of probation;
 - (c) Any period of officiating appointment to the service shall be reckoned as period spent on probation.
- (2) If, in the opinion of the appointing authority the work or conduct of a member of service during the period of probation is not satisfactory, it may-
 - If such person is recruited by direct appointment, dispense with his services, or revert him to a post, on which he held lien prior to his appointment.
 - If appointed otherwise:-
 - (i) revert him to his former post; or deal with him in such other manner as the terms and conditions of the previous appointment permit.
- (3) On the completion of the period of Probation of a person, the

appointing authority may-

- (a) If his work and conduct has, in its opinion been satisfactory;
 - (i) Confirm such person from the date of his appointment if appointed against a permanent vacancy.
 - (ii) Confirm such person from the date from which a permanent vacancy occurs, if appointed against a temporary vacancy.

OR

declare that he has completed his probation satisfactorily if there is no permanent vacancy:

Provided that the total period of probation including extension if any, shall not exceed three years.

9. Seniority Of Members Of Service: The Seniority *inter se* of members in each cadre of the service shall be determined by the length of continuous service on a post of the same category in that cadre:

Provided that in the case of members appointed by direct appointment seniority shall be determined in the order of merit in which they are selected for appointment and persons appointed as a result of an earlier selection shall be senior to those appointed as a result of subsequent selection:

Provided further that in the case of two or more members appointed on the same date, their seniority shall be determined as follows:-

- (a) a member appointed by direct appointment shall be senior to a person appointed otherwise;
- (b) a member appointed by promotion shall be senior to a person appointed by transfer; and
- (c) in the case of members appointed by promotion or transfer, seniority shall be determined according to the seniority of such members in the cadre from which they were promoted or transferred; and
- (d) in the case of members appointed by transfer from different cadres their seniority shall be determined according to pay preference being given to a member who was drawing a higher rate of pay in his previous appointment and if the rates of pay drawn are also the same then by their length of service in these appointments and if the length of such service is also the same, the elder in age shall be senior to the younger.

Note 1.- This rule shall not apply to members appointed on purely *ad hoc* basis.

Note 2.- In the case of members whose period of probation is extended under rule 8, the date of appointment for the purpose of this rule shall be deemed to have been deferred to the extent the period of probation is extended.

Note-3 In the case of the two candidates possessing equal merit as a result of competitive test and they are placed in a bracket the elder in age shall be senior to the younger.

10. Liability Of Service To Transfer: A member of a service may be transferred to any equivalent post:

- (1) Within the Sessions Division, by the District and Sessions Judge.
- (2) Every member of the service shall be liable to transfer under the orders of the Chief Justice anywhere within the State of Haryana.

- (3) On his written request, anywhere within the State by the High Court, if post is available subject to the following conditions:-
- (a) That he will not claim any seniority over and above the officials already working in the cadre of the Sessions Division to which he is seeking transfer.
 - (b) No. T.A./D.A. will be permissible and he will not avail joining time. Provided that official has put in at least 5 years of service in the Sessions Division in which he is initially appointed:
 Provided that High Court in a given case may relax the requirements of condition of 5 years of service.

11. Leave, pension and other matters: In respect of pay, leave, pension, superannuation and all other matters not expressly provided for in these rules, a member of the service shall be governed by such rules and regulations as framed by the State Government. The instructions issued by the State Government from time to time shall apply after their due adoption by the Chief Justice.

12. Discipline and punishment:

- (1) **General order regarding discipline etc:-** Whenever any official/officer is personally interested in a case to be heard by the Court of which he is attached, we must bring this fact to the notice of the Presiding Officer.
- (2) **Punishment:** The following penalties may for good and sufficient reasons be imposed upon members of the service working in the Sessions Division, by the authority as specified in Rule 13:-
 - (i) Censure;
 - (i)(a) Warning with a copy in the personal file.
 - (ii) Withholding of his promotion;
 - (iii) recovery from pay of the whole or part of any pecuniary loss caused by him to the Government by negligence or breach of orders;
 - (iv) withholding of increment of pay without cumulative effect;
 - (iv-A) withholding of increment of pay with cumulative effect;
 - (v) reduction to a lower stage in the time scale of pay for a specified period, with further directions as to whether or not the Government employee will earn increments of pay during the period of such reduction and whether on the expiry of such period the reduction will or will not have the effect of postponing the further increments of his pay;
 - (vi) reduction to a lower time-scale of pay, grade, post or service which shall ordinarily be a bar to the promotion of the Government employee to the time-scale of pay, grade, post or service from which he was reduced, with or without further directions regarding conditions of restoration to the grade or post or service from which the Government employee was reduced and his seniority and pay on such restoration to that grade, post or service.
 - (vii) Compulsory retirement;
 - (viii) removal from service which shall not be a disqualification for future employment under the Government;

- (ix) dismissal from service which shall ordinarily be a disqualification for further employment under the Government.

Note 1.- Penalties mentioned at Sr. No. (i) to (iv) shall be termed as 'minor penalties' whereas from Sr. No. (iv-A) to (ix) are to be termed as 'major-penalties';

Note 2.- In the matter of procedure for imposing any of the above penalties a member of a service will be governed by Punjab Civil Services (Punishment and Appeal) Rules, 1970.

13. Punishing Authority:

- (i) The District and Sessions Judge may impose on a member of Class II service any of the minor penalties specified in rule 12(2) as amended from time to time.
- (ii) The Chief Justice of the High Court or Judge nominated by him in this behalf may impose any of the penalties specified in rule 12(2) on a member of Class-II service.
- (iii) The District and Sessions Judge may impose any of the penalties specified in rule 12(2) of these rules on a member of class III and IV of the service.

14. Appeal - Appellate Authority:

- (1) An appeal shall lie to the High Court against order of a District and Sessions Judge imposing any penalty and such appeal may be disposed of by the Chief Justice or a Judge nominated by him in this behalf.
- (2) An appeal shall lie to a Division Bench of the High court against an order of the Chief Justice or of a Judge imposing any of the penalties on members of Class II service.

A. Orders against which no appeal lies: Notwithstanding anything contained in these rules, no appeal shall lie against:-

- (i) Any order of interlocutory nature to step-in-aid of the final disposal of a disciplinary proceedings.
- (ii) any order passed by an inquiring authority in the course of an inquiry held under Punjab Civil Services (Punishment and Appeal) Rules, 1970.

B. Subject to the provisions of rule 14A, a member of service may prefer an appeal against all or any of the following orders, namely:-

- (i) an order of punishment passed by the District and Sessions Judge inflicting penalties mentioned in rule 12(2) IV A to IX.
- (ii) an order of substantive appointment by promotion or otherwise to a permanent and pensionable post.
- (iii) an order of temporary appointment which is to last more than 3 months or has in fact lasted more than 3 months.

C. (i) Persons appealing to the High Court under this rule shall do by petition. Such petition, accompanied by a copy of the order complained against, shall be presented to the District and Sessions Judge who passed the order within 45 days of the date of such order (the period between the date of application of the copy and the date on which it is supplied being excluded):

Provided that the appellate authority may entertain the appeal after the expiry of the said period, if it is satisfied that the appellant and sufficient cause for not preferring the appeal in time.

(ii) The District and Sessions Judge will forward the petition to the Registrar of the High Court without unnecessary delay along with his parawise comments thereon.

D. After reading the petition, the High Court may either:-

- (i) reject it without hearing the petitioner after passing a speaking order; or
- (ii) hear the petitioner, and in cases where other persons are held to be concerned in the subject of the petition, such other persons in open court.

E. While disposing of an appeal against order under this rule or any penalty specified in rule 12, the High Court shall consider:-

- (i) Whether the facts on which the order was based have been established;
- (ii) whether the facts established afford sufficient ground for taking action; and
- (iii) whether the penalty is excessive, adequate or inadequate and after consideration shall pass such order as it thinks proper:

Provided that no penalty shall be increased unless opportunity is given to the person concerned to show-cause why such penalty should not be increased.

F. The District and Sessions Judge from whose order the appeal is preferred under these rules shall give effect to any order made by the High Court.

G. Nothing in these rules shall debar the High Court from altering, if deemed fit, any order of punishment or appointment not provided for above which may be passed by District and Sessions Judge in respect of member of service, when an aggrieved person, petitions or otherwise, District and Sessions Judge should not therefore, withhold any petition addressed to the High Court whether an appeal lies to it in the case or not under these rules. In a case in which no appeal lies, the District and Sessions Judge should forward it without any comments and relevant documents unless he wishes to do so or is so required by the High Court. Petitioners are forbidden to attend personally at the High Court unless summoned to do so. Order on their petition will be communicated to them through the District and Sessions Judge concerned.

15. Liability For Vaccination And Re-Vaccination: Every member of the service shall get himself vaccinated or re- vaccinated when the High Court so directs by a special or general order.

16. Oath Of Allegiance: Every member of service, unless he has already done so, shall be required to take oath of allegiance to India and to the Constitution of India as by law established.

17. Debarring For Consideration for Promotion of a Government Employee who refuses to accept promotion:- In the event of refusal to accept promotion by a member of service he shall be debarred by the appointing authority for consideration for promotion for all the consequent chances which may occur in future within a period of two years from the date

of such refusal to accept promotion:

Provided if the appointing authority in the event of refusal to accept promotion by member of a service is satisfied that the refusal is not in the interest of administration may notwithstanding such refusal promote him:

Provided that in a case, where the appointing authority is satisfied that a member of a service has refused to accept promotion under the circumstances beyond his control, it may exempt such a member for reasons to be recorded in writing from the operation of this rule.

18. Power to relax: Where the District and Sessions Judge is satisfied that the operation of any rule causes undue hardship in any particular case, he may by order subject to the confirmation by the Chief Justice dispense with or relax the requirement of that rule to such extent and subject to such conditions as he may consider necessary for dealing with the case in a just and equitable manner provided that the case is not dealt with in a manner less favourable to the officer or official concerned than in accordance with the rules.

19. Repeal and saving: The rules framed by the High Court under Section 35(3) of the Punjab Court's Act, 1918 for subordinate services attached to Civil Courts other than the High Court incorporated in Chapter 18-A of the Rules and Orders of the High Court, Volume I and the rules relating to the appointment and control of clerks of court (now Superintendents) to the District and Sessions Judges framed by the High court in 1947 in exercise of the power delegated to it by the Governor of Punjab under Section 241 of the Government of India Act, 1935 are hereby repealed:

Provided that such repeal shall not except as otherwise expressly provided in these rules-

- (i) affect the previous operation of any order or decision given under the rules so repealed or anything duly done or suffered thereunder, or
- (ii) affect any right, privilege, obligation incurred thereunder.

20. Interpretation: If any question arises as to the interpretation of these rules, the Chief Justice or a Judge nominated by him in this behalf shall decide the same, and that decision shall be final.

HARYANA
SCHEDULE
STATEMENT SHOWING THE POSTS WITH DIFFERENT PROPOSED
NOMENCLATURE IN THE SUBORDINATE COURTS WITH PAY SCALES

S.No.	Post	Scale	Remarks
	Class-II	(Rs.)	Revised scales
1.	Superintendent to District and Sessions Judge	2000-3500	6500-200-8500-EB-200-10500
	Class-III		
2.	Superintendent Grade-II	1640-2900+100	5500-175-8300-EB-175-9000
3.	Judgment Writer (Sr. scale to District & Sessions Judge)	1640-2900+100	5500-175-8300-EB-175-9000
4.	Reader to District and Sessions Judge/Additional District and Sessions Judge	1400-2600	5500-175-8300-EB-175-9000
5.	Judgment Writer (Jr. Grade)/stenographer	1400-2600	5000-150-7100-EB-150-7850
6.	Reader to Civil Judge (Sr. Division) Additional Chief Judge (Sr. Division) Civil Judicial Magistrate, Civil Judge (Junior Division)		
7.	Assistant English Clerk Coping Assistant Translator Record Keeper Additional English Clerk Library Assistant Clerk of Court to Civil Judge (Sr. Division) Civil Nazir Record Keeper to Civil Judge (Sr. Division)	1400-2600	5000-150-7100-EB-150-7850
8.	Steno-typists Leave Reserve Steno-typist	950-1500+100	3050-75-3950-EB-80-4590
9.	Ahlmad Additional Ahlmad Inspection Clerk Copyist Record Clerk Copying Clerk Library Clerk Leave Reserve Clerk G.P.F. Clerk Typist Naib Nazir Madad Naib Nazir Execution Clerk Fine Clerk Summary Clerk Malkhana Nazir Assistant Nazir Assistant Malkhana Nazir	Clerk 950-1500	3050-75-3950-EB-80-4590
9.	Bailiff	800-1150+40	2650-65-3300-EB-70-4000

S.No.	Post	Scale	Remarks
10.	Driver	1200-2040+100	4000-100-4800-EB-100-6000
	Class IV		
11.	Daftri	800-1150	2650-65-3300-EB-70-4000
	Usher	750-940	2650-55-2660-EB-60-3200
	Record Lifter	800-1150	2650-65-3300-EB-70-4000
	Process-Servers	800-1150	2650-65-3300-EB-70-4000
	Peon Waterman orderly, Library Peon, Mali-cum- Chowkidar, Peon-cum- Driver orderly, Additional Peon, Record Peon Malkhana Peon Malkhana Chowkidar	Peon 750-940	2550-55-2600-EB-60-3200
	Mali	750-940	2550-55-2660-EB-60-3200
	Chowkidar	750-940	2550-55-2660-EB-60-3200
	Sweeper	750-940+65	2550-55-2600-EB-60-3200

^[63]**CHAPTER-18**
PART-C

**Chandigarh Union Territory Subordinate Courts Establishment
(Recruitment and General Conditions of Service) Rules, 1997**

General: In exercise of the powers delegated by the Government of Punjab under the proviso to Article 309 of the Constitution of India, vide Punjab Government, Notification No. 1863-J-54/6816, dated 25th March, 1954 and all other powers enabling them in this behalf, the Hon'ble the chief Justice and Judges of the High Court of Punjab and Haryana are pleased to make with the previous approval of the Government of India, rules, regulating the recruitment, general conditions of service of persons appointed to class II,III and IV services in connection with the affairs of the Courts Subordinate to the High Court in the Union Territory of Chandigarh including Process Serving Establishment.

1. Short title Commencement and Application.-

- (i) These rules may be called the Chandigarh Union Territory Subordinate Courts Establishment (Recruitment and General conditions of Service) Rules, 1997.
- (ii) These rules shall come into force on such date of their publication in the official Gazette.
- (iii) These shall apply to all the posts in Class II,III and IV services on the establishment of the Courts subordinate to the High Court, in the Union Territory, Chandigarh.

2. Definitions:

In these rules, unless the context otherwise requires:

- (a) "Appointing authority" for the posts in the service other than Superintendent means the District and Sessions Judge of the District(s).
- (b) "Cadre" means the strength of a service or a part of a service as a separate unit and includes permanent and temporary post which has remained in existence for the last one year.
- (c) "District Establishment" means the employees working in the Sessions Division.
- (d) "Direct Appointment" means an appointment made otherwise than by promotion, transfer or by deputation.
- (e) "Government" means the Government of India.
- (f) "Ministerial servant" means a member of service whose duties are entirely clerical and any other class of service specially defined as such by general or special order by the High Court and shall include members of Class II and III service other than [deleted] Process Servers and Class IV employees.

(g) "Recognised University or institution" means:-

- (i) any university or institution incorporated by law in any of the State of India; or
 - (ii) any other university or institution which is declared by the Government to be a recognized university or institute.
- (h) "Service" means members of class II, class III and class IV as detailed in Schedule I to these rules.
- (i) "Union Territory" means Union Territory of Chandigarh.

3. The Service shall comprise the posts as shown in Schedule I to these rules from time to time.

4. Nationality, Domicile and Character of persons appointed to the Service:

(1) No person shall be appointed to the service unless he is:

- (a) a citizen of India; or
- (b) a citizen of Nepal; or
- (c) a citizen of Bhutan; or
- (d) a Tibetan refugee who came over to India before 1st day of January, 1962 with the intention of permanently settling in India; or
- (e) a person of Indian origin who has migrated from Pakistan, Burma, Sri Lanka and East African Countries of Kenya, Uganda and United Republic of Tanzania (formerly Tanganyika and Zanzibar) Zambia, Malawi, Zaire, Ethiopia and Vietnam with the intention of permanently settling in India;

Provided that a person belonging to any of the categories (b), (c), (d) and (e) shall be a person in whose favour a certificate of eligibility has been given by the Government of India in the Department of Home Affairs and Justice.

(2) A person in whose case a certificate of eligibility is necessary may be admitted to an examination or interview conducted by the appointing authority, on his furnishing proof that he has applied for the certificate but he shall not be appointed to the service unless the necessary certificate is given to him by the Government in the Department of Home Affairs and Justice.

(3) No person shall be recruited to the Service by direct appointment unless he produces:

- (a) a certificate of character from the principal academic officer of the university, college, school or institution last attended, if any and similar certificates from two responsible persons not

being his relatives, who are well acquainted with him in his private life and are unconnected with his university, college, school or institution; and

- (b) An affidavit to the effect that he was never convicted for any criminal offence involving moral turpitude and that he was never dismissed or removed from a service of any State Government or of Government of India or of any public sector undertaking.

5. Disqualification:

No person:-

- (a) who has entered into or contracted a marriage with a person having a spouse living or;
- (b) who, having a spouse living has entered into or contracted a marriage with any person shall be eligible for appointment to the service.

Provided that the High Court, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage may exempt any person from the operation of this rule.

6. Age:

- (1) No person shall be recruited to the service by direct appointment if he is less than eighteen years or is more than thirty years of age in the case of non-technical posts and thirty- three years in the case of technical posts on the 1st day of January of the year immediately preceding the last date fixed for submission of applications by the appointing authority or unless he is within such range of minimum and maximum age limits as may be specifically fixed by the Chandigarh Administration from time to time:

Provided that where different lower and upper age limits have been specifically prescribed for posts in the service rules, these limits shall be made applicable for appointment to such posts;

Provided further that the upper age limit may be relaxed upto forty-five years in the case of persons already in the employment of the Punjab/Haryana Government, other State Government or the Government of India, High Court, other Subordinate Courts and Union Territory, Chandigarh.

Provided further that in the case of candidates belonging to Scheduled Caste and other Backward Classes, the upper age limit shall be such as may be fixed by the Government from time to time.

- (2) In the case of ex-servicemen the upper age limit shall be such as has been prescribed by the Government from time to time.
- (3) In the case of appointment on compassionate grounds on

priority basis, the upper age limit shall be such as may be specifically fixed by the Government from time to time.

7. Mode of Appointment and Qualifications to the Posts:

Class-II:

(i) Superintendent:

Post of Superintendent to District and Sessions Judge shall be in State Cadre and shall be filled up by the High Court by selection from amongst graduate Superintendents, Grade-II, Judgment Writers (Senior Grade), Assistants, Judgment Writers (Junior Grade) and Stenographers who are not below 40 years of age as on the date on which applications are invited. Preference will, however, be given to Law Graduates;

Provided that the District and Sessions Judge concerned may make an officiating appointment to the post of Superintendent in a leave vacancy or otherwise for a period not exceeding three months or till regular appointment is made by the High Court subject to confirmation by the Hon'ble Judges of the High Court.

A select list of candidates for appointment as Superintendent to District and Sessions Judge shall be prepared/maintained by the High Court. This list shall contain only such number of candidates as can be absorbed within 2 years.

CLASS III:

(ii) [Stenographer Grade I :

Stenographer Grade I shall be appointed by promotion from amongst the Stenographers Grade II with three years experience on the basis of seniority-cum-merit.]

{Rule 7(ii) amended vide correction slip no. 72 Rules/II.D4. dated 30.07.2015}

(iii) Superintendent Grade-II:

Superintendent Grade II shall be appointed by promotion from amongst the Assistants with 3 years experience, on the basis of seniority-cum-merit.

(iv) [Stenographer Grade II:

Stenographer Grade II shall be appointed by promotion from amongst the Stenographers Grade III with three years experience on the basis of seniority-cum-merit.]

{Rule 7(iv) amended vide correction slip no. 72 Rules/II.D4. dated 30.07.2015}

(v) Assistants :

[Assistant shall be appointed by promotion from amongst the graduate Clerks, and; the Clerks already in service (before coming into force of these rules) having five years experience on the basis of seniority-cum-merit.

One post of Assistant shall be designated as Library Assistant and shall be filled up from amongst the B.Lib/M.Lib Clerks having two years experience on the basis of seniority-cum-merit. If no Clerk is found eligible for the post of Library Assistant; then the post shall be filled from amongst the Clerks on the basis of seniority-cum merit.]

{Rule 7(v) Substituted vide correction slip no. 64 Rules/II.D4. dated 26.09.2012}

(vi) **[Stenographer Grade III (English).-**

Appointment to the post of Stenographer Grade III shall be made by direct recruitment from:

Candidates who possess a degree of Bachelor of Arts or Bachelor of Science or equivalent thereto from a recognized university and pass a test at a speed of 80 W.P.M. in English Shorthand and 20 W.P.M. in Transcription of the same and have proficiency in computers (Word Processing and Spread Sheets). The select list so prepared on the basis of merit shall remain in force for one year from the date of declaration of result.

(vi)(a) **Stenographer Grade III (Hindi) :**

Appointment to the post of Stenographer Grade III shall be made by direct recruitment from:

Candidates who possess a degree of Bachelor of Arts or Bachelor of Science or equivalent thereto from a recognized university and pass a test at the speed of 35 W.P.M. in Hindi Shorthand and 20 W.P.M. in Transcription of the same. The select list so prepared on the basis of merit shall remain in force for one year from the date of declaration of result.]

{Rule 7(vi) & (vi)(a) amended vide correction slip no. 72 Rules/II.D4. dated 30.07.2015}

[Note. The Stenographers may be permitted to switch over to ministerial/supervisory cadre after they have completed a minimum period of ten years service subject to the condition that the option once exercised shall not be revoked.]

{Note. added vide correction slip no. 72 Rules/II.D4. dated 30.07.2015}

Provided that:-

1. 5% of the total sanctioned strength from the cadre of Stenographers may be permitted to switch over to ministerial/supervisory cadre in the same pay scale at the stage of Stenographer Grade-II in the cadre of Assistant in the same grade pay.
2. The total length of service rendered by Stenographer(s) including service rendered in previous Sessions Division(s) in the cadre of Stenographer(s) shall be taken into consideration to calculate the period of minimum 10 years of service for switching over to the ministerial/supervisory cadre.
3. The Stenographer(s) permitted to switch over in the ministerial/supervisory cadre shall be placed at the bottom of the

seniority in the switched cadre.

4. The last pay drawn of the Stenographer(s) permitted to switch over to the ministerial/supervisory cadre shall be protected.
5. The exercise of switching over from the cadre of Stenographer(s) to the ministerial/supervisory cadre shall be conducted annually preferably in the month of January on furnishing fresh options every year.
6. In case a stenographer ranked senior in the seniority list does not opt for switching over from the date of coming into force of this rule and a stenographer junior to him does exercise the option and is switched over to ministerial/supervisory cadre, the senior stenographer, in the event of exercising such option at later stage, shall not have any right of seniority in the switched cadre over his junior who exercised the option prior to him/her.

Those Stenographer(s) who have been permitted Switch Over during intervening period of issuance of Correction Slip No. 72/Rules/II.D4 dated 30.07.2015 issued by this Court in respect of Chandigarh Union Territory Subordinate Courts Establishment (Recruitment and General Conditions of Service) Rules, 1997, their Switch Over will be recognized, however the same shall be part of the 5% quota laid down above as well as the other proviso(s) added above.”

{provisos added vide correction slip no. 81 Rules/II.D4. dated 07.01.2020}

(vii) Clerks :

Appointment to the post of Clerk shall be made in the ratio of 90% in case of direct recruitment and 10% by way of promotion.

Appointment to the post of Clerk shall be regulated as under:-

- (a) No candidate for direct recruitment shall be eligible to apply for the post of Clerk unless he holds a degree of Bachelor of Arts or Bachelor of Science or equivalent thereto from a recognised university and has passed Matriculation examination with Hindi/Punjabi as one of the subject.

- (b) Candidates shall have to take a written examination in the following subjects:-

Sr.No.	Subject	Max. Marks	Qualifying Marks
1.	English Composition	50	33%
2.	General Knowledge	50	33%

- (c) No candidate shall be considered for appointment unless he obtains 40% marks in aggregate in the written examination and ^[65][having proficiency in operation of computers.]

- (d) Select list of successful candidates in order of merit shall be

prepared as a result of competitive examination which shall remain in force for one year from the date of declaration of the result.

- (e) 10% vacancies in the cadre of Clerks shall be filled up by promotion from amongst the Bailiffs, Process Servers, Daftri and Record Lifter possessing minimum Matric qualification or equivalent thereto having 5 years service as such subject to ^[65][having proficiency in operation of computers.]

(viii) Bailiffs:

Bailiffs shall be appointed by promotion from amongst Process Servers with 3 years experience, on the basis of seniority- cum-merit.

(ix) Driver:

Appointment to the Post of Driver shall be made by direct recruitment. The candidate should possess following academic qualifications/requirements:-

- (i) the candidate should be atleast middle pass with Punjabi/Hindi as one of the subject.
- (ii) he should possess a valid licence for L.T.V.
- (iii) he should not have been convicted of any offence for negligent driving and should have a minimum of two years experience of driving of car.

CLASS IV

(x) Process Servers:

Appointment to the post of Process Servers shall be made in the manner hereinafter provided:-

- (a) 50% by direct recruitment,
- (b) 50% from amongst class IV employees having 3 years experience:

Provided that no candidate shall be eligible for appointment/promotion unless he is a matriculate with knowledge of Hindi and Punjabi.

(xi) Daftri, Usher, Record Lifter:

Daftri, Ushers, Record Lifters shall be appointed by promotion from amongst peons working in the District Establishment on the basis of seniority-cum-merit.

(xii) Peon:

Appointment to the post of Peon shall be made by the District and Sessions Judge or his delegates by:-

- (i) direct appointment from candidates who have passed Middle standard examination and possess knowledge of Hindi/Punjabi.
- (ii) by transfer from any other Sessions Division with the permission of the High Court.

Explanation to Rule 7:

- (i) District and Sessions Judge shall determine mode of inviting applications for the posts in the service where direct recruitment is to be made in consultation with the Chief Justice or by the Judge nominated by him by a general or special order.
- (ii) A member of service rendered surplus for any reason shall have a right for re-appointment on availability of a vacancy on the principle of last go first come.
- (iii) Reservation:

The policy as framed by Government for the reservation of post for member of the Scheduled Castes, Scheduled Tribes, other Backward Classes, Physically handicapped and Ex-servicemen shall be applicable to the member of the service at the stage of initial recruitment:

Provided that where no candidate of reserved category is available then appointment be made from general category.

8. Probation of Persons Appointed to service:

- (1) Persons appointed to any post in the service shall remain on probation for a period of two years, if recruited by direct appointment and one year in the case of promotion, provided that-
 - (a) Period spent on deputation on a corresponding or a higher post shall count towards the period of probation;
 - (b) In the case of an appointment by transfer any period of work on an equivalent or higher rank period to appointment to the service may in the discretion of the appointing authority be allowed to count towards the period of probation;
 - (c) Any period of officiating appointment to the service shall be reckoned as period spent on probation.
- (2) If, in the opinion of the appointing authority the work or conduct of a member of service during the period of probation is not satisfactory, it may-

If such person is recruited by direct appointment, dispense with his services or revert him to a post, on which he held lien prior to his appointment.

If appointed otherwise:-

- (i) revert him to his former post; or deal with him in such other manner as the terms and conditions of the previous appointment permit.
- (3) On the completion of the period of Probation of a person, the appointing authority may-
 - (a) if his work and conduct has, in its opinion been satisfactory;
 - (i) Confirm such person from the date of his appointment if appointed against a permanent vacancy.
 - (ii) Confirm such person from the date from which a permanent vacancy occurs, if appointed against a temporary vacancy.

OR

Declare that he has completed his probation satisfactorily if there is no permanent vacancy:

Provided that the total period of probation including extension if any, shall not exceed three years.

9. SENIORITY OF MEMBERS OF SERVICE:

The Seniority *inter se* of members in each cadre of the service shall be determined by the length of continuous service on a post of the same category in that cadre:

Provided that in the case of members appointed by direct appointment seniority shall be determined in the order of merit in which they are selected for appointment and persons appointed as a result of an earlier selection shall be senior to those appointed as a result of subsequent selection:

Provided further that in the case of two or more members appointed on the same date, their seniority shall be determined as follows:-

- (a) a member appointed by direct appointment shall be senior to a member appointed otherwise;
- (b) a member appointed by promotion shall be senior to a person appointed by transfer; and
- (c) in the case of members appointed by promotion or transfer, seniority shall be determined according to the seniority of such members in the cadre from which they were promoted or transferred; and
- (d) in the case of members appointed by transfer from different cadres their seniority shall be determined according to pay preference being given to a member who was drawing a higher rate of pay in his previous appointment and if the rates of pay drawn are also the same then by their length of service in these appointments and if the length of such service is also the same, the elder in age shall be senior to the younger.

Note 1.- This rule shall not apply to members appointed on purely *ad hoc* basis.

Note 2. In the case of members whose period of probation is extended under rule 8 the date of appointment for the purpose of this rule shall be deemed to have been deferred to the extent the period of probation is extended.

Note 3. In the case of the two candidates possessing equal merit as a result of competitive test and they are placed in a bracket the older in age shall be senior to the younger.

10. LIABILITY OF SERVICE TO TRANSFER:

A member of a service may be transferred to any post:

- (1) Within the Sessions Division, by the District and Sessions Judge.
- (2) Every member of the service shall be liable to transfer under the orders of the Chief Justice anywhere within the state of Punjab.
- (3) On his written request, anywhere within the State by the High Court, if post is available subject to the following conditions:-
 - (a) That he will not claim any seniority over and above the officials already working in the cadre of the Sessions Division to which he is seeking transfer.
 - (b) No. T.A./D.A. will be permissible and he will not avail joining time. Provided that official has put in at least 5 years of service in the Sessions Division in which he is initially appointed:

Provided that High Court in a given case may relax the requirements of condition of 5 years service.

11. LEAVE, PENSION AND OTHER MATTERS:

In respect of pay, leave, pension, superannuation and all other matters not expressly provided for in these rules, a member of the service shall be governed by such rules and regulations as framed by the State Government. The instructions issued by the State Government from time to time shall apply after their due adoption by the Chief Justice.

12. DISCIPLINE AND PUNISHMENT:

- (1) General order regarding discipline etc :

Whenever any official/officer is personally interested in a case to be heard by the Court of which he is attached, he must bring this fact to the notice of the Presiding Officer.

(2) Punishment:

- (1) The following penalties may for good and sufficient reasons be imposed upon members of the service working in the Sessions Division, by the authority as specified in Rule 14.
 - (i) Censure;
 - (ii) Withholding of his promotion;
 - (iii) recovery from pay of the whole or part of any pecuniary loss caused by him to the Government by negligence or breach of orders;
 - (iv) withholding of increment of pay without cumulative effect;
 - (v) (iv-A) withholding of increment of pay with cumulative effect;
 - (vi) reduction to a lower stage in the time scale of pay for a specified period, with further directions as to whether or not the Government employee will earn increments of pay during the period of such reduction and whether on the expiry of such period the reduction will or will not have the effect of postponing the future increments of his pay;
 - (vii) reduction to a lower time scale of pay, grade, post or service which shall ordinarily be a bar to the promotion of the Government employee to the time-scale of pay, grade, post or service from which he was reduced, with or without further directions regarding conditions of restoration to the grade or post or service from which the Government employee was reduced and his seniority and pay on such restoration to that grade, post or service.
 - (viii) Compulsory retirement;
 - (ix) removal from service which shall not be a disqualification for future employment under the Government;
 - (x) dismissal from service which shall ordinarily be a disqualification for future employment under the Government.

Note 1.- Penalties mentioned at Sr. No. (i) to (iv) shall be termed as 'minor penalties' whereas from Sr. No. (iv-A) to (ix) are to be termed as 'minor-penalties';

Note 2.- In the matter of procedure for imposing any of the above penalties a member of a service will be governed by Punjab Civil Services (Punishment and Appeal) Rules, 1970.

13. PUNISHING AUTHORITY:

(i) The District and Sessions Judge may impose on a member of Class II Service any of the minor penalties specified in rule 12(2) as amended from time to time.

(ii) The Chief Justice of the High Court or Judge nominated by him in this behalf may impose any of the penalties specified in rule 12(2) on a member of Class-II service.

(iii) The District and Sessions Judge may impose any of the penalties specified in rule 12(2) of these rules on a member of class III and IV of the service.

14. APPEAL:

Appellate Authority:

- (1) An appeal shall lie to the High Court against order of a District and Sessions Judge imposing any penalty and such appeal may be disposed of by the Chief Justice or a Judge nominated by him in this behalf.
- (2) An appeal shall lie to a Division Bench of the High Court against an order of the Chief Justice or of a Judge imposing any of the penalties on members of Class II service.

A. Orders against which no appeal lies :

Notwithstanding anything contained in these rules, no appeal shall lie against:-

- (i) Any order of interlocutory nature to step-in-aid of the final disposal of a disciplinary proceedings.
- (ii) any order passed by an inquiring authority in the course of an inquiry held under Punjab Civil Services (Punishment and Appeal) Rules, 1970.

B. Subject to the provisions of rule 14-A, a member of service may prefer an appeal against all or any of the following orders, namely:-

- (i) an order of punishment passed by the District and Sessions Judge inflicting penalties mentioned in rule 12(2) IV A to IX.
- (ii) an order of substantive appointment by promotion or otherwise to a permanent and pensionable post.
- (iii) an order of temporary appointment which is to last more than 3 months or has in fact lasted more than 3 months.

C. (i) Persons appealing to the High Court under this rule shall do by petition, Such petition, accompanied by a copy of the order complained against, shall be presented to the District and Sessions Judge who passed the order within 45 days of the date of such order (the period between the date of application of the copy and the date on which it is supplied being excluded):

Provided that the appellate authority may entertain the appeal after the expiry of the said period, if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time.

- (ii) The District and Sessions Judge will forward the petition to the Registrar of the High Court without unnecessary delay along with his parawise comments thereon.

D. After reading the petition, the High Court may either:-

- (i) reject it without hearing the petitioner after passing a speaking order; or
- (ii) hear the petitioner, and in cases where other persons are held to be concerned in the subject of the petition, such other persons in open court:-

E. While disposing of an appeal against order under this rule or any penalty specified in rule 12, the High Court shall consider:-

- (i) Whether the facts on which the order was based have been established;
- (ii) whether the facts established afford sufficient ground for taking action; and
- (iii) whether the penalty is excessive, adequate or inadequate and after consideration shall pass such order as it thinks proper:

Provided that no penalty shall be increased unless opportunity is given to the person concerned to show cause why such penalty should not be increased.

F. The District and Sessions Judge from whose order the appeal is preferred under these rules shall give effect to any order made by the High Court.

G. Nothing in these rules shall debar the High Court from altering, if deemed fit, any order of punishment or appointment not provided for above which may be passed by the District and Sessions Judge in respect of member of service, when an aggrieved person, petitions or otherwise, District and Sessions Judge should not, therefore, withhold any petition addressed to the High Court whether an appeal lies to it in the case or not under these rules. In a case in which no appeal lies, the District and Sessions Judge should forward it without any comments and relevant documents unless he wishes to do so or is so required by the High Court. Petitioners are forbidden to attend personally at the High Court unless summoned to do so. Order on their petition will be communicated to them through the District and Sessions Judge concerned.

15. LIABILITY FOR VACCINATION AND RE-VACCINATION:

Every member of the service shall get himself vaccinated or re-vaccinated when the High Court so directs by a special or general order.

16. OATH OF ALLEGIANCE:

Every member of service, unless he has already done so, shall be required to take oath of allegiance to India and to the Constitution of India as by law established.

17. DEBARRING FOR CONSIDERATION FOR PROMOTION OF A GOVERNMENT EMPLOYEE WHO REFUSES TO ACCEPT PROMOTION:

In the event of refusal to accept promotion by a member of service he shall be debarred by the appointing authority for consideration for promotion for all the consequent chances which may occur in future within a period of two years from the date of such refusal to accept promotion:

Provided if the appointing authority in the event of refusal to accept promotion by member of a service is satisfied that the refusal is not in the interest of administration may notwithstanding such refusal promote him:

Provided that in a case, where the appointing authority is satisfied that a member of a service has refused to accept promotion under the circumstances beyond his control, it may exempt such a member for reasons to be recorded in writing from the operation of this rule.

18. POWER TO RELAX:

Where the District and Sessions Judge is satisfied that the operation of any rule causes undue hardship in any particular case, he may by order subject to the confirmation by the Chief Justice dispense with or relax the requirement of that rule to such extent and subject to such conditions as he may consider necessary for dealing with the case in a just and equitable manner provided that the case is not dealt with in a manner less favourable to the officer or official concerned than in accordance with the rules.

19. REPEAL AND SAVING:

The rules framed by the High Court under Section 35(3) of the Punjab Court's Act, 1918 for subordinate services attached to Civil Courts other than the High Court incorporated in Chapter 18-A of the Rules and Orders of the High Court, Volume I and the rules relating to the appointment and control of clerks of court (now Superintendents) to the District and Sessions Judge framed by the High Court in 1947 in exercise of the powers delegated to it by the Governor of Punjab under Section 241 of the Government of India Act, 1935 are hereby repealed:

Provided that such repeal shall not except as otherwise expressly provided in these rules-

- (i) affect the previous operation of any order or decision given under the rules so repeated or anything duly done or suffered thereunder; or
- (ii) affect any right, privilege, obligation incurred thereunder.

