

RULES OF THE HIGH COURT MADRAS – APPELLATE SIDE RULES, 1965



**Compiled by
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ADVOCATE**

**“STATUTES ARE INDISPENSABLE TO A PRACTITIONER OF LAW
AS TOOLS ARE TO AN ARTISAN”**

LAWYER STATUTES

BY

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RULES OF THE HIGH COURT, MADRAS, APPELLATE SIDE, 1965

Contents	Pg No.
ORDER I – CONSTITUTION OF BENCHES	
Matters that may be heard and determined by a Single Judge	
O. 1 R. 1	10
O. 1 R. 1-A	11
Matters to be heard and determined by Bench of two Judges	
O. 1 R. 2	11 – 13
Powers of Vacation Judge	
O. 1 R. 3	13
Full Bench	
Constitution of Full Bench	
O. 1 R. 4	14
Matters to be heard and determined by a Full Judge	
O. 1 R. 5	14
Matters to be heard by a Full Bench on direction of the Chief Justice	
O. 1 R. 6	14
Powers of a Full Bench to answer Reference	
O. 1 R. 7	14
ORDER II – OFFICERS OF THE COURT	
Power of Chief Justice to direct any officer to discharge the duties	
O. 2 R. 1	14
O. 2 R. 2	14
Registrar's Duties & Powers	
O. 2 R. 3	14 - 16
Applications that may be heard and determined by the Registrar	
O. 2 R. 4	16 - 18
ORDER III – PRACTITIONERS AND THEIR REGISTERED CLERKS	
Attorneys to act in all matters of Appellate Jurisdiction but not in Original Side Appeals	
O. 3 R. 1	18 - 19
Practitioners and their Partnership	
O. 3 R. 2	19
Another Practitioner to appear for a Practitioner retained by a party	
O. 3 R. 3	19
Practitioner when to seek leave of Court for appearance	
O. 3 R. 4	19 - 20
Appearance by a Practitioner when already another Practitioner on record	
O. 3 R. 5	20
Practitioners to file Vakalatnama or Memorandum of appearance for appearing on behalf of Government or Public Servant	
O. 3 R. 6	20
Particulars of Memorandum of Appearance	
O. 3 R. 7	20
Execution and Attestation of Vakalatnama	
O. 3 R. 8	20 – 21
Vakalatnama to be dated at the time of execution	
O. 3 R. 9	21
Practitioner to endorse his acceptance in vakalatnama	
O. 3 R. 10	21
Practitioner to endorse his address for service in vakalatnama	
O. 3 R. 11	21



RULES OF THE HIGH COURT, MADRAS, APPELLATE SIDE, 1965

Contents	Pg No.
Practitioner not entitled to receive in excess of ₹ 50/- on behalf of his client without authorisation	
O. 3 R. 12	21
Exempted persons – how to execute vakalat	
O. 3 R. 13	22
Vakalatnama to be written on suitable paper	
O. 3 R. 14	22
Party retaining a Practitioner not to be heard in person	
O. 3 R. 15	22
Separate vakalatnama to be filed in each proceedings	
O. 3 R. 16	22
Registered Clerks of Practitioners	
O. 3 R. 17	22
O. 3 R. 18	22
O. 3 R. 19	22
Practitioner to file fee certificate within seven days	
O. 3 R. 20	22
ORDER IV – INSTITUTION OF PROCEEDINGS	
Business hours of the office of the Registrar	
O. 4 R. 1	23
Presentation of Appeals, etc.,	
O. 4 R. 2	23
Documents to be filed not to be sent by post or telegram	
O. 4 R. 3	23
Form of receipt in duplicate to accompany papers bearing Court-Fee stamps	
O. 4 R. 4	23
Valuation to be entered in memorandum of appeal etc.,	
O. 4 R. 5	23
Memorandum of Appeal or petition in forma-pauperis – Procedure	
O. 4 R. 6	23 - 24
Two Additional sets of papers to be filed by the Practitioner for the use of the Bench of Two Judges	
O. 4 R. 7	24
Address for service on Practitioner for the respondent in the lower Court in pending proceedings	
O. 4 R. 8	24
Proceeding not instituted in convenient with the rules to be returned for amendment	
O. 4 R. 9	24
Stamped application to be filed for extension of time	
O. 4 R. 10	24 – 25
Power of Registrar to fix time if no time limit is fixed for doing any act	
O. 4 R. 11	25
Notice to Attorney-General or Advocate-General	
O. 4 R. 12	25
Application for revision by any party dissatisfied with the decision of the taxing officer	
O. 4 R. 13	25
APPEALS AGAINST ORIGINAL DECREES OF SUBORDINATE COURTS	
Appeals from original decrees of Subordinate Courts	
O. 4 R. 14	25 - 26
O. 4 R. 15	26
APPEALS AGAINST ORDERS AND APPEALS AGAINST APPELLATE DECREES AND ORDERS	
O. 4 R. 16	26