20. INTERPRETATION:

If any question arises as to the interpretation of these rules, the Chief Justice or a Judge nominated by him in this behalf shall decide the same, and the decision shall be final.

SCHEDULE

Statement showing the posts with different proposed nomenclature
in the Subordinate Courts with Pay Scale

Sr. No.	Post	Old Scale	Revised Pay Scale
	CLASS II:	(Rs.)	(Rs.)
1.	Superintendent to District and Sessions Judge	2,200-4,000	7,220-11,660
	CLASS III:		
2.	Superintendent Grade-II	2,000-3,500+100 (Spl. Pay)	6,400-10,640
3.	Judgment Writer (Sr. Scale) to District & Sessions Judge/Addl. District Judge	2,000-3,500+100 (Spl. Pay)	6,400-10,640
4.	Reader to District and Sessions/Judge/Addl. District and Sessions Judge	2,000-3,500+100 (Spl. Pay)	6,400-10,640
5.	Judgment Writer (Jr. Grade) / Stenographer	1,800-3,200+80 (Spl. Pay)	5,800-9,200
6.	Reader to Senior Sub Judge/Addl. Senior Sub Judge Chief Judicial Magistrate Sub Judges English Clerk Copying Assistant Translator Record Keeper Addl. English Clerk Library Assistant Clerk of Court of Senior Sub-Judge Civil Nazir Record Keeper to Senior Sub-Judge	Assistant 1,800-3,200	5,800-9,200
7.	Steno-Typists	1,020-1,800	3,330-6,200
8.	Ahlmad Addl. Ahlmad Inspection Clerk Copyist Record Clerk Copying Clerk Library Clerk Leave Reserve Clerk G.P.F. Clerk Typist Naib Nazir Madad Naib Nazir Execution Clerk Fine Clerk Summary Clerk Malkhana Nazir Asstt. Nazir Asstt. Malkhana Nazir	Clerk 950-1,800	3,120-5,160

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9. Bailiff	960-1,800	3,120-
5,160		
10. Driver	1,020-2,130+150 (Spl. Pay)	3,330-
6,200		
11 CLASS-IV:		
(i) Daftri	800-1,455	} 2,720-4,260
(ii) Usher	800-1,455+40(Spl. Pay)	
(iii) Record	800-1,455	
Lifter	800-1,455	
(iv) Process Server		
(v) Peon	} Peon 750-1,410 (initial start Rs. 770)	2,520-4,140 (with a minimum start of Rs. 2,620)
n		
Water		
man		
Orderl		
y		
Librar		
y Peon		
Mali-cum-		
Chowkidar		
Peon-cum-		
Driver	750-1,410 (initial start Rs. 770)	2,520-4,140 (with minimum start of Rs. 2,620)
Orderl		
y		
Addl.		2,520-4,140
Peon		
Recor	750-1,410 (Spl. Allowance Rs. 200(initial Start Rs. 770)	2,520-4,140
d Peon		
Malkhana Peon		
Malkhana	750-1,410 (initial start Rs. 770/-)	
Chowkidar		
(vi) Mali		
(vii) Chowkidar		
(viii) Sweeper		

PART D.—CHARACTER ROLLS

With the previous sanction of the Punjab Government, the following instructions are issued for information and guidance:—

1. A separate file of annual reports shall be maintained for every member of the superior service (as defined by Article 396, Civil Service Regulations) in the Judicial Department, for whom a separate character roll has hitherto been maintained, and also for all bailiffs and process servers. The former character rolls maintained for these officials shall be filed on this file along with annual reports made each year.
2. The annual reports shall be submitted in Civil Form No. 278, as amended (See, Part III of Volume VI-A of High Court Rules and Orders.)
3. In the first week of January every year, blank forms should be submitted to Subordinate Judges by the Superintendents to the District and Sessions Judges and the Clerks of Court to Senior Subordinate Judges, for General line and Process-serving establishment respectively, for them to record remarks on the work of the officials serving under them. The personal files of any officials against whom adverse remarks have been made in the previous year should accompany these forms to enable the Subordinate Judges to state expressly what steps, if any, have been taken by the persons concerned to remedy the defects communicated to them previously. The Subordinate Judges should after getting page 1 of the form completed by the officials and recording their remarks, transmit the forms in a closed cover to the District Judge or the Senior Subordinate Judge, according as the official concerned is a member of the General line or Process-serving establishment. A Subordinate Judge on leaving a district should, if he has not already furnished a report, obtain copies of the prescribed form from the office of the Senior subordinate Judge, record his remarks on the officials working under him, and transmit the forms to the District Judge or the Senior Subordinate Judge, as the case may be.
4. The District and Sessions Judge and Senior Subordinate Judge of each district should take steps to see that annual reports on the work of all officials in the district are received by them not later than the 15th January each year. After they have recorded their own remarks these reports should be kept confidentially in their offices. Adverse remarks, if any, made on the work of any official, should be communicated to him. In deciding all questions affecting increments of pay and promotions, due regard should invariably be paid to the entries made in the file of annual reports.
5. Every entry in ACR should be communicated to every Officer/Official concerned within a reasonable period enabling officer/official to represent timely, if required.

{Rule 5 inserted vide C.S. no. 86 Rules/II.D4 dated 17.08.2023}

PART E.- SECURITY

1. Every ministerial officer of a Court who is entrusted with the custody of public money or property shall be required to give security as prescribed below and to execute a bond in forms S. T. R. 7 or 7-A.
2. The amount of security to be taken should ordinarily be as given in the table below; provided that if the permanent advance held by the official on behalf of the Presiding Officer of the Court is greater than the amount specified, the security shall not be less than the permanent advance so held :—

DISTRICT AND SESSIONS COURTS

	Rs.
Superintendent	500
Nazir	200
Copyists or Independant Examiners in- Charge of Copying Agencies Accounts	30

SUBORDINATE JUDGES COURTS

Civil Nazir	500
European Bailiff	500
Clerk of Court, Senior Subordinate Judge's Court	200
Naib Nazirs	200
Madad Naib Nazirs	100
Naib Nazirs or Madan Naib Nazirs attached to Courts situated at stations where there are no treasuries or sub-treasuries	500
Readers, Sub-Judges' Courts	200
Execution bailiff	50
Process Servers (for Delhi only)	100

PROVINCIAL SMALL CAUSE COURTS

Clerk of Court	200
Nazir and Cashier	1,000
Naib Nazir	200
Copyists in charge of Copying Agency Accounts.	30
Process Servers (for Delhi only)	100

GENERAL

Any ministerial officer serving in the Judicial
Department (not above provided for) who
is required to receive, retain, or pay money
or have custody of property. ... 200

Note—(i) The term "Ministerial Officer" used above is not intended to include process servers.

(ii) English Clerks in charge of libraries in District and Sessions Judges Offices are not required to furnish security.

3.If any official is not able to furnish the amount of security in a lump sum, it may be deducted from his pay in instalments, the amount of each instalment being determined at the discretion of the Head of the Office concerned and subject to the condition that a monthly instalment shall not in any case be less than 1/5th of the pay of the Government servant concerned.

3.A register showing the names of officials who are required to give security and the following particulars be maintained in the office of the District and Sessions Judge, Senior Subordinate Judge and Judge Small Cause Court :-

- (1) Name of the Official.
- (2) Designation of the Official.
- (3) Amount of security deposited.
- (4) Date of deposit of security.
- (5) Date on which the security bond is executed.
- (2) Certificate in the Head of the Office's own handwriting that he has satisfied himself that the bond has been executed by the person or persons whose signature it bears.
- (2) Form of security.
- (3) Where deposited for safe custody.
- (4) Remarks.

This register shall be kept by the Superintendent or the Clerk of Court as the case may be and inspected half- yearly by the Officer making the appointment, i. e., the District Judge, Senior Sub-Judge, or Judge, Small Cause Court, as the case may be, who shall sign the register in token of inspection, giving the date of inspection.

5. The various kinds of security are laid down in the Subsidiary Treasury Rules 3.6 to 3.9, which may be found in Punjab Government Financial Handbook No. 1.

CHAPTER 19.

Civil Districts

1. Section 19 of the Punjab Courts Act, 1918 and Section 73 of the Patiala and East Punjab States Union Judicature Ordinance, 2005 Bikrami, (Pepsu Ordinance No. X of 2005 Bk.) provide that for the purposes of Chapter III of the Act and Part IV of the Ordinance (Subordinate Civil Courts), the State Government shall divide the territories under its administration into civil districts and may alter the number or limits of these districts.

Power of Government to fix civil districts.

2. The following civil districts have been so constituted by the State Government, with the limits shown against each (Punjab Government notification No. 30941- Judicial, dated the 31st October, 1928, and PEPSU Government Notification No. 44 dated 27-1-1951).

Civil districts.

District					Limits
Hissar	...	...	...	...	The limits fixed for the district of the same name under section 7 of the Code of Criminal Procedure, 1898.
Rohtak	...	...	...	...	
Gurgaon	...	...	...	...	
Karnal	...	...	...	...	
Ambala	...	...	...	...	
Simla	...	...	...	...	
Kangra	...	...	...	...	
Hoshiarpur	...	...	...	...	
Jullundur	...	...	...	...	
Ludhiana	...	...	...	...	
Ferozepore	...	...	...	...	
Amritsar	...	...	...	...	
Gurdaspur	...	...	...	...	
Patiala	...	...	...	...	
Bhatinda	...	...	...	...	
Sangrur	...	...	...	...	
Barnala	...	...	...	...	
Kapurthala	...	...	...	...	

3. The following District Judges have been appointed by the State Government under section 20 of the Punjab Act, 1918 (Section 74 of the PEPSU Ordinance No. X of 2005 Bk.) to be, by virtue of their offices, the District Judges also of the districts entered against them in the second column.

Certain District Judges appointed District Judges for another district.

The State Government (now High Court) has further directed, under section 31 of the Act, (Section 86 of the PEPSU Ordinance No. X of 2005 Bk.) that, for the disposal of cases, every such District Judge may sit in either district:—

1	2
District Judges	District of which the District Judges entered in the first column are <i>ex-Officio</i> District Judges
The District Judge Ambala	Simla
.. ..	Gurgaon
The istrict Judge of Rohtak	..
The District Judge of Hoshiarpur	... Kangra

Certain District Judges appointed Additional Judges for other districts.

1. The District Judges and Additional District Judges entered in the first column of the Schedule given below have been appointed by the Governor of the Punjab, to be, by virtue of their offices, Additional District Judges of the civil District respectively, entered opposite to them in the second column of the Schedule, and may sit at the headquarters of either or any such district.

SCHEDULE

District

District Judges		Districts of which the District Judges and Additional Disirict Judges entered in the first column are ex-officio Additional District Judges
1.District Judge, Delhi	.. ..	Gurgaon, Rohtak, Hissar, Karnal.
2. District Judge, Hissar	.. ..	Rohtak, Ferozepore, Ambala, Karnal, Gurgaon, Delhi, Sangrur, Simla.
3. District Judge, Karnal	.. ..	Ambala, Hissar, Rohtak, Delhi, Ludhiana, Simla.
4. District Judge, Rohtak	.. ..	Sangrur, Delhi
5. District Judge, Ferozepore	.. ..	Ludhiana, Hissar, Amritsar, Bhatinda, Gurgaon,
6. District Judge, ,Ambala	.. ..	Karnal, Ludhiana, Gurgaon, Hissar, Rohtak, Patiala
7. District Judge, Ludhiana	.. ..	Ferozepore, Jullundur, Hoshiarpur, Ambala, Amritsar, Barnala, Simla, Kangra.
8. District Judge, Jullundur	.. ..	Amritsar, Ludhiana, Hoshiarpur, Kapurthala, Kangra.
9. District Judge, Hoshiarpur	.. ..	Jullundur, Amritsar, Ludhiana
10. District Judge, Gurdaspur	.. ..	Kangra , Hoshiarpur, Amritsar, Jullundur.
11. District Judge, Amritsar	.. ..	Jullundur, Gurdaspur.
12. District Judge, Barnala	.. ..	Ludhiana, Bhatinda and Sangrur.
13. District Judge, Bhatinda	.. ..	Ferozepore, Barnala, Kapurthala
14. District Judge, Kapurthala	.. ..	Jullundur, Ludhiana, Hoshiarpur, Ferozepore, Gurdaspur, Patiala, Bhatinda
15. District Judge, Patiala	.. ..	Ambala, Simla, Hissar, Karnal Kapurthala, Sangrur, Barnala.
16. District Judge, Sangrur	.. ..	Rohtak, Gurgaon, Hissar, Patiala, Barnala.
17. Additional District Judge, Ferozepore	.. ..	Ludhiana, Jullundur, Hoshiarpur, Kangra, Ambala, Rohtak, Hissar, Amritsar, Simla, Gurgaon, Karnal, Bhatinda.
18. Additional District Judge, Ambala	.. ..	Simla, Patiala, Ludhiana, Karnal Hoshiarpur, Kangra, Hissar.
19. Additional District Judge, Amritsar	.. ..	Jullundur, Gurdaspur.
Additional District Judge, Faridkot		Barnala, Sangrur, Patiala, Ferozepore

(1) *Vide* Punjab Government notification No. 1292-J-1939/11164, dated the 22nd March, 1939, as amended by notification No. 3261-J-39/19040, dated the 26th May, 1939 and High Court notification No. 108-Gaz./IXC.11, dated the 20th April, 1939

(2) *Vide* Punjab Government notification No. 5368-J-39/27731, dated 25th August, 1939, and High Court notification No. 263/8568-Gaz./ IX C. 11, dated 6th September, 1939.

(3) *Vide* Punjab Government notification No. 8865-J-40/47802, dated the 26th November, and High Court notification No. 423-Gaz./IX. C. 11, dated the 11th December, 1940.

(4) *Vide* East Punjab Government Notification No. 5797-G-49/59898, dated the 5th August, 1949, and the East Punjab High Court Notification No. I70-E/IX. C. 11 dated the 25th November, 1949.

(5) *Vide* Punjab Government Notification No. 8693-G-51-6251, dated the 8th November, 1951, and High Court Notification No. 262-E/XXI-A-5, dated the 26th November, 1951.

(6) *Vide* Punjab Government Notifications No. 6084-G-55/13822, dated the 20th May, 1955, and No. 6084-G-55/1382I, dated the 20th May, 1955, and High Court Notification No. 186-E/XXI-A-5, dated 20th May, 1955.

(7) *Vide* PEPSU Government Notification No. 129, dated 30th February, 1951.

(8) *Vide*, PEPSU Government Notification No. 52/A, dated the 16th March, 1955.

(9) *Vide*, PEPSU Government Notification No. 173A, dated 6th September, 1955.

5. By virtue of Delhi Government notification No. F. 2 (59)/^{Additional} 55-Judl., and No. F. 2 (59)/55-Judl. (ii) both dated the ^{District Judges} 30th May, 1955 and High Court notifications No. 187^{for Delhi.} dated the 30th May 1955 and No. 188-E/XXI. A.5, dated the 30th May, 1955 the District Judges of Karnal, Hissar and Rohtak have been appointed, by virtue of their offices, Additional District Judges of the civil district of Delhi and may sit at the headquarters of the Delhi district. The District Judge of Rohtak who is ex-officio district Judge of Gurgaon may also sit at the head-quarters of Gurgaon district.

5. The following officers have been appointed ^{Additional} District Judges of the Civil district of Kangra by virtue of their ^{District Judges} offices under section 21 of the Punjab Courts Act, 1918:— ^{for Kangra.}

(1) The Deputy Commissioner of Kangra; and

(2) The Sub-Divisional Officer, Kulu.

(Punjab Government notification Nos. 30942 and 30943-Judicial, dated the 31st October, 1928.)

Note.—The Deputy Commissioner will exercise his powers only for the purposes of disposing of matrimonial cases from the Kulu Sub-Division. The Sub-Divisional Officer will exercise his powers only for the purposes of receiving appeals from civil orders and decrees and transmitting them to the District Judge, Hoshiarpur or the Senior Subordinate Judge Kangra at Dharamshala, as the case may be.

CHAPTER 20**Judicial Powers—Civil****PART A.—CONFERMENT OF POWERS-JUDICIAL**

The following rules have been prescribed by the State Government with reference to the channel through which recommendations for the conferment of civil judicial powers should be submitted:—

1. Recommendations for the conferment of Judicial powers under the Punjab Courts Act, 1918, should ordinarily originate with the District Judge or the High Court.
2. Whenever, in the case of rule 1, it is proposed by the District Judge to confer any civil Judicial powers upon a Naib Tahsildar, Tahsildar or Revenue Officer, the opinion of the Deputy Commissioner must be obtained and the proposal should be forwarded to the High Court through the Commissioner of the division; in other cases, proposals should be forwarded direct to the High Court

CHAPTER 20
PART-B
POWERS (GENERAL).

The following notifications issued by the State Government or the High Court under various Acts are published for information and guidance.

I. Insolvency cases:- Punjab Government notification No. 780, dated the 15th July, 1914.—In exercise of the powers conferred on him by section 3(1) of the Provincial insolvency Act, 1907 (III of 1907), as amended by Act IV of 1914, the Lieutenant Governor is pleased, with effect from the 1st August 1914, to invest all Subordinate Judges of the 1st Class with jurisdiction in all classes of cases under the said Act.

II. Succession Certificate:- Punjab Government notification No. 781, dated the 15th July, 1914.—Under Section 26(1) of the Succession Certificate Act, 1889, the Lieutenant-Governor is pleased, with effect from the 1st August 1914, to invest all Subordinate Judges of the first and second class in the Punjab with the functions of a district Court under the said Act.

Note.—Section 26(I) of the Succession Certificate Act 1889 corresponds to section 388 of the Indian Succession Act, 1925.

III. Classes of Subordinate Judges and territorial limits:- High Court notification No. 4, dated the 3rd January 1928. In exercise of the powers conferred by section 26 of the Punjab Courts Act, 1918, as amended by Act IX of 1922, the Honourable judges of the High Court are pleased to make, with effect from the 5th January, four classes of Subordinate Judges in respect of the jurisdiction to be exercised by them in original civil suits, namely:—

Class I.—Subordinate Judges exercising jurisdiction without limit as to the value of the cases;

Class II—Subordinate Judges exercising jurisdiction in cases of which the value does not exceed Rs. 5,000.

Class III:- Subordinate Judges exercising jurisdiction in cases of which the value does not exceed; Rs. 2,000.

Class IV.—Subordinate Judges exercising jurisdiction in cases of which the value does not exceed Rs. 1,000.

When a Subordinate Judge is appointed to any of the classes constituted by this notification, he shall exercise the jurisdiction herein before defined for the class to which he is appointed within the local limits of the civil district to which he may be posted from time to time.

IV. Enhanced powers of Senior Subordinate Judges.

(a).-High Court notification No. 170-Gaz./XX1- C. 6, dated the 16th May,

1935, as amended by notification No. 53-Gaz./XXI-C.6,dated the 23rd February, 1940.—In exercise of the powers conferred by section 39(3) of the Punjab Courts Act, 1918, as amended by Act. IX of 1922, the Honourable Judges of the High Court are pleased to direct that within the limits of each of the Civil Districts set forth in the Schedule appended hereto, appeals lying to the District Courts from decrees or orders passed by Any Subordinate Judge—

- (a) in a small cause of a value not exceeding Rs. 500 (five hundred,) and
- (b) in an un classed suit of a value not exceeding Rs. 100 (one hundred), shall be preferred to the senior Subordinate Judge of the first class exercising jurisdiction within such Civil District.

2. It is further directed that the Court of such Senior Subordinate Judge of the first Class shall be deemed to be a District Court for the purpose of all such appeals preferred to it.

3. The following High Court notifications are hereby cancelled:-

- (i) No. 233-Gaz./XXI-C. 6, dated the 22nd of April, 1931;
- (ii) No. 84-Gaz./XXI-C.6, dated the 1st of March, 1932;
- (iii) No.552-Gaz./XXI-C.6,dated the 28th of October, 1932.

SCHEDULE

S.No.	District in Punjab	District in Haryana
1.	Amritsar	Ambala
2.	Bhatinda	Bhiwani
3.	Ferozepur	Faridabad
4.	Gurdaspur	Gurgaon
5.	Hoshiarpur	Hissar
6.	Faridkot	Jind
7.	Jullunder	Karnal
8.	Kapurthala	Kurukshetra
9.	Ludhiana	Mohindergarh
10.	Patiala	Rohtak
11.	Roopnagar (Ropar)	Sirsa
12.	Sangrur	Sonepat

(b) High Court notification No.171. Gaz./XX1-C.6 dated the 16th of May, 1953.—Powers.—Inexercise of the powers conferred by section 39 (3) of the Punjab Courts Act, 1918, as amended by Act IX of 1922, the Honourable Judges of the High Court are pleased to direct that within the territories of Delhi, appeals lying to the District Court from decrees or orders passed by any Subordinate Judge:—

- (a) in a small cause of a value not exceeding Rs. 500 (five hundred,) and
- (b) in an un classed suit of a value not exceeding Rs. 100 (one hundred), shall be preferred to the senior Subordinate Judge of the first class exercising jurisdiction within such Civil District.

2. It is further directed that the Court of such Senior Subordinate Judge of the first class shall be deemed to be a District Court for the purpose of all such appeals preferred to it.

3. The following High Court notifications are hereby cancelled:

(i) No. 265-Gaz./XXI-C. 6, dated the 8th of May, 1931;

(ii) No.85-Gaz.-/XXI-C.6,datedthe1stofMarch,1932.

V. Every person for the time being holding the office mentioned in column 1 of the Schedule below has been appointed by the Governor of the Punjab a special Subordinate Judge in exercise of the powers vested in him by sub section 1 of section 24 1 of the Government of India Act, 1935 (Punjab Government notification No. 4170- G.- 40/39962, dated the 11th October, 1940, as amended by notification No. 905-G.-42/8669, dated the 16th February,1942,andNo.1713-G.-43/18857,dated the 18th March 1943),and in exercise of the powers vested in the High Court by sections 26, 27 and 45 of the Punjab Courts Act, 1918, as amended by Act IX of 1922, the Honourable Judges of the High Court, have conferred on each such person the powers noted against each in column 2 of the Schedule. The High Court notifications by which these powers have been conferred are noted against each in column 3 of the schedule:—

Schedule

S.No.	Name of officer	Powers	Authority	Territorial Jurisdiction
1.	Extra Assistant Commissioner, Kasauli	Rs. 500	High Court Notification No. 326-(A)-Gaz./XXI-C-23, dated the 11 th October, 1940	
2.	Sub-Divisional Officer, Dalhousie	500	Ditto	
3.	Sub-Divisional Officer, Kulu	4 th Class	High Court Notification No. 132-Gaz./VI.M.-(26), dated the 5 th May, 1942	-
4.	Naib Tahsildar, Kulu (Kangra District)	100	High Court Notification No. 326-(B)-Gaz./ VI.M.-(26), dated the 5 th May, 1942	Sub-Division Kulu, in the civil district of Kangra
5.	Naib Tehsildar, Seraj (Kangra District)	100	Ditto	Ditto
6.	Naib-Tahsildar, Kalka (Ambala District)	100	Ditto	The villages of Kalka and Kurari in the civil district of Ambala
7.	Naib-Tahsildar, Kasauli (Ambala District)	100	Ditto	The civil District of Ambala
8.	Naib Tahsildar, Kotkhai (Simla District)	100	Ditto	Ditto
9.	Naib-Tahsildar, Dalhousie (Gurdaspur District)	50	High Court Notification No. 326-(C)-Gaz./XXI-C-23, dated the 11 th October, 1940	Dalhousie Tahsil of the civil district of Gurdaspur
10.	Naib-Tahsildar, Keylang (Kulu Sub-Division)	100	High Court Notification No. 89-Gaz./XXI-C-23, dated the 31 st March, 1943	The Kulu Sub-Division in the Civil District of Kangra

VI. PUNJAB GOVERNMENT

LABOUR AND PRINTING DEPARTMENT

The 11th September, 1952

Power under the Workmen's Compensation Act, 1923 - No. 9167-LP-52/6337.—In exercise of the powers conferred by section 20 of the Workmen's Compensation Act, 1923, and in supersession of all previous notifications in this behalf, the Governor of Punjab is pleased to direct that the senior Subordinate Judge of each District in Punjab, shall be the Commissioner for Workmen's Compensation in respect of that District :

Provided that the Sub-Divisional Magistrate, Kulu, shall be the Commissioner in respect of Kulu Sub- Division of Kangra District.

VII. Judge, Small Cause Court, Delhi appointed Commissioner under Workmen's compensation Act:- Notification by the Chief Commissioner of Delhi, No. F. 3(61)/50Rand J, dated the 2nd January, 1951.—In supersession of his notification No.3592-Industriesdated the 25th June 1924 and in exercise of the powers conferred by section 20(1) of the Workman's Compensation Act 1923, the Chief Commissioner of Delhi is pleased to appoint the Judge, Small Cause Court, Delhi, to be a Commissioner for all the purposes of the Act within the limits of the Union territory of Delhi.

VIII. Powers of Indian Succession Act:- High Court notification No. 273-Gaz./XV-C.16 dated the 22nd June, 1932.—Under section 265 of the Indian Succession Act, XXXIX of 1925, the Honourable Judges of the High Court are pleased to appoint the Senior Subordinate Judge of the first class in each of the civil districts set forth in the schedule appended hereto to act, within the limits of the said civil district, for the District Judge as a Delegate to grant probate and letters of administration in non-contentious cases.

IX. Powers under Indian Succession Act:- High Court Notification No. 274-Gaz./XV-C.-16, dated the 22nd June, 1932.—In exercise of the powers conferred by section 30 (1) of the Punjab Courts Act, VI of 1918, the Honourable Judges of the High Court are pleased to authorise the Senior Subordinate Judge of the first class in each of the civil district set forth in the schedule appended here to take cognizance, within the limits of the said civil district, of proceedings under the Indian Succession Act, XXXIX of 1925, which cannot be disposed of by District Delegates.

Schedule

1. Simla	3.Hoshiarpur	5.Ferozepore
2. Kangra	4.Amritsar	

Note.—Similar powers under both Acts have been conferred upon the Senior Subordinate Judge of the first class in the Delhi District vide High Court Notification Nos. 499 and 500-Gaz./XXI-C.3, dated the 19th September, 1932, as reproduced in the Chief Commissioner's notification No. B.3 (2)(32) Home, dated the 28th September 1932.

X. Powers under the land Acquisition Act, 1894:- Punjab Government notification No. 4845-G.40/ 31898, dated the 2nd August, 1940.—Under the provisions of sub clause (d) of section 3 of the Land Acquisition Act, 1894, the Governor of the Punjab is pleased to appoint all persons holding temporarily or permanently the office of Senior Subordinate Judge of the first Class in the Punjab to perform the functions of a Court under the said Act.

XI. Powers under the Administration of Evacuee Property Act, 1950:- Punjab Government Rehabilitation Department, Notification No. J/8/21948, dated the 3rd October, 1955.—In exercise of the powers conferred by Section 25 of the Administration of Evacuee Property Act, XXXI of 1950, the Governor of Punjab is pleased to nominate all the District Judges in the State of Punjab within the local limits of their jurisdiction to hear appeals under sub section (1) of section 25 of the said Act.

XII. Powers under the working Journalists (Conditions of Service Act, 1955:- Punjab Government, Labour Department, Notification No. 37-(S) Lab.-57/307, dated the 3rd January, 1957 exercise of the powers conferred by section 17 of the Working journalists (Conditions of Service) and Miscellaneous Provisions Act; 1955 (Act 45 of 1955) the Governor of Punjab is pleased to specify all the Senior Subordinate Judges in the State within their respective jurisdiction to be the authorities for the purposes of the said section.

XIII. Punjab Land Reforms Act, 1972. No. S.0.13/P.A. 10/73/S.3/83 dated 4. March, 1983.- In pursuance of the provisions of clause (3) of Section 3 of the Punjab Land Reforms Act 1972 (Punjab Act No. 10 of 1973, the Governor of Punjab is pleased to empower the Special Collector (Agrarian), Ferozepur and Faridkot having their headquarters at Fazilka and Muktsar respectively to perform all the functions of Collector under aforesaid Act within the jurisdiction of Ferozepur and Faridkot districts respectively.

XIV. Pepsu Tenancy and Agricultural Lands Act, 1955 - No. S.O. 14/Pepsu Act . 13/55/S.2/83 dated 4 March, 1983:- In pursuance of

the provisions of clause (b) of Section 2 of the Pepsu Tenancy and Agricultural Lands Acts, 1955 (Pepsu Act No. 13 of 1955), the Governor of Punjab is pleased to empower the Special Collector (Agrarian), Faridkot having his headquarters at Muktsar to perform all the functions of a Collector under the aforesaid Act within the jurisdiction of Faridkot District.

XV. Punjab Security of Land Tenures Rules, 1956-No. S.0.15/P.S.L.T. R/56/R.2/83 dated 4 March, 1983.- In pursuance of the provisions of clause (iiiA) of Rule 2 of the Punjab Security of Land Tenures Rules, 1956, the Governor of Punjab is pleased to empower the Special Collectors (Agrarian), Ferozepur and Faridkot having their headquarters at Fazilka and Muktsar respectively to perform all the functions of a Collector under the aforesaid rules within the jurisdiction of Ferozepur and Faridkot district respectively.

XVI. Pepsu Tenancy and Agricultural Lands Act, 1955 - No. S.O. 33/P.A. 13/55/S. 320/82 dated 16 September 1982.- In exercise of the powers conferred by sub-section (3) of Section 32-D of the Pepsu Tenancy and Agricultural Lands Act, 1955 (Pepsu Act No. 13 of 1955), the Governor of Punjab is pleased to authorise the Additional Commissioners, Ferozepur Division, Jullundur Division and Patiala Division for the purposes of that sub-section with respect of the areas of the erstwhile State of Pepsu falling within their respective jurisdiction with effect from 21st April, 1977.

XVII. Punjab Tenancy Act, 1887- No. 5.0. 34/P.A. 16/87/5.105/82 doted 16 September, 1982.- In exercise of the powers conferred by clause (a) of subsection (1) of Section 105 of Punjab Tenancy Act, 1887 (Act XVI of 1887), the Governor of Punjab is pleased to confer upon the Additional Commissioners, Ferozepur Division, Patiala Division and Jullundur Division the powers of Commissioner exercisable under Sections 80 and 82 of the said Act read with (i) of Section 24 of the Punjab Security of Land Tenures Act, 1953 and (ii) of Section 18 of the Punjab Land Reforms Act, 1972, with respect to the area falling within their respective jurisdiction with effect from 21st April, 1977.

XVIII. Indian Stamp Act, 1899 - No. S.0.9/ C.A.2/1899/S. 70/82 dated 26 March, 1982.- In exercise of the powers conferred by sub-section (2) of Section 70 of the Indian Stamp Act, 1899 (Central Act No. 2 of 1899), I, R.C. Kapila, I.A.S. Financial Commissioner, Punjab being the Chief Controlling Revenue Authority by virtue of the

provisions of sub-section (10) of Section 3 of the General Clauses Act, 1897 (Central Act No. 10 of 1897) authorises the Collectors of all the districts in the State of Punjab for the purpose of the aforesaid sub-section (2) of Section 70 of the Indian Stamp Act, 1899, within their respective jurisdiction.

XIX. Punjab Tenancy Act, 1887 - No. S.O. 16/P.A. 16/87/S.105/82 dated 4 May 1982.- In exercise of the powers conferred by clause (a) of sub-section (1) of Section 105 of the Punjab Tenancy Act, 1887 (Act XIV of 1887), the Governor of Punjab is pleased to confer upon the Additional Commissioner, Ferozepur Division, the powers of Commissioner exercisable under Sections 80 and 82 of the Act read with Section 24 of the Punjab Security of Land Tenures Act, 1958, and Section 18 of the Punjab Land Reforms Act, 1972, with respect to the areas falling within their jurisdiction.

XX. Pepsu Tenancy and Agricultural Lands Act, 1955 - No. S.O. 17/P.A. 13/55/S.32-D/82 dated 4 May, 1982.- In exercise of the powers conferred by sub-section (3) of Section 32-D of the Pepsu Tenancy and Agricultural. Lands Act, 1955 (Pepsu Act No. 13 of 1955), the Governor of Punjab is pleased to authorise the Additional Commissioner, Ferozepur Division for the purpose of that sub- section with respect to the areas of the erstwhile State of Pepsu falling within his jurisdiction .

XXI. Punjab Village Common Lands (Regulatin) Act, 1961 - No. S.O. 4/2/P.A. 18/61/S.2/82 dated 5 November, 1982.- In supersession of the Government of Punjab, Department of Rural Development and Panchayats notification No. S.O. 54/P.A. 18/61/S. 2/80, dated the 15th September, 1980, and in partial modification of Punjab Government Development and Panchayat Department Notification No. S.O. 82/P.A. 18/61/S.2/77 dated 26th December, 1977, and in pursuance of the provisions of clause (a) of Section 2 of the Punjab Village Common Lands (Regulation) Act 1961 (Punjab Act No. 18 of 1961), the Governor of Punjab is pleased to appoint the following officers for performing the functions of the Collector under the said Act in respect of the areas noted against each-

1. Divisional Deputy Director, Rural Development and Panchayats, Patiala.	Sirhind, Bassi Pathana and Dera Bassi Blocks of Patiala District.
2. Principal, Gram Sewaks Training Centre, Nabha	Nabha and Samana Blocks of Patiala District.
3. District Development and Panchayat Officer, Patiala.	Patiala, Bhunerheri, Rajpura and Chanaur Blocks of Patiala District.
4. District Development and	Whole of the Hoshiarpur District

Panchayat Officer, Hoshiarpur	and Anandpur Sahib and Nurpur Bedi Blocks of Ropar District.
5. District Development and Panchayat Officer, Ropar	Ropar District, excluding Anandpur Sahib and Nurpur Bedi Blocks.

XXII. Trade Union Act, 1926-GSR. 164/CA. 16/26/S.83 dated 7 Dec.,

82.- In supersession of the Punjab Government, Department of Labour and Employment, Notification No. 2790.3-Lab. 11-79/586, dated the 12th/16th July, 1979 and in exercise of the powers conferred by sub-section (1) of Section 3 of the Trade Unions Act, 1926 (Central Act No. XVI of 1926), and all other powers enabling him in this behalf, the Governor of Punjab is pleased to appoint the Labour Commissioner, Punjab to be the Registrar of Trade Unions for the State of Punjab.

XXIII. Industrial Disputes Act, 1947 - No. S.O. 53/C.A. 14/47/S. 33-

C/82 dated 7 December, 1982.- In partial modification of Punjab Government Labour Department Government of Punjab, Department of Labour and Employment notification No. 5 (12) 82-Lab. 1/1809, dated the 28th June, 1982 and in exercise of the powers, conferred by sub-section (2) of Section 33-C of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), the Governor of Punjab is pleased to specify the Labour Court at Ludhiana and Labour Court at Patiala, constituted under Section 7 of the said Act, for the areas mentioned hereunder against each of the said Labour Courts :-

Sr. No.	Labour Court	Area of jurisdiction
1.	Labour Court at Ludhiana	1. Ludhiana District 2. Ferozepur District excluding Sub-Divisions of Fazilka and Sub-Tehsil of Abohar. Faridkot District excluding Moga Sub-Division
2.	Labour Court at Patiala	1. District of Patiala, Bhatinda, Sangrur, Ropar and Sub-Division of Fazilka and Sub-Tehsil of Abohar of Ferozepur District and Moga Sub-Division of Faridkot District.

Note. - Also please see next notification.

XXIV. Industrial Disputes Act, 1947 - No. S.O. 32/CA.14/47/S.

7/83 dated 1July, 1983.- In exercise of the powers conferred by

Section 7 of Industrial Disputes Act, 1947 (Central Act (XIV of 1947) and all other powers enabling him in this behalf, the Governor of Punjab is pleased to constitute two Labour Courts having their headquarters at Gurdaspur and Bhatinda respectively with immediate effect for the adjudication of industrial disputes relating to any matter specified in the Second Schedule to the said Act and for performing such other functions as may be assigned to them under the said Act.

XXV. Industrial Disputes Act, 1947 - No. S.O. 31/CA. 14/47/S. 39/80 dated 7 May, 1980.- In exercise of the powers conferred by Section 39 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) and all other powers enabling him in this behalf, the President of India is pleased to direct that the powers exercisable by the State Government under Section 10 and under sub-section (5) of Section 12 of the said Act in relation to an Industrial Dispute falling under Section 2-K of the said Act, shall be exercised by the Labour Commissioner, Punjab, with immediate effect: Provided that the Labour Commissioner, Punjab, while exercising the powers of the State Government under sub-section (5) of Section 12 shall not pass an order rejecting a case for reference save with the prior approval of the State Government.

XXVI. Punjab Requisitioning and Acquisition of Movable Property Act, 1978 - No. S.O. 86/PA. 35/78/S. 2/79 dated 17 December, 1979.- In pursuance of the provisions of clause (a) of Section 2 of the Punjab Requisitioning and Acquisition of Movable Property Act, 1978 (Punjab Act No. 35 of 1978), the Governor of Punjab is pleased to authorise all the District Magistrate in the State of Punjab to perform the functions of the Competent Authority under the said Act for the areas of their respective districts.

XXVII. Punjab Entertainment Tax (Cinematograph Shows) Act, 1954.- Deputy Excise and Taxation Commissioner, Special Cell (Inspection), Punjab, Chandigarh, authorised to assist the Commissioner (a) under sub-section (1) of Section 4 of the Punjab Entertainments Tax (Cinematograph Shows) Act, 1954 vide No. SO. S6/PA. 8/S4/S.4/78 dated 20 November, 1978 (b) under sub-section (2) of Section 21 of the Punjab General Sales Tax Act, 1948 vide No. SO.SS/PA. 46/48/S. 21/78 dated 20th November, 1978 (c) under clause (1) of Section 2 of the Punjab Motor Spirit (Taxation of Sales) Act, 1939, vide No. SO. S7/PA. 1/39/S. 2/78 dated 20 November, 1978 (d) under sub-section (1) of Section 4 of the Punjab Entertainment Tax

Act, 1954 vide No. SO. S8/PA. 8/S4/S. 4/78 dated 20 November, 1978 (e) under sub-section (1) of Section 7 of the Punjab Passengers and Goods Taxation Act, 1952 vide No. GSR. 122/PA/16/S2/S.7/78 dated 20 November, 1978.

XXVIII. Punjab Panchayat Samitis and Zila Parishads Act, 1978 - No. SO. 7/PA. 3/61/S.105/79 dated 9 February, 1979.- In partial modification of Punjab Government, Department of Rural Development and Panchayats, Notification No. S.O. SO/PA. 3/61.S.105/78 dated the 10th October, 1978 and in exercise of the powers conferred by sub-section (2) of Section 3 of the Punjab Panchayat Samitis and Zila Parishads (Temporary Supersession) Act, 1978, read with clause (b) of sub-section (1) of Section 105 of the Punjab Panchayat Samitis and Zila Parishads Act, 1961, and all other powers enabling him in this behalf, the Governor of Punjab is pleased to appoint the Additional Deputy Commissioner, Amritsar, to exercise and perform all the powers and duties of Zila Parishad, Amritsar, till the same is reconstituted.

XXIX. Punjab General Sale Tax Act, 1948 - No. SO 28/PA.46/48/S. 3/83 dated 25 May, 1983.- In exercise of the powers conferred by sub-section (2) of Section 3 of the Punjab General Sale Tax Act, 1948 (Punjab Act No. XLVI of 1948), the Governor of Punjab is pleased to direct that the Deputy Excise. and Taxation Commissioner (Appeals), Ferozepur Division appointed under sub-section (1) of Section 3 of the said Act, and having Headquarters at Bhatinda shall also exercise the powers and perform the functions of the appellate authority specified in clause (a) of sub-section (1) of Section 20 of the said Act in respect of Jullundur and Amritsar districts of Jullundur Division, till 31st March, 1984.

XXX. East Punjab Molasses (Control) Act, 1948 No. S0.30/E. P.A.11/43/S. 11/83 dated 24 May, 1983.- In exercise of the powers conferred by Section 11 of the East Punjab Molasses (Control) Act, 1948 (East Punjab Act No. 11 of 1948), and all other powers enabling him in this behalf, I, Hari Ram, IAS Controller under the said Act, hereby direct that the powers conferred and the duties imposed on me under Section 3 of the said Act shall also be exercisable by all the Assistant Excise and Taxation Commissioner, incharge of districts in Punjab in their respective Jurisdiction.

XXXI. Punjab General Sales Tax Act, 1948 - No. S0.46/PA.46/48/S.3/81 dated 25 November, 1981.- In exercise of the

powers conferred by sub-section (2) of Section 3 of the Punjab General Sales Tax Act, 1948 (Punjab Act No. XLVI of 1948), the Governor of Punjab is pleased to direct that the Deputy Excise and Taxation Commissioner (Appeals), Ferozepur Division Headquarters at Bhatinda appointed under sub-section (1) of Section 3 of the said Act shall also exercise the powers and perform the functions of appellate authority specified in clause (a) of sub-section (1) of Section 20 of the said Act in respect of Jullundur and Kapurthala Districts of Jullundur Division and Sangrur District of Patiala Division till the 31st March, 1982.

XXXII. Punjab General Sales Tax Act, 1948 - No. GSR 93/PA.46/48/S.3/82 dated 23 October, 1981.- In exercise of the powers conferred by sub-section (1) of Section 3 of the Punjab Government Sales Tax Act, 1948, the Governor of Punjab is pleased to appoint the Chief Enforcement Officer, Punjab, Patiala to assist the Excise and Taxation Commissioner, and to authorize him to exercise the powers and perform the duties of Deputy Excise and Taxation Commissioner under clause (a) of sub-section (1) of Section 20 of the aforesaid Act, for the whole of the State of Punjab.

XXXIII. Punjab General Sales Tax Act, 1948 - No. S0.38/PA. 46/48/S. 3/82 dated 5 October, 1982.- In exercise of the powers conferred by sub-section (2) of Section 3 of the Punjab General Sales Tax Act, 1948 (Punjab Act No XLVI of 1948), the Governor of Punjab is pleased to direct that the Deputy Excise and Taxation Commissioner (Appeals), Ferozepur Division, Headquarters at Bhatinda appointed under sub-section (1) of Section 3 of the said Act shall also exercise the powers and perform the functions of appellate authority specified in clause (a) of sub-section (1) of Section 20 of the Act in respect of Jullundur and Amritsar Districts of the Jullundur Division till the 31st March, 1983.

XXXIV. Transfer of Property Act, 1882.- The provisions of Clause (f) of Section 58 of the Transfer of Property Act, 1882 extended to Punjab vide GSR.87/CA.4/1882/51/75 dated 28.8.75.

Note.- For more notifications please see under head VI.

Notifications - State of Haryana

1. Haryana Housing Board Act, 1971.- In exercise of the powers conferred by clause (g) of Section 2 of the Haryana Housing Board Act, 1971, and all other powers enabling him in this behalf and in supersession of Haryana Government, notifications Nos. 2063-1 H.G. 777/12317 dated the 20th April, 1977, S.O. 141/HA.20/71/S. 2/78. dated the 20th October,

1978, S.O. 100/H.N. 20/71/S. 2/79, dated the 10 August, 1979, the Governor of Haryana hereby authorises the persons mentioned in column 2 of the Schedule given below to perform the function of the competent authority under Chapter VI for the area specified against each in column 3 thereof :-

SCHEDULE

No.	Person	Area
1.	Estate Manager, Housing Board Haryana, Sector 7	Housing Board Colonies in Sectors 22 and 23, Faridabad Housing Board Faridabad and Gurgaon
2.	E.M.H.B, Haryana Sector 18 Faridabad	H.B. Colonies in Sectors 18 and 28, Faridabad
3.	E.Manager I, Housing Board Haryana, Sector 10 Panchkula	H.B. Colonies in Sectors 6,8,10, and 18 Panchkula
4.	Estate Manager II, Housing Board, Haryana, Panchkula, S.10	Housing Board Colonies in Sector 11, 15, Panchkula and Ambala
5.	E.M.H.B. Haryana Karnal	H.B. Colonies at Karnal, Kurukshetra and Yamumanagar
6.	E.M.H.B. Haryana, Panipat	H.B. Colonies at Jind, Sonapat and Panipat
7.	E.M.H.B., Haryana Rohtak	H.B. Colonies at Rohtak, Sirsa, Bhiwani and Hissar

(No. SO. 246/H.A.20/71/S.2/81 dated 13 November, 1981)

2. Haryana General Sales Tax Act, 1973.- In exercise of the powers conferred by Section 3 and clauses (a) and (b) of sub-section (1) of Section 39 of the Haryana General Sales Tax Act, 1973, and all other powers enabling him in this behalf, the Governor of Haryana hereby appoints the Joint Excise and Taxation Commissioner (Appeals) Faridabad to assist the Commissioner, for carrying out the purposes of the said clauses of Section 39 of the Act.

Further in exercise of the powers conferred by sub-section (2) of Section 40 of the Haryana General Sales Tax Act, 1973 and all other powers enabling him in this behalf, the Governor of Haryana hereby confers on the Joint Excise and Taxation Commissioner (Appeals) Faridabad, the powers of the Commissioner under sub-section (1) of the said section to be exercised by him within his respective jurisdiction in respect of the cases disposed of by an assessing authority an officer incharge of check post or carrier or an officer below the rank of Joint Excise and Taxation Commissioner other than the Flying Squad Officer,

Excise and Taxation Department and the LJeputy Excise and Taxation Commissioner (Vigilance) in the Vigilance Department, Government of Haryana.

3. Contempt of Courts (Punjab and Haryana) Rules, 1974.- In exercise of the powers conferred by Section 23 of the Contempt of Courts Act, 1971 (Act No. 70 of 1971) and all other powers enabling it in this behalf, the High Court of Punjab and Haryana hereby makes the following amendment in the Contempt of Courts (Punjab and Haryana) Rules, 1974, namely :-

Rule 6.- The following shall be substituted for the existing sub-rules (1) and (2) of Rule 6:-

6(1) Every petition, motion or reference in relation to Civil or Criminal contempt shall, unless the Chief Justice directs it to be heard by a larger Bench, be laid for the motion hearing before a Single Bench.

Explanation.- Nothing contained in this sub-rule shall apply to proceedings initiated by the High Court on its own motion.

After service of notice on the person charged, every criminal contempt shall be heard and determined by a bench of not less than two judges. [GSR 134/CA 70/1971/S.23/79, dated 1December 1979.]

4. Guardians and Wards Act, 1890.- In exercise of the powers conferred by sub- section (1) of Section 4-A of the Guardian and Wards Act, 1890, as amended by Act IV of 1926, the Hon'ble the Chief Justice and Judges of the High Court of Punjab and Haryana at Chandigarh hereby empowers the Senior Subordinate Judge of the First Class in each of the districts mentioned in the schedule appended hereto to dispose of any proceedings under the Guardian and Wards Act, 1890, transferred to him by the District Judge of the same district:-

2. High Court notification No. 93. Gaz/X V.B.9, dated the 10th March, 1931, is hereby cancelled.

Schedule

Punjab	Haryana	UT, Chandigarh
1. Hoshiarpur	1. Ambala	
2. Jullundur	2. Karnal	Chandigarh
3. Ludhiana	3. Rohtak	
4. Ferozepur	4. Sonapat	
5.Amritsar	5. Jind	
6. Gurdaspur	6. Hissar	
7. Kapurthala	7. Bhiwani	

8. Patiala	8. Gurgaon	
9. Ropar	9. Mohindergarh	
10. Sangrur	*10. Faridabad	
11. Bhatinda and	*11. Sirsa	
12. Faridkot	*12. Kurukshetra.	

(No. 106/Gaz/X-VA. 13 dated 1st April, 1975).

5. Punjab Land Revenue Act, 1887 - No. S0.59/PA. 17/1887/S. 27/79 dated 18 May, 1979.- In exercise of the powers conferred by clause (a) of sub-section (1) of Section 27 of the Punjab Land Revenue Act, 1887, the Governor of Haryana hereby confers on the Deputy Excise and Taxation Commissioner (Headquarters) the powers of Collector under Sections 74, 75, 77 and 79 of said Act, so far as such powers are necessary for collection of Excise and Taxation revenues as arrears of land revenue under the following Acts administered by the Excise and Taxation Department, namely:-

- (a) The Opium Act, 1878
- (b) The Punjab Urban Motor Spirit (Taxation of Sales) Act, 1939.
- (c) The Punjab Urban Immovable Property Tax Act, 1949.
- (d) The Punjab Passengers and Goods Taxation Act, 1952.
- (e) The Punjab Entertainment (Cinematograph Shows) Act, 1954.
- (f) The Punjab Entertainments Duty Act, 1955 .
- (g) The Punjab Professions, Trades, Callings and Employments Taxation Act, 1956.
- (h) The Central Sales Tax Act, 1956.
- (i) The Haryana General Sales Tax Act, 1973.

Further, in exercise of the powers conferred by sub-section (2) of Section 27 of the Punjab Land Revenue Act, 1887, the Governor of Haryana hereby directs that the abovesaid powers shall throughout be exercised by the Deputy Excise and Taxation Commissioner (Headquarters) of Haryana.

6. Provincial Insolvency Act, 1920 (Central Act 5 of 1920).- In exercise of the powers conferred by the proviso to sub-section 1of Section 3 of the Provincial Insolvency Act, 1920 and in supersession of erstwhile Punjab Government notification No. 780, dated the 15th July, 1914, the Governor of Haryana hereby invests all the Courts of Senior Subordinate Judges of the First Class with jurisdiction in all cases of cases under the said Act.

(No. 2792.4JJ-75/18893 dated 8.7.1975).

7. Haryana Requisitioning and Acquisition of Movable Property

Act, 1975.- In exercise of the powers conferred by clause (a) of Section 2 of the Haryana Requisitioning the Acquisition of Movable Property Act, 1975, the Governor of Haryana hereby authorises all the Districts Magistrate and Sub-Divisional Magistrates in the State of Haryana, to perform the functions of the competent authority under the said Act for the areas in their respective jurisdiction.

(No. SO. 59/HA. 9/75/S. 2/75 dated 10.6.1975).

8. Punjab Courts Act, 1918 : No. 137/Gaz/11(7)/XXI-C, 6 dated

24.4.80. - In exercise of the powers conferred by sub-section (3) of Section 39 of the Punjab Courts Act, 1918 (Punjab Act VI of 1918), as amended upto date, and as applicable to State of Haryana, the Hon'ble Chief Justice and Judges of the High Court of Punjab and Haryana are pleased to cancel with immediate effect, all the following High Court" Notification conferring Enhanced Appellate Powers on Senior Subordinate Judge by name :

- (a) No. 550 Gaz. 11/XXI/C. 6 dated 10 August, 1977
- (b) No. 3 Gaz. 11(4)/XXI.C6 dated 3rd January, 1978
- (c) No. 4 Gaz. 11(14)/XXI.CG dated 20th February, 1978
- (d) No. 187 Gaz. (14)/XXI.C.6 dated 20th May, 1978
- (e) No. 190 Gaz. 11(14)/XXhC6 dated 20th May, 1978
- (f) No. 274 Gaz. 11(14)/XXI.C6 dated 28th July, 1978
- (g) No. 482 Gaz. 11(14)/XXI.C6 dated 22nd December, 1978
- (h) No. 6 Gaz. 11(14)/XXI.C6 dated 25th January, 1979 and
- (j) No. 133 Gaz. 11(14)/XXI.C.6 dated 28th May, 1979

9. Transfer of Property Act, 1882 - SO. 51/CA.4/1882/S. 58/73

dated 27 February, 1973.- The provisions of Section 58 of the Transfer of Property Act, 1882 extended to the town of Sonapat, Bhiwani and Kurukshetra.

10. Punjab Courts Act, 1918 - Notn. No. 3/50/82-JJ(4) dated 20 January,

1983.- In exercise of the powers conferred by Section 20 of the Punjab Courts Act, 1918 and in partial modification of Haryana Government Home (Judicial) Department notification No. 7394-3JJ-75/3946, dated the 13th February, 1976, the Governor of Haryana appoints the District Judges shown in column 2 of the Schedule given below to be the District Judges of the Civil Districts shown in column 2 and 3 thereof :-

Schedule

Sr. No.	District Judges	Civil Districts
1.	Hissar	Hissar
2.	Sirsa	Sirsa

11. Punjab Courts Act, 1918 - Notn. No. 3/44/78-JJ (4) dated 12th May, 1983.- In exercise of the powers conferred by Section 20 of the Punjab Courts Act, 1918 and in partial modification of Haryana Government Home (Judicial) Department notification No. 101-2JJ-73/4243, dated 7th February, 1973, the Governor of Haryana hereby appoints the District Judges shown in column 2 of the Schedule given below to be the Districts shown in column 3 thereof:-

Schedule		
Sr.No.	District Judges	Civil Districts
1.	District Judge, Karnal	Civil District, Karnal
2.	District Judge, Kurukshetra	Civil District Kurukshetra

12. Punjab Courts Act, 1918 - No. 3/1/78 JJ(4) dated 19.5.83.- In exercise of the powers conferred by Section 20 of the Punjab Acts, 1918 and in partial modification of Haryana Government, Home (Judicial) Department notification No. 1101-2JJ-73/4243 dated 7 February, 1973, the Governor of Haryana hereby appoints the District Judges shown in column 2 of the Schedule given to be the District Judge of Civil District shown in column 3 thereof:

Sr.No.	District Judges	Civil Districts
1.	District Judge, Rohtak	Civil District, Rohtak
2.	District Judge, Sonapat	Civil District Sonapat

Himachal Pradesh Notifications

1. Himachal Pradesh Urban Rent Control Act, 1971.- In supersession of all previous notifications and in exercise of the powers conferred on him under Section 21 of the HP Urban Rent Control Act, 1971 and in consultation with the High Court of Himachal Pradesh, the Governor of Himachal Pradesh is pleased to appoint all the District Judges and the Additional District Judges in Himachal Pradesh as the Appellate Authority under Section 23 of the said Act. These powers shall be exercised by them in their respective Division.

(H.P. Govt. Notification No. Home - B(A)/3-18/78 dated 24 September, 1982)

2. Himachal Pradesh Courts Act, 1976 - No. HHC, Admn.6/(24)74/7337 dated 1st November, 1978.- In exercise of the powers vested in it under Section 13 of the Himachal Pradesh Courts

Act, 1976 (Act No. 23 of 1976), the High Court of Himachal Pradesh in supersession of all previous notifications issued in this behalf is pleased to confer the Senior Subordinate Judge of the First Class working in Himachal Pradesh with the jurisdiction of Judge of Court of Small Cause under the Provincial Small Cause Courts Act, 1887 for trial of suits into the value of Rs. 1000/- within their respective territorial jurisdiction with effect from the date of publication of this notification in the Himachal Pradesh Rajpatra .

3. **Indian Succession Act, 1925 - No. HHC/Admn. 6(24)/74-7348.-** In exercise of powers vested in it under Section 265 of the Indian Succession Act, 1925 (Act No. XXXIX of 1925), the High Court of Himachal Pradesh is pleased to appoint all the Subordinate Judges of the First Class in the State of Himachal Pradesh to act for the District Judges as the Delegates to grant probate and letters of administration in non-contention cases within their local jurisdiction from the date of publication of this notification in the Himachal Pradesh Rajpatra.
4. **Guardian and Wards Act, 1890 - No. HHC. Admn. 6(24)/74-7369 dated 1st November, 1978.-** In exercise of the powers vested in it under Section 4-A of the Guardian and Wards Act, 1890 read with Section 14(1) of the Himachal Pradesh Courts Act, 1976 and in supersession of all previous notifications issued in this behalf, the High Court of Himachal Pradesh empowers all the Senior Subordinate Judges in Himachal Pradesh to dispose of any proceedings under the Guardian and Wards Act, 1890 within their local jurisdictions with effect from the date of publication of this notification in the Himachal Pradesh Rajpatra.

Notifications Union Territory, Chandigarh

1. **Transfer of Property Act, 1882 - No. 1302, UTFII{G}-75/4684 dated 31.3.75{See Gaz. Extra).-** In exercise of the powers conferred by Section 1 of the Transfer of Property Act, 1882 (Central Act No. 4 of 1882), the Chief Commissioner, Chandigarh, is pleased to extend the provisions of Section 59 of the said Act to the Union Territory of Chandigarh with immediate effect.
2. **East Punjab Urban Rent Restriction Act, 1949 - No. S.O. 22{E} dated Gaz. Pt. 11 1.2.1975.-** In pursuance of the clause (1) of Article 239 of the Constitution, the President hereby directs that the administrator of the Union Territory of Chandigarh shall subject to the control of the President and until further orders, also exercise the

powers and discharge the functions of the Central Government under clause (b) and (j) of Section 2, Section 3, Sub-section (1) of Section 15 and Sub-section (1) of Section 20, of the East Punjab Urban Rent Restriction Act, 1949 (East Punjab Act III of 1949) as modified and extended to the said Union Territory by the East Punjab Urban Rent Restriction Act (Extension to Chandigarh) Act, 1974 (Central Act 54 of 1974).

3. **Haryana Relief of Agricultural Indebtedness Act, 1975 (Haryana Act No. 22 of 1975).**- Extended to the U.T. Chandigarh, under the powers, conferred by Section 87 of the Punjab Reorganisation Act, 1966, on the Central Government. (See Chandigarh Gaz. Extra Dt. 1.10.1975).
4. **Punjab Agricultural Produce Markets (Haryana Second Amendment) Act, 1974.**- Extended by the Central Government to the U.T. Chandigarh under the powers conferred by Section 87 of the Punjab Re-organisation Act, 1966. (See Notification New Delhi dated 16.12.1974).
5. **Punjab Homeopathic Practitioners (Amendment) Act, 1974.**- As in force in the State of Punjab extended to the U.T. Chandigarh under the powers conferred by Section 87 of the Punjab Re-organisation Act, 1966 (See Extra Gaz. Dated 8.4.1975).
6. **Haryana Housing Board Act, 1971 (Act 20 of 1971).**- Extended with modification to the U.T. Chandigarh under the powers conferred by Section 87 of the Punjab Re-organization Act, 1966 (See Gaz. Pt. II dated 1.3.1975).
7. **Provincial Insolvency Act, 1907.**- In exercise of the powers conferred on him by Section 3(1) of the Provincial Insolvency Act, 1907 {III of 1907) as amended by Act IV of 1974, the Chief Commissioner, Chandigarh is pleased to invest the Senior Subordinate Judge of the First Class with jurisdiction in all classes of cases under the said Act, with effect from the date of this Notification in supersession of Joint Punjab Government Notification No. 780 dated the 15th July, 1914. (Dated 10th June, 1975 See Gaz. Chandigarh Pt. II dated 1.7.1975 P.84 High Court of Punjab and Haryana and miscellaneous notifications.

High Court and Miscellaneous Notifications

1. **Guardian and Wards Act, 1890.**- In exercise of the powers conferred by sub- section (1) of Section 4-A of the Guardian and Wards Act, 1890, as amended by Act IV of 1926, Hon'ble Chief Justice and

Judges of the High Court of Punjab and Haryana at Chandigarh, hereby empowers the Senior Subordinate Judge of the First Class in each of the districts in Punjab, Haryana and U.T. Chandigarh, to dispose of any proceedings under the Guardian and Wards Act, 1890, transferred to him by the District Judge of the same district.

2. High Court Notification No. 93, Gaz/X.V.B. 9 dated 10th March, 1931 is hereby cancelled.

- 2. Court Language (1)- No. 853.IH(5)-76/26259 dated 4.12.1976 published Gazette Extra at P-369.-** In supersession of all previous notifications issued in this behalf, and in exercise of the powers conferred by Section 137 of the Code of Civil Procedure, 1908, the Chief Commissioner, Chandigarh, is pleased to declare that the language of the Courts subordinate to the High Court of Punjab and Haryana shall be Hindi in Devnagari Script and/or Punjabi in Gurmukhi Script in the Union Territory of Chandigarh.

The Chief Commissioner, Chandigarh, is further pleased to declare that English shall continue to be used for the Court purposes within the Union Territory of Chandigarh for which it was being used immediately before the 2nd October, 1962.

This shall come into force with effect from 1st January, 1977.

- 3. No. 330-IH(S) .77/4919 dated 14.3.1977.-.** In continuation of Home Department Notification No. 853-IH(5)-76/25259 dated the 4th December, 1976 and in exercise of the powers conferred by Section 137 of the Code of Civil Procedure, 1908, the Chief Commissioner, Chandigarh, is pleased to declare that the language of the Courts subordinate to the High Court of Punjab and Haryana shall also be URDU in addition to Hindi in Devnagri Script and or Punjabi in Gurmukhi Script in the Union Territory of Chandigarh.

- 4. Punjab Courts Act, 1918.-** In all the Districts of Punjab and Haryana, the Hon'ble Chief Justice and Judges of the High Court of Punjab and Haryana at Chandigarh under the powers conferred by Section 39(3) of the Punjab Courts Act, 1918, as amended upto-date confer on the Subordinate Judge of the First Class and posted as Senior Subordinate Judge, the powers of appeal -

- (a) in a small cause of value not exceeding Rs. 1,000/-.
- (b) in a land suit of a value not exceeding Rs. 250/- and
- (c) in an unclassified suit of a value not exceeding Rs. 500/- and the Court of such Subordinate Judge of the First Class is deemed to be a District Court for the purpose of all such appeals preferred to it.

Such powers of appeal are even conferred on Subordinate

Judge of the First Class by name.

5. **Powers in respect of Railway Administration** - GSR/803 dated 29 August, 1981 and published in Gazette of India, Part II Section 3(i), No. 35 dated 29th August, 1981. In pursuance of the provisions of the Rule 2 of Order XXVII of the First Schedule to the Code of Civil Procedure (Act V of 1908), the Central Government hereby authorise the officers specified in the schedule below to act for and on behalf of the Central Government in respect of any judicial proceedings to a Railway Administration.

Schedule

1. Ministry of Railways (Railway Board).- (1) Secretary (2) Joint Secretary (3) Deputy Secretary (4) Under Secretary (5) Director and (6) Joint Director.
2. All Railways.- (1) General Manager (2), Senior Deputy General Manager (3) Deputy General Manager (4) Chief Personal Officer (S) Additional Chief Personal Officer (6) Chief Commercial Superintendent (7) Additional Chief Commercial Superintendent (8) Deputy Chief Commercial Superintendent (9) Additional Chief Operating Superintendent (10) Deputy Chief Operating Superintendent (11) Chief Engineer (12) Additional Chief Engineer (13) Deputy Chief Engineer (14) Chief Mechanical Engineer (15) Additional Chief Mechanical Engineer (16) Deputy Chief Mechanical Engineer (17) Chief Electrical Engineer (18) Additional Chief Electrical Engineer (19) Engineer (21) Additional Chief Signal and Telecommunication Engineer (22) Deputy Chief Signal and Telecommunication Engineer (23) Controller of Stores (24) Additional Controller of Stores (25) Deputy Controller of Stores (26) Financial Advisor and Chief Accounts Officer (27) Additional Financial Advisor and Chief Accounts Officer (28) Chief Medical Officer (29} Chief Security Officer (30) Divisional Superintendent (31) Chief Marketing Superintendent (32) Chief Safety Superintendent (33} Additional Chief Safety Superintendent (34) Engineer-in-Chief (35) Traffic Superintendent (36) Chief Claims Officer (37) Additional Chief Claims Officer (38) Divisional Railway Manager (39) Deputy Chief Security Officer (40) Chief Works Manager (41) Additional Divisional Railway Manager (42) Senior Divisional Personal Officer (43) Senior Divisional Commercial Superintendent (44) Senior Divisional Engineer (45} Divisional Superintendent Engineer (46) Senior Divisional Mechanical Engineer (47) Senior Divisional Operating Superintendent.
3. **The Chittaranjan Locomotive Works, Chittaranjan.**- (1) General Manager (2) Deputy General Manager (3) Chief Mechanical Engineer (4) Controller of Stores (5} Deputy Chief Electrical Engineer (6} Deputy Chief Personal Officer (7) Chief

Electrical Engineer (8) Additional Chief Mechanical Engineer (9) Additional Controller of Stores (10) Deputy Financial Advisor and Chief Accounts Officer.

4. **The Integral Coach Factory, Peramber.-** (1) General Manager (2) Deputy Chief Personal Officer (3) Deputy Chief Controller of Stores.

5. **The Diesel Locomotive Works.-** (1) General Manager (2) Additional Chief Personnel Officer (3) Deputy Chief Controller of Stores.

6. **Metropolitan Transport Project.-** (1) General Manager (2) Chief Administrative Officer (3) Chief Project Officer (4) Chief Engineer (5) Deputy Chief Engineer (6) Chief Electrical Engineer (7) Deputy Chief Electrical Engineer (8) Chief Signal and Telecommunication Engineer (9) Deputy Chief Signal and Telecommunication Engineer (10) Deputy General Manager (11) Additional Chief Engineer.

7. **Research/Designs and Standard Organisation.-** (1) Director General (2) Deputy Director General (3) Deputy Directors, Establishments.

6. **Punjab Courts Act, 1918 - High Court Notn. No. 230/Gaz. 11(7)/XXI AS dated 6th June, 1983.-** In exercise of the powers conferred by sub-section (1) of Section 31 of the Punjab Courts Act, 1918, as amended upto date, the Hon'ble Chief Justice and Judges are pleased to specify the place of sitting of the Court of District Judge, or Civil District Kurukshetra to be at Kurukshetra.

7. **Punjab Courts Act, 1918 - High Court Notn. No. 232 Gaz. 11(7)XXI/AS dated 6th June, 1983.-** In exercise of the powers conferred by sub-section (1) of Section 31 of the Punjab Courts Act, 1918 as amended upto date, the Honourable Chief Justice and Judges are pleased to specify the place of sitting of the Court of District Judge, Civil District, Sonapat to be at Sonapat.

8. **Punjab Courts Act, 1918 dated 20 December, 1980 - High Court Notn. No. 399 Gaz. 1(7) XXI C.6 Powers.-** In partial modification of this Court's notification No. 306-Gaz 1/XX C.6 dated 11th October, 1967 (as amended), in exercise of the powers conferred by sub-section (3) of Section 39 of the Punjab Courts Acts, 1918 as amended upto date, the Honourable Chief Justice and Judges of the High Court of the Punjab and Haryana at Chandigarh are pleased to direct that within the limits of each of the Civil district set forth in the Schedule appended hereto, appeals lying to the District Court from decrees or orders passed by any Subordinate Judge.

(a) in a small cause of a value not exceeding Rs. 500 (Rs. Five hundred), and

(b) in an unclassified suit for a value not exceeding Rs. 100 (Rs. One hundred)

shall be preferred to the Senior Subordinate Judge of the First Class exercising jurisdiction within such Civil District.

2. It is further directed that the Court of such Senior Subordinate Judge of the First Class shall be deemed to be a District Court for the purpose of all such appeals preferred to it.

Schedule

Districts (Haryana State)

(1) Bhiwani (2) Sirsa (3) Sonapat (4) Kurukshetra (5) Faridabad.

9. Guardian and Wards Act, 1890 - High Court Notification No. 400/Gaz. 11(7) XV. A. 13 dated 20 December, 1980.- In partial modification of this Courts notification No. 106-Gaz/XVA/13 dated 1st April, 1975 and in exercise of the powers conferred by sub-section (1) of Section 4A of the Guardian and Wards Act, 1890 as amended by Act IV of 1926, the Hon'ble Chief Justice and Judges of the High Court of Punjab and Haryana at Chandigarh hereby empower the Senior Subordinate Judges of the First Class in each of the districts mentioned in the schedule appended hereto to dispose of any proceedings under the Guardian and Wards Act, 1890, transferred to him by the District of the same district.

Schedule

District (Haryana State)

1. Kurukshetra

2. Faridabad

10. Punjab Courts Act, 1918 - High Court Notn. No. 246/Gaz. 11(7)/XX 1E. 5 Pt. 10 dated 19 October, 1979 - Powers : In exercise of the powers conferred by Section 29 of Punjab Courts Act, 1918 as amended upto date, and in supersession of all previous notification issued by this Courts in this behalf, from time to time the Honourable Chief Justice and Judges of the High Court of Punjab and Haryana at Chandigarh have been pleased to invest all the Senior Subordinate Judges of the First Class in the State of Punjab and Haryana and Union Territory of Chandigarh the powers of Judge Small Cause Courts Act, 1887, for the trial of suits of which the value does not exceed rupees two thousand (Rs. 2,000) with effect from the date of this notification.

11. Punjab Courts Act, 1918 - H.C. Notn. No. 147-Gaz. 11(7)/XXI.E. 5 dated 8th May, 1980.- In partial modification of this Courts notification No. 246 Gaz.11 (7) XXI.E.5 (Pt. 10) dated 19th October, 1979 and in exercise of powers

conferred by Section 29 of the Punjab Courts Act, 1918 (as amended upto date) and in supersession of all previous notifications issued by this Court in this behalf from time to time the Hon'ble Chief Justice and Judges of the High Court of Punjab and Haryana at Chandigarh have been pleased to confer upon all the Senior Subordinate Judges of the First Class in the State of Punjab and Haryana, the powers of Judge, Small Cause Court under the Provincial Small Causes Courts Act, 1887 for the trial of suits of which the value does not exceed rupees two thousand (Rs. 2,000) arising within the Municipal Limits of their respective stations of posting, with effect from the date of this notification.

2. All matters relating to pending cases whether before or after the decree shall, however, continue to be dealt with by the Court in which they were instituted.

Punjab Courts Act, 1918. - The following Districts Judges have been appointed to be the Districts Judges of the Civil Districts as shown.

Sr.	District	Civil Districts	Notification No.
1.	Gurgaon	Gurgaon	No.3/18/79-JJ 9 January.
2.	Faridabad	Faridabad	-do-

2. Guardian and Wards Act, 1890 - High C. Notil. No. 106/Gaz/XVA. 13 dated 1st April,1975 - Powers : In exercise of the powers conferred by subsection (1) of Section 4A of the Guardian and Wards Act, 1890, as amended by Act IV of 1926, Hon'ble the Chief Justice and Judges of the High Court of Punjab and Haryana at Chandigarh, hereby empower the Senior Subordinate Judge of the First Class in each of the districts mentioned in the Schedule appended hereto to dispose of any proceedings under the Guardian and Wards Act, 1890, transferred to him by the District Judge of the same District.

2. High Court Notification No. 93-Gaz./XV.E. 9 dated the 10th March, 1931 is hereby cancelled.

Punjab	Haryana	UT, Chandigarh
1. Hoshiarpur	1. Ambala	
2. Jullundur	2. Karnal	Chandigarh
3. Ludhiana	3. Rohtak	
4. Ferozepur	4. Sonapat	
5.Amritsar	5. Jind	
6. Gurdaspur	6. Hissar	
7. Kapurthala	7. Bhiwani	
8. Patiala	8. Gurgaon	

9. Ropar	9. Mohindergarh	
10. Sangrur		
11. Bhatinda and		
12. Faridkot		

**Haryana Financial Commissioner's
(Distribution of Business) Rules, 1975**

Punjab Land Revenue Act, 1887 - No. GSR. 35/PA; 17/1887/S. 7/75 dated 28.10.1975.- In exercise of the powers conferred by sub-section (2) of Section 7 and sub-section (1) of Section 1 of the Punjab Land Revenue Act, 1887 and with reference to Haryana Government, Revenue Department notification No. GSR. 63/PA. 17/1887/S.7/75 dated 23rd June, 1975, the Governor of Haryana hereby makes the following rules, namely :-

Rules

1. Short Title.- These rules may be called the Haryana Financial Commissioner's (Distribution of Business) Rules, 1975.
2. Definitions.- In these rules, unless the context otherwise requires.
 - (a) "Act" means the Punjab Land Revenue Act, 1887. The Punjab Tenancy Act, 1887, or any other Act or Regulation in pursuance of which the Financial Commissioner has jurisdiction as the Chief Controlling Authority.
 - (b) "Financial Commissioner" means the Financial Commissioner appointed as such by the State Government, in case two or more Financial Commissioners are appointed, the senior-most amongst them shall be called the First Financial Commissioner.
3. First Financial Commissioner.- Subject to the provisions hereafter made or the orders issued thereunder, the words 'Financial Commissioner' wherever used in the Act, shall where there are two or more Financial Commissioners, refer only the First Financial Commissioner.
4. Distribution of business among Financial Commissioner.- (1) The distribution of business relating to appeals, revisions and applications under the Act and the general superintendence and control of Revenue Courts of any other business under the Act among the various Financial Commissioners shall be made by the State Government.
 - (2) All proposals involving material change in the Revenue policy or system of the State or alteration of the limits of districts or tehsils, shall be submitted to the Government through the First Financial Commissioners.
 - (3) Proposals to confer powers under the Act, shall be submitted to the Government through the First Finance

Commissioner, who may, if he so desires, consult the other Financial Commissioners.

5. Entrustment of cases to bench of the Financial Commissioners.- (1) If the State Government is of the opinion that it is expedient that any case or class of cases or any other business under the Act within the competency of any Financial Commissioners should be considered and disposed of by a bench consisting of two or more Financial Commissioners, it may entrust the case or class or other business to such bench for disposal.
(2) Where a bench of Financial Commissioners is of the opinion that it is expedient that any case or other business under the Act pending before it should be heard and decided by a larger bench of the Financial Commissioners, the bench may refer the same to the State Government for entrustment to a larger bench of Financial Commissioners to be constituted by the Government.
(3) In case of difference of opinion among the Financial Commissioners the case or class of cases shall be considered and disposed of in accordance with the provisions of sub-section (3) of Section 7 of the Punjab Land Revenue Act, 1887.
6. Repeal.- The rules by the erstwhile Punjab Government, Revenue and Agriculture Department vide notification No. 132, dated 1st March, 1888, in their application to the State of Haryana, are hereby repealed.

**RULES MADE BY THE PUNJAB HIGH COURT UNDER SECTION 122 OF THE
CODE OF CIVIL PROCEDURE ANNULLING, ALTERING OR ADDING TO THE
RULES IN THE FIRST SCHEDULE OF THE CODE.**

On the recommendation of the Rule Committee the following additions and alterations to the Rules contained in the First Schedule of the Code of Civil Procedure have been made by the Punjab High Court under section 122 of the Code of Civil Procedure to regulate its own procedure and the procedure of the Civil Courts subject to its superintendence:

1) Order II, rule 8.—After rule 7 insert the following as rule 8.

8. (1) Where an objection, duly taken, has been allowed by the Court, the plaintiff shall be permitted to select the cause of action with which he will proceed, and shall, within a time to be fixed by the Court, amend the plaint by striking out the remaining causes of action.

(2) When the plaintiff has selected the cause of action with which he will proceed, the Court shall pass an order giving him time within which to submit amended plaints for the remaining causes of action and for, making up the Court fees that may be necessary. Should the plaintiff not comply with the Courts order, the Court shall proceed as provided in rule 18 of Order VI and as required by the provisions of the Court-fees Act.