RULES OF THE HIGH COURT, MADRAS, APPELLATE SIDE, 1965

Contents	Pg No.
O. 4 R. 17	26
O. 4 R. 18	26
O. 4 R. 19.....Omitted	26
CIVIL REVISION PETITIONS	
O. 4 R. 20	26
O. 4 R. 21	26 – 27
O. 4 R. 22	27
O. 4 R. 23	27
O. 4 R. 24.....Omitted	27
O. 4 R. 25	27
O. 4 R. 26	27
O. 4 R. 27	27
APPEALS UNDER CLAUSE 15 OF THE LETTERS PATENT	
O. 4 R. 28	27
O. 4 R. 29	27
O. 4 R. 30	28
O. 4 R. 31	28
O. 4 R. 32	28
PETITIONS	
O. 4 R. 33	28
O. 4 R. 34	28
O. 4 R. 35	28
O. 4 R. 36	28
O. 4 R. 37	29
O. 4 R. 38	29
O. 4 R. 39	29
MISCELLANEOUS MATTERS	
Receipt of findings from lower Court and filing of objections thereto	
O. 4 R. 40	29
Application for amendment of memorandum of appeal or objections or petition of revision	
O. 4 R. 41	30
Notice in review petition	
O. 4 R. 42	30
Permission to move before another Bench if one Bench is not sitting	
O. 4 R. 43	30
Notice to substituted or newly added parties	
O. 4. R. 44	30
ORDER V – APPOINTMENT OF GUARDIAN	
Application for appointment of Guardian	
O. 5 R. 1	30
Separate application for bringing on record legal representatives and for appointment of guardian	
O. 5 R. 2	30
Funds to conduct appeal by guardian	
O. 5 R. 3	30
ORDER VI – AFFIDAVITS	
Affidavits & Its form	
O. 6 R. 1	31
O. 6 R. 2	31
O. 6 R. 3	31
O. 6 R. 4	31
O. 6 R. 5	31



RULES OF THE HIGH COURT, MADRAS, APPELLATE SIDE, 1965

Contents	Pg No.
O. 6 R. 6	31
Affidavit before whom to be attested	
O. 6 R. 7	31
Documents referred to in an affidavit, how to be marked and certified	
O. 6 R. 8	31 - 32
Form of attestation by the person before whom affidavit is made	
O. 6 R. 9	32
Alterations and interlineations in an affidavit to be authenticated	
O. 6 R. 10	32
If declarant to an affidavit affixing thumb impression identifying to the swearing officer necessary	
O. 6 R. 11	32
Affidavit by illiterate or blind person	
O. 6 R. 12	32 – 33
O. 6 R. 13	33
ORDER VII – SERVICE OF NOTICES	
O. 7 R. 1	33 – 34
Service of notice on Practitioner who has entered appearance for respondent before service	
O. 7 R. 2	34
Service of notice on pleader for parties in the lower Court	
O. 7 R. 3	34
Schedule of Process fees	
O. 7 R. 4	34 - 35
In references under Indian Divorce Act & Stamp Act No fee to be charged for issue of notice	
O. 7 R. 5	35
Process Fees in Court Fee labels	
O. 7 R. 6	35
Deposit of further fees for service of fresh notice	
O. 7 R. 7	35
Service by affixture	
O. 7 R.7-A	35 – 36
Bench clerk to determine whether notice served	
O. 7 R. 8	36
If default in payment of process fee - Matter to be posted for orders of the Court	
O. 7 R. 9	36
ORDER VIII – PREPARATION OF THE RECORD IN APPEALS AGAINST ORIGINAL DECREES OF SUBORDINATE COURTS	
Filing of lists of papers to be called for from lower Court by Appellant and respondent in First Appeals	
O. 8 R. 1	36
Time for pointing out portions required to be translated and included in the record	
O. 8 R. 2	36 -37
O. 8 R. 3	37
Inspection of list of documents of and obtaining of copies thereof	
O. 8 R. 4	37
Papers other than Tamil to be translated into English	
O. 8 R. 5	37
O. 8 R. 6 – Omitted	37