(Chief Court Notification No. 2212-G., dated 12th May, 1909)

2) Order III, rule 3.

(1). Processes served on the recognized agent or an Advocate of the party shall be as effectual as if the same had been served on the party in person unless the Court otherwise directs.

(2). The provisions for the service of process on a party to a suit shall apply to the service of process on his recognized agent”.

(Correction slip No.25/Rules.XI.Y.16 dated 1.9.1975).

3) Order III, Rule 4 (3).

For the purposes of sub-rule (2) (i) an application or a proceeding for transfer under sections 22, 24 or 25 of this Code, (ii) an application under rule 4 or rule 9 or rule 13 or Order IX of this Code; (iii) an application under rule 4 of Order XXXVII of this Code; (iv) an application for review of judgment; (v) a reference arising from or out of the suit; (vi) an application for amendment of the decree or order or the record in the suit or an appeal, reference or revision arising from or out of the suit; (vii) an application for the execution of any decree or order in the suit; (viii) an application for restitution under section 144 or section 151 of this Code; (ix) an application under Section 151 of this Code, (x) an application under Section 152 of this Code; (xi) any appeal (including an appeal under the Letters Patent of the High Court) or revision application from any decree or order in the suit or an appeal arising from or out of the suit; (xii) any application relating to, or incidental to or arising from or out of such appeal or revision or a reference arising from or out of the suit (including an application for leave to appeal under the Letters Patent of the High Court or for leave to appeal to the Supreme Court), (xiii) any application for directing or proceedings for prosecution under Chapter XXXV of the Code of Criminal Procedure, 1898, relating to the suit or any of the proceedings mentioned herein-before or an appeal or revision arising from and out of any order passed in such application or proceedings; (xiv) any application or act for the purposes of obtaining copies of documents or the return of documents produced or filed in the suit or in any of the proceedings mentioned herein-before; (xv) any application for the withdrawal or for obtaining the refund or payment of or out of the monies paid or deposited into the Court in connection with the suit or any of the proceedings mentioned hereinbefore (including withdrawal, refund or payment of or out of the monies deposited as security for costs or for covering the costs of the preparation and printing of the Transcript Record of the appeal to the Supreme court); (xvi) any application for expunging any remarks or observation on the record of or made in the judgment in the suit or any appeal, revision, reference or review arising from or out of the suit; (xvii) any application for certificate in regard to the substitution of heirs in appeal to the Supreme Court arising from

the suit and, (xviii) any application under Rule 15 of Order XLV of the Code shall be deemed to be proceedings in the suit:

Provided that where the venue of the suit or the proceeding shifts from one Court (Subordinate or otherwise) to another, situate at a different station, the pleader filing the appointment referred to in sub-rule (2) in the former Court shall not be bound to appear, act or plead in the latter Court, unless he files or he has already filed a memorandum signed by him that he has instructions from his client to appear, act and plead in that Court.

[Inserted vide Correction Slip No.14 Rules/XI.Y. 24, dated the 21st November, 1968].

4) Order IV rule 1.

(1) Every suit shall be instituted by presenting a plaint to the Court or such Officer as it appoints in this behalf.

(2) Every plaint shall comply with the rules contained in Orders VI and VII, so far as they are applicable.”

5) Order V rule 1

(1) When a suit has been duly instituted a summons may be issued to the defendant to appear and answer the claim on a day to be therein specified: Provided that no such summons shall be issued when the defendant has appeared at the presentation of the plaint and admitted the plaintiff's claim.

(2) A defendant to whom a summons has been issued under sub-rule (1) may appear-----

(a) in person, or

(b) by a pleader duly instructed and able to answer all material questions relating to the suit, or

(c) by a pleader accompanied by some person able to answer all such questions.

(3) Every such summons shall be signed by the Judge or such officer as he appoints, and shall be sealed with the seal of the Court”.

6) Order V, rule 7.

The summons to appear and answer shall order the defendant to produce all documents in his possession or power upon which he bases his defence or any claim for set-off and shall further order that where he relies on any other documents (whether in his possession or power or not) as evidence in support of his defence or claim for set-off, he shall enter such documents in a list to be added or annexed to the written statement.

(High Court Notification No. 213-R/XI-Y-17, dated the 24th July, 1936).

**7) Order V, rule 10.-
Mode of Service:**

Service of the summons shall be made by delivering or tendering a copy thereof signed by the Judge or such officer as he appoints in this behalf, and sealed with the seal of the Court:

Provided that in any case, if the plaintiff so wishes, the Court may serve the summons in the first instance by registered post (acknowledgment due) instead of in the mode of service laid down in this rule.

(Chief Court Notification No. 2212-G, dated 12th May, 1909, as amended by High Court Notification No. 563-G., dated 24th November, 1927.)

8) Order V, rule 15:

Where service may be on male member of defendant's family:

Where in any suit the defendant cannot be found or is absent from his residence and has no agent empowered to accept service of the summons on

his behalf, service may be made on any adult male member of the family of the defendant who is residing with him.

Explanation.—A servant is not a member of the family within the meaning of this rule.

(High Court notification No. 563-G., dated 24th November, 1927.)

9) Order V Rule 20.

(1) Where the Court is satisfied that there is reason to believe that the defendant is keeping out of the way for the purpose of avoiding service, or that for any other reason the summons cannot be served in the ordinary way the Court shall order the summons to be served by affixing a copy thereof in some conspicuous place in the court-house, and also upon some conspicuous part of the house (if any) in which the defendant is known to have last resided or carried on business or personally worked for gain, or in such other manner as the Court thinks fit.

Provided that if service in the ordinary manner or by registered post is not effected for the first date of hearing, the Court may direct substituted service, in such manner as the Court may deem fit, even if no application is made by or on behalf of the plaintiff for that purpose.

(2) Service substituted by order of the Court shall be as effectual as if it had been made on the defendant personally.

(3) Where service is substituted by order of the Court, the Court shall fix such time for the appearance of the defendant as the case may require”.

10) Order V, rule 18, Form No. 11 of Appendix B:-

Affidavit of process-server to accompany return of a summons or notice.

(Order 5 rule 18)

The affidavit of....., son of..... I make oath affirm and say as follows:-

(1) am a process-server of this Court.

(2) On the.....day of..... 19.....I received a summons/notice issued by the Court of in suit No.....of 19.....in the said Court, dated the..... day of.....19 for service on.....

(3) The said..... was at the time personally known to me, and I served the said summons/notice on him/her on the.....day of.....19.....at about.....o' clock in the.....none at.....by tendering a copy thereof to him/her and requiring his/her signature to the original summons/notice.

(a).....

(b).....

(a) Here state whether the person served, signed or refused to sign, the process and in whose presence.

(b) Signature of process-server.

Or,

(3) The said not being personally known to me,..... accompanied to me.....and pointed out to me a person whom he stated to be the said..... and I served the said summons/notice on him/her on the.....day of.....19.....at about..... o'clock in the..... noon at..... by tendering a copy thereof to him/her and requiring his/her signature to the original summons/notice.

(a).....

(b).....

(a) Here state whether the person served, signed or refused to sign the process, and in whose presence.

(b) Signature of process-server.

Or,

(3) The said and his house in which he ordinarily resides being personally known to me/pointed out to me by..... I went to the said house in..... and there on the..... day of.....19..... at..... o'clock in the fore/after noon if did not find the said.....

((a).....)

I enquired neighbours

((b).....)

I was told that..... had gone to.....and would not be back, till.....

Signatures of process-server

Or,

If substituted service has been ordered, state fully and exactly the manner in which the summons was served, with special reference to the terms of the order for substituted service.

Sworn/Affirmed by the said before me this..... day of.....19..... Empowered under section 139 of the Code of Civil Procedure, 1908, to administer the oath to deponents.

(Chief Court Notification No. 2212-G., dated 12th May, 1909).

11) Order V, rule 21

The following shall be substituted for the existing Rule 21 of Order V of Code of Civil Procedure, 1908, namely:-

A summons may be sent by the court by which it is issued, whether within or without the State, either by one of its officers or by post to any Court (not being the High Court) having jurisdiction in the place where the defendant resides:- Provided that where the defendant resides within the state at a place not exceeding sixteen kilometers from the place where the Court is situate a summons may be delivered or sent by the Court to one of its officers to be served by him or one of his Subordinates.”

(High Court Notification No. GSR 347/C.S.5/1908/S 122/78,dated 12.09.1978, published in the Punjab Govt. Gazette, Legislative Supplement, dated 22.09.1978, Haryana Govt. Gazette, Legislative Supplement, dated the 19.09.1978, and the Chandigarh Administration Gazette, dated the 01.05.1979.)

12) Order V, Rule 21-A

The High Court shall prepare a panel of courier service providers for the High Court and for Subordinate Courts in the States of Punjab, Haryana and Union Territory Chandigarh, which may be reviewed every year.

Explanation.-While giving approval to the panel of courier service providers by the High Court, the recommendations of District Judges may be kept in view:

Provided that where it has been found that a courier service provider has given a false report, information shall be sent to the High Court in this regard by the Court, through the District Judge. Upon receiving three such complaints, the courier service provider shall, after an opportunity of being heard, be placed on the blacklist, if his explanation has been unsatisfactory. He shall remain on the blacklist for a period of three years.

Punjab and Haryana High Court Notification No. 150 Rules/XI.Y.16. dated 24.04.2009, published in Punjab Government Gazette on 15.05.2009, in Haryana Government Gazette on 01.05.2009 and in Chandigarh Administration Gazette on 01.06.2009.

{Inserted vide Correction slip no. 87 Rules/II.D.4 dated 11.1.2024}

13) Order VI, Rule 15(4)

Provided further that on amendment of pleadings, afresh affidavit shall have to be filed in consonance with the amended pleadings.

Punjab and Haryana High Court Notification No. 150 Rules/XI.Y.16. dated 24.04.2009, published in Punjab Government Gazette on 15.05.2009, in Haryana Government Gazette on 01.05.2009 and in Chandigarh Administration Gazette on 01.06.2009.

{Inserted vide Correction slip no. 87 Rules/II.D.4 dated 11.1.2024}

14) Order VI, Rule 17.**Amendment in pleading:-**

(1) The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties.

(2) Every application for amendment shall be in writing and shall state the specific amendments which are sought to be made, indicating the words or paragraphs to be added, omitted or substituted in the original pleading.

(High Court Notification No. 253-Genl./XI. Y.1 dated the 12th November, 1951/7th December, 1951).

15) Order VII, rule 2:—**In money suits:-**

Where the plaintiff seeks the recovery of money the plaint shall state the precise amount claimed.

But where the plaintiff sues for mesne profits, or for an amount which will be found due to him on taking unsettled accounts between him and the defendant, or for movables in the possession of the defendant, or for debts of which the value he cannot, after the exercise of reasonable diligence, estimate, the plaint shall state approximately the amount or value used for.

(Chief Court Notification No. 2212-G dated the 12th May, 1909).

16) Order VII, Rule 9:-

The following shall be substituted for sub-rule (1-A) of rule 9 of Order VII:-

“The Plaintiff shall, within the time fixed by the Court or extended by it under sub-rule (1), file summons in the prescribed form, in duplicate, after being duly filled in, for each of the defendants and pay the requisite fee for the service thereof on the defendants.”

Notification No. G. S. R. 21/C.A.5/08/S. 122/82. Dated the 10th February, 1982

17) Order VII, rule 17:—

1. **Production of shop-book:-** Save in so far as is otherwise provided by the Banker's Books Evidence Act, 1891, where the document on which the plaintiff sues is an entry in a shop book or other account in his possession or power, the plaintiff shall produce the book or account at the time of filing the plaint, together with a copy of the entry on which he relies.
2. **Original entry to be marked and returned:-** The Court, or such officer as it appoints in this behalf, shall forthwith mark the documents for the purpose of identification; and, after examining and comparing the copy with the original, shall, if it is found correct, certify it to be so, and return the

book to the plaintiff and cause the copy to be filed.

Explanation.- -When a shop book or other account written in a language other than English or the language of the Court is produced with a translation or transliteration of the relevant entry the party producing it shall not be required to present a separate affidavit as to the correctness of the translation or transliteration, but shall add a certificate on the document itself, that it is a full and true translation or transliteration of the original entry, and no examination or comparison by the ministerial officer shall be required except by a special order of the Court.

(High Court Notification No. 88-Gaz./XI-Y. 7, dated the 9th March, 1935).

18) Order VII, rule 19:

Every plaint or original petition shall be accompanied by a proceeding giving an address at which service of notice, summons or other process may be made on the plaintiff or petitioner. Plaintiffs or petitioners subsequently added shall, immediately on being so added file a proceeding of this nature.

19) Order VII, rule 20:

An address for service filed under the preceding rule shall be within the local limits of the District Court within which the suit or petition is filed, or of the District Court within which the party ordinarily resides, if within the limits of the territorial jurisdiction of the High Court.

20) Order VII, rule 21:

Where a plaintiff or petitioner fails to file an address for service, he shall be liable to have his suit dismissed or his petition rejected by the Court suo motu or any party may apply for an order to that effect, and the Court may make such order as it thinks just.

21) Order VII, rule 22:-

Where a party is not found at the address given by him for service and no agent or adult male member of his family on whom a notice, summons or other process can be served is present, a copy of the notice, summons or other process shall be affixed to the outer door of the house. If on the date fixed such party is not present, another date shall be fixed and a copy of the notice, summons or other process shall be sent to the registered address by registered post, and such service shall be deemed to be as effectual as if the notice, summons or other process had been personally served.

22) Order VII, rule 23:-

Where a party engages a pleader, notices, summons or other processes for service on him shall be served in the manner prescribed by Order III, rule 5, unless the Court directs service at the address for service given by the party.

23) Order VII, rule 24:-

A party who desires to change the address for service given by him as aforesaid shall file a verified petition, and the Court may direct the amendment of the record accordingly. Notice of such petition shall be given to such other parties to the suit as the Court may deem it necessary to inform, and may be either served upon the pleaders for such parties or be sent to them by registered post, as the Court thinks fit.

24) Order VII, rule 25:—

Nothing in these rules shall prevent the Court from directing the service of a notice, summons or other process in any other manner, if, for any reasons, it thinks fit to do so.

(High Court Notification No. 567-G., dated 24th November, 1927)

25) Order VIII, rule 1:-

(1) The defendant may, and if so required by the Court, shall at or before the first hearing or within such time as the Court may permit, present a written statement of his defence; in duplicate, one for the court and the other for the plaintiff; and with such written statement, or if there is no written statement, at the first hearing, shall produce in Court all documents in his possession or power on which he bases his defence or any claim for setoff.

(2) Where he relies on any other documents evidence in support of his defence or claim for setoff, he shall enter such documents in a list to be added or annexed to the written statement or where there is no written statement, to be presented at the first hearing. If no such list is so annexed or presented, the defendant shall be allowed a further period of ten days to file this list of documents.

(3) A document which ought to be entered in the list referred to in sub-clause (2) but which has not been so entered, shall not, without the leave of the Court, be received in evidence on the defendant's behalf at the hearing of the suit.

(4) Nothing in this rule shall apply to documents produced for cross-examination of plaintiff's witnesses or handed to a witness merely to refresh his memory.

(High Court Notification No. 191-R/XI-Y-8, dated the 19th June, 1939 and High Court Notification No. 200-General/XI- Y-8 dated the 1st September, 1953).

26) Order VIII, rule 11:—

Every party, whether original, added or substituted, who appears in any suit or other proceeding shall, on or before the date fixed in the summons, notice or other process served on him as the date of hearing, file in Court a proceeding stating his address for service, and, if he fails to do so, he shall be liable to have his defence, if any, struck out and to be placed in the same position as if he had not defended. In this respect the Court may act suo motu or on the application of any party for an order to such effect, and the Court may take such order as it thinks just.

27) Order VIII, rule 12:—

Rules 20, 22, 23, 24 and 25 of Order VII shall apply, so far as may be, to addresses for service filed under the preceding rule.

(High Court Notification No. 567.G. dated 24th November, 1927).

28) Order IX, rule 4:—

Plaintiff may bring fresh suit or Court may restore suit to file:-

(1) Where a suit is dismissed under rule 2 or rule 3, the plaintiff may (subject to the law of limitation) bring a fresh suit or he may apply for an order to set the dismissal aside, and if he satisfies the Court that there was sufficient cause for his not paying the court-fee and postal charges (if any) required within the time fixed before the issue of the summons, or for his non-appearance, as the case may be, the court shall make an order setting aside the dismissal and shall appoint a day for proceeding with the suit.

(2) The provisions of section 5 of the Indian Limitation Act, 1908 (IX of 1908) shall apply to applications under sub-rule (1).

(High Court Notification No. 75 Genl./XI-Y-9, dated the 14th February, 1956.)

29) Order IX, rule 9:—

Decree against plaintiff by default bars fresh suit:-

(1) Where a suit is wholly or partly dismissed under rule 8, the plaintiff shall be precluded from bringing a fresh suit in respect of the same cause of action. But he may apply for an order to set the dismissal aside, and if he satisfies the Court that there was sufficient cause for his non-appearance when the suit was called on for hearing the Court shall make an order setting aside the dismissal upon such terms as to cost or otherwise as it

thinks fit, and shall appoint a day for proceeding with the suit.

Provided that the plaintiff shall not be precluded from bringing another suit for redemption of a mortgage, although a former suit may have been dismissed for default.

(2) No order shall be made under this rule unless notice of the application has been served on the opposite party.

(3) The provisions of section 5 of the Indian Limitation Act, 1908 (IX of 1908) shall apply to applications under sub-rule (1).

**(Chief Court Notification No. 2212-G., dated the 12th May, 1909).
(High Court Notification No. 75. Genl./XI-Y-9, dated the 14th February, 1956).**

30) Order IX, rule 13:—

Setting aside decree ex-parte against defendant:-

(1) In any case in which a decree is passed ex-parte against a defendant, he may apply to the Court by which the decree was passed for an order to set it aside; and if he satisfies the Court that the summons was not duly served, or that he was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall make an order setting aside the decree as against him upon such terms as to costs, payment into Court or otherwise as it thinks fit, and shall appoint a day for proceeding with the suit:

Provided that where the decree is of such a nature that it cannot be set aside as against such defendant only it may be set aside as against all or any of the other defendants also.

(2) The provisions of section 5 of the Indian Limitation Act 1908 (IX of 1908) shall apply to applications under sub-rule (1).

(High Court Notification No. 239-Genl.1X1-Y-8, dated the 6th December, 1954).

31) Order XIII, rule 1:-

~~(1) The parties or their pleaders shall produce at the first hearing of the suit all the documentary evidence of every description in their possession or power, either in original or Photostat copy thereof, on which they intend to rely and which has not already been filed in Court, and all documents which the Court has ordered to be produced.~~

(Sub-rule (1) of Rule 1, Order XIII of Code of Civil Procedure, substituted vide Notification No. GSR 39C.A.5/1908/S.12257, dated 17.03.1975 is 'omitted'.

Punjab and Haryana High Court Notification No. 189 Rules/XI.Y.16. dated 20.11.2023, published in Punjab Government Gazette on 23.11.2023, in Haryana Government Gazette on 24.11.2023 and in Chandigarh Administration Gazette on 21.11.2023.

{Inserted vide Correction slip no. 87 Rules/II.D.4 dated 11.1.2024}

(2) The Court shall receive the documents so produced:

Provided that they are accompanied by an accurate list thereof prepared in such form as the High Court directs”.

32) Order XIII, rule 1 sub-rule (4):-

(4) The documents as mentioned in sub-rule (1) and all other documents which the Court orders to be produced, shall be produced in the following Form No. 5 of Appendix H (Miscellaneous) of the Appendices to the First Schedule of CPC by substituting the existing Form No. 5:-

No. 5

**List of documents produced by Plaintiff/Defendant under
Order XIII, Rule 1, Civil Procedure Code
(Order XIII, sub-rule(4) of Rule 1)**

IN THE COURT OF _____ AT _____ DISTRICT

SUIT NO. _____ OF 20__

_____ Plaintiff

Versus

_____ Defendant

List of documents produced with the plaint (or at first hearing) on behalf of Plaintiff or defendant

This List was filed by _____ this day of 20__

1	2	3	4		5
Seri al No.	Description and date, if any, of the document	What the document is intended to prove	What became of the document		Remar ks
			If brought on the record, Exhibit mark put on the documen t	If rejected date of return to the party and signature of party, or pleader to whom the document was returned.	

**Signature of party or pleader
Producing the list.**

Punjab and Haryana High Court Notification No. 189 Rules/XI.Y.16. dated 20.11.2023, published in Punjab Government Gazette on 23.11.2023, in Haryana Government Gazette on 24.11.2023 and in Chandigarh Administration Gazette on 21.11.2023.

{Inserted vide Correction slip no. 87 Rules/II.D.4 dated 11.1.2024}

33) Order XIII, Rule 4

Endorsement on documents admitted in evidence:-

- (1) Subject to the provisions of the next following sub-rule, there shall be endorsed on every document which has been admitted in evidence in the suit the following particulars, namely:
- (a) The number and title of the suit,
 - (b) The name of the person producing the document,
 - (c) The date on which it was produced, and
 - (d) A statement of its having been so admitted, and the endorsement shall be signed or initialed by the Judge.
- (2) Where a document so admitted is an entry in a book, account or record, and a copy thereof has been substituted for the original under the next following rule, the particulars aforesaid shall be endorsed on the copy and the endorsement thereon shall be signed or initialed by the Judge.

Provided that where the Court is satisfied that the document, not endorsed in the manner laid down in the above rule, was in fact, admitted in evidence, it shall treat the document as having been properly admitted in evidence, unless non-compliance with this rule has resulted in miscarriage of justice.”

(High Court Notification No.GSR 134/CS.5/1908/S.122/74 dated 28.5.1974, published in the Punjab Government gazette, Legislative Supplement, dated the 25th October, 1974 Haryana Govt. Gazette,

Legislative Supplement, dated the 11th June, 1974 and Chandigarh Administration Gazette, dated the 1st July, 1974).

34) Order XIII, rule 9 :-

Return of admitted documents:

(1) Any person, whether a party to the suit or not, desirous of receiving back any document produced by him in the suit and placed on the record shall, unless the document is impounded under rule 8, be entitled to receive back the same:-

(a) Where the suit is one in which an appeal is not allowed, when the suit has been disposed of, and

(b) Where the suit is one in which an appeal is allowed, when the Court is satisfied that the time for preferring an appeal has elapsed and that no appeal has been preferred, or, if an appeal has been preferred, when the appeal has been disposed of :

Provided that a document may be returned at any time earlier than that prescribed by this rule if the person applying therefore delivers to the proper officer a certified copy to be substituted for the original and undertakes to produce the original if required to do so:

Provided also that no document shall be returned which, by force of the decree, has become wholly void or useless:

Provided further that the costs of such certified copy shall be recoverable as a fine from the party at whose instance the original document has been produced.

(2) On the return of a document admitted in evidence, a receipt shall be given by the person receiving it.

(High Court notification No. 563-G., dated 24th November, 1927).

35) Order XV Rule 5:-

Striking off defence for failure to deposit admitted rent:

(1) In any suit by a lessor for the eviction of a lessee after the determination of his lease and for the recovery from him of rent or compensation for use and occupation, the defendant shall, at or before the first hearing of suit, deposit the entire amount admitted by him to be due together with interest thereon at the rate of nine per cent per annum and whether or not he admits any amount to be due, he shall throughout the continuation of the suit regularly deposit the monthly amount due within a week from the date of its accrual, and in the event of the default in making the deposit of the entire amount admitted by him to be due or the monthly amount due as aforesaid, the Court may, subject to the provisions of Sub-Rule (2) strike off his defence.

Explanation 1.- The expression "first hearing" means the date for filing written statement or for hearing mentioned in the summons or where more than one of such dates are mentioned, the last of the dates mentioned.

Explanation 2.- The expression "entire amount admitted by him to be due" means the entire gross amount whether as rent or compensation for use and occupation, calculated at the admitted rate of rent for the admitted period of arrears after making no other deduction except the taxes, if any, paid to a local authority in respect of the building on lessor's account and the amount, if any, deposited in any Court.

Explanation 3. The expression "monthly amount due" means the amount due every month, whether as rent or compensation for use and occupation at the admitted rate of rent, after making no other deduction except the taxes, if any, paid to a local authority, in respect of the building on lessor's account.

(2) Before making an order for striking off defence, that Court may consider any representation made by the defendant in that behalf provided such representation is made within 10 days, of the first hearing or, of the expiry of the week referred to in sub-section (1) as the case may be.

(3) The amount deposited under this rule may at any time be withdrawn by the plaintiff:

Provided that such withdrawal shall not have the effect of prejudicing any claim by the plaintiff disputing the correctness of the amount deposited:

Provided further that if the amount deposited includes any sums claimed by the depositor to be deductible on any account, the Court may require the plaintiff to furnish the security for such sum before he is allowed to withdraw the same.”

(Vide Punjab Government Gazette LSP III dated 10.5.1991).

36) Order XVI, rule 1:

Summons to attend to give evidence or produce documents:

At any time after the suit is instituted, the parties may obtain, on application to the Court or to such officer as it appoints in this behalf, summonses to persons whose attendance is required either to give evidence or to produce documents:

Provided that no party who has begun to call his witnesses shall be entitled to obtain process to enforce the attendance of any witness against whom process has not previously issued, or to produce any witness not named in a list, which must be filed in Court on or before the date on which the hearing of evidence on his behalf commences and before the actual commencement of the hearing of such evidence without an order of the court Made in writing and stating the reasons therefore.

(High Court Notification No. 525-Gaz./XI- Y-11, dated the 15th October, 1932.)

37) Order XVI, rule 2 :-

Expenses of witnesses to be paid into Court on applying for summons.

(1) The party applying for a summons shall, before the summons is granted and within, a period to be fixed, pay into Court such a sum of money as appears to the Court to be sufficient to defray the travelling and other expenses of the person summoned in passing to and from the Court in which he is required to attend, and for one day's attendance.

Exception.—When applying for a summons for any of its own officers, Government will be exempt from the operation of clause (1).

(2) Experts.—In determining the amount payable under this rule, the Court may, in the case of any person summoned to give evidence as an expert, allow reasonable remuneration for the time occupied both in giving evidence and in performing any work of an expert character necessary for the case.

(3) Scale of expenses.—Where the Court is subordinate to a High Court, regard shall be had, in fixing the scale of such expenses, to any rules made in that behalf.

(High Court Notification No. 156-G, dated 9th January, 1919).

38) Order XVI, rule 3:-

Tender of expenses to witness

- (1) The sum paid into a Court shall, except in the case of Government servant, be tendered to the person summoned at the time of serving the summons if it can be served personally.
- (2) When the person summoned is a Government servant, the sum so paid into Court shall be credited to Government.

Exception.—(1) In cases in which Government servants have to give evidence at a Court situate not more than five miles from their headquarters, actual travelling expenses incurred by them may, when the Court considers it necessary, be paid to them.

Exception.—(2) A Government servant, whose salary does not exceed Rs. 10 per mensem, may receive his expenses from the Court.

(High Court Notification No. 156-G., dated 9th January, 1919).

39) Order XVI, rule 4:

Procedure where insufficient sum paid in:

(1) Where it appears to the Court or to such officer as, it appoints in this behalf that the sum paid into Court is not sufficient to cover such expenses

or reasonable remuneration, the Court may direct such further sum to be paid to the person summoned, or, when such person is a Government servant to be paid into Court, as appears to be necessary on that account, and, in case of default in payment, may order such sum to be levied by attachment and sale of the movable property of the party obtaining the summons; of the Court may discharge the person summoned without requiring him to give evidence, or may both order such levy and discharge such person as aforesaid.

(High Court Notification No. 156-G., dated 9th January, 1919).

40) Order XVI, rule 16:—

When they may depart.—

(1) A person so summoned and attending shall, unless the Court otherwise directs, attend at each hearing until the suit has been disposed of.

(2) On the application of either party and the payment through the Court of all necessary expenses (if any), the Court may require any person so summoned and attending to furnish security to attend at the next or any other hearing or until the suit is disposed of and, in default of his furnishing such security, may order him to be detained in the civil prison.

(3) In the absence of the presiding officer the powers conferred by sub-rule (2) may be exercised by the Senior Subordinate Judge of the first class exercising jurisdiction at the headquarters or the district, or by any judge or Court official nominated by him for the purpose.

Provided that a court official nominated for the purpose shall not order a person, who fails to furnish such security as may be required under sub-rule 2, to be detained in prison, but shall refer the case immediately to the Presiding Officer on his return.

(High Court Notifications No. 209-R/XI-Y-11, dated the 25th July, 1938, and No. 24-R/XI-Y-II, dated the 23rd January, 1940).

41) Order XVI. rule 19.

No witness to be ordered to attend in person unless resident within limits:-

No one shall be ordered to attend in person to give evidence unless he resides:

- (a) within the local limits of the Court's ordinary original jurisdiction, or
- (b) without such limits but at a place less than fifty or (where there is railway or steamer communication or other established public conveyance for five-sixths of the distance between the place where he resides and the place where the Court is situate) less than two hundred miles distance from the Court-house.

Provided that any Court situate in the State of Punjab may require the personal attendance of any witness residing in the Punjab or Delhi State.

(High Court Notification No. 60-Genl/XI- Y-8, dated the 4th, March, 1955).

42) Order XVII, rule 1:-

Court may grant time and adjourn hearing:-

(1) Subject to the provisions of Order XXIII, Rule 3, the Court may, if sufficient cause is shown at any stage of the suit, grant time to the parties or to any of them, and may from time to time adjourn the hearing of the suit.

(2) In every such case, the Court shall fix a day for the further hearing of the suit, and may make such order as it thinks fit with respect to the costs occasioned by the adjournment:

Provided that, when the hearing of evidence has once begun, the hearing of the suit shall be continued from day to day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the hearing beyond the following day to be necessary for reasons to be recorded.

(3) Where sufficient cause is not shown for the grant of an adjournment under sub-rule (1), the Court shall proceed with the suit forthwith.

(High Court Notifications No. 95-G, dated 26th February, 1925, and No. 211-R/ XI-Y-22, dated the 21st July, 1937).

43) Order XVIII, Rule 2:-

Statement and production of evidence:-

(1) On the day fixed for the hearing of the suit or on any other day to which the hearing is adjourned, the party having the right to begin shall state his case and produce his evidence in support of the issues which he is bound to prove.

(2) The other party shall then state his case and produce his evidence (if any), and may then address the Court generally on the whole case.

(3) The party beginning may then reply generally on the whole case.

Explanation. I. Nothing in this rule shall affect the jurisdiction of the Court, of its own accord or on the application of any party, for reasons to be recorded in writing, to direct any party to examine any witness at any stage.

Explanation II.—The expression "witness" in Explanation I shall include any party as his own witness.

(High Court Notification No. 175-R/XI- Y-13, dated the 9th June, 1942.)

44) Order XVIII Rules 4 sub-rule 1

“Provided further that the Court in its discretion may record the examination-in-chief of a witness orally or by way of affidavit.”

Punjab and Haryana High Court Notification No. 189 Rules/XI.Y.16. dated 20.11.2023, published in Punjab Government Gazette on 23.11.2023, in Haryana Government Gazette on 24.11.2023 and in Chandigarh Administration Gazette on 21.11.2023.

{Inserted vide Correction Slip No. 87 Rules/II.D.4 dated 11.01.2024}

45) Order XVIII Rule 4 sub-rule 9 :-

(9) The procedure for preparation of panel of Commissioners:-
APPOINTMENT OF COMMISSIONER

1. Qualifications: The following persons shall be treated as qualified and eligible for being empanelled as Commissioners under Order 18 Rule 4(2) CPC :-

- (i) Retired Judges of the Supreme Court of India;
- (ii) Retired Judges of the High Courts;
- (iii) Retired District and Sessions Judges;
- (iv) Retired Additional District and Sessions Judges;
- (v) Retired Civil Judges;
- (vi) Legal Practitioners with 10 years of standing at the Bar having been so empanelled by the High Court.

2. Mode of Empanelment of an Advocate:

- I. The District Judge may suo motu or on an application by an Advocate eligible to be empanelled under Rule (1) supra, desirous of being brought on the panel of Commissioners for recording evidence in terms of Order 18 Rule 4(2) of the Code of Civil Procedure, 1908, would make his recommendations to the High Court in respect of the

suitability of the recommendee as a Commissioner.

- II. The High Court after considering the recommendation and the material sent by the District Judge or otherwise available before it, approve the recommendations, as found proper, for empanelment as Commissioner(s).
3. Mode of empanelment other than an Advocate:
The District Judge may recommend the names of the former Judicial Officers, after seeking their consent, to be brought on the panel of the Commissioners maintained for recording evidence in terms of Order 18 Rule 4(2) of the Code of Civil Procedure, 1908. The High Court after considering the recommendations and the material sent by the District Judge would approve the recommendations, as found proper, for the empanelment as Commissioner(s).
4. Disqualifications:
The following shall be disqualification for being empanelled as Commissioner Under Order 18 Rule 4(2) CPC :-
 - (i) any person who has been adjudged insolvent;
 - (ii) any person against whom, criminal charges have been framed and are pending ; or
 - (iii) any person who has been convicted by a Criminal Court for any offence involving moral turpitude ;
 - (iv) any person against whom disciplinary proceedings have been initiated by the competent authority or who has been punished in such proceedings;
 - (v) such other categories of persons as may be notified by the High Court.
5. Removal or Deletion from the Panel:
A person whose name is placed in the panel referred to above, may be removed or his name be deleted from the said panel, by the court which empanelled him, if :-
 - (i) he resigns or withdraws his name from the panel for any reason ; or
 - (ii) he is declared insolvent or is declared of unsound mind ; or
 - (iii) he is a person against whom criminal charges are framed by a criminal court and are pending ; or
 - (iv) he is a person, who has been convicted by a criminal court for any offence involving moral turpitude ; or
 - (v) he is person against whom disciplinary proceedings on charges relating to moral turpitude have been initiated by appropriate disciplinary authority, which are pending or have resulted in a punishment ; or
 - (vi) he exhibits or displays conduct, during functioning as Commissioner, which is unbecoming of a Commissioner ; or
 - (vii) the Court which empanelled, upon receipt of information, if it is satisfied, after conducting such inquiry as it deems fit, is of the view, that it is not possible or desirable to continue the name of that person in the panel.

Provided that, before moving or deleting his name, under clause (vi) and (vii), the court shall hear the Commissioner whose name is proposed to be removed or deleted from the panel and shall pass a reasoned order.
6. Procedure for recording evidence by the Commissioner:
 - (i) The Court shall while appointing the Commissioner issue directions regarding the place where Commissioner shall hold the proceedings. The

Court shall also indicate the timings for the proceedings before the Commissioner. The place and timings may be determined as per the convenience of the parties and the Commissioner.

(ii) The Court shall summon witnesses on applications filed by the plaintiff or the defendant and it shall be mentioned in the summons that evidence shall be recorded before the Commissioner appointed by the Court. The witness so summoned shall appear before the Local Commissioner for evidence. Thereafter, on appearance, the Local Commissioner shall proceed to record evidence of the witnesses who are present.

However where the witnesses failed to appear before the Local Commissioner, the Commissioner shall close the evidence after recording that the witnesses are absent but the Court on showing sufficient cause can permit the witnesses to be re-examined either by the Local Commissioner or before the Court itself on such terms and conditions as it deems appropriate.

(iii) The Court shall, while giving directions, also indicate the time period for completion of the proceedings by the Commissioner.

(iv) The Court shall order whether the Commissioner has to be handed over the original record of the case or only the Photostat copies of pleadings, documents and evidence. All photocopies shall be supplied by the party for whose evidence the Commissioner has been appointed.

(v) The fee of the Commissioner shall be fixed by the Court at the time of appointment of the Commissioner after consultation with the party. The fee shall be deposited in Court in advance by the party at whose instance the evidence is to be recorded, half fee that has been deposited shall be released to the Commissioner before he commences recording of evidence and the remaining half after the completion of the recording of evidence by the Commissioner.

Punjab and Haryana High Court Notification No. 150 Rules/XI.Y.16. dated 24.04.2009, published in Punjab Government Gazette on 15.05.2009, in Haryana Government Gazette on 01.05.2009 and in Chandigarh Administration Gazette on 01.06.2009.

{Inserted vide Correction slip no. 87 Rules/II.D.4 dated 11.1.2024}

46) Order XVIII Rule 4, sub-rule (9)(1) Clause (vi)

“1(vi) Legal practitioners with 5 years of standing at the Bar (having adequate experience of examining the witnesses) having been so empanelled by the High Court”

{Inserted vide Correction slip no. 87 Rules/II.D.4 dated 11.1.2024}

Punjab and Haryana High Court Notification No. 18 Rules/XI.Y.16. dated 12.04.2016, for Haryana and UT Chandigarh, published in Haryana Government Gazette on 12.04.2016 and in Chandigarh Administration Gazette on 02.05.2016 and Punjab and Haryana High Court Notification No. 162 Rules/XI.Y.16 dated 26.10.2018 for Punjab published in Punjab Government Gazette on 23.02.2023.

47) Order XVIII Rule 5:

In cases in which an appeal is allowed the evidence of each witness shall be taken down in writing, in the language of the Court, by or in the presence and under the personal direction and superintendence of the Judge or from his dictation not ordinarily in the form of question and answer, but in that of a narrative, and when completed, shall be read over in the presence of the Judge and of the witness, and the judge shall, if necessary, correct the same, and shall sign it.

48) Order XVIII Rule 8:

Where the evidence is not taken down in writing by the Judge or from the

dictation, he shall be bound, as the examination of each witness proceeds, to make a memorandum of the substance of what each witness deposes, and such memo. shall be written by the Judge or typed to his dictation, shall be signed by him.

49) Order XVIII Rule 13:

In cases in which an appeal is not allowed, it shall not be necessary to take down the evidence of witnesses in writing at length, but the Judge, as the examination of each witness proceeds, shall make a memorandum of the substance of what he deposes, and such memo. shall be written by the Judge or typed to his dictation, shall be signed by the Judge and shall form part of the record”.

50) Order XVIII Rule 14:

Deleted

(High Court Notification No.GSR.346/C.S.5/1908/S.122/74, dated 4.12.1974, published in the Punjab Govt. Gazette, Legislative supplement, dated the 13th December, 1974, Haryana Govt. Gazette, Legislative Supplement, dated the 10th December, 1974 and Chandigarh Admn. Gazette, dated the 1st January, 1975).

51) Order XX, rule 6:-

Contents of decree:

(1) The decree shall agree with the Judgment; it shall contain the number of the suit, the names and descriptions of the parties and particulars of the claim, and shall specify clearly the relief granted or other determination of the suit.

(1-A) In addition to the particulars mentioned in clause (1), the decree shall contain the addresses of the plaintiff and the defendant as given in order VII, rule 19, and order VIII, rule 11, or as subsequently altered under Order VII, rule 24, and Order VIII, rule 12, respectively.

(2) The decree shall also state the amount of costs incurred in the suit, and by whom or out of what property and in what proportions such costs are to be paid.

(High Court Notification No. 22-R/XI-Y-23, dated 10th February, 1937).

52) Order XXI, rule 1:-

Modes of paying money under a decree:-

- (1) All money payable under a decree shall be paid as follows, namely:-
 - (a) into the Court whose duty it is to execute the decree; or
 - (b) out of court to the decree-holder; or
 - (c) otherwise as the Court which made the decree directs.

Explanation.—The judgment-debtor may, if he so desires, pay the decretal amount, or any part thereof, into the Court under clause (a) by postal money order on a form specially approved by the High Court for the purpose.

- (2) Where any payment is made under clause (a) of sub- rule (I), notice, of such payments shall be given to the decree-holder.

53) Order XXI, rule 5:—

Where the Court to which a decree is to be sent for execution is situate within the same district as the Court which passed such decree, such Court shall send the same directly to the former Court. But, where the Court, to which the decree is to be sent for execution is situate in a different district, the Court which passed it shall send it to the District Court or the Court of any Judge having jurisdiction in the place where the decree is to be executed to whom power to receive plaints has been delegated by the District Judge of the district in which the decree is to be executed.

(High Court Notifications No. 193-Gaz./XI-Y-14, dated the 11th July, 1933 and No. 72-R/XI- Y-14, dated the 23rd March, 1938).

54) Order XXI, rule 10:-

Application for execution.

Where the holder of a decree desires to execute it, he shall apply to the Court which passed the decree or to the officer (if any), appointed in this behalf, or if the decree has been sent under the provisions hereinbefore contained to another Court then to such Court or to the proper officer thereof:

Provided that if the judgment-debtor has left the jurisdiction of the Court which passed the decree, or of the Court to which the decree has been sent, the holder of the decree may apply to the Court within whose jurisdiction the judgment-debtor, is, to the officer appointed in this behalf, to order immediate execution on the production of the decree and of an affidavit of non-satisfaction by the holder of the decree pending the receipt of an order of transfer under section 39.

(High Court Notification No. 125-Gaz/XI-Y-14, dated the 7th April, 1932).

55) Order XXI, rule 14:

Where the holder of a decree desires to execute it, he shall apply to the Court which passed the decree or to the officer (if any), appointed in this behalf, or if the decree has been sent under the provisions herein-before contained to another Court then to such Court or to the proper officer thereof:

Provided that if the judgment-debtor has left the jurisdiction of the Court which passed the decree, or of the Court to which the decree has been sent, the holder of the decree may apply to the Court within whose jurisdiction the judgment-debtor, is, or to the officer appointed in this behalf, to order immediate execution on the production of the decree and of an affidavit of non-satisfaction by the holder of the decree pending the receipt of an order of transfer under section 39.

(High Court Notification No. 125-Gaz./XI-Y-14, dated the 7th April, 1932)

56) Order XXI, rule 16 :-

Application for execution by transferee of decree:-

Where a decree or, if a decree has been passed jointly in favour of two or more persons, the interest of any decree-holder in the decree is transferred by assignment in writing or by operation of law, the transferee may apply for execution of the decree to the Court which passed it; and the decree may be executed in the same manner and subject to the same conditions as if the application were made by such decree-holder.

Provided that, where the decree, or such interest as aforesaid, has been transferred by assignment, notice of such application shall be given to the transferor, and the judgment debtor, and the decree shall not be executed until the Court has heard their objections(if any)to its execution.

(High Court Notification No. 26-R/XI -Y-14., dated the 24th January, 1940).

Provided also that, where a decree for the payment of money against two or more persons has been transferred to one of them, it shall not be executed against the others.

(High Court Notification No, 125-Gaz./XI-Y-14., dated the 7th April, 1932).

57) Order XXI, rule 17:-

Procedure on receiving application for execution of decree:-

- (1) On receiving an application for the execution of a decree as provided by rule 11, sub-rule (2), the Court shall ascertain whether such of the

requirements of rules 11 to 14 as may be applicable to the case have been complied with; and, if they have not been complied with, the Court shall fix a time within which the defect shall be remedied, and if it is not remedied within such time, may reject the application.

- (2) Where an application is amended under the provisions of sub-rule (1), it shall be deemed to have been an application in accordance with law and presented on the date when it was first presented.
- (3) Every amendment made under this rule shall be signed or initialled by the Judge.
- (4) When the application is admitted, the Court shall enter in the proper register a note of the application and the date on which it was made, and shall, subject to the provisions hereinafter contained, order execution of the decree according to the nature of the application:

Provided that, in the case of a decree for payment of money, the value of the property attached shall, as nearly as may be, correspond with the amount due under the decree.

(High Court Notification No. 125-Gaz./X1.-Y-14, dated 7th April, 1932).

58) Order XXI, rule 22 :—

Notice to show cause against execution in certain cases.

- (1) Where an application for execution is made-
 - (a) more than two years after the date of the decree, or
 - (b) against the legal representative of a party to the decree, the Court executing the decree shall issue a notice to the person against whom execution is applied for requiring him to show cause, on a date to be fixed, why the decree should not be executed against him.

Provided that no such notice shall be necessary in consequence of more than two years having elapsed between the date of the decree and the application for execution if the application is made within two years from the date of the last order against the party against whom execution is applied for, Made on any previous application for execution, or in consequence of the application being made against the legal representative of the judgment- debtor, if upon a previous application for execution against the same person the Court has ordered execution to issue against him.

- (2) Nothing in the foregoing sub-rule shall be deemed to preclude the Court from issuing any process in execution of a decree without issuing the notice thereby prescribed, if, for reasons to be recorded, it considers that the issue of such notice would cause unreasonable delay or would defeat the ends of justice. Failure to record such reasons shall be considered an irregularity not amounting to a defect in jurisdiction.

(High Court Notification No. 125-Gaz./X1.-Y-14.,dated the 7th April, 1932).

59) Order XXI, rule 26:-

When a Court may stay execution:-

- (1) The Court to which a decree has been sent for execution shall, upon sufficient cause being shown, stay the execution of such decree for a reasonable time, to enable the judgment- debtor to apply to the Court by which the decree was passed, or to any Court having appellate jurisdiction in respect of the decree or the execution thereof, for an order to stay execution, or for any other order relating to the decree or execution which might have been made by such Court of first instance or appellate Court if execution had been issued thereby, or if application for execution had been made thereto.

(2) Where the property or person of the Judgment- debtor has been seized under an execution the Court which issued the execution may order the restitution of such property or the discharge of such person pending the result of the application.

(3) Before making an order to stay execution or for the restitution of property or the discharge of the judgment-debtor, the Court shall, unless sufficient cause is shown to the contrary, require such security from, or impose such conditions upon, the judgment-debtor as it thinks fit.

(High Court Notification No. 125-Gaz./XI-Y-14, dated the 7th April, 1932).

60) Order XXI, rule 29A :-

Which was added by Chief Court Notification No. 2212-G., dated the 12th May, 1909, has been omitted by High Court Notification No. 563-G; dated 24th November, 1927.

61) Order XXI, rule 31:-

Decree for specific movable property:

- (1) Where the decree is for any specific movable, or for any share in a specific movable, it may be executed by the seizure, if practicable, of the movable or share, and by the delivery thereof to the party to whom it has been adjudged, or to such person as he appoints to receive delivery on his behalf, or by the detention in the civil prison of the judgment-debtor, or by the attachment of his property, or by both.
- (2) Where any attachment under sub-rule (1) has remained in force for three months, if the judgment-debtor has not obeyed the decree and the decree-holder has applied to have the attached property sold, such property may be sold, and out of the proceeds the Court may award to the decree-holder, in cases where any amount has been fixed by the decree to be paid as an alternative to delivery of movable property, such amount, and, in other cases, such compensation as it thinks fit, and shall pay the balance (if any) to the judgment-debtor on his application :

Provided that the Court may in any special case, according to the special circumstances thereof, extend the period beyond three months; but it shall in no case exceed six months in all.

- (3) Where the judgment-debtor has obeyed the decree and paid all costs of executing the same which he is bound to pay, or where, at the end of three months or such other period as may have been prescribed by the Court from the date of the attachment, no application to have the property sold has been made, or, if made, has been refused, the attachment shall cease.

(High Court Notification No. 125-Gaz./XI-Y-14. dated the 7th April, 1932).

62) Order XXI, rule 32 :-

Decree for specific performance, for restitution of conjugal rights, or for an injunction.

- (1) Where the party against whom a decree for the specific performance of a contract, or for restitution of conjugal rights, or for an injunction, has been passed, has had an opportunity of obeying the decree and has wilfully failed to obey it, the decree may be enforced in the case of a decree for restitution of conjugal rights by the attachment of his property, or, in the case of a decree for the specific performance of a contract or for an injunction by his detention in the civil prison, or by the attachment of his property, or by both.
- (2) Where the party against whom a decree for specific performance or for an injunction has been passed is a corporation, the decree may be enforced by the attachment of the property of the corporation or, with the leave of the Court, by the detention in the Civil prison of the directors or other principal officers thereof, or by both attachment and detention.
- (3) Where any attachment under sub-rule (1) or sub- rule (2) has remained in force for three months, if the judgment-debtor has not obeyed

the decree and the decree-holder has applied to have the attached property sold, such property may be sold; and out of the proceeds the Court may award to the decree- holder such compensation as it thinks fit, and shall pay the balance (if any) to the judgment-debtor on his application:

Provided that the Court may for sufficient reasons, on the application of the judgment-debtor, extend the period beyond three months; but it shall in no case exceed one year in all.

(4) Where the judgment-debtor has obeyed the decree and paid all costs of executing the same which he is bound to pay, or where, at the end of three months or such other period as may have been prescribed by the Court from the date of the attachment, no application to have the property sold has been made, or if made has been refused, the attachment shall cease.

(5) Where a decree for the specific performance of a contract or for an injunction has not been obeyed, the Court may, in lieu of or in addition to all or any of the processes aforesaid, direct that the act required to be done may be done so far as practicable by the decree- holder or some other person appointed by the Court, at the cost of the judgment-debtor, and upon the act being done the expenses incurred may be ascertained in such manner as the Court may direct and may be recovered as if they were included in the decree.

Illustration

A, a person of little substance, erects a building which renders uninhabitable a family mansion belonging to B. A, in spite of his detention in prison and the attachment of his property, declines to obey a decree obtained against him by B and directing him to remove the building, The Court is of opinion that no sum realizable by the sale of A's property would adequately compensate B for the depreciation in the value of his mansion. B may apply to the Court to remove the building and may recover the cost of such removal, from A in the execution proceedings.

(High Court Notification No 125-Gaz./XI-Y-14, dated the 7th April, 1932.

63) Order XXI Rule 35 sub-rule (4)

Where at the time of delivery of possession of immovable property, it is found that there are movable(s) lying in that property to which the decree holder has no claim and the judgment-debtor is absent, or if present, does not immediately remove the same, the officer entrusted with the warrant for delivery of possession shall make an inventory of the articles so found, with their probable value, in the presence of respectable persons on the spot, and have the same attested by them. The movable(s) shall be either handed over to some respectable person on sapurdari or shall be given in the custody of the decree holder after taking a bond from him for the safe custody of those articles, pending orders of the Court for disposal of the same.

The officer shall then make a report accompanied by such inventory, to the Court.

The Court shall, thereupon, issue a notice to the judgment-debtor/his counsel requiring him to take delivery of the said movable within fifteen days from the date of notice. It shall be specified in the notice that in default of the judgment debtor/his counsel responding to the notice, the articles shall be sold in public auction at the risk and cost of judgment debtor and the proceeds applied for meeting all legitimate expenses of custody and sale. The balance, if any, shall be deposited in Court and refunded to the Judgment-debtor:

Provided that if movable articles referred to above are perishable, the officer shall sell them in public auction immediately, and bring the proceeds into Court. The notice to the Judgment-debtor shall in such a case call upon him to receive the amount from Court within three months."

Punjab and Haryana High Court Notification No. 100 Rules/XI.Y.16 dated 01.06.2019 for Punjab and Haryana published in Punjab Government Gazette on 06.06.2019 and in Haryana Gazette on 27.02.2023 and Punjab and Haryana High Court Notification No. 63 Rules/XI.Y.16 dated

19.04.2023 for Union Territory, Chandigarh published in Chandigarh Administration Gazette on 20.04.2023.

{Inserted vide Correction Slip no. 87 Rules/II.D.4 dated 11.01.2024}

64) Order XXI, rule 39:-

Subsistence allowance:

- (1) No judgment-debtor shall be arrested in execution of a decree unless and until the decree-holder pays into-Court such sum as the Judge thinks sufficient for the subsistence of the judgment-debtor from the time of his arrest until he can be brought before the Court.
- (2) Where a judgment-debtor is committed to the civil prison in execution of a decree, the Court shall fix for his subsistence such monthly allowance as he may be entitled to according to the scales fixed under section 57, or, where no such scales have been fixed, as it considers sufficient with reference to the class to which he belongs.
- (3) The monthly allowance fixed by the Court shall be supplied by the party on whose application the judgment-debtor has been arrested by monthly payments in advance before the first day of each month.
- (4) The first payment shall be made to the proper officer of the Court for such portion of the current month as remains unexpired before the judgment-debtor is committed to the civil prison, and the subsequent payments (if any), shall be made to the officer in charge of the civil prison.
- (5) Sums disbursed by the decree-holder for the subsistence of the judgment-debtor shall be deemed to be costs in the suit :

Provided that the judgement-debtor shall not be detained in the civil prison or arrested on account of any sum so disbursed.

(High Court Notification No. 125-Gaz./XI-Y-14, dated the 7th April, 1932.)

65) Order XXI, rule 43 :—

- (1) Where the property to be attached is movable property other than agricultural produce, in the possession of the judgment-debtor, the attachment shall be made by actual seizure, and the attaching officer shall keep the property in his own custody or in the custody of one of his subordinates, and shall be responsible for the due custody thereof:

Provided that, when the property seized is subject to speedy and natural decay or when the expense of keeping it in custody is likely to exceed its value, the attaching officer may sell it at once, and

Provided also that, when the property attached consists of live-stock, agricultural implements or other articles which cannot conveniently be removed, and the attaching officer does not act under the first proviso to this rule, he may at the instance of the judgment-debtor, or of the decree-holder or of any person claiming to be interested in such property, leave it in the village or place where it has been attached:

- (a) in the charge of the person at whose instance the property is retained in such village or place, if such person enters into a bond in the Form No. 15-A of Appendix E to this Schedule, with one or more sufficient sureties for its production when called for, or
- (b) in the charge of an officer of the Court, if a suitable place for its safe custody be provided, and the remuneration of the officer for a period of 15 days at such rate as may from time to time be fixed by the High Court, be paid in advance, or
- (c) in the charge of a village lambardar or such other respectable person as will undertake to keep such property, subject to the orders of the Court, if such person enters into a bond in Form No. 15-B of Appendix E with one or more sureties for its production.

(2) Whenever an attachment made under the provisions of this rule ceases for any of the reasons specified in rules 55, 57 or 60 of this Order, the Court may order the restitution of the attached property to the person in whose possession it was before attachment.

(3) When property is made over to a custodian under sub-clauses (a) or (c) of clause (1), the schedule of property annexed to the bond shall be drawn up by the attaching officer in triplicate, and dated and signed by

- (a) the custodian and his sureties;
- (b) the officer of the Court who made the attachment;
- (c) the person whose property is attached and made over and
- (d) two respectable witnesses.

One copy will be transmitted to the Court by the attaching officer and placed on the record of the proceedings under which the attachment has been ordered, one copy will be made over to the person whose property is attached and one copy will be made over to the custodian.

66) Order XXI, rule 43-A:-

(1) Whenever attached property is kept in the village or place where it is attached, the attaching officer shall forthwith report the fact to the Court, and shall, with his report, forward a list of the property seized.

(2) If attached property is not sold under the first proviso to rule 43, or retained in the village or place where it is attached under the second proviso to that rule, it shall be brought to the Court-house and delivered to the proper officer of the Court.

(3) A custodian appointed under the second proviso to rule 43 may at any time terminate his responsibilities by giving notice to the Court of his desire to be relieved of his trust and delivering to the proper officer of the Court the property made over to him.

(4) When any property is taken back from a custodian, he shall be granted a receipt for the same.

67) Order XXI, rule 43-B:-

(1) Whenever attached property kept in the village or place where it is attached is live-stock, the person at whose instance it is retained shall provide for its maintenance, and, if he fails to do so, and if it is in charge of an officer of the Court, it shall be removed to the Court house.

Nothing in this rule shall prevent the judgment-debtor, or any person claiming to be interested in such stock, from making such arrangements for feeding the same as may not be inconsistent with its safe custody.

(2) The Court may direct that any sums which have been expended by the attaching officer or are payable to him, if not duly deposited or paid, be recovered from the proceeds of property, if sold or be paid by the person declared entitled to delivery before he receives the same. The Court may also order that any sums deposited or paid under these rules be recovered as costs of the attachment from any party to the proceedings.

68) Order XXI, rule 43-C:

When an application is made for the attachment of live-stock or other movable property, the decree-holder shall pay into Court in cash such sum as will cover the costs of the maintenance and custody of the property for 15 days. If within 3 clear days before the expiry of any such period of 15 days the amount of such costs for such further period as the Court may direct be not paid into Court, the Court, on receiving a report thereof from the proper officer, may issue an order for the withdrawal of the attachment and direct by whom the costs of the attachment are to be paid.

69) Order XXI, rule 43-D:-

Any person who has undertaken to keep attached property under rule 43 (1) (c) shall be liable to be proceeded against as a surety under

section 145 of the Code, and shall be liable to pay in execution proceedings the value of any such property willfully lost by him.

Appendix E to Schedule I :-

FORM No. 15-A.

**BOND FOR SAFE CUSTODY OF MOVABLE PROPERTY ATTACHED
AND LEFT IN CHARGE OF PERSON INTERESTED
AND SURETIES**

Order XXI, rule 43.

In the Court of.....at.....Civil suit
No.....of A. B. of.....
against
C. D of.....

Know all men by these presents that we, I. J. of....., etc., and K. L. of...
.....,etc., and M.N. of etc., are jointly and
severally bound to the Judge of the Court of.....in Rupees
.....to be paid, to the said Judge for which
payment to be made we bind ourselves, and each of us, in the whole, our
and each of our heirs, executors and administrators jointly and severally,
by these presents.

Date this day of.....19.....

And whereas the movable property specified in the schedule
hereunto annexed has been attached under a warrant from the said
Court, dated the day of.....19..... in
execution of a decree in favour of..... in suit
No..... of..... 19.....on the file
of.....and the said property has been left in the charge of the said
I. J.

Now the condition of this obligation is that, if the above bounden I.
J. shall duly account for and produce when required before the said Court
all and every the property aforesaid and shall obey any further order of
the Court in respect thereof, then this obligation shall be void; otherwise it
shall remain in full force.

I. J.

K. L.

M. N.

Signed and delivered by the above bounden..... in the presence
of.....

FORM No. 15 -B.

**BOND FOR SAFE CUSTODY OF MOVABLE PROPERTY ATTACHED
AND LEFT IN CHARGE OF ANY PERSON AND SURETIES**

Order XXI, rule 43 (1) (c)

In the Court of..... at.....Civil suit No..... of A. B
of.....
against
C. D. of.....

Know all men by these presents that we, I.J. of.....etc., and
K. L. of..... etc., and M. N. of.....
....., etc., are jointly and severally bound to the Judge of the Court
of.....in Rupees.....to be paid to the said Judge for which
payment to be made we bind ourselves, and each of us, in the whole, our and
each of our heirs, executors and administrators jointly and severally, by these

presents.

Dated this.....day of.....19..... and whereas the movable property specified in the Schedule hereunto annexed has been attached under a warrant from the said Court, dated the.....day of.....19.....in execution of a decree in favour of.....in suit No.....of.....19.....on the file of and the said property has been left in the charge of the said I. J.

Now the condition of this obligation is that, if the above bounden I. J. shall duly account for and produce when required before the said Court all and every the property aforesaid and shall obey any further order of the Court in respect thereof, then this obligation shall be void :—otherwise it shall remain in full force and be enforceable against the above bounden I. J. in accordance with the procedure laid down in section 145, Civil Procedure Code, as if the aforesaid I. J. were a surety for the restoration of property taken in execution of a decree.

I. J.

K. L.

M. N.

Signed and delivered by me above bounden.....in the presence of.....

(Rules 43 to 43-D and forms 15-A and 15-B added by High Court Notification No. 606-G, dated 13th December, 1928.)

70) Order XXI Rule 45:-

Provisions as to agricultural produce under attachment:-

(1) Where agricultural produce is attached the Court shall make such arrangements for the custody, thereof as it may deem sufficient and, for the purpose of enabling the Court to make such arrangements, every application, for the attachment of a growing crop shall specify the time at which it is likely to be fit to be cut or gathered and with every such application such charges as may be necessary for the custody of the crop up to the time at which it is likely to be fit to be out or gathered shall be paid to the Court.

(2) Subject to such condition as may be imposed by the Court in this behalf either in the order of attachment or in any subsequent order, the judgment-debtor may tend, cut, gather and store the produce and any other act necessary for maturing or preserving it; and if the judgment-debtor fails to do all or any of such acts, the decree-holder, may with the permission of the Court and subject to the like conditions, do all or any of them either by himself or by any person appointed by him in this behalf, and the costs incurred by the decree-holder shall recoverable be from the Judgment-debtor as if they were included in, or formed part of, the decree.

(3) Agricultural produce attached as a growing crop shall not be deemed to have ceased to be under attachment or to require reattachment merely because it has been severed from the soil.

(4) Where an order for the attachment of a growing crop has been made at a considerable time before the crop is likely to be fit to be cut or gathered, the Court may suspend the execution of the order for such time as it thinks fit, and may, in its discretion make a further order prohibiting the removal of the crop pending the execution of the order of attachment.

(5) A growing crop which from its nature does not admit of being stored shall not be attached under this rule at any time less than twenty days before the time at which it is likely to be fit to be cut or gathered.

(High Court Notification No. 125-Gaz./XI-Y-,14 dated the 7th April, 1932).

71) Order XXI, Rule 53:-

Attachment of decrees:-

- (1) Where the property to be attached is a decree, either for the payment of money or for sale in enforcement of a mortgage, or charge, the attachment shall be made.
 - (a) if the decrees were passed by the same Court, then by order of such Court, and
 - (b) if the decree sought to be attached was passed by another Court, then by the issue to such other Court and to the Court to which it has been transferred for execution of a notice by the Court which passed the decree sought to be executed, requesting such other Court to stay the execution of its decree unless and until:-
 - (i) the Court which passed the decree sought to be executed cancels the notices, or
 - (ii) the holder of the decree sought to be executed or with the consent of the said decree-holder expressed in writing or with the permission of the attaching Court, his judgment-debtor applies to the Court receiving such notice to execute the attached decree.
- (2) Where a Court makes an order under clause (a) of sub rule (1), or receives an application under subhead (ii) of clause (b) of the said sub-rule, it shall, on the application of the creditor who has attached the decree or his judgment-debtor, proceed to execute the attached decree and apply the net proceeds in satisfaction of the decree sought to be executed.
- (3) The holder of a decree sought to be executed by the attachment of another decree of the nature specified in sub-rule (1) shall be deemed to be the representative of the holder of the attached decree and to be entitled to execute such attached decree in any manner lawful for the holder thereof.
- (4) Where the property to be attached in the execution of a decree is a decree other than a decree of the nature referred to in sub-rule (1), the attachment shall be made, by a notice by the Court which passed the decree sought to be executed, to the holder of the decree sought to be attached, prohibiting him from transferring or charging the same in any way; and, where such decree has been passed by any other Court, also by sending to such other Court a notice to abstain from executing the decree sought to be attached until such notice is cancelled by the Court from which it was sent.
- (5) The holder of a decree attached under this rule shall give the Court executing the decree such information and aid as may reasonably be required.
- (6) On the application of the holder of a decree sought to be executed by the attachment of another decree, the Court making an order of attachment under this rule shall give notice of such order to the judgment- debtor bound by the decree attached; and no payment or adjustment of the attached decree made by the judgment-debtor in contravention of such order with the acknowledge thereof, either through the Court or otherwise, shall be recognised by any Court, so long as the attachment remains in force.

(High Court Notification No. 125-Gaz./XI-Y-14., dated the 7th April, 1932 and High Court Notification No. 225-R/XI-Y-14, dated the 5th August, 1937).

72) Order XXI, Rule 54:-

Attachment of immovable property:-

- (1) Where the property is immovable, the attachment shall be made by an order prohibiting the judgment-debtor from transferring or charging the property in any way, and all persons from taking any benefit from such transfer or charge.

(2) The order shall be proclaimed at some place on or adjacent to such property by beat of drum or other customary mode, and a copy of the order shall be affixed on a conspicuous part of the property and then upon a conspicuous part of the court-house, and also, where the property is land paying revenue to the Government, in the office of the Collector of the district in which the land is situate; where the property is land situated in a Cantonment, copies of the order shall also be forwarded to the cantonment Board and to the Military Estates Officer in whose area that Cantonment is situated.

(3) The order shall take effect as against persons claiming under a gratuitous transfer from the judgment-debtor, from the date of the order of attachment, and as against others from the time they had knowledge of the passing of the order of attachment or from the date of the proclamation, whichever is earlier.

(High Court Notifications No. 125-Gaz./XI-Y-14. dated the 7th April, 1932. No. 109 R/XI-Y-14 dated the 21st April, 1939, and No. 273-R/XI- Y-14, dated the 30th July, 1941.)

73) Order XXI, Rule 58:-

Investigation of claims to, and objections to attachment of attached property:-

(1) Where any claim is preferred to, or any objection is made to the attachment of, any property attached in execution of a decree on the ground that such property is not liable to such attachment, the Court shall proceed to investigate the claim or objection with the like power as regards the examination of the claimant or objector, and in all other respects, as if he was a party to the suit:

Provided that no such investigation shall be made where the Court considers that the claim or objection was designedly or unnecessarily delayed and that if an objection is not made within a reasonable time of the first attachment the objector shall have no further right to object to the attachment and sale of the same property in execution of the same decree, unless he can prove a title acquired subsequent to the date of the first attachment.

(2) Where the property to which the claim or objection applies has been advertised for sale, the Court ordering the sale may postpone it pending the investigation of the claim or objection.

(High Court Notification No. 125-Gaz./XI-Y-14, dated the 7th April, 1932).

74) Order XXI, Rule 66:-

Investigation of claims to, and objections to attachment of attached property:-

(1) Where any property is ordered to be sold by public auction in execution of a decree, the Court shall cause a proclamation of the intended sale to be made in the language of such Court.

(2) Such proclamation shall be drawn up after notice to the decree holder and the judgment-debtor and shall state the time and place of sale and specify as fairly and accurately as possible:-

- (a) the property to be sold ;
- (b) the revenue assessed upon the estate or part of the estate where the property to be sold is an interest in an estate or in part of an estate paying revenue to the Government;
- (c) any encumbrance to which the property is liable;
- (d) the amount for the recovery of which the sale is ordered; and
- (e) every other thing which the Court considers material for a purchaser to know in order to judge of the nature and value of the property provided that it shall not be necessary for the Court itself to give its own estimate of the value of the property; but the proclamation shall include the estimate, if any, given by either or both the parties.

- (3) Where the property to be sold is movable property which has been made over to a custodian under sub- clause (a) or (c) of clause (I) of Rule 43 of this Order, the Court shall also issue a process by way of notice to the custodian, directing him to produce the property at the place of sale at a time to be specified therein, with a warning that if he fails to comply with the directions, he shall be liable to action under section 145 of the Code of Civil Procedure.
- (4) Every application for an order for sale under this rule shall be accompanied by a statement signed and verified in the manner herein before prescribed for the signing and verification of pleadings and containing, so far as they are known to or can be ascertained .by the person making the verification, the matters required by sub rule (2) to be specified in the proclamation.
- (5) For the purpose of ascertaining the matters to the specified in the proclamation, the Court may summon any person whom it thinks necessary to summon and may examine him in respect to any such matters and require him to produce any document in his possession or power relating thereto.

(High Court Notification No. 567-Gaz., dated the 4th November, 1929, and No. 150-R/XI-Y-14, dated the 16th May, 1939).

**75) Order XXI, Rule 68.:-
Time of Sale:-**

Save in the case of property of the kind described in the proviso to rule 43, no sale hereunder shall, without the consent in writing of the judgment-debtor, take place untill after the expiration of at least fifteen days in the case of immovable property, and of at least one week in the case of movable property, calculated from the date on which the copy of the proclamation has been affixed on the court-house of the Judge ordering the sale.

(High Court Notification No. 125-Gaz./XI-Y-14, dated the 7th April, 1932).

**76) Order XXI, Rule 69:-
Adjournment or stoppage of sale.**

- (1) The Court may, in its discretion, adjourn any sale hereunder to a specified day and hour, and the officer conducting any such sale may in his discretion adjourn the sale, recording his reasons for such adjournment:

Provided that, where the sale is made in, or within the precincts of the court house, no such adjournment shall be made without the leave of the Court.

- (2) Where a sale is adjourned under sub rule (1) for a longer period than thirty days, a fresh proclamation under rule 67 shall be made, unless the judgment- debtor consents to waive it.
- (3) Every sale shall be stopped if, before the lot is knocked down, the debt and costs (including the costs of the sale) are tendered to the officer conducting the sale, or proof is given to his satisfaction that the amount of such debt and costs has been paid into the Court which ordered the sale.

(High Court Notification No. 125/Gaz./XI-Y--14, dated the 7th, April, 1932).

**77) Order XXI, Rule 75:-
Special provisions relating to growing crops.**

- (1) Where the property to be sold is a growing crop and the crop from its nature admits of being stored, but has not yet been stored, the day of the sale shall be so fixed as to admit of its being made ready for storing before the arrival of such day, and the sale shall not be held until the crop has been cut or gathered and is ready for storing.
- (2) Where the crop from its nature does not admit of being stored or can be sold to great advantage in an unripe state, it may be sold before it is cut and gathered, and the purchaser shall be entitled to enter on the land, and to do

all that is necessary for the purpose of tending and cutting or gathering it.

(Chief Court Notification No.2212-G., dated 12th May, 19, and High Court Notification No. 123-R./XI-Y-14, dated the 28th April, 1938).

78) Order XXI, Rule 84:-

- (1) On every sale of immovable property the person declared to be the purchaser shall pay immediately after such declaration a deposit in cash or a cheque drawn by a scheduled bank of twenty-five per cent on the amount of his purchase money to the officer or other person conducting the sale, and in default of such deposit, the property shall forthwith be resold.
- (2) Where the decree holder is the purchaser and is entitled to set off the purchase money under rule 72 the court may dispense with the requirements of this rule.

(Chief Court Notification No.2212-G., dated 12th May, 1909, and High Court Notification No. 123-R/XI-Y-14, dated the 28th April, 1938).

79) Order XXI, Rule 85:-

Application to set aside sale on deposit:-

- (1) Where immovable property has been sold in execution of a decree, any person claiming any interest in the property sold at the time of the sale or at the time of making the application under this rule or acting for or in the interest of such a person may apply to have the sale set aside on his depositing in Court.
 - (a) for payment to the purchaser, a sum equal to five per cent of the purchase-money, and
 - (b) for payment to the decree-holder, the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered, less any amount which may, since the date of such proclamation of sale, have been received by the decree-holder.
- (2) Where a person applies under rule 90 to set aside the sale of his immoveable property, he shall not unless he withdraws his application, be entitled to make or prosecute an application under this rule.
- (3) Nothing in this rule shall relieve the judgment-debtor from any liability he may be under in respect of costs and interest not covered by the proclamation of sale.

(High Court Notification No. 125-Gaz./XI-Y-14, dated the 7th April, 1932.)

80) Order XXI, Rule 90:-

Application to set aside sale on ground of irregularity or fraud.

- (1) Where any immovable property has been sold in execution of a decree, the decree holder, or any person entitled to share in a rateable distribution of assets, or whose interests are affected by the sale, may apply to the Court to set aside the sale on the ground of a material irregularity or fraud in publishing or conducting it;

Provided that no sale shall be set aside on the ground of irregularity or fraud unless upon the facts proved, the Court is satisfied that the applicant has sustained substantial injury by reason of such irregularity or fraud:

Provided further that no such sale be set aside on any ground which the applicant could have put forward before the sale was conducted.

(High Court Notification No. 125-Gaz./XI-Y-14, dated the 7th April, 1932).

81) Order XXI, Rule 98.

Resistance or obstruction by judgment-debtor.

Where the Court is satisfied that the resistance or obstruction was occasioned without any just cause by the judgment-debtor or by some other person at his instigation, or on his behalf it shall direct that the applicant be put into possession of the property, and where the applicant is still resisted

obstructed in obtaining possession, the Court may also, at the instance of the applicant, order the judgment-debtor, or any person acting at his instigation or on his behalf, to be detained in the civil prison for a term which may extend to thirty days. Such detention shall be at the public expense and the person at whose instance the detention is ordered shall not be required to pay subsistence allowance.

(High Court Notification No. 125-Gaz./XI-Y-14, dated 7th April, 1932).

82) Order XXI, Rule 104

For the purpose of all proceedings under this order, service on any party shall be deemed to be sufficient if effected at the address for service referred to in Order XIII, rule 11, subject to the provisions of Order VII, rule 24, provided that this rule shall not apply to the notice prescribed by rule 22 of this Order.

(High Court Notification No. 567-G. dated 24th November, 1927).

Note I: Rule 29A which was added by Chief Court Notification No. 2212-G., dated the 12th May, 1909, has been omitted by High Court Notification No. 563-G., dated the 24th November, 1927.

Note II: Rule 63-A, which was added by High Court Notification No. 125-Gaz./XI-Y-14, dated the 7th April, 1932, has been omitted by High Court Notification No. 106-R./XI-Y-14, dated the 27th April, 1937.

83) Order XXII, Rule 2-A and 2-B

2-A. Every Advocate appearing in a case who becomes aware of the death of a party to the litigation (whether he appeared for him or not) must give intimation about the death of that party to the Court and to the person who is dominus litis."

2-B. The duty to bring on record the legal representatives of the deceased-defendant shall be of the heirs of the deceased and not of the person who is dominus litis."

84) Order XXII. Rule 3:-

Procedure in case of death of one of several plaintiffs or of sole plaintiff.-

- (1) Where one of two or more plaintiffs dies and the right to sue does not survive to the surviving plaintiff or plaintiffs alone, or a sole plaintiff or sole surviving plaintiff dies and the right to sue survives, the Court, on a application made in that behalf, shall cause the legal representative of the deceased plaintiff to be made a party and shall proceed with the suit.
- (2) Where within the time limited by law no application is made under Sub-rule (1), the suit shall not abate as against the deceased plaintiff and the judgment may be pronounced notwithstanding his death which shall have the same effect as if it has been pronounced before the death took place, and the contract between the deceased and the pleader in that event shall continue to subsist.

(High Court Notification No. G.S.R.17/C.A.5/8/Or.22/Amd./92. Dated 4th February, 1992)

85) Order XXII. Rule 4:-

- (1) where one of two or more defendants dies and the right to sue does not survive against the surviving defendant or defendants alone, or a sole defendant or sole surviving defendant dies and the right to sue survives, the Court, on an application made in that behalf, shall cause the legal representative of the deceased defendant to be made a party and shall proceed with the suit.
- (2) Any person so made a party may make any defence appropriate to his character as legal representative of the deceased defendant.
- (3) Where within the time limited by law no application is made under sub-rule (1) the suit shall not abate as against the deceased-defendant and judgment be

pronounced notwithstanding the death and shall have the same force and effect as if it had been pronounced before the death took place.

(4) If a decree has been passed against a deceased-defendant a person claiming to be his legal representative may apply for setting aside the decree qua him and if it is proved that he was not aware of the suit or that he had not intentionally failed to make an application to bring himself on the record, the Court shall set aside the decree upon such terms as to costs or otherwise as it think fit.

(5) Before setting aside the decree under sub-rule (4) the Court must be satisfied prima facie that had the legal representative been on the record a different result might have been reached in the suit.

(6) The provisions of section 5 of the Indian Limitation Act 36 of 1963 shall apply to application under sub-rule (4)".