RULES OF THE HIGH COURT, MADRAS, APPELLATE SIDE, 1965

Contents	Pg No.
Dismissal of appeal under rule 10 of XLI-A CPC any respondent who has filed memo of objection may with the leave of the Court deposit funds for further preparation	
O. 8 R. 7	37 – 38
Registrar's power to direct the translation and inclusion in the record of any paper not already on record.	
O. 8 R. 8	38
Preparation and arrangement of records in First Appeals	
O. 8 R. 9 (A) Pleadings & (B) Documents	38 - 39
O. 8 R. 9-AOmitted	39
O. 8 R. 10	39
Hearing of appeal not to be delayed for failure of parties to include papers in record or to deposit required sum in Court in time.	
O. 8 R. 11	39
Appeals for hearing to be posted on the Court Notice Board after record has been prepared	
O. 8 R. 12	39
Power of Registrar to calculate the costs of the preparation of record	
O. 8 R. 13	39
Practitioner to be responsible for charges for preparation of records	
O. 8 R. 14	40
Charges to levied for preparation & translation of record	
O. 8 R. 15	40
Charges for translation and preparation will be costs in the cause	
O. 8 R. 16	40
Copies of translation made for the convenience of the Court	
O. 8 R. 17	40
O. 8 R. 18	40
Fees for oral translations made in Open Court	
O. 8 R. 19	40
Court may refuse to permit either party to rely on any paper not included in the record	
O. 8 R. 20	41
O. 8 R. 21	41
Preparation of records privately	
O. 8 R. 22	41
O. 8 R. 23	41
O. 8 R. 24	41
O. 8 R. 25	41
O. 8 R. 26	41
O. 8 R. 27	41 - 42
O. 8 R. 28	42
O. 8 R. 29	42 – 43
O. 8 R. 30	43
O. 8 R. 31	43
O. 8 R. 32	43
O. 8 R. 33	43
O. 8 R. 34	43
O. 8 R. 34-A	43
O. 8 R. 34-B	43
O. 8 R. 35	43 - 44
O. 8 R. 36-38omitted	44
O. 8 R. 39	44 - 45



RULES OF THE HIGH COURT, MADRAS, APPELLATE SIDE, 1965

Contents	Pg No.
ORDER IX – PREPARATION OF RECORD IN PROCEEDINGS (OTHER THAN ORIGINAL SIDE APPEALS AND APPEALS AGAINST ORIGINAL DECREES OF SUBORDINATE COURTS IN SUITS) INCLUDING REFERENCES	
Appeal includes petition and appellant a petitioner	
O. 9 R. 1	45
Matters ready in notice to be notified on Court Notice Board	
O. 9 R. 2	45
Time for filing material papers by appellant	
O. 9 R. 3	45 - 46
Time for filing material papers by respondent	
O. 9 R. 4	46
Directions regarding preparation of records	
O. 9 R. 5	46
Translation of documents other than those in Tamil necessary	
O. 9 R. 6	46 – 47
Papers not in conformity with these rules are to be returned	
O. 9 R. 7	47
Proceedings to be notified as ready for hearing after expiry of the period for filing papers	
O. 9 R. 8	47
Court may refuse to permit either party to refer to any paper not included in the record	
O. 9 R. 9	47
Charges for printing etc., shall form part of the cost in the appeal	
O. 9 R. 10	47
Material record in proceeding under Legal Practitioners Act to be printed	
O. 9 R. 11	47
Power of Registrar to direct the preparation of the record in the manner and form prescribed in Order VIII	
O. 9 R. 12	47
ORDER X – APPEALS TO THE SUPREME COURT	
PETITIONS FOR CERTIFICATE OF LEAVE TO APPEAL	
Petition for leave to appeal to Supreme Court shall be accompanied by two copies of judgment appealed against etc.	
O. 10 R. 1	48
Petitions after service of notice to be posted for orders before the Judge	
O. 10 R. 2	48
PREPARATION AND TRANSMISSION OF THE TRANSCRIPT AND THE ORIGINAL RECORDS TO THE SUPREME COURT	
O. 10 R. 3	48 – 49
O. 10 R. 4	49
O. 10 R. 5	49
O. 10 R. 6	49
PREPARATION OF THE PAPER BOOK UNDER THE SUPERVISION OF THE REGISTRAR	
O. 10 R. 7	49
PREPARATION OF THE RECORD PRIVATELY	
O. 10 R. 8	49
O. 10 R. 9	49 – 50
GENERAL	
Paper translated for appeal not to be translated afresh without leave	
O. 10 R. 10	50
Inclusion in record of document sought to be received as additional evidence	
O. 10 R. 11	50