86) Order XXIII, Rule 3

Where it is proved to the satisfaction of the Court that a suit has been adjusted wholly or in part by any lawful agreement or compromise, or where the defendant satisfies the plaintiff in respect of the whole or any part of the subject-matter of the suit, the Court shall order such agreement, compromise or satisfaction to be recorded, and shall pass a decree in accordance therewith so far as it relates to the suit.

Provided that the hearing of a suit shall proceed and no adjournment shall be granted in it for the purposes of deciding whether there has been any adjustment or satisfaction, unless the Court for reasons to be recorded in writing, thinks fit to grant such adjournment, and provided further that the judgment in the suit shall not be announced until the question of adjustment or satisfaction has been decided.

Provided further that when an application is made by all the parties to the suit, either in writing or in open Court through their counsel, that they wish to compromise the suit, the Court may fix a date on which the parties or their counsel should appear and the compromise be recorded, but shall proceed to hear those witnesses in the suit who are already in attendance, unless for any other reason to be recorded in writing, it considers it impossible or undesirable to do so. If upon the date fixed no compromise has been recorded no further adjournment shall be granted for this purpose unless the Court for reasons to be recorded in writing, considers it highly probable that the suit will be compromised on or before the date to which the Court proposes to adjourn the hearing.

(High Court Notification No. 211-R./XI.-Y-22, dated the 21st July, 1937).

87) Order XXX, Rule 1

Suing of partners in name of firms

(1) Any two or more persons claiming or being liable as partners and carrying on business in India may sue or be sued in the name of the firm (if any), of which such persons were partners at the time of the occurring of the cause of action, and any party to a suit may, in such case, apply to the Court for a statement of the names and addresses of the persons who were at the time of accruing of the cause of action, partners in such firm, to be furnished and verified in such manner as the Court may direct.

(2) Where persons sue or are sued as partners in the name of their firm under sub rule (1), it shall, in the case of any pleading or other document required by or under this Code, to be signed, verified or certified by the plaintiff or the defendant, suffice if such pleading or other document is signed, verified or certified by any one of such persons.

Explanation:—This rule applies to a joint Hindu family trading partner ship.

(Chief Court Notification No. 2212-G. dated 12th May, 1909).

88) Order XXXII, Rule 1

Minor to sue by next friend

Every suit by a minor shall be instituted in his name by a person who in

such suit shall be called the next friend of the minor. Such person may be ordered to pay any costs in the suit as if he were the plaintiff.

(Chief Court Notification No. 2212-G. dated 12th May, 1909).

89) Order XXXII, Rule 3

Guardian for the suit to be appointed by Court for minor defendants.

- (1) Where the defendant is a minor, the Court, on being satisfied of the fact of his minority, shall appoint a proper person to be guardian for the suit for such minor.
- (2) An order for the appointment of a guardian for the suit may be obtained upon application in the name and on behalf of the minor or by the plaintiff.
- (3) The plaintiff shall file with his plaint a list of relatives of the minor and other persons, with their addresses, who prima facie are most likely to be capable of acting as guardian for the suit for the minor defendant. The list shall constitute an application by the plaintiff under sub rule (2) above.
- (4) The Court may, at any time after institution of the suit, call upon the plaintiff to furnish such a list, and, in default of compliance, may reject the plaint.
- (5) A person appointed under sub rule I to be guardian for the suit for a minor, shall, unless his appointment is terminated by retirement, removal or death, continue as such throughout all proceedings arising out of the suit including proceedings in any appellate or revisional court and any proceedings in the execution of a decree.
- (6) Any application for the appointment of a guardian for the suit and any list furnished under this rule shall be supported by an affidavit verifying the fact that the proposed guardian has no interest in the matters in controversy in the suit adverse to that of the minor, and that each person proposed is a fit person to be so appointed.
- (7) No order shall be made on any application under this rule, except upon notice to any guardian of then minor appointed or declared by an authority competent in that behalf, or, where there is no such guardian, upon notice to the father or other natural guardian of the minor, or, where there is no father or other natural guardian, to the person in whose care the minor is, and after hearing any objection which may be urged on behalf of any person served with notice under this sub-rule:

Provided that the Court may, if it sees fit, issue notice to the minor also.

(High Court Notification No. 95-G., dated 25th Febuary, 1925, and No. 566-G., dated 24th November, 1927).

90) Order XXXII, Rule 4

Who may act as next friends or be appointed guardian for the suit.

- (1) Any person who is of sound mind and has attained majority may act as next friend of a minor or as his guardian for the suit.

Provided that the interest of such person is not adverse to that of the minor, and that he is not, in the case of a next friend, a defendant, or, in the case of a guardian for the suit plaintiff.
- (2) Where a minor has a guardian appointed or declared by competent authority, no person other than such guardian shall act as the next friend of the minor or be appointed his guardian for the suit unless the Court considers, for reasons to be recorded that it is for the minor's welfare that another person be permitted to act or be appointed, as the case may be.
- (2)(A) Where a minor defendant has no guardian appointed or declared by competent authority, the Court may, subject to the proviso to sub-rule (1), appoint as his guardian for the suit a relative of the minor.

If no person be available who is a relative of the minor, the Court shall appoint one of the other defendants, if any, and failing such other defendant, shall ordinarily proceed under sub-rule (4) of this rule to appoint one of its officers or a pleader.

- (3) No person shall, without his consent, be appointed guardian for the suit, but the Court may presume such consent to have been given unless it is expressly refused.
- (4) Where there is no other person fit and willing to act as guardian for the suit, the Court may appoint any of its officers or a pleader to be such guardian, and may direct that the costs to be incurred by such person in the performance of his duties as such guardian shall be borne either by the parties or by any one or more of the parties to the suit, or out of any fund in Court in which the minor is interested and may give directions for the repayment or allowance of such costs as justice and the circumstances of the case may require.

(High Court Notification No.566-G., dated 24th November, 1927, as amended by High Court Notifications No. 209-R./XI-Y-3., dated the 22nd July, 1936, and No. 281-R/ XI- Y-3, dated 19th September, 1936).

91) Order XXXVII, Rule I

Application for order- Summary Procedure on Negotiable Instruments-
This order shall apply only to-

- (a) the High Courts of judicature at Fort William, Madras, and Bombay;
- (b) *
- (c) any other Court to which sections 532 to 537 of the Code of Civil Procedure, 1882, have been already applied; and
- (d) the Courts of the District Judges and Subordinate Judges of the First Class of the Union territory of Delhi and the Courts of the District Judges and Subordinate Judges of the first class in the civil district of Amritsar in the State of the Punjab.

(High Court Notification No. 225-G, dated 5th July, 1923, and No. 456-Gaz./XI-Y-15, dated the 29th July, 1932).

92) Order XXXVII, Rule 3

(1) The Court shall, upon application by the defendant, give leave to appear and to defend the suit, upon affidavits which disclose such facts as would make it incumbent on the holder to prove consideration, or such other facts as the court may deem sufficient to support the application.

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

(3) The provisions of section 5 of the Indian Limitation Act, 1908, shall apply to applications wider sub rule (1).

(High Court Notification No. 577-G. dated the 15th November, 1928).

93) Order XXXIX. Rule 7:-

(1) The Court may, on the application of any party to a suit and on such terms as it thinks fit_ _ _ _.

- (a) make an order for detention, preservation or inspection of any relevant document(s) or other evidence or of any property which is the subject-matter of such suit or as to which any question may arise therein;
- (b) for all or any of the purposes aforesaid any person to enter upon or into any land, or building in the possession of any other party to such suit; and
- (c) for all or any of the purposes aforesaid authorize any sample to be taken, or any observation to be made or experiment to be tried, which may seem necessary or expedient for the purpose of obtaining full information or evidence.

(2) the provisions as to execution of process shall apply, mutatis mutandis, to persons authorized to enter under this rule.

94) Order XLI, Rule 1**Forum of Appeal - What to accompany memorandum.**

- (1) Every appeal shall be preferred in the form of a memorandum signed by the appellant or his pleader and presented to the Court or to such officer as it appoints in this behalf. The memorandum shall be accompanied by a copy of the decree appealed from and (unless the Appellate Court dispenses therewith) of the judgment on which it is founded.

Provided that when two or more cases are tried together and decided by the same judgment, and two or more appeals are filed against the decrees, whether by the same or different appellants, the officer appointed in this behalf may, if satisfied that the questions for decision are analogous in each appeal, dispense with the production of more than one copy of the judgment.

Provided further that the Court may permit the appeal to be filed with true copies duly authenticated by an Advocate as correct.

Contents of memorandum.

- (2) The memorandum shall set forth, concisely and under distinct heads, the grounds of objection to the decree appealed from without any arguments or narrative; and such grounds shall be numbered consecutively:—

(High Court Notification No. 631-Gaz./XI-Y-1, dated the 7th December, 1932).

95) Order XLI, rule 14**(1) Publication and service of notice of day for hearing of appeal.**

Notice of the day fixed under rule 12 shall be affixed in the Appellate Court house, and a like notice shall be sent by the Appellate Court to the Court from whose decree the appeal is preferred, and shall be served on the respondent or on his pleader in the Appellate Court in the manner provided for the service on a defendant of a summons to appear and answer; and all the provisions applicable to such summons, and to proceedings with reference to the service thereof shall apply to the service of such notice.

(2) Appellate Court may itself cause notice to be served.

Instead of sending the notice to the Court from whose decree the appeal is preferred, the Appellate Court may itself cause the notice to be served on the respondent or his pleader under the provisions above referred to.

Provided that the notice shall be served on the Advocate of the party who appeared in the Subordinate Court where the matter is still pending.

- (3) It shall be in the discretion of the Appellate Court to make an order, at any stage of the appeal whether on the application of any party or on its own motion, dispensing with service of such notice on any respondent who did not appear, either at the hearing in the Court whose decree is complained of or at any proceeding subsequent to the decree of that Court, or on the legal representatives of any such respondent.

(High Court Notification No. 319-R/XI-Y-1, dated the 13th November, 1943).

- (4) Where the respondent or any of the respondents has migrated to Pakistan and he cannot be served in the ordinary way, if the appeal has arisen out of a suit to obtain relief respecting, or compensation for wrong to immoveable property, the notice shall be served on the Custodian of Evacuees Property, Punjab or Delhi, as the case may be; in all other cases, the notice shall be served on such Custodian and a copy of the notice shall be sent by registered post, to the Secretary General to the Pakistan Government.
- (5) The provisions of sub-rule (4) shall mutatis mutandis apply to appellants, who have migrated to Pakistan and who cannot be served in the ordinary way.

Provided that:—

- (a) the Court may require notice of the appeal to be published in any newspaper or newspapers or in such other manner as it may direct;
- (b) no such order shall preclude any such respondent or legal

representative from appearing to contest the appeal.

(High Court Notification No. 19-Genl./XI-Y-1. dated the 3rd February, 1950)

- (6) Every notice of appeal to a respondent other than a respondent stated to be pro-forma shall be accompanied by a copy of the memorandum of appeal or, if so permitted, by a concise statement.

(High Court Notification No. 200-Genl./XI-Y-8, dated the 1st September, 1953.)

96) Order XLI, Rule 19

Re-admission of appeal dismissed for default

- (1) Where an appeal is dismissed under rule 11, sub rule (2), or rule 17 or rule 18 the appellant may apply to the Appellate Court for the re-admission of the appeal, and, where it is proved that he was prevented by any sufficient cause from appearing when the appeal was called on for hearing or from depositing the sum so required, the Court shall re-admit the appeal on such terms as to costs or otherwise as it thinks fit.
- (2) The provisions of section 5 of the Indian Limitation Act, 1908, (IX of 1908) shall apply to applications under sub-rule (1).

(High Court Notification No. 74-Genl./XI- Y-9 dated the 7th April, 1955).

97) Order XLI. Rule 23-A

Where the court from whose decree an appeal is preferred has disposed of the case otherwise than on a preliminary point and the decree is reversed in appeal, and a retrial is considered necessary the appellate Court shall have the same powers as it has under rule 23.

(High Court Notification No. 216-R./XI- Y-1/XI- Y-25., dated the 4th August, 1938).

98) Order XLI, Rule 35

Date and contents of decree.

- (1) The decree of the appellate Court shall bear date the day on which the judgment was pronounced.
- (2) the decree shall contain the number of the appeal, the names and descriptions of the appellant and respondent and a clear specification of the relief granted or other adjudication made.
- (3) The decree shall also state the amount of costs incurred in the appeal, and by whom, or out of what property, and in what proportions, such costs and the costs in the suit are to be paid.
- (4) The decree shall be signed and dated by the Judge or Judges who passed it :
Judge dissenting from judgment need not sign decree-

Provided that, where there are more Judges than one, and there is a difference of opinion among them, it shall not be necessary, for any judge dissenting from the judgment of the Court, to sign the decree:

Provided also in the case of the High Court, that the Registrar, or such other officer as may be in charge of the Judicial Department from time to time, shall sign the decree on behalf of the Judge or Judges who passed it; but that such Registrar, or such officer, shall not sign such decree on behalf of a dissenting Judge.

(High Court Notification No. 20-R/XI- Y-1, dated 29th January, 1937).

99) Order XLI, Rule 38

- (1) An address for service filed under Order VII, rule 19, or Order VIII, rule 11, or subsequently altered under Order VII, rule 24, or Order VIII, rule 12, shall hold good during all appellate proceedings arising out of the original

suit or petition.

- (2) The notice of appeal, and other processes connected with proceedings therein, shall issue to the addresses mentioned in clause (1) above, and service effected at such addresses shall be as effective as if it had been made personally on the appellant or respondent, as the case may be.
- (3) Rules 21, 22, 23, 24, and 25 of Order VII shall apply so far as may be, to appellate proceedings.

(High Court Notification No. 567-G., dated 24th November, 1927, and No. 20-R./XI-Y-1, dated 29th January, 1937).

100) Order XLII, Rule 2.

In addition to the copies specified in Order XLI, rule 1, the memorandum of appeal shall be accompanied by a copy of the judgment of the Court of first instance unless the appellate Court dispenses therewith.

(High Court Notification No. 4685- G., dated 17th October, 1919, and No. 138-G., dated 19th March, 1926.)

101) Order XL111, Rule 1

Appeals from orders:-

An appeal shall lie from the following orders under the provisions of section 104, namely:—

- (a) An order under rule 10 of Order VII returning a plaint to be presented to the proper Court;
- (b) an order under rule 10 of Order VIII pronouncing Judgment against a party;
- (c) an order under rule 9 of Order IX rejecting an application (in a case open to appeal) for an order to set aside the dismissal of a suit;
- (d) an order under rule 13 of Order IX rejecting an application (in a case open to appeal) for an order to set aside a decree passed ex parte;
- (e) an order under rule 4 of Order X pronouncing judgment against a party;
- (f) an order under rule 21 of Order XI;
- (g) an order under rule 10 of Order XVI for the attachment of property;
- (h) an order under rule 20 of Order XVI pronouncing judgment against a party;
- (i) an order under rule 34 of Order XXI on an objection to the draft of a document or of an endorsement;
- (j) an order under rule 72 or rule 92 of Order XXI setting aside or refusing to set aside a sale;
- (k) an order under rule 9 of Order XXII refusing to set aside the abatement or dismissal of a suit;
- (l) an order under rule 10 of Order XXII giving or refusing to give leave;
- (m) an order under rule 3 of Order XXIII recording or refusing to record an agreement, compromise or satisfaction;
- (n) an order under rule 2 of Order XXV rejecting an application (in a case open to appeal) for an order to set aside the dismissal of a suit;
- (o) an order under rule 2, rule 4 or rule 7 of Order XXXIV refusing to extend the time for the payment of mortgage money;
- (p) orders in interpleader suits under rule 3, rule 4 or rule 6 of Order XXXV;
- (q) an order under rule 2, rule 3 or rule 6 of Order XXXVIII;
- (r) an order under rule I rule, 2 rule, 4 or rule 10 of Order XXXIX;
- (s) an order under rule 1 or rule 4 of Order XL;

- (t) an order of refusal under rule 19 of Order XLI to re-admit or under rule 21 of Order XLI to re-hear an appeal,
- (u) an order under rule 23 or rule 23-A of Order XLI remanding a case, where an appeal would lie from the decree of the Appellate Court,
- (v) an order made by any Court other than a High Court refusing the grant of a certificate under rule 6 of Order XLV;
- (w) an order under rule 4 of Order XLVII granting an application for review.

(High Court Notification No. 216-R./XI-Y-1/XI-Y-25 dated the 4th August, 1938)

102) Order XLV

Appeals to the Supreme Court.

Rule 1.- “Decree” defined:- In this Order unless there is something repugnant in the subject or context, the expression “decree” shall include a final order.

Rule 2.- Application to Court whose decree complained of. - Whoever desires to appeal to the Supreme Court shall apply by petition to the Court whose decree is complained of.

Rule 3.- Certificate as to the fitness.

- (1) Every petition shall state the grounds of appeal and pray for a certificate:-
 - (i) that the case involves a substantial question of law of general importance and,
 - (ii) that in the opinion of the Court the said question needs to be decided by the Supreme Court.
- (2) Upon receipt of such petition, the Court shall, unless it dismisses the petition at the preliminary hearing, direct notice to be served on the opposite party to show cause why the said certificate should not be granted.

Rule 4. OMITTED

Rule 5. OMITTED

Rule 6. Effect of refusal of certificate.- Where such certificate is refused, the petition shall be dismissed.

Rule 7. Deposit required on grant of certificate.- (1) Where the certificate is granted, the applicant shall within ninety days of the order of the Supreme Court under rule 14(1) of the Supreme Court Rules for the time being in force or such further period not exceeding sixty days as the Court may upon cause shown allow from the date of the Supreme Court order under rule 14 (1), whichever is later:-

- (a) deposit the amount required to defray the expense of translating, transcribing, indexing, printing and transmitting to the Supreme Court three copies of the whole record of the suit except:-
 - (i) formal document directed to be excluded by any rule of the Supreme Court in force for the time being;
 - (ii) papers which the parties agree to exclude;
 - (iii) accounts or portions of accounts which the officer empowered by the Court for that purpose considers unnecessary, and which the parties have not specifically asked to be included; and
 - (iv) such other documents as the High Court may direct to be excluded.

Rule 8. Power to order further payment.- Where at any time after the admission of an appeal but before the transmission of the copy of the record, to the Supreme Court, further payment is required for the purpose of translating, transcribing, printing, indexing or transmitting the copy of the record, except as aforesaid the Court may order the appellant to make, within a time to be specified by the Court, the required payment.

Rule 9. Effect of failure to comply with order.- Where the appellant

fails to comply with such order, the proceedings shall be stayed and the appeal shall not proceed without an order in this behalf of the Supreme Court, and in the mean time execution of the decree appealed from shall not be stayed.

Rule 9-A. Power to dispense with notice in case of deceased.- Nothing in these rules requiring any notice to be served on or given to an opposite party or respondent shall be deemed to require any notice to be served on or given to the legal representative of any deceased opposite party or deceased respondent in a case, where such opposite party or respondent did not appear either at the hearing in the Court whose decree is complained of or at any proceedings subsequent to the decree of that Court:

Provided that notice under sub-rule (2) of Rule 3 shall be given by affixing the same in some conspicuous place in the Court-house of the Judge of the district in which the suit was originally brought and by publication in such newspapers as the Court may direct.

Rule 10 Refund of balance deposit.-When the copy of the record, except as aforesaid, has been transmitted to the Supreme Court the appellant may obtain a refund of the balance, if any, of the amount which he has deposited under Rule 7.

Rule 11. Powers of Court pending appeal.

- (1) Notwithstanding the grant of a certificate for the admission of any appeal, the decree appealed from shall be unconditionally executed, unless the Court otherwise directs.
- (2) The Court may, if it thinks fit, on special cause shown by any party interested in the suit, or otherwise appearing to the Court:-
 - (a) impound any movable property in dispute or any part thereof, or
 - (b) allow the decree appealed from to be executed, taking such security from the respondent as the Court thinks fit for the due performance of any order which the Supreme Court may make on the appeal, or
 - (c) stay the execution of the decree appealed from taking such security from the appellant as the Court thinks fit for the due performance of the decree appealed from, or of any decree or order which the Supreme Court may make on the appeal, or
 - (d) place any party seeking the assistance of the Court under such conditions or give such other direction respecting the subject-matter of the appeal, as it thinks fit, by the appointment of a receiver or otherwise.

Rule 12. Procedure to enforce orders of the Supreme Court.

- (1) Whoever desires to obtain execution of any decree or order of the Supreme Court shall apply by petition, accompanied by a certified copy of the decree passed or order made in appeal and sought to be executed, to the Court from which the appeal to the Supreme Court was preferred.
- (2) Such Court shall transmit the decree or order of the Supreme Court to the Court which passed the first decree appealed from, or to such other Court as the Supreme Court by such decree or order may direct, and shall upon the application of either party give such directions as may be required for the execution of the same, and the Court to which the said decree or order is so transmitted shall execute it accordingly, in the manner and according to the provisions applicable to the execution of the original decrees.
- (3) Unless the Supreme Court otherwise directs, no decree or order of that Court shall be inoperative on the ground that no notice has been served on or given to the legal representative

of any deceased opposite party or deceased respondent in a case, where such opposite party or respondent did not appear either at hearing in the Court whose decree was complained of or at any proceedings subsequent to the decree of that Court, but such order shall have the same force and effect as if it had been made before the death took place.

Rule 13. Appeal from order relating to execution.

The orders made by the Court which executes the decree or order of the Supreme Court, relating to such execution, shall be appealable in the same manner and subject to the same rules as the orders of such Court relating to the execution of its own decrees.

(High Court Notification No.577/Rules.XI.Y.27, dated 21.12.73, published in the Punjab Govt. Gazette Legislative Supplement dated the 4th January, 1974, Haryana Govt. Gazette, Legislative Supplement dated 1st January, 1974 and Chandigarh Administration gazette dated the 1st February, 1974).

103) Order XLVIII Rule 4

The provisions of rules 11(2), 17, 18, 19 and 21 of order XLI of the Code of Civil Procedure, 1908, shall apply mutatis mutandis to Civil Revision Petitions”.

Up-dated upto 09.08.2024

**PUNJAB CIVIL SERVICE
(JUDICIAL BRANCH)
RULES, 1951**

PUNJAB GOVERNMENT NOTIFICATION

The 26th October, 1951.

No. 3010-G-51/1-6094. In supersession of the rules published with Punjab Government notification No. 24019, dated the 16th October, 1923, as subsequently amended and in exercise of the powers conferred by Article 234 read with the proviso to Article 309 of the Constitution of India, the following rules are made after consultation with the States Public Service Commission and the High Court of Punjab providing for the appointments of persons as Subordinate Judges in the Punjab Civil Service (Judicial Branch) and regulating the recruitment and the conditions of service of persons appointed thereto.

PART A - QUALIFICATIONS

1. (1) A candidate for appointment to the service must be-
 - (a) a citizen of India; or
 - (b) a subject of Sikkim; or
 - (c) a subject of Nepal; or
 - (d) a subject of Bhutan; or
 - (e) a Tibetan refugee who came to India before the 1st January, 1962, with the intention of permanently settling in India, or
 - (f) a person of Indian origin who has migrated from Pakistan, Burma, Ceylon and East African Countries of Kenya, Uganda and the United Republic of Tanzania (formerly Tanganyika and Zanzibar) with the intention of permanently settling in India:

Provided that a candidate belonging to categories (c), (d), (e) and (f) shall be a person in whose favour a certificate of eligibility has been given by the Government of India and if he belongs to category (f), the certificate of eligibility will be issued for a period of one year, after which he will be retained in service only if he has acquired Indian citizenship.

- (2) a candidate in whose case a certificate of eligibility is necessary may be admitted to the Punjab Civil Service (Judicial Branch) examination and may, also provisionally be appointed to the Service subject to the necessary certificate being given to him by the Government of India.
- 1-A. Any reference in these rules to "a Subordinate Judge" or "a Sub-Judge" shall, unless the context otherwise requires, be construed as a reference to "a member of the Punjab Civil Service (Judicial Branch)" or to "the Punjab Civil Service (Judicial Branch)" as the context may require.
2. No person who is more than thirty-five years of age or of such age as may, from time to time, be fixed by the Government for entry into Government Service or less than twenty one years of age on the last date fixed for the submission of the application form to the Punjab Public Service Commission shall be eligible to submit his application form to the said Commission for the competitive examination for the Punjab Civil Service (Judicial Branch) to be held by the said commission:

Provided that in the case of a candidate belonging to Scheduled Caste, Scheduled Tribe and Backward Class the aforesaid maximum upper age limit shall be forty years or such age as may, from time to time, be fixed by the Government for entry into Government service:

Provided further that in the case of Ex-servicemen, the upper age limit shall be such as has been prescribed in the Punjab Recruitment of Ex- servicemen Rules, 1982, as amended from time to time.

3. No person shall be appointed to be a Subordinate Judge who has not obtained the Degree of Bachelor of Laws at any University incorporated by Law in India or the degree of Bachelor of Laws of the (Undivided) Punjab University, the Dacca University, The Tribhuwan University Nepal, the Sind University or of the Rangoon or Mandalay University in Burma or is not a Barrister of England or Ireland or a member of the Faculty of the Advocates of Scotland.

Explanation:- The expression degree of Bachelor of Laws used in this rule means a degree entitling a candidate to be enrolled as an Advocate under the Advocates Act, 1961 and the rules made there under.

4. No person shall be appointed to be a Subordinate Judge who cannot give a satisfactory evidence of —
 - (i) good moral character and conduct.
 - (ii) medical fitness.
5. No person who has more than one wife living shall be eligible for appointment as a Subordinate Judge;

Provided that the State Government may, if satisfied that there are special grounds for doing so, exempt any person from the operation of this rule.

6. Notwithstanding anything to the contrary contained in these rules:-
 - (a) The State Government may after consultation with the Punjab Public Service Commission and the High Court, appoint any Assistant Commissioner, Extra Assistant Commissioner, Cantonment Magistrate, Tehsildar or Naib-Tehsildar to be a Subordinate Judge by virtue of his office although he does not possess any of the qualifications laid down hereinbefore.
 - (b) The State Government may, after consultation with the Punjab Public Service Commission and the High Court appoint any person as a Subordinate Judge, who held the post of a Sub-Judge or any other similar post in an Indian State before its merger with the Punjab.

*Explanation—*The appointment under clause (b) above may be ordered to take effect from the date of the said merger. The seniority of such appointee shall be determined by the High Court, having regard to his qualifications, length of service and age.

7. (1) Notwithstanding anything contained in these rules the Governor may, in consultation with the High Court, appoint to the Punjab Civil Service (Judicial Branch) any person who is a member of the Punjab Civil Service (Executive Branch) and who, before the first day of May, 1965, has opted or opts for appointment to the Punjab Civil Service (Judicial Branch).
- (2) A person appointed under Sub-rule (1) shall become a temporary member of the Punjab Civil Service (Judicial Branch) and shall be so treated unless and until he is absorbed permanently in that Service or is reverted to the Punjab Civil Service (Executive Branch).
- (3) If during one year of the appointment of such a person the High Court recommends that he be reverted to the Punjab Civil Service (Executive Branch), the Governor shall, as soon as may be practicable, revert him to the Punjab Civil Service (Executive Branch).
- (4) During the period of one year referred to in Sub-rule(3), a person so appointed may withdraw his option for appointment to the Punjab Civil Service (Judicial Branch) and thereupon he shall, as soon as may be practicable, be reverted to the Punjab Civil Service (Executive Branch).
- (5) Where a person so appointed was a permanent member of the Punjab Civil Service (Executive Branch) before his appointment to the Punjab Civil Service (Judicial Branch) and the High Court has neither recommended his reversion under sub-rule (3) nor has he withdrawn his option under sub-rule (4), he shall, on the expiry of one year from his appointment under sub-rule (1), be deemed to have become a permanent member of the Punjab Civil Service (Judicial Branch) and shall cease to be a member of the Punjab Civil Service (Executive Branch):

Provided that where a person so appointed was on probation in the Punjab Civil Service (Executive Branch) before his appointment to the Punjab Civil Service (Judicial Branch) he may, subject to the provisions of sub-rules (3) and (4) be confirmed in the Punjab Civil Service (Judicial Branch) on the expiry of the period of probation if a permanent vacancy is available and shall thereon become a permanent member of that service.

- 7-A (1) Notwithstanding anything contained in these rules the State Government may, in consultation with High Court, appoint to the Punjab Civil Service (Judicial Branch), any member of the Punjab Civil Service (Executive Branch), who is a Law Graduate and who opts for such appointment, for such period not exceeding one year, as the High Court may desire, and he shall, unless permanently absorbed under sub-rule (2), at the expiry of the said period, or earlier if so required by the High Court, revert to the Punjab Civil Service (Executive Branch) and the Government shall re-absorb him on the Executive side within a period of three months from the date on which it is informed of the decision.
- (2) A person appointed under sub-rule (1) may, unless he withdraws his option, be permanently absorbed in the Punjab Civil Service (Judicial Branch) from such date as the High Court may determine; provided that the number of such persons shall not exceed twenty percent of the number of persons recruited directly.

- (3) During the period of his tenure, a person appointed under sub-rule (1) may withdraw his option for appointment to the Punjab Civil Service (Judicial Branch) and thereupon, he shall, as soon as may be practicable, be reverted to the Punjab Civil Service (Executive Branch).
8. A member of the Punjab Civil Service (Judicial Branch) may be required to work as a Subordinate Judge or a Judicial Magistrate or both.
9. (1) for the purpose of this rule-
- (a) "Parent service" means:-
- (i) in relation to a person appointed to the Punjab Civil Service (Judicial Branch) under rule 7 or 7-A of this part, the Punjab Civil Service (Executive Branch); and
- (ii) in relation to any other member of the Punjab Civil Service (Judicial Branch), the Punjab Civil Service (Judicial Branch);
- (b) "years of allotment, in relation to any person appointed under rule 7 or 7A of this part or other members of the Punjab Civil Service (Judicial Branch)" means the calendar year with reference to which such person or member takes his seniority in his parent service irrespective of the date of his admittance to the parent service.
- (2) The seniority of persons appointed under rule 7 or 7-A of this Part jointly with the other member of the Punjab Civil Service (Judicial Branch) shall be determined by the Government in consultation with the High Court, in accordance with the following principles, namely:-
- (A) the interse seniority of the persons so appointed and the other members of the Punjab Civil Service (Judicial Branch) shall not be disturbed;
- (B) the joint seniority shall be worked according to the years of allotment in an ascending order;
- (C) the person so appointed belonging to one year of allotment shall be interpolated with the other members of the Punjab Civil Service (Judicial Branch) belonging to the same year of allotment according to their date of admittance or assumed date of admittance, as the case may be, to their parent service in that year:

Provided that-

- (i) if the date of admittance of such person or member to the parent service does not fall in the year of allotment or is earlier than the date of admittance of any person or member senior to him in the parent service in the year of allotment and assumed date of admittance shall be assigned to such person or member within the year of allotment for purposes of determining his joint seniority;
- (ii) such assumed date-
- (a) in the case of the senior-most person or member in the parent service in the year of allotment, shall be the date of admittance of

the person or member, as the case may be, junior to him in the parent service whose date of admittance falls in that year;

- (b) in the case of a person or member whose date of admittance in the parent service falls in any year earlier than the year of allotment, shall be the date of admittance of the person or member next senior to him in the parent service whose date of admittance falls in the year of allotment;
- (c) in the case of a person or member whose date of admittance in the parent service falls in any year later than the year of allotment, shall be the date of admittance of the person or member next junior to him in the parent service whose date of admittance falls in the year of allotment:

Provided that if such person or member has no such junior to him, the assumed date shall be the date of admittance of the person or member next senior to him and, where such person or member has to be assigned an assumed date under the foregoing provisions, shall be such assumed date;

- (d) in the case of a person or member whose date of admittance falls in the year of allotment but is earlier than the date of admittance of a person or member, as the case may be, who is senior to him in the parent service, shall be the date of admittance of the person or member senior to him and, where senior person or member has to be assigned an assumed date under the foregoing provisions, shall be such assumed date; and
- (e) where in any year of allotment the date or assumed date, as the case may be, of admittance to the parent service of a person so appointed and of the other member of the Punjab Civil Service (Judicial Branch) is the same, the older shall rank senior to the younger in age in the joint seniority.

(3) Where it may not be practicable to determine the joint seniority of any person or member in accordance with the foregoing provisions of this rule or where the application of such provision is likely to cause undue hardship or result in any inequity or injustice, the Government in consultation with the High Court, may determine the joint seniority of such person or member on the adhoc basis.

(4) Any person aggrieved with his position in the joint-seniority list may, within a period of sixty days from the date of publication of such list in the official Gazette, submit a representation to Government through the High Court who shall pass such orders thereon as may be deemed to be just and proper.

PART B.—PREPARATION AND SUBMISSION OF ROLLS

1. Qualifications for persons to be appointed Subordinate Judges are contained in Part A.
2. One Register of candidates for appointment as Subordinate Judges shall be maintained by each District Judge for each revenue district in his division in Form 'A' of the Forms laid down in the Schedule. The District Judge of Patiala will also maintain a separate register of candidates belonging to States other than the State of Punjab.
3. Applications for registration under rule 2 above will be received by the District Judge. Every applicant shall state his qualifications, and attach to his application certificates to show that he is qualified under the Qualifications Rules contained in Part A and under the rules contained in this part.

Note-1. Certificates of character required by qualification Rule (4) (i) in Part 'A' shall comprise-

- (i) a certificate from the Principal academic officer of the candidate's University or college, and
- (ii) certificate from two responsible persons (not relations) who are well acquainted with the candidate in private life and not connected with his University or college.

Note-2. Every candidate shall endorse or sign a declaration on his application in the following words:-

"I solemnly declare that all the statements made in this application are true".

4. When the Judges of the Punjab High Court decide to hold a competitive examination for the recruitment of candidates, they will call for rolls. The District Judge shall then submit rolls, in form "B" of the forms laid down in the Schedule of all candidates who are eligible under the Qualification Rules in Part 'A' and rules in this part.
5. Rolls should be prepared in the office of the District Judge after the District Judge has verified the candidates' fulfillment of the Qualification Rules and Rules in this Part. Necessary documentary proof should be obtained from every candidate if not already received in accordance with Rule 3 above and verified before the rolls are prepared.
6. For the purposes of rules 2 and 3 of the Qualification Rules it should be noted as follows —
 - (a) The District Judge must carefully verify the dates of birth of candidates and the mode of such verification should be stated in each case in the roll. The only documents which should be relied upon for purposes of verification are-
 - (i) Certified extracts from birth registers, provided the name of the child is specifically mentioned therein;
 - (ii) Certified copies of entries made in school and college registers;

- (iii) certified copies of extracts from Government Gazette notifications containing results of examination, if age or date of birth is given therein.

A copy of the notification of the result of the Matriculation Examination or the Matriculation certificate, must be supplied in every case; if this shows an earlier date of birth than that claimed by the candidate, it will ordinarily be accepted as final.

- (b) In calculating a candidate's age it should be assumed that a practising lawyer would continue to practise up to the date of his appointment as a Subordinate Judge. No allowance should be made either in the case of a candidate not actually practising when his roll is submitted even though he promises to get himself enrolled immediately, or in respect of previous practice of a candidate not actually practising at the time.
 - (c) In the case of a Government servant, the date of birth as entered in his service book only shall be accepted.
 - (d) No roll of a candidate shall be submitted to the State Public Service Commission unless the age of the candidate is two years less than the age limits prescribed for appointment in Rule 2 in Part A of these Rules on a date fixed by the Commission in its letter calling for rolls.
7. Before submitting rolls to the Punjab State Public Service Commission, the District Judge should-
- (a) require every candidate to endorse and sign a declaration on his roll in the following words:-

"I solemnly declare that all the statements made in this roll are true."
 - (b) require every lawyer candidate to furnish a declaration which should accompany his roll stating the period for which he has been practising as a lawyer;
 - (c) append to the roll the certificates and declaration mentioned in Notes 1 and 2 of Rule 3 of Part B.
8. On the submission of the roll of any person to the Punjab Public Service Commission, that person shall be warned in writing by the District Judge that he shall not make any attempt, directly or indirectly to approach any Judge of the High Court or any member of the Punjab Public Service Commission for discussing his candidature. He should also be informed that any breach of this rule will automatically lead to the permanent disqualification of the candidate in question.

The District Judge shall also warn every candidate whose roll he submits to the Punjab Public Service Commission that he must take the risk of becoming over-age before the date on which he can be appointed a Subordinate Judge and that if he fails to pass the departmental examination and complete the prescribed training before

reaching the age-limit, he will not be appointed as a Subordinate Judge even though he may have been accepted as a candidate as a result of the competitive examination.

PART C - EXAMINATION OF CANDIDATES

The following rules and instructions, which are liable to alteration from year to year, are prescribed for the examination of candidates for admission to the Judicial Branch of the Punjab Civil Service:-

1. An examination will be held at such place as the Punjab Public Service Commission may determine, commencing on such date as may from time to time be notified in the Gazette.
2. Fee for admission to the examination shall be such as the Government may, from time to time specify by a notification published in the Official Gazette, subject to a maximum of one hundred rupees and it shall be paid into Government Treasury.
3. (i) Every candidate whose roll is forwarded to the Punjab Public Service Commission shall send the treasury receipt for the admission fee to the Commission.
(ii) If the treasury receipt reaches the Commission on or before such date as may be prescribed by the Commission in this behalf, the Commission shall issue an admission certificate to the candidate concerned.
(iii) The candidate shall produce the admission certificate on the first day of the examination and before the first paper is given out. The Officer Superintending the Examination shall retain the admission certificate.
4. The examination papers shall be set and marks awarded by examiners who will be appointed by the Punjab Public Service Commission. There shall also be a viva voce test which will be conducted by the Punjab Public Service Commission.

The representative of the High Court of Punjab and Haryana shall be associated in the selection process and his advice with regard to the suitability of the candidate shall prevail unless there are strong and cogent reasons for not accepting the same for which reasons shall be recorded in writing.
5. The Judges of the High Court may from time to time declare what the subjects of the examination shall be.
6. The object of the examination is to test the practical ability of the candidates rather than the range of their theoretical knowledge. For this purpose, the kind of questions that will be asked will be to give the facts of a typical case and ask the candidate to frame issues, to write a judgment, and to discuss the admissibility of evidence.
7. (1) No candidate shall be credited with any marks in any paper unless he obtains atleast thirty three per cent marks in it.

- (2) No candidate shall be called for the Viva-Voce test unless he obtains at least fifty per cent qualifying marks in the aggregate of all the written papers:

[1] Provided that the candidates belonging to categories of Scheduled Castes, Scheduled Tribes, Backward Classes and Persons with Disabilities as defined in section 2(t) of section 47(1) in The Persons With Disabilities (Equal Opportunities, Protection of Rights And Full Participation) Act, 1995 shall be called for the viva-voce test if they obtain forty five per cent qualifying marks in the aggregate of all the written papers.

[1. Proviso to Rule 7(2) substituted vide Notification no. 4/50/2013-3Judl(1)/146 dated 13.03.2014]

- (3) The minimum qualifying marks in the language paper Punjabi (Gurmukhi Script) shall be thirty-three per cent. The standard of language paper will be that of Matriculation Examination of the Punjab School Education Board or its equivalent.
8. The merit of the qualified candidates shall be determined by the Punjab Public Service Commission according to the aggregate marks obtained in the written papers and viva-voce:

Provided that in the case of two or more candidates obtaining equal marks, the candidate older in age shall be placed higher in the order of merit.

9. The syllabus which is liable to alteration is given below:-

Paper I- Civil Law - Code of Civil Procedure,
Punjab Courts Act,
Indian Contract Act,
Indian Sale of Goods Act,
Indian Partnership Act,
Specific Relief Act &
Indian Evidence Act.

Paper II-Civil Law - Hindu Law, Mohammadan Law
and Customary Law,
Law of Registration and Limitation.

Paper III-Criminal Law - Indian Penal Code,
Criminal Procedure Code and Indian
Evidence Act.

Paper IV-English Composition - A choice of six essays on
general subjects.

Paper V- Language - Punjabi in Gurmukhi Script. No book prescribed.

Paper VI- Viva Voce to judge the personal qualities of the
candidates.

Notes- (i) Bare copies of legislative enactments only will be supplied.

- (ii) Each written paper shall be of three hours duration. Papers I to III shall carry 200 marks each. Papers IV and V shall carry 150 marks each and in each of these papers 100 marks shall be for essay writing and 50 marks for general language and grammar. Paper VI shall carry 100 marks.

(iii) Language paper will comprise of the following:-

	<u>Marks</u>
(1) Translation of an English passage into Punjabi	20
(2) Explanation of Punjabi passage in prose and poetry in the same language	30
(3) Composition (Essay, Idioms, Corrections etc.)	50
Total	100

(iv) The viva voce test shall relate to the matters of general interest and is intended to test the candidates' Alertness, Intelligence and general outlook. Consideration shall also be paid to the bearing of the candidates. It shall be conducted in English.

10. (i) The result of the examination will be published in the Punjab Government Gazette.

(ii) Candidates will be selected for appointment strictly in the order in which they have been placed by the Punjab Public Service Commission in the list of those who have qualified under rule 8; provided that in the case of candidates belonging to the Scheduled Castes/Tribes and other Backward Classes, Government will have a right to select in order of merit, a candidate who has merely qualified under rule 8, irrespective of the position obtained by him in the examination.

Provided further that the selection of candidates belonging to the Scheduled Castes/Tribes and other Backward classes in the order of merit inter-se shall be made against the vacancies reserved for them and in the manner prescribed by Government from time to time.

11. After the examination each selected candidate shall produce a certificate of medical fitness for the Government Service from such standing medical Board as may be arranged by the Director of Health Services (Punjab). The date on which candidates should present themselves before the Board for examination will be communicated to them. If the standing medical Board reports that any such person is suffering from physical defect which renders him unfit for the service, the Governor of the Punjab shall decide in consultation with the High Court, whether the name of such person may nevertheless be entered in the register of accepted candidates, or whether he should be required to appear again at a future date before the standing Medical Board, or whether his name shall not be entered in the register of candidates.

The standard of Medical Fitness required of the candidates is given in Appendix C to these rules.

PART D- APPOINTMENT

1. The names of the candidates selected by Government for appointment as Subordinate Judges under Rules 10 and 11 of Part C shall be entered on the High Court Register in the order of their selection.
2. The fact of acceptance of a candidate shall be communicated to the District Judge who shall thereupon make a note of such acceptance, with the date thereof, in the register maintained by him in form 'A' of the forms laid down in the Schedule, and he shall inform the candidates, adding in the case of practising lawyers, that if they cease to practise before the date of their appointment as Subordinate Judges, they will lose the concession granted by Clause (a) of the proviso to the rule 2 of the qualification Rules in Part "A".
3. The Registrar of the High Court, shall from time to time, scrutinize the register maintained in the High Court in accordance with rule 1 above and shall, under the orders of the Judges, remove there from the name of any candidate who has exceeded the age-limit prescribed in rule 2 of the qualification Rules in Part A before he can be appointed as a Subordinate Judge.
4. The Government may, on a motion from the Judges, for any reason which may seem fit to them, remove from the High Court Register the name of any candidate borne on it.
5. Every candidate shall, within a period of two years from the date of joining the service, pass the Departmental Examination in the manner and as per the criteria prescribed by the High Court from time to time, failing which his name shall be removed from the register of candidates. The Departmental Examination shall be conducted by the High Court or any agency or authority nominated by the Chief Justice:
Provided that the High Court may exempt any candidate from passing the whole or any part of the Departmental Examination or may extend the period within which the candidate shall pass the Departmental Examination.
[Rule 5 substituted vide Notification no. G.S.R.30/Const./Art.234 and 309 /Amd.(32)/2024 dated 09.08.2024]
6. Every Subordinate Judge shall undergo training for a minimum period of one year.
7. (1) Whenever it shall appear to the Judges that a vacancy or vacancies in the cadre of the Judicial Branch of the Punjab Civil Service, whether permanent, temporary or officiating, should be filled, they will make a selection from the High Court Register in the order in which the names have been entered in the Register under Rule 1 of this part. The name or names of the selected candidate or candidates will be forwarded to Government for appointment as Subordinate Judges under Article 234 of the Constitution of India. Every Subordinate Judge shall, in the first instance, be appointed on probation for two years but this period may be extended from time to time expressly or impliedly so that the total period of probation, including extension, if any, does not exceed three years.

Explanation:- The period of probation shall be deemed to have been extended impliedly if a Subordinate Judge is not confirmed on the expiry of his period of probation.

(2) The Governor of Punjab may, on the recommendation of the High Court, dispense with the services of a Subordinate Judge without assigning any cause, or revert him to his Substantive post, if any, during the period of his probation.

(3) On the completion of the period of any member of the service, the Governor of Punjab may, on the recommendation of the High Court, confirm him in his appointment, if he is working against a permanent vacancy or, if his work of conduct is reported by the High Court to be unsatisfactory, dispense with his services or revert him to his former substantive post, if any, or extend his period of probation and thereafter pass such orders as he could have passed on the expiry of the first period of probation;

Provided that the completion of the maximum period of three year's probation would not confer on him the right to be confirmed till there is a permanent vacancy in the cadre.

Provided further that if the report by the High Court regarding the unsatisfactory work or conduct of the probationer is made to the Government before the expiry of the maximum period of probation, further proceedings in the matter may be taken and orders passed by the Governor of Punjab dispensing with his services or reverting him to his substantive post even after the expiry of the aforesaid maximum period of probation.

8. There is no limit to the number of names borne on the High Court Register but ordinarily no more names will be included than are estimated to be sufficient for filling of vacancies, which are anticipated to be likely to occur during the year of Advertisement i.e. from 1st January to 31st December of that year.
9. On appointment, every Subordinate Judge shall get the minimum pay of the time-scale of the Punjab Civil Service (Judicial Branch), viz. Rs.940-30-1,000-40—1,200/1,400-60-1,700/75-1,850 with effect from the 1st day of January, 1978 and be allowed to draw the first increment- on the completion of the Departmental Examination prescribed in part E of these rules or after one year's service, whichever is later. The future increments will normally be admissible on the anniversary of the date on which the first increment is drawn.

Provided that an officer who was a subordinate Judge on the 1st day of January, 1978, will have personal grade of Rs.940-30-1,000-40-1,200/1,400-60- 1,700/75-1,850; provided further that the pay of a Subordinate Judge who immediately before his appointment as such, was holding any post under the Government or the High Court of Punjab and Haryana, shall be regulated in accordance with the provisions of the Punjab Civil Services Rules, Volume-1, Part-1.

Provided further that the future increments to a member of the service whose pay is fixed under the foregoing proviso shall be allowed only after he has passed the departmental examination by the higher standard.

Provided further that where the increment of a member of the service is withheld for his failure to pass the departmental examination, he shall not be entitled, before he passes the departmental examination by the higher standard, to the refixation of his pay on the basis of enhancement in his substantive or officiating pay in the time scale of the post held by him prior to his appointment to the service. However, during this period, he may be allowed his substantive pay from time to time if the same happens to be more than his officiating pay in the service.

9-A. Omitted.

[Rule 9-A omitted vide Notification no. G.S.R.30/Const./Art.234 and 309 /Amd.(32)/2024 dated 09.08.2024]

10. (a) Members of the service shall be eligible for promotion permanently or provisionally, to a post in the selection grade in the scale rising from thirteen hundred rupees to fifteen hundred rupees a month with annual increment of fifty rupees a month or in such scale as may be sanctioned by the Government from time to time.

(b) Promotion to selection grade shall be made strictly by selection and no member of the service shall be entitled to such promotion as of right.

(c) With effect from the 5th March, 1973, twenty percent of the posts in the service will be in the selection grade in the scale rising from thirteen hundred rupees to fifteen hundred rupees a month with annual increment of fifty rupees a month or in such scale as may be sanctioned by the Government from time to time:

Provided that no officer shall be promoted to the selection grade unless he has worked as Subordinate Judge for a period of not less than twelve years.

Explanation:- The service put in by a member of the Punjab Civil Service (Judicial Branch) in the cadre of the Punjab Civil Service (Executive Branch) before his permanent absorption in the cadre of the Punjab Civil Service (Judicial Branch), shall be taken into account while computing the aforesaid period of twelve years.

- 10-A. (1) A member of the service shall be entitled to the senior scale of Rs. 3,000-100-4,000-125-4,500 after completion of 8 years service on or after the first day of January, 1986 and a Selection Grade of Rs.4125-125-5,000-150- 5,600 after completion of 18 years of service on or after the first day of January, 1986, or any other grade after such period as may be allowed by the Government of Punjab from time to time.

Provided that an officer who has already become entitled to the Selection grade and has been granted selection Grade under the rules which were in force immediately before the publication of the Punjab Civil Services (Judicial Branch) (Second Amendment) Rules, 1989, shall be entitled to grant of selection Grade of Rs.4,125-125-5,000-150-5,600 with effect from the first day of January, 1986, or from the date it became due to him.

(2) The placement in the Selection Grade shall be made on merit and suitability in all respects with due regard to seniority and no member of the Service shall be entitled as of right to such placement.

Note- For reckoning the period of 8 years and 18 years the entire service in the time scale, senior scale and Selection Grade (mere placement and not involving fixation of pay at higher level), etc. wherever available in the cadre shall be counted.

PART E -DEPARTMENTAL EXAMINATION {Omitted}

[Part-E omitted vide Notification no. G.S.R.30/Const./Art.234 and 309 /Amd.(32)/2024 dated 09.08.2024]

PART F—DISCIPLINE, PENALTIES AND APPEALS

In matters relating to discipline, penalties and appeals including orders specified in Appendix B, members of the service shall be governed by "The Punjab Civil Services (Punishment and Appeal) Rules, 1952" as amended from time to time, provided that the nature of penalties, which may be inflicted, the authority empowered to impose such penalties or pass such orders and the appellate authority shall be as specified in Appendix 'A' and 'B' below:-

Appendix 'A'

Nature of Penalty	Punishing Authority	Appellate Authority
(a) Censure;	Judge of the High Court	A Committee constituted by the High Court consisting of two judges on the administrative side, subject to approval of Hon'ble Full Court
(b) Withholding of increment or promotion including stoppage at an efficiency bar;	-do-	-do-
(c) Reduction to a lower post or time scale or to a lower stage in the time scale;	Government	-
(d) Recovery from pay of the whole or part of any Pecuniary loss caused to Government by negligence or breach of order;	Judge of the High Court	A Committee constituted by the High Court consisting of two judges on the administrative side, subject to approval of Hon'ble Full Court
(e) Suspension;	Government	-
(f) Removal from Service which does not disqualify for future employment; and	-do-	-
(g) Dismissal from the Service which ordinarily disqualifies from future employment.	-do-	-

[Appendix 'A' substituted vide Notification no. 1/113/12-3Judl(1)/876 dated 18.07.2017]

APPENDIX 'B'- OTHER ORDERS

Name of Order	Authority competent to pass an order	Appellate Authority
(a) Reducing the pension admissible under the rules	Government	..
(b) Terminating the appointment of a member of the service otherwise than upon his reaching the age fixed for superannuation	-do-	..

SCHEDULE

[The Forms in this Schedule are not printed. Typewritten copies may be obtained by candidates from the District Judge.]

PART FF—Retirement

A member of the Service, shall retire from Service in the afternoon of the last day of the month in which he attains the age of sixty years:

Provided that such member, whose date of birth is the first day of the month, he shall retire on the afternoon of the last day of the preceding month:

Provided further that the High Court, shall assess and evaluate the Service Record of the member of the Service at the age of fifty years, fifty-five years, and before he attains the age of fifty-eight years, to find his continued utility in the Service, by following the procedure for compulsory retirement before he is allowed to continue beyond the age of fifty-eight years:

Provided further that the High Court, may recommend premature retirement of an Officer on completion of fifteen years of Service or at any time thereafter in public interest, subject to the condition that in the event of such retirement, the officer shall be entitled to the benefit of pension and other retrial benefits proportionately as admissible, having regard to the qualifying Service rendered by him as per Government Policy.

{Part FF-Retirement, inserted vide notification no. G.S.R.49/Const./Art.233 and 309/Amd.(31)/2017 dated10.10.2017}

PART G- RELAXATION OF RULES

Where the Government, in consultation with the High Court, is, of opinion that it is necessary so to do, it may by order, for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any Class or category of persons.

Form "A"

REGISTERS TO BE MAINTAINED BY EACH DISTRICT JUDGE FOR EACH DISTRICT IN HIS SESSIONS DIVISION OF PERSONS QUALIFIED TO BE APPOINTED SUBORDINATE JUDGES

Name of Candidates	(a) Place of Birth (b) Date of birth and the summary of evidence in support of it. (c) Date of enrolment as Barrister, Advocate, Vakil or pleader with number and date of High Court Notification as published in Govt. Gazette.	Percentage and place of domicile of parents	Where educated what degrees obtained with class or division, University and year.	Present appointment or occupation.
1	2	3	4	5
Date of submission of rolls to the Punjab Public Service commission with commission's orders thereon.	Date of removal of name from register with brief reasons for exclusion	Address of the candidate appearing in the examination	Remarks	
6.	7.	8.	9.	

FORM "B"

NOMINATIONS ROLL OF FOR ADMISSION TO THE HIGH COURT
REGISTER OF PERSONS FOR APPOINTMENT AS SUBORDINATE JUDGES.

Name of Candidate	(a) place of birth.	Percentage and place of domicile of parents	Previous or present offices held under Government	Post and pay	Date of appointment	Date of transfer, resignation or removal.
	(b) Date of birth and the summary of evidence in support of it. (c) Date of enrolment as Barrister, Advocate, Vakil or pleader, with number and date of High Court notification as published in Government Gazette.					
.....						
1	2	3	4	5	6	
.....						
.....						
Present appointment or occupation	Where educated what degrees obtained with class or division University and year	Address of the candidate appearing in the examination	Remarks			
.....						
7	8	9	10			

Note. Each candidate must append to this roll a signed declaration as follows :-

"I solemnly declare that all the statements made in this nomination roll are true."

APPENDIX 'C'

Regulations for the medical examination of candidates for admission to the Punjab Civil Service (Judicial Branch).

These regulations are intended merely for the guidance of Medical Examiners and are not meant to restrict their discretion in any ways.

1. To be passed as medically fit for admission to the Punjab Civil Service (Judicial Branch), a candidate must be in good mental and bodily health and free from any physical defect likely to interfere, with the efficient performance of the duties of his appointment.

2. The candidate's height will be measured as follows :-

He will remove his shoes and be placed against the standard with his feet together and the weight thrown on the heels and not on the toes or outer sides of the feet. He will stand erect without rigidity, and with the heels, calves, buttocks, and shoulders touching the standard; the chin will be depressed to bring the vertex of the head level under the horizontal bar, and the height will be recorded in inches and parts of an inch to quarters.

3. The candidate's chest will be measured as follows :-

He will be made to stand erect with his feet together, and to raise his arms over his head. The tape will be so adjusted round the chest that its upper edge touches the inferior angles of the shoulder blades behind, and its lower edge the upper part of the nipples in front. The arms will then be lowered to hang loosely by the side, and care will be taken that the shoulders are not thrown upwards and backwards so as to displace the tape. The candidate will then be directed to take a deep inspiration several times, and the maximum expansion of the chest will be carefully noted.

The range of expansion should not be less than 2".

The minimum and maximum will then be recorded in inches, 33-35, 34-36, etc.

In recording the measurement, fractions of less than $\frac{1}{2}$ inch should not be noted.

4. The candidate will also be weighed, and his weight recorded in pounds. Fractions of a pound should not be noted.

5. The following conditions should be observed in connection with acuteness of vision:-

Vision of Candidates:-

- (a) No candidate will be accepted whose vision is less than-

Better eye

Worse eye

V-6/6 and reads 0.6

V-6/12 reads 1

Spectacles will be allowed for either eye upto +5.0 D or —5.0 D, provided that there are no morbid changes in fundus.

(b) In myopia if there is posterior at phyloma the spectacles must not exceed -2.5 D in either eye.

(c) In cases of astigmatism the combined lenses must not exceed 5 Dipoters and there should be no fundus changes.

(d) Squint or any other morbid condition of the eyes or of the lids of either eye liable to the risk of aggravation or recurrence will cause the rejection of the candidate.

(e) Each eye must have a full field of vision as tested by hand movements.

(f) Any defect in colour vision will be noted, but will not cause rejection of the candidate.

(g) In cases of doubt or of serious abnormality the opinion of the Ophthalmic Specialist will be obtained.

(h) No candidate will be accepted whose standard of vision does not come upto the specified requirements without the use of contact glasses.

6. The urine (Passed in presence of the Examiner) should be examined and the result recorded.

7. The following additional points should be observed:-

(a) That the candidate's hearing in each ear is good and that there is no sign of the disease of the ear;

(b) that his speech is without impediment;

(c) that his teeth are in good order and that he is provided with dentures where necessary for effective mastication (well-filled teeth will be considered as sound);

(d) that his chest is well formed and his chest expansion sufficient; and that his heart and lungs are sound;

(e) that there is no evidence of an abdominal disease;

(f) that he is not ruptured;

(g) that he does not suffer from hydrocele, a severe degree of varicocoele, vericose venins or piles;

(h) that his limbs, hands and feet are well formed and developed and that there is free and perfect motion of all his joints;

(i) that he does not suffer from any inveterate skin disease;

(j) that there is no congenital malformation or defect ;

- (k) that he does not bear traces of any acute or chronic disease pointing to an impaired constitution;
- (l) that he bears marks of efficient vaccination and evidence of revaccination within the last 12 months.

When any defect is found it must be notified in the certificate and the Medical Examiner should state his opinion whether or not it is likely to interfere with the efficient performance of the duties which will be required of the candidate. If the condition, is remediable by operation it should be so stated.

8. The following intimation is made for the guidance of the Medical Examiner:—

- (1) In the medical examination of candidates Medical Officers are especially required to use fact and judgment and to take proper precaution to secure privacy, with the object of removing any objections which may be made by individuals to stripping.
- (2) Should a candidate object to the exposure of his person for the detection of hemorrhoids, venereal disease, hernia and disease of the testicles, scrotum and rectum, the candidate must if this examination in his case is in the opinion of the Board necessary, be rejected.
- (3) The opinion of the Board accepting or rejecting a candidate is final and cannot be questioned on any ground. The Board is debarred from disclosing to any candidate, permanently unfit, the reasons for his rejection. In these cases their opinion and report is to be treated as strictly confidential and for the information of Government only. Where however, the Board detects a temporary defect amendable to treatment the candidate may be so informed in order that he may have the defect remedied and present himself for re-examination.
- (4) No person will be deemed qualified for the admission to the Public Service who shall not satisfy the Punjab Government that he has no disease, constitutional, affection or bodily infirmity unfitting him, or likely to unfit him for that service.
- (5) It should be understood that the question of fitness involves the future as well as the present and that the main object of medical examination is to secure continuous effective service, and in the case of candidates for permanent appointment to prevent early pension or payments in case of premature death. It is at the same time to be noted that the question is one of the likelihood of continuous effective service and that the rejection of a candidate need not to be advised on account of the presence of a defect which in only a small proportion of cases is found to interfere with continuous effective service.
- (6) The candidate must make the statement required below prior to his medical examination and must sign the declaration appended thereto. His attention is specially directed to the warning contained in the note below:-

(1) State your name in full.....

(2) State your age and birth place.....

(3) (a) Have you ever had small pox, intermittent or any other fever,

enlargement or suppuration of glands, spitting of blood, asthma, inflammation of lungs, heart disease, fainting attacks, rheumatism or appendicitis?

OR

(b) any other disease or accident requiring confinement to bed and medical or surgical treatment ?

OR

(c) suffered from any illness, wound or injuries sustained while an active service with His Majesty's Forces during the last Great Wars.

(d)Have you ever been rejected by a Medical Board or duly constituted Medical authority?

(4) When were you last vaccinated?

(5) Have you or any of your near relations been afflicted with consumption, scrofula, gout, asthma, fits, epilepsy, or insanity?

(6) Have you suffered from any form of nervousness due to overwork or any other cause?

(7) Furnish the following particulars concerning your family.

Father's age, if living, and state of health	Father's age at death and cause of death	Names of brothers living, their ages and state of health	Number of brothers dead, their ages at, and cause of death
Mother's age if living, and state of health	Mother's age at death and cause death	Number of sisters living, their ages and state of health	Number of sisters dead, their ages at, and cause of death

I declare all the above answers to be to the best of my belief, true and correct and accept the finding of the board as final.

Candidate's Signature

Note. The candidate will be held responsible for accuracy of the above statement, By willfully suppressing any information he will incur the risk of losing the appointment and if appointed forfeiting all claims to superannuation Allowance or gratuity.

MEDICAL EXAMINER'S REPORT

Sr. no.	Questions	Answers	Remarks
1.	Has the declaration above been signed by the candidate?		
2.	Are there any evidence of malformation, congenital or acquired?		
3.	Is he free from scars and has he the full use of all limbs?		
4.	Are there any indications of decided cachectic or diathetic state of constitution?		
5.	Has the candidate been vaccinated within the last twelve months?		
6.	Are there any signs of disease of the nervous system?		
7.	Is the hearing good? Is there any sign of disease of the ears?		
8.	What is the candidate's vision ?		R.E.V.-with glasses – Reads spectacles if any, R.E. L.E.
9.	Is the candidate free from stammer or other serious defect of speech?		
10.	Are there any signs of disease of the bones, joints or parts connected therewith?		
11.	Is there any important affection of the skin?		
12.	Are the heart and arteries healthy?		
13.	Has the candidate haemorrhoids, varicocele, or other affections or veins?		
14.	Is there any evidence of disease of the respiratory organs?		
15.	Are there any signs of disease of the digestive organs?		
16.	Is the candidate free from rupture?		
17.	Is there any indication of disease of the genital organs?		
18.	Is the urine free from (1) albumen, (2) sugar? Is the urine otherwise normal?		1. _____ 2. _____
19.	Is there anything in the health of the candidate likely to render him unfit for the efficient discharge of his duties in the service for which he is a candidate?		

20.	Do you consider the candidate in all respects qualified for the efficient and continuous discharge of his duties in the service for which he is a candidate?		

Height without (shoes)

.....

Girth of chest (full inspiration)

.....

Weight

President

Member

Member

Dated.

Up-dated upto 29.01.2025

**PUNJAB CIVIL SERVICE (JUDICIAL BRANCH) RULES
AS APPLICABLE
TO
STATE OF HARYANA**

HOME GAZETTE
The 26th October, 1951

No. 3010-G-51/I-6094.- In supersession of the rules published with Punjab Government notification No. 24019, dated the 16th October 1923, as subsequently amended and in exercise of the powers conferred by Article 234 read with the proviso to Article 309 of the Constitution of India, the following rules are made after consultation with the States Public Service Commission and the High Court of Punjab providing for the appointments of persons, as Civil Judges (Junior Division) in the Punjab Civil Service (Judicial Branch) and regulating the recruitment and the conditions of service of persons appointed thereto:

PART A -QUALIFICATIONS

1. Only such persons shall be eligible for appointment to the post of a Civil Judge (Junior Division) who are citizens of India as defined in the Constitution of India or under any law made by Parliament to regulate the right of citizenship.
- 1A. Any reference in these rules to "a Civil Judge (Junior Division)" shall unless the context otherwise requires, be construed as a reference to "a member of the Haryana Civil Service (Judicial Branch)" or to "the Haryana Civil Service (Judicial Branch)" as the context may require.
2. No person who is more than 40 years of age or such age as may, from time to time, be fixed by the Government for entry into Government service or less than 21 years of age on the last date fixed for the submission of the application form to the Haryana Public Service Commission shall be eligible to submit his application form to the Commission for the competitive examination for the Haryana civil Service (Judicial Branch).

Provided that the above maximum age for a candidate belonging to Schedule Caste, Scheduled Tribe and Backward Class shall be 45 years or such age as may, from time to time, be fixed by the Government for entry into Government Service:

Provided further that an ex-serviceman shall be entitled to deduct from his age such period as may, from time to time be allowed by the State Government for entry into Government service to such candidates subject to maximum of 5 years.

3. No person shall be eligible to be appointed a Civil Judge (Junior Division) unless he holds a degree of Bachelor of Laws from a University established by law and approved/recognised by the Bar Council of India [1]and has knowledge of basic computer application for usage purpose.]

{1. Line added vide Notification no. S.O.24/Const./Art309/2014 dated 06.06.2014}

4. No person shall be appointed to be a Civil Judge (Junior Division) who cannot give satisfactory evidence of—
 - (i) good moral character and conduct;
 - (ii) medical fitness.
5. No person who has more than one wife living shall be eligible for appointment as a Civil Judge (Junior Division):

Provided that the State Government may, if satisfied that there are special grounds for doing so, exempt any person from the operation of this rule.

6. Notwithstanding anything to the contrary contained in these rules-
 - (a) The State Government may after consultation with the Haryana Public Service Commission and the High Court, appoint any Assistant Commissioner, Extra Assistant Commissioner, Cantonment Magistrate, Tehsildar or Naib-Tehsildar to be a Sub Judge by virtue of his office although he does not possess any of the qualifications laid down hereinbefore.

- (b) The State Government may, after consultation with the Haryana Public Service Commission and the High Court, appoint any person as a Civil Judge (Junior Division), who held the post of a Sub-Judge or any other similar post in an Indian State before the 1st November, 1956.

Explanation : The appointment under clause (b) above may be ordered to take effect from the date of the said merger. The seniority of such appointee shall be determined by the High Court, having regard to his qualification, length of service and age.

7. (1) Notwithstanding anything contained in these rules the Governor may, in consultation with the High Court, appoint to the Haryana Civil Service (Judicial Branch) any person who is a member of the Haryana Civil Service (Executive Branch) and who, before the first day of May, 1965 has opted or opts for appointment to the Haryana Civil Service (Judicial Branch).
- (2) A person appointed under Sub-rule (1) shall become a temporary member of the Haryana Civil Services (Judicial Branch) and shall be so treated unless and until he is absorbed permanently in that service or is reverted to the Haryana Civil Services (Executive Branch).
- (3) If during one year of the appointment of such a person the High Court recommends that he be reverted to the Haryana Civil Service (Executive Branch), the Governor shall, as soon as may be practicable, revert him to the Haryana Civil Service (Executive Branch).
- (4) During the period of one year referred to in sub-rule (3), a person so appointed may withdraw his option for appointment to the Haryana Civil Service (Judicial Branch) and thereupon he shall, as soon as may be practicable, be reverted to the Haryana Civil Service (Judicial Branch).
- (5) Where a person so appointed was a permanent member of the Haryana Civil Service (Executive Branch) before his appointment to the Haryana Civil Service (Judicial Branch) and the High Court has neither recommended his reversion under sub-rule (3) nor has he withdrawn his option under sub-rule (4), he shall, on the expiry of one year from his appointment under sub-rule (1), be deemed to have become a permanent member of the Haryana Civil Service (Judicial Branch) and shall cease to be a member of the Haryana Civil Service (Executive Branch):

Provided that where a person so appointed was on probation in the Haryana Civil Service (Executive Branch) before his appointment to the Haryana Civil Service (Judicial Branch) he may, subject to the provisions of sub-rules (3) and (4) be confirmed in the Haryana Civil Service (Judicial Branch) on the expiry of the period of probation if a permanent vacancy is available and shall thereon become a permanent member of that Service.

- 7-A. (1) Notwithstanding anything contained in these rules the State Government may, in consultation with the High Court, appoint a member of the Haryana Civil Service (Executive Branch) who is law graduate, to be a temporary member of the Haryana Civil Service (Judicial Branch) for such period as the High Court may desire and he shall at the expiry of the said period or earlier, if so required by the High Court revert to the Haryana Civil Service (Executive Branch) and the Government shall re-absorb him on the Executive side within a period of three months from the date on which it is informed of the decision.

(2) Any officer selected under the provision of sub-rule (1) may be permanently absorbed in Haryana Civil Service (Judicial Branch) from such date as the High Court may determine;

Provided that the number of such officers shall not exceed 20 per cent of the number of directly recruited officers.

7-B(1) Notwithstanding anything to the contrary contained in these rules, appointment to eighty actual posts presently lying vacant and twenty eight anticipatory/unforeseen posts of Civil Judges (Junior Division) shall be made by the State Government through special recruitment on the recommendations of a Selection Committee constituted for the purpose in the manner hereinafter laid down.

(2) The Selection Committee referred to in sub-rule (1) shall consist of the following members, namely:-

- (i) three judges of the High Court of Punjab and Haryana nominated by the Chief Justice, of whom the senior-most shall be the Chairman;
- (ii) the Chief Secretary to Government, Haryana;
- (iii) the Chairman/Acting Chairman of the Haryana Public Service Commission; and
- (iv) the Advocate General, Haryana.

8. A member of the Haryana Civil Service (Judicial Branch) may be required to work as a Civil Judge (Junior Division) or a Judicial Magistrate or both.

9. (1) For the purpose of this rule:-

(a) "parent service" means:-

- (i) in relation to a person appointed to the Haryana Civil Service (Judicial Branch) under rule 7 of this part, the Haryana Civil Service (Executive Branch); and
- (ii) in relation to any other member of the Haryana Civil Service (Judicial Branch) the Haryana Civil Service (Judicial Branch);

(b) "years of allotment in relation to any person appointed under rule 7 of this part or other members of the Haryana Civil Service (Judicial Branch)" means the calendar year with reference to which such person or member takes his seniority in his parent service irrespective of the date of his admittance to the parent service.

(2) The seniority of persons appointed under rule 7 of this part jointly with the other member of the Haryana Civil Service (Judicial Branch) shall be determined by the Government, in consultation with the High Court, in accordance with the following principles namely:-

- (a) the *inter se* seniority of the persons so appointed and the other members of the Haryana Civil Service (Judicial Branch) shall not be disturbed;
- (b) the joint seniority shall be worked according to the years of allotment in an ascending order;

- (c) the persons so appointed belonging to one year of allotment shall be interpolated with the other members of the Haryana Civil Service (Judicial Branch) belonging to the same year of allotment according to their date of admittance or assumed date of admittance, as the case may be, to their parent service in that year:

Provided that --

(i) if the date of admittance of such person or member to the parent service does not fall in the year of allotment or is earlier than the date of admittance of any person or member senior to him in the parent service in the year of allotment and assumed date of admittance shall be assigned to such person or member within the year of allotment for purposes of determining his joint seniority;

(ii) Such assumed date-

(a) in the case of the senior-most person or member in the parent service in the year of allotment, shall be the date of admittance of the person or member, as the case may be junior to him in the parent service whose date of admittance falls in that year;

(b) in the case of a person or member whose date of admittance in the parent service falls in any year earlier than the year of allotment, shall be the date of admittance of the person or member next senior to him in the parent service whose date of admittance falls in the year of allotment;

(c) in the case of a person or member whose date of admittance in the parent service falls in any year later than the year of allotment, shall be the date of admittance of the person or member next junior to him in the parent service whose date of admittance falls in the year of allotment:

Provided that if such person or member has no such junior to him, the assumed date shall be the date of admittance of the person or member next senior to him and, where such person or member has to be assigned an assumed date under the foregoing provisions, shall be such assumed date;

(d) in the case of a person or member whose date of admittance falls in the year of allotment but is earlier than the date of admittance of a person or member, as the case may be, who is senior to him in the parent service, shall be the date of admittance of the person or member senior to him and, where senior person or member has to be assigned an assumed date under the foregoing provisions, shall be such assumed date; and

(e) where in any year of allotment the date or assumed date, as the case may be, of admittance to the parent service of a person so appointed and of the other member of the Haryana Civil Service (Judicial Branch) is the same, the older shall rank senior to the younger in age in the joint seniority.

(3) Where it may not be-practicable to determine the joint seniority of any person or member in accordance with the foregoing provisions of this rule or where the application of such provision is likely to cause undue hardship or result in any inequity or injustice, the Government in consultation with the High Court, may determine the joint seniority of such person or member on the adhoc basis.

(4) Any person aggrieved with his position in the joint seniority list may, within a period of sixty days from the date of publication of such list in the official Gazette, submit a representation to Government through the High court who shall pass such orders thereon as may be deemed to be just and proper.

PART-B SUBMISSION OF ROLLS

1. Qualifications for persons to be appointed Subordinate Judges are contained in Part A.
2. In pursuance of the advertisement issued by the Haryana Public Service Commission, candidates will submit their applications to the Commission in the forms prescribed by it along with necessary information and documents as may be required.

PART C- COMPETITIVE EXAMINATION

1. The examination shall be conducted in three stages, namely:-
 - (i) Preliminary examination;
 - (ii) Main examination; and
 - (iii) Viva-Voce.
2. The Selection Committee shall hold a preliminary examination on the basis of which candidates not more than ten times of the advertised posts shall be shortlisted in order of merit for appearing in the main written examination.
3. The main examination shall be held at such place and on such date, as may be notified in the Official Gazette.
4. Fee for admission to the examination shall be such, as the State Government may, from time to time, notify in the Official Gazette, which shall be payable to Government Treasury or by way of postal order payable to the Secretary, Haryana Public Service Commission.
5. The Selection Committee shall set up the question papers, evaluate the answer sheets and conduct the viva-voce. All the ancillary/incidental steps in respect of setting up of the question papers and evaluation of answer sheets shall be undertaken by the Selection Committee. The recruitment process such as inviting and screening the applications, issuing the roll numbers and admit cards to the candidates shall be undertaken by the Haryana Public Service Commission.
6. The candidate shall produce the admission certificate at the time of the examination.
7. The main examination shall consist of six papers (five written and one viva-voce test). The description of papers and syllabi shall be as under:-

Paper-I Civil Law-I	Code of Civil Procedure, Punjab Courts Act, Indian Contract Act, Indian Partnership Act, Sale of Goods Act, Specific Relief Act and Indian Evidence Act.	200 Marks
Paper-II Civil Law-II	Hindu Law, Mohammadan Law and Customary Law, Law of Registration and Limitation.	200 Marks
Paper-III-Criminal Law	Indian Penal Code, Code of Criminal Procedure and Indian Evidence Act.	200 Marks
Paper-IV English	The English paper shall be of 200 marks and shall consist of the following:- 1. English Essays (1000-1100 words) 2. Precis	100 Marks 25 Marks

	3. Words and Phrases (make sentences of the given words and phrases)	25 Marks
	4. Comprehension	25 Marks
	5. Corrections	25 Marks
Paper-V Language	Hindi (in Devnagri Script)	100 Marks
Paper-VI Viva-Voce	To judge the personal qualities of the candidates. The viva-voce test shall relate to the matters of general interest and is intended to test the candidates alertness, intelligence and general outlook. It shall be conducted in English.	200 Marks

Note:

- (i) Only bare copies of legislative enactment shall be supplied.
- (ii) Each written paper shall be of three hours duration.
- (iii) The standard of the language paper shall be that of Matriculation Examination of the Board of School Education, Haryana. Language paper (V) shall comprise the following:-

- (a) Translation of an English passage into Hindi. : 20 Marks.
- (b) Explanation of Hindi passage in prose and poetry in the same language. : 30 Marks
- (c) Composition (essay, idioms and correction etc.) : 50 Marks

Total

100 Marks

- 8. No candidate shall be credited with any marks in any paper unless he obtains at least thirty three percent marks in it.
- 9. No candidate shall be called for the viva-voce test unless he obtains at least fifty percent qualifying marks in the aggregate of all the written papers. However, for the candidate belonging to the categories of Scheduled Caste/Scheduled Tribes and Backward Classes, the qualifying marks shall be forty five percent:

Provided that the number of candidates to be called for viva-voce test in order of the marks obtained in the written examination shall not exceed three times the number of vacancies advertised. However, if the last candidate to be called for interview is bracketed with the candidates exceeding three times by obtaining equal marks than all the bracketed candidates shall be called for interview, inspite of the fact that the number of candidates to be called for interview exceeds three times:

Provided further that only those candidate shall be eligible to be recruited as Civil Judges/Judicial Magistrates who secure fifty percent or more marks (forty five percent for the Scheduled Castes/Scheduled Tribes and Backward Classes candidates) in aggregate of the marks secured in the main written examination and the viva-voce.

10. The result of the examination shall be published in the Official Gazette.
11. Candidate shall be selected for appointment strictly in the order in which they have been placed by the Selection Committee:

Provided that in the case of candidates belonging to the Scheduled Castes/Scheduled Tribes and Backward Classes, Selection Committee shall have a right to select in order of merit a candidate who has merely qualified irrespective of the position obtained by him in the examination:

Provided further that the selection of candidates belonging to the Scheduled Castes/Scheduled Tribes and Backward Classes in the order of merit inter-se shall be made against the vacancies reserved for them and in the manner to be adopted by the Selection Committee.

12. After the examination, each selected candidate shall produce a certificate of medical fitness for the Government service from such Standing Medical Board, as may be arranged by the Director General, Health Services, Haryana.

The standard of medical fitness required of the candidates is given in Appendix C to these rules.

PART D APPOINTMENT

1. The names of candidates selected by Government for appointment as Civil Judges (Junior Division), under rule 10 and 11 of the Part C shall be entered in the High Court Register in the order of selection to the extent of 30% more than the advertised vacancies, so as to meet any contingency for the advertised post remaining unfilled for any reason.
2. Deleted
3. Deleted
4. The Government may, on a motion from the Judges, for any reason which may seem fit to them, remove from the High Court Register the name of any candidate borne on it.
5. Every candidate shall, within a period of two years from the date of joining the service, pass the Departmental Examination in the manner and as per the criteria prescribed by the High Court from time to time, failing which his name shall be removed from the register of candidates. The Departmental Examination shall be conducted by the High Court or any agency or authority nominated by the Chief Justice:

Provided that the High Court may exempt any candidate from passing the whole or any part of the Departmental Examination or may extend the period within which the candidate shall pass the Departmental Examination.

{Rule 5 substituted vide Notification no. G.S.R.3/Const./Arts.234 and 309/2025 dated 29.01.2025.}

6. Every Civil Judge (Junior Division) shall undergo training for a minimum period of one year.
- 7-(1) Whenever it shall appear to the Judges that a vacancy or vacancies in the cadre of the Judicial Branch of the Haryana Civil Service, whether permanent, temporary or officiating, should be filled, they will make a selection from the High Court Register in the order in which the names have been entered in the register under rule 1 of this Part. The name or names of the selected candidate or

candidates will be forwarded to Government for a appointment as Civil Judges (Junior Division) under Article 234 of the Constitution of India, 'Every Subordinate Judge shall, in the first instance, be appointed on probation for two years but this period may be extended from time to time expressly or impliedly so that the total period of probation, including extension, if any, does not exceed three years.

Explanation- The period of probation shall be deemed to have been extended impliedly if a Civil Judges (Junior Division) is not confirmed on the expiry of his period of probation.

- (2) The Governor of Haryana may, on the recommendation of the High Court, remove from Service, without assigning any cause, any Civil Judges (Junior Division), or revert him to his substantive post, if any, during the period of probation.
- (3) On the completion of the period of probation of any member of the Service the Governor of Haryana may, on the recommendation of the High Court, confirm him in his appointment, if he is working against a permanent vacancy or if his work or conduct is reported by the High Court to be unsatisfactory, dispense with his services or revert him to his former substantive post, if any, or extend his period of probation and thereafter pass such orders as he could have passed on the expiry of the first period of probation.

Provided that the completion of the maximum period of three years' probation would not confer on him the right to be confirmed till there is a permanent vacancy in the cadre.

- 8.(i) 1. The names of candidates selected by Government for appointment as Civil Judges (Junior Division), under rule 10 and 11 of the part C shall be entered in the High Court Register in the order of selection to the extent of 30% more than the advertised vacancies, so as to met any contingency for the advertised post remaining unfilled for any reason.

(ii) omitted.

9. (I) On appointment, every Civil Judges (Junior Division) shall get the minimum pay in the time scale of Rs.9000-250-10750- 300-13150-350-14550; Provided that the pay of the Civil Judges (Junior Division), who at the time of his appointment as such, holds any post under the Government, shall be regulated in accordance with the provisions of the Punjab Civil Services Rules, Volume I, Part I.

(2) The increments of the members of the Service shall be regulated as under:-

(i) in case a member of the Service passes the departmental examination within a period of two years from the date of his selection, he shall be entitled to get two increments, including that already earned by him, if any, with effect from the date following the last day on which the departmental examination is completed or from the date on which he joins service whichever is later. However, he shall be entitled to get the third increment after the completion of three years service;

(ii) In case a member of the service is allowed extension in the period within which the said examination is required to be passed under proviso to rule 5, his next increment (s) for the period subsequent to that, within which the departmental examination was to be passed, shall be released only from the date following the last day on which the examination is completed;

(iii) if a member of the Service fails to pass the departmental examination, or any part thereof, and is subsequently exempted by the Governor of Haryana, on

the recommendation of the Punjab & Haryana High Court, from passing the departmental examination or any part thereof, as the case may be, his increment(s) for the period subsequent to that, within which the departmental examination was to be passed, shall be released from the date he is given such exemption;

(iv) the increment(s) under clause (ii) or clause (iii) shall be released with retrospective effect from the date it was otherwise due but no arrears shall be paid for the past period;

(v) future increments will normally be admissible on the dates on which they would have become otherwise due.

10. (a) Members of the Service shall be eligible for promotion, permanently or provisionally, to a post in the selection grade in the scale rising from One thousand and five hundred rupees to one thousand and eight hundred rupees a month with annual increment of sixty rupees.

(b) Promotion to selection grade shall be made strictly by selection and no member of the Service shall be entitled to such promotion as of right.

(c) The number of posts in the selection grade shall be 20% of the cadre on completion of 2 years of regular and satisfactory service.

PART E- DEPARTMENTAL EXAMINATION {omitted}

{Part-E omitted vide Notification no. G.S.R.3/Const./Arts.234 and 309/2025 dated 29.01.2025.}

[Part EE- COMPASSIONATE FINANCIAL ASSISTANCE OR APPOINTMENT

The Compassionate Financial Assistance or Appointment to the dependent(s) of the deceased Member(s) of the Haryana Civil Service (Judicial Branch) shall be made in accordance with the Haryana Civil Services (Compassionate Financial Assistance or Appointment) Rules, 2019, as amended from time to time.]

{Part EE inserted vide Notification no. G.S.R.2/Const./Art.234 and 309/2025 dated 07.01.2025.}

PART F - DISCIPLINE, PENALTIES AND APPEALS

In matters relating to discipline, penalties and appeals including orders specified in Appendix B members of the Service shall be governed by "The Punjab Civil Services (Punishment and Appeal) Rules, 1952" as amended from time to time.

Provided that the nature of penalties which may be inflicted, the authority empowered to impose such penalties or pass such orders and the appellate authority shall be as specified in Appendix "A" and "B" below:-

APPENDIX 'A'

Nature of penalty	Punishing Authority	Appellate Authority
(a) Censure	Judge of the High Court	Division Bench of the High Court
(b)Withholding of increments or promotion, including stoppage at an efficiency bar.	Ditto	Ditto
(c) Reduction to a lower post or time scale or to a lower stage in the time scale.	Government	...
(d) Recovery from pay of the whole or part of any pecuniary loss caused to Government by negligence or breach of order.	Judge of the High Court	Division Bench of the High Court

(e) Suspension	Government	...
(f) Removal from the service which does not disqualify from future employment,	-do-	...
(g) Dismissal from the service which ordinarily disqualifies from future employment.	-do-	...

APPENDIX ‘B’ – OTHER ORDERS

Nature of order	Authority competent to pass an order	Appellate Authority
(a) Reducing the maximum pension admissible under the rules	Government	...
(b) Terminating the appointment of a member of the Service otherwise than upon his reaching the age fixed for superannuation.	-do-	...

PART G - POWER TO RELAX

Where the Government, in consultation with the High Court, is of the opinion that it is necessary or expedient to do so, it may by order, for reasons to be recorded in writing relax any of the provisions of these rules with respect to any class or category of persons.

PART H – RETIREMENT

A Member of the Service shall retire from the Service in the afternoon of the last day of the month in which he/she attains the age of sixty years:

Provided that a Member of Service, whose date of birth is the first day of the month, shall retire on the afternoon of the last day of the preceding month:

Provided further that the High Court shall assess and evaluate the service record of the member of the Service at the age of fifty years, fifty five years and before he attains the age of fifty-eight years to find his continued utility in the Service by following the procedure for compulsory retirement under the service rules applicable from time to time before he is allowed to continue beyond the age of fifty-eight years:

Provided further that the High Court in the public interest may recommend the premature retirement of a Member of Service on completion of fifteen years of service or at any time thereafter, subject to the condition that in the event of such retirement, the Member of Service shall be entitled to the benefit of pension and other retiral benefits of the actual Service rendered by him/her.

[SCHEDULE]

Deleted	[Form “A”]
Deleted	[Form “B”]

APPENDIX 'C'

(see rule 11 in part C)

Regulations for the medical examination of candidates for admission to the Haryana Civil Service (Judicial Branch)

These regulations are intended merely for the guidance of Medical Examiners and are not meant to restrict their discretion in any way.

1. To be passed as medically fit for admission to the Haryana Civil Service (Judicial Branch), a candidate must be in good mental and bodily health, and free from any physical defect likely to interfere with the efficient performance, of the duties of his appointment.

2. The candidate's height will be measured as follows:-

He will remove his shoes and be placed against the standard with his feet together and the weight thrown on the heels and not on the toes or outer sides of the feet. He will stand erect without rigidity, and with the heels, calves, buttocks, and shoulders touching the standard; the chin will be depressed to bring the vertex of the head level under the horizontal bar, and the height will be recorded in inches and parts of an inch to quarters.

3. The candidate's chest will be measured as follows:-

He will be made to stand erect with his feet together, and to raise his arms over his head. The tape will be so adjusted round the chest that its upper edge touches the inferior angles of the shoulder blades behind, and its lower edge the upper part of the nipples in front. The arms will then be lowered to hang loosely by the side, and care will be taken that the shoulders are not thrown upwards and backwards so as to displace the tape. The candidate will then be directed to take a deep inspiration several times, and the maximum expansion of the chest will be carefully noted.

The range of expansion should not be less than 2".

The minimum and maximum will then be recorded in inches, 33-35, 34-36, etc.

In recording the measurements, fractions of less than $\frac{1}{2}$ inch should not be noted.

4. The candidate will also be weighted, and his weight recorded in pounds. Fractions of a pound should not be noted.
5. The following conditions should be observed in connection with acuteness of vision:-

Vision of Candidates:-

- (a) No candidate will be accepted whose vision is less than :-

Better eye	Worse eye
V-6/6 and reads 0.6	V-6/12 reads 1.

Spectacles will be allowed for either eye up to +5.0D or -5.0D, provided that there are no morbid changes in fundus.

- (b) In myopia if there is a posterior at phyloma the spectacles must not exceed-2.5D in either eye.

- (c) In cases of astigmatism the combined lenses must not exceed 5 Dioptres and there should be no fundus changes.

(d) Squint or any other morbid condition of the eyes or of the lids of either eye liable to the risk of aggravation or recurrence will cause the rejection of the candidate.

(e) Each eye must have a full field of vision as tested by hand movements.

(f) Any defect in colour vision will be noted, but will not cause rejection of the candidate.

(g) In cases of doubt or of serious abnormality the opinion of the Ophthalmic Specialist will be obtained.

(h) No candidate will be accepted whose standard of vision does not come up to the specified requirements without the use of contact glasses.

6. The urine (Passed in presence of the Examiner) should be examined and the result recorded.

7. The following additional points should be observed:-

(a) that the candidate's hearing in each ear is good and that there is no sign of the disease of the ear;

(b) that his speech is without impediment;

(c) that his teeth are in good order and that he is provided with dentures where necessary for effective mastication (well-filled teeth will be considered as sound);

(d) that his chest is well formed and his chest expansion sufficient, and that his heart and lungs are sound;

(e) that there is no evidence of an abdominal disease;

(f) that he is not ruptured;

(g) that he does not suffer from hydrocele, a severe degree of varicocoele, varicose veins or piles;

(h) that his limbs, hands and feet are well formed and developed and that there is free and perfect motion of all his joints;

(i) that he does not suffer from any inveterate skin disease;

(j) that there is no congenital malformation or defect;

(k) that he does not bear traces of any acute or chronic disease pointing to an impaired constitution;

(l) that he bears marks of efficient vaccination and evidence of revaccination within the last 12 months.

When any defect is found it must be notified in the certificate and the Medical Examiner should state his opinion whether or not it is likely to interfere with the efficient performance of the duties which will be required of the candidate. If the condition is remediable by operation it should be so stated.

8. The following intimation is made for the guidance of the Medical Examiner:-

(1) In the medical examination of candidates Medical Officers are especially required to use fact and judgment and to take proper precaution to secure privacy, with the object of removing any objection which may be made by individuals to stripping.

- (2) Should a candidate object to the exposure of his person for the detection of hemorrhoids, venereal disease, hernia and disease of the testicles, scrotum and rectum, the candidate must, if this examination in his case is in the opinion of the Board necessary, be rejected.
- (3) the opinion of the Board accepting or rejecting a candidate is final and cannot be questioned on any ground. The Board is debarred from disclosing to any candidate, permanently unfit, the reasons for his rejection. In these cases their opinion and report is to be treated as strictly confidential and for the information of Government only. Where however, the Board detects a temporary defect amenable to treatment the candidate may be so informed in order that he may have the defect remedied and present himself for re-examination.
- (4) No person will be deemed qualified for the admission to the Public Service who shall not satisfy the Haryana Government that he has no disease, constitutional affection or bodily infirmity unfitting him, or likely to unfit him, for that service.
- (5) It should be understood that the question of fitness involves the future as well as the present, and that the main object of medical examination is to secure continuous effective service, and in the case of candidates for permanent appointment to prevent early pension or payments in case of premature death. It is at the same time to be noted that the question is one of the likelihood of continuous effective service, and that the rejection of a candidate need not to be advised on account of the presence of a defect which in only a small proportion of cases is found to interfere with continuous effective service.
- (6) The candidate must make the statement required below prior to his medical examination and must sign the declaration appended thereto. His attention is specially directed to the warning contained in the note below:-

(1) State your name in full_____

(2) State your age and birth place _____

(3) (a) Have you ever had smallpox, intermittent or any other fever, enlargement or suppuration of glands, spitting of blood, asthma, inflammation of lungs, heart disease, fainting attacks, rheumatism or appendicitis?

Or

(b) Any other disease or accident requiring confinement to bed and medical or surgical treatment?

Or

(c) Suffered from any illness, wound or injuries sustained while on active service with His Majesty's Forces during the last Great Wars.

(d) Have you ever been rejected by a Medical Board or duly constituted Medical authority?

(4) When were you last vaccinated?

(5) Have you or any of your near relations been afflicted with consumption, scrofula, gout, asthma, fits, epilepsy, or insanity?

(6) Have you suffered from any form of nervousness due to over work or any other cause?

(7) Furnish the following particulars concerning your family:-

Father's age, if living, and state of health	Father's age at death and cause of death	Names of brothers living, their ages and state of health	Number of brothers dead, their ages at, and cause of death
(1)	(2)	(3)	(4)

Mother's age if living and state of health	Mother's age at death and cause of death	Number of sisters living, their ages and state of health	Number of sisters dead, their ages at and cause of death
(5)	(6)	(7)	(8)

I declare all the above answers to be, to the best of my belief, true and correct and accept the finding of the Board as final.

Candidate's Signature_____

Note. The candidate will be held responsible for accuracy of the above statement. By willfully suppressing any information he will incur the risk of losing the appointment and if appointed forfeiting all claims to superannuation allowance or gratuity.

MEDICAL EXAMINER'S REPORT

Sr. no.	Questions	Answers	Remarks
1.	Has the declaration above been signed by the candidate?		
2.	Are there any evidence of malformation, congenital or acquired?		
3.	Is he free from scars and has he the full use of all limbs?		
4.	Are there any indications of decided cachectic or diathetic state of constitution?		
5.	Has the candidate been vaccinated within the last twelve months?		
6.	Are there any signs of disease of the nervous system?		
7.	Is the hearing good? Is there any sign of disease of the ears?		
8.	What is the candidate's vision?		REV-With glasses – Reads spectacles if any R.E. – L.E.
9.	Is the candidate free from stammer or other serious defect of Speech?		
10.	Are there any signs of disease of the bones, joints or parts connected therewith?		

11.	Is there any important affection of the skin?		
12.	Are the heart and arteries healthy?		
13.	Has the candidate haemorrhoids, varicocele, or other affections of veins?		
14.	Is there any evidence of disease of the respiratory organs?		
15.	Are there any signs of disease of the digestive organs?		
16.	Is the candidate free from rupture?		
17.	Is there any indication of disease of the genital organs?		
18.	Is the urine free from (1) albumen, (2) sugar? Is the urine otherwise normal?		1. _____ 2. _____
19.	Is there any thing in the health of the candidate likely to render him unfit for the efficient discharge of his duties in the service for which he is a candidate?		
20.	Do you consider the candidate in all respects qualified for the efficient and continuous discharge of his duties in the service for which he is a candidate?		

Height (without shoes)

.....

Girth of chest (full inspiration)

.....

Weight

President

Member

Member

Dated

Chandigarh Arbitration Centre (CAC) Rules, 2018

WHEREAS the establishment of the Chandigarh Arbitration Centre (CAC) is an initiative of the High Court of Punjab and Haryana;

AND WHEREAS the High Court of Punjab and Haryana hereby makes the following Rules for Chandigarh Arbitration Centre (CAC):

PRELIMINARY

1. Title, Scope and Commencement

1.1 These rules may be called the Chandigarh Arbitration Centre (CAC) Rules, 2018.

1.2 These rules shall apply where the parties have chosen Chandigarh Arbitration Centre as a venue and seat or an Arbitrator is appointed from the panel of Chandigarh Arbitration Centre (CAC) or an Arbitrator is appointed by the Chairperson or where any court has referred the parties to the Chandigarh Arbitration Centre (CAC)

(a) under section 89 of the Code of Civil Procedure, 1908; or

(b) under Sections 8, 9, 11, 45 or 54 of the Arbitration and Conciliation Act, 1996 or any other related statute, as amended from time to time, as the case may be.

1.3 These Rules shall come into force with effect from the date of notification.

2. Definitions

2.1 In these rules, unless the context otherwise requires:-

(a) "Act" means The Arbitration and Conciliation Act, 1996 and the amendments thereto including the Arbitration and Conciliation (Amendment Act, 2015) or any re-enactment or modification thereof.

(b) "Advisory Council", means the council constituted under Rule 8 of these Rules.

(c) "Arbitral Award" means as defined in the Arbitration and Conciliation Act, 1996.

(d) "Arbitrator" means person appointed as an arbitrator from the CAC Panel of Arbitrators.

(e) "Arbitration Committee" means the Arbitration Committee of the Chandigarh Arbitration Centre (CAC).

(f) "Centre" means Chandigarh Arbitration Centre.

(g) "Chairperson" means the Chief Justice of High Court of Punjab and Haryana or his nominee.

(h) "CAC Panel of Arbitrators" means the Panel of Arbitrators (for short, the Panel) prepared by Arbitration Committee in accordance with Rule 11 of these Rules.

(i) "Party" means a party to an arbitration agreement.

- (j) "Request" means a written communication addressed to the Coordinator of Chandigarh Arbitration Centre (CAC) for using Chandigarh Arbitration Centre (CAC) for arbitration in accordance with these Rules.
- (k) "Rules" mean the Chandigarh Arbitration Centre (CAC) Rules, 2018.

2.2 The words and phrases not defined here shall bear the same meaning as used or defined in the Act.

PART-I ARBITRATION COMMITTEE

3. The Arbitration Committee

3.1 There shall be an Arbitration Committee consisting of members as under:

- (a) The Chief Justice who shall be Chairperson of the Arbitration Committee;
- (b) Two Judges of the High Court to be nominated by the Chief Justice, the senior most amongst them shall preside over the meetings of the Committee in the absence of Chief Justice and shall also exercise such powers and duties as may be assigned by the Chairperson;
- (c) Advocates General for the States of Punjab and Haryana;
- (d) Assistant Solicitor General of India attached to the Punjab and Haryana High Court;
- (e) Senior Standing Counsel for the Chandigarh Administration;
- (f) Four members to be nominated by the Chief Justice out of whom at least two shall be designated senior advocates, while the remaining two may be the arbitration experts or Advocates having specialization in the field of arbitration laws, as the case may be.

3.2 The Coordinator shall be the ex-officio member of the Arbitration Committee, without having any voting rights, and shall convene the meetings of the Arbitration Committee as may be desired by the Chairperson or his nominee.

3.3 The members of the Arbitration Committee shall meet as and when required for the smooth and efficient functioning of the Centre.

4. Powers of the Arbitration Committee

4.1 To take decisions for smooth and effective functioning of the Centre;

4.2 To formulate rules for internal functioning of the Arbitration Committee and lay down guidelines for the Secretariat and the Advisory Council;

4.3 To prepare and update the Panel and to take such decisions as may be required from time to time;

4.4 To remove an arbitrator from the Panel if:

- (a) Any complaint of breach of duty or misconduct is received against him and the Arbitration Committee is of the opinion that it would be expedient in the interest of the Centre not to continue such Arbitrator on its Panel of Arbitrators; or
- (b) He is declared to be of unsound mind or becomes incapacitated; or
- (c) He has incurred any disqualification under the Act.
- (d) For any other reason deemed appropriate by the Committee.

5. Functions of the Arbitration Committee

- 5.1 To monitor and oversee administration of the Centre.
- 5.2 To appoint members on the Panel.
- 5.3 To promote the cause of Arbitration in the manner as may be found expedient from time to time.
- 5.4 Arbitration Committee shall meet twice in a year to assess and review the activities of Chandigarh Arbitration Centre (CAC).

PART-II THE SECRETARIAT

6. The Secretariat

- 6.1 There shall be a secretariat to supervise and manage the Chandigarh Arbitration Centre and shall consist of:
 - (a) A member of the Punjab/Haryana Higher Judicial Service to be appointed by the Chief Justice as Coordinator who will be in-charge of the Centre and will act under the supervision of Chairperson and the Arbitration Committee.
 - (b) Two Members of Punjab/Haryana Judicial Service to be appointed by the Chief Justice as Additional Coordinators to assist the Coordinator.
 - (c) Notwithstanding anything contained in Clause (a) and (b), the Chief Justice may appoint a person, who, in the opinion of the Chief Justice, is well qualified and suitable to be appointed as Coordinator or Additional Coordinator.
 - (d) Such staff as may be appointed/deputed by the Chief Justice.

7. Duties and responsibilities of the Coordinator

- 7.1 The Coordinator shall be responsible for the day to day functioning of the Centre.
- 7.2 The Coordinator shall be the Principal Officer of the Chandigarh Arbitration Centre (CAC) and shall be the custodian of all assets, accounts, records, funds at the disposal of the Chandigarh Arbitration Centre (CAC) and other necessary records.
- 7.3 Without prejudice to the generality of the provision (7.1 & 7.2) above, the Coordinator shall undertake the following:

- (a) To decide and pass order regarding request received for arbitration of disputes at Chandigarh Arbitration Centre (CAC).
 - (b) Initiate action in accordance with the Rules of the Centre.
 - (c) Maintain and update from time to time a profile of each arbitrator on the Panel of the Centre, and make it available to the parties, on request.
 - (d) Maintain data of arbitration cases dealt with in the Centre.
 - (e) To organize events or seminars in the field of Law of Arbitration and to promote the use of the Centre for resolution of disputes under the orders of Arbitration Committee.
 - (f) Carry out directions given by the Arbitration Committee from time to time.
- 7.4 All correspondence and communications to the Centre shall be addressed to the Coordinator and all correspondence and communications on behalf of the Centre shall be made by the Coordinator.

PART-III ADVISORY COUNCIL

8. Advisory Council

- 8.1 There shall be an 'Advisory Council' consisting of:
- (a) A Chief Counsel as the Head of the Advisory Council, who shall be a Senior Advocate with vast experience in the field of Arbitration to render pro bono services to the Centre.
 - (b) Two or more General Counsel who shall be advocates with sufficient experience in arbitration to render pro bono services to the Centre.
- 8.2 The term of office of the members of the Advisory Council shall be, determined by the Chief Justice from time to time and unless decided otherwise, the term of office shall be:
- (a) One year for the Chief Counsel, subject to extension.
 - (b) Two years for the General Counsel, subject to extension.

Provided, that Chief Justice shall have the power to terminate the tenure of any of the members of the Advisory Council at his discretion without assigning any reason.

9. Functions of the Advisory Council

- 9.1 The following shall be the functions of Advisory Council:
- (a) To render assistance by way of legal research, if called upon or requested to by the Arbitral Committee or Arbitral Tribunal.
 - (b) To suggest ways and means to promote arbitration.
 - (c) To make suggestions for the improvement of the working of Chandigarh Arbitration Centre (CAC).

**PART-IV
PANEL OF ARBITRATORS**

10. Panel of Arbitrators

- 10.1 The Arbitration Committee shall prepare and maintain a Panel of Arbitrators from amongst persons who are suitable and willing to serve as arbitrators. Provided that suitability shall be determined by the Arbitration Committee.
- 10.2 Tenure of an empanelled Arbitral will be three years from the date of empanelment. Provided Arbitrator is not removed earlier by Arbitration Committee.
- 10.3 The Secretariat shall maintain an up-to-date Panel of Arbitrators together with information as to their qualifications and experience.
- 10.4 The parties may choose any person from the Panel to be appointed as an arbitrator in respect of their disputes, subject to the work-load and availability of the Arbitrator.
- 10.5 If the parties so desire, the Chairperson may appoint an Arbitrator for a particular matter whose name is not in the Panel of Chandigarh Arbitration Centre (CAC).

11. Procedure for formation of panel

- 11.1 An application in the form of resume may be submitted for empanelment as an Arbitrator in the office of Coordinator, Chandigarh Arbitration Centre (CAC). In case of retired officers including the officers from the District Judiciary, or any other department, the copies of ACRs for the last 05 years shall be appended with the applications.
- 11.2 An application for empanelment shall be put up by the Coordinator before the Arbitration Committee for scrutiny.
- 11.3 Arbitration Committee shall decide on the empanelment of the applicant as an Arbitrator in Chandigarh Arbitration Centre (CAC) and the decision of the Arbitration Committee shall be final.
- [1] 11.4 The rules above shall not be applicable to the Retired Judges of Hon'ble Supreme Court, this High Court and other High Courts, and their consent or upon receiving an intimation of interest by them for empanelment will be the only pre-requisite with the formal approval of the Arbitration Committee.

12. Conduct of an Arbitrator

An Arbitrator on the panel of Chandigarh Arbitration Centre (CAC) while conducting arbitration proceeding shall keep in view and abide by the guidelines/timelines prescribed under the Act and further ensure that his conduct is in strict adherence to Schedule-V, Schedule-VI and Schedule-VII wherein the grounds enumerated giving rise to justifiable doubt as to the independence and impartiality of the Arbitrator have been specifically provided.

[1] Substituted vide correction slip no. 80 Rules/II.D4 dated 20.07.2019

**PART-V
REQUEST FOR USE OF CAC**

13. Procedure

The Chandigarh Arbitration Centre (CAC) may be used in the following cases:-

- (1) If request in the form of application by one or both parties is made to the Chandigarh Arbitration Centre (CAC), and the said request is allowed. The parties along with the application shall give an undertaking to abide by these Rules and any order applicable to Chandigarh Arbitration Centre (CAC).
- (2) In pursuance to the order passed by any Court referring parties to the Chandigarh Arbitration Centre (CAC).

13 a. Summary Procedure

- (1) Notwithstanding anything contained hereinbefore, the parties may mutually agree, in writing, adopting the summary procedure for resolution of their disputes or differences.
- (2) In adopting the summary procedure the parties shall sign an undertaking (Schedule III) in writing to the effect that they shall dispense with the necessity of oral evidence.

**PART-VI
EMERGENCY ARBITRATION**

14. Emergency Arbitrator

- (1) If a party requires an urgent arbitration, that cannot await formation of the Arbitration Tribunal, it may make an application to the Secretariat addressed to the Coordinator, with a simultaneous copy thereof to the other parties to the arbitration agreement for such measures.
- (2) The party making such an application shall:
 - a) Describe the circumstances and the nature of the urgency and the measures sought;
 - b) Pay the relevant application fee for appointment of the Emergency Arbitrator;
 - c) Submit proof of service of such application upon the opposite parties.
- (3) The party invoking the provision of Emergency Arbitrator shall deposit fees prescribed in the Schedule.
- (4) The Secretariat with the consent of the Chairperson shall appoint the Emergency Arbitrator from Chandigarh Arbitration Centre (CAC) within two days of making of such request (Excluding non-business days).
- (5) The Emergency Arbitrator shall ensure that the entire process from the appointment of the Emergency Arbitrator to making the Order shall be completed within fifteen (15) days (excluding non-business days).

PART-VII
FEES & EXPENSES

15. Arbitrators’ Fees

15.1 The fees payable by the parties to the Arbitrators on the panel of Chandigarh Arbitration Centre (CAC) for conducting arbitration in Chandigarh Arbitration Centre (CAC) shall be determined, unless otherwise agreed to by the parties, in accordance with the scales specified in Schedules A & B to these rules.

Schedule A – Fee Schedule

Sum in dispute	Model fee
Up to ₹5,00,000	₹45,000
Above ₹5,00,000 and up to ₹20,00,000	₹45,000 plus 3.5 per cent of the claim amount over and above ₹5,00,000
Above ₹20,00,000 and up to ₹1,00,00,000	₹97,500 plus 3 per cent of the claim amount over and above ₹20,00,000
Above ₹1,00,00,000 and up to ₹10,00,00,000	₹3,37,500 plus 1 per cent of the claim amount over and above ₹1,00,00,000
Above ₹10,00,00,000 and up to ₹20,00,00,000	₹12,37,500 plus 0.75 per cent of the claim amount over and above ₹10,00,00,000 ^[1]
Above ₹20,00,00,000	₹19,87,500 plus 0.5 per cent of the claim amount over and above ₹20,00,00,000 with a ceiling of ₹30,00,000

- Note:-
- 1. Any claim of dispute which is not valued in terms of money, shall attract a minimum fee of ₹1,00,000/- (Rupees One Lakh only), any fee in excess of the same shall be as agreed upon by the parties.
 - 2. Fee shall be paid by the parties to Arbitrator(s) directly. It shall not be paid through Chandigarh Arbitration Centre (CAC).
 - 3. In cases where the Arbitral Tribunal consists of three or more members, the Coordinator shall, in consultation with the Chairperson, decide the fees payable to each of the Arbitrators.

Schedule B - Arbitrators’ fees in Emergency Arbitration

Fee	Additional 15% of the fees payable to the Arbitrator in accordance with the fee structure in Schedule A.

16. Administrative Expenses

The parties shall deposit Administrative Expenses as indicated below, before using Chandigarh Arbitration Centre (CAC) as venue for Arbitration.

Initial one-time fee

If the value of the claims/disputes does not exceed ₹50,00,000/- (Rupees Fifty Lakh only)	₹10,000/- (Rupees Ten Thousand only)
If the value of the claims/disputes is between ₹50,00,001/- (Rupees Fifty Lakh and One only) upto ₹5,00,00,000/- (Rupees Five Crore only)	₹20,000/- (Rupees Twenty Thousand only)
If the value of the claims/disputes exceeds ₹5,00,00,000/- (Rupee Five Crores only)	₹30,000/- (Rupees Thirty Thousand only)

[1] Substituted vide correction slip no. 90 Rules/II.D4 dated 31.05.2024.

Emergency Arbitration	₹35,000/- (Rupees Thirty Five Thousand only) irrespective of value of claim
	In addition to the Administrative Expenses as above, the parties shall also pay a sum of ₹3,000/- (Rupees Three Thousands only) per hearing (irrespective of the duration of the sitting on a given day) for the use of the facilities of the Centre on the day(s) the Arbitral Tribunal holds its sittings. The above expenses shall be shared by all the parties, equally.

- Note:-1. Any claim or dispute which is not valued in terms of money, shall attract a minimum deposit of ₹20,000/- (Rupees Twenty Thousand only).
2. Lien to the Award -The Centre shall have a lien on the Arbitral Award for any unpaid costs of the Arbitration including adjournment cost, miscellaneous expenses and the fees of the Arbitrator and the Award will not be notified to the parties unless all such costs have been fully paid to the Centre by the parties or by one of them.
3. The Arbitrator shall ensure that the fees and expenses are deposited by the respective parties before the commencement of the Arbitral proceedings on the date fixed.
4. Each matter which is connected or identical or has been bunched together shall be treated as a separate matter for the deposit of administrative expenses.
5. The Chandigarh Arbitration Centre (CAC) will provide secretarial services only for purposes of arbitration. The direction(s), if any, including service of summons, summoning of the record etc. by the Arbitrator for compliance shall be issued only to the respective parties to the arbitration proceedings and to no other person or body.

[1] The Chairperson, at his discretion, may exempt any party from the payment of above expenses.

If one of the parties is exempted, then the other non-exempted party to the dispute shall have to pay the expenses as per its share.

PART-VIII
ACCOUNTS & PROCEDURES

17. Accounts and Procedures

- (1) Funds of the Chandigarh Arbitration Centre (CAC) shall comprise of administrative expenses and per sitting charges.
- [2] (2) All the amounts as received by way of administrative expenses and per sitting charges shall be deposited in the Government Treasury under receipt head 0070 through Cash branch of Punjab and Haryana High Court on daily basis.
- (3) The said account shall be operated by the Coordinator as per these Rules.

[1] & [2] Substituted vide correction slip no. 80 Rules/IL.D4 dated 20.07.2019.

- (4) The Coordinator may require the parties, before referring the case to the Arbitral Tribunal, to deposit in advance in one or more installments, such sums of money as he deems necessary.
- (5) The deposits (per sitting charges) shall be called for in equal shares from the parties and shall be paid before the commencement of the sitting on the day fixed. The Coordinator may during the course of the arbitration proceedings; require further per sitting charges to be deposited by the Parties or anyone of them regarding use of Chandigarh Arbitration Centre (CAC).
- (6) In default of payment of sitting charges, as and when directed, further services of Chandigarh Arbitration Centre (CAC) shall be discontinued.
- (7) In case of discontinuation of further services of Chandigarh Arbitration Centre (CAC), the sums already paid by way of administrative expenses and sitting charges shall stand forfeited being non-refundable.
- (8) All expenditure necessary for carrying out the various functions of the Chandigarh Arbitration Centre (CAC) including expenses required for meetings shall be incurred out of the funds of the Chandigarh Arbitration Centre (CAC) with the approval of the Coordinator of the Chandigarh Arbitration Centre (CAC).

Provided that for an expense of more than ₹50,000/-, approval of the Chairperson or his nominee shall be taken.

- (9) Annual accounts of the Chandigarh Arbitration Centre (CAC) shall be placed before the Arbitration Committee after the completion of the financial year.

PART-IX REFERRAL TO MEDIATION

18. Referral to Mediation

- (1) During arbitral proceedings, if Arbitrator deems it proper, in accordance with the Section 30 of the Act, to refer parties to mediation for settlement of dispute then the referral may be sent, signed by both the parties or their authorized representatives, to the office of the Coordinator.
- (2) The Coordinator shall mark the referred dispute to the Mediation Centre of High Court of Punjab and Haryana.
- (3) Once mediation starts, it shall be governed by the Rules applicable to the Mediation Centre of the High Court of Punjab and Haryana.

PART-X MISCELLANEOUS

19. Final award/order

After termination of the arbitral proceedings, a copy of the final award/order shall be submitted to the Chandigarh Arbitration Centre (CAC). The Chandigarh Arbitration Centre (CAC) shall not keep the record of arbitral proceedings. The record of arbitral proceedings shall be kept by Arbitrator.

20. Removal of difficulties:-

If any difficulty arises in giving effect to the provisions of these Rules, the Arbitration Committee may pass order as appears to it to be necessary or expedient for removing the difficulty.

21. Repeal

The Chandigarh Arbitration Centre (CAC) (Internal Management) Rules, 2014, The Chandigarh Arbitration Centre (CAC) (Arbitration Proceedings) Rules, 2014 and The Chandigarh Arbitration Centre (CAC) (Administrative Cost and Arbitrators' Fees) Rules, 2014 are hereby repealed.

1. Chapter 4-E is substituted vide Correction Slip No. 75 Rules/II.D.4 dated 01.06.2018