RULES OF THE HIGH COURT, MADRAS, APPELLATE SIDE, 1965

Contents	Pg No.
Payment of charges of translation and preparation of record	
O. 10 R. 12	50
O. 10 R. 13	50
Preparation of record to be taken up after deposit of charges	
O. 10 R. 14	50
Notice of transmission of records to Supreme Court to be given to parties	
O. 10 R. 15	50 - 51
Recovery of charges from parties	
O. 10 R. 16	51
Fee for service of notice to be borne by the party at instance notice is issued	
O. 10 R. 17	51
Power of Registrar to fix time if no time limit is fixed by these rules	
O. 10 R. 18	51
Application for refund of unexpended balance of amount deposited under Rule 7 or 9	
O. 10 R. 19	51
Power of Chief Justice to determine the rates for the preparation of records privately	
O. 10 R. 20	51
Service of notice on Advocate for party	
O. 10 R. 21	52
Registrar to forward certificate to Supreme Court as amount incurred by parties for preparation and transmission of record.	
O. 10 R. 22	52
CRIMINAL APPEALS	
Preparation of records in Criminal Appeals	
O. 10 R. 23	52
ORDER XI – SEARCH OF RECORDS	
Application for search of record to be made in Form No. 7	
O. 11 R. 1	52
No separate application is necessary for each document if the documents are in the record of a single proceeding.	
O. 11 R. 2	53
Practitioner or registered clerk or party in person can search the records	
O. 11 R. 3	53
Fees for search	
O. 11 R. 4	53
Not to take copies of document while searching records	
O. 11 R. 5	53
Judge's notes and minutes, correspondence not strictly judicial and confidential correspondence not to be inspected	
O. 11 R. 6	53
ORDER XII – CERTIFIED COPIES	
Copies of Judges notes and minutes, correspondence not strictly judicial and confidential correspondence not to be furnished	
O. 12 R. 1	53
Grant of copies of documents to parties	
O. 12 R. 2	53
Grant of copies to third parties	
O. 12 R. 3	53
Procedure for obtaining copies	
O. 12 R. 4	54
O. 12 R. 5	54
Copy application when to be struck off	
O. 12 R. 6	54



RULES OF THE HIGH COURT, MADRAS, APPELLATE SIDE, 1965

Contents	Pg No.
Intimation as to stamp papers and time for depositing stamp papers	
O. 12 R. 7	54
Procedure to call for additional stamp papers and power to strike off in default	
O. 12 R. 8	54 – 55
Papers with Court-fee stamps affixed can be furnished in lieu of stamp paper with the permission of the Registrar	
O. 12 R. 9	55
Order in which copies are to be prepared	
O. 12 R. 10	55
O. 12 R. 11	55
Posting of list of copies ready for delivery	
O. 12 R. 12	55
Disposal of unused stamp papers	
O. 12 R. 13	55 – 56
Copies to be certified as true copies and sealed	
O. 12 R. 14	56
Endorsement on copies as to dates of several stages from filing till delivery of copies	
O. 12 R. 15	56
Number of words to be copied on each stamp paper and charges for copying	
O. 12 R. 16	56 – 57
Rates for Photostat copies	
O. 12 R. 17	57
Issue of urgent carbon copies	
O. 12 R. 18	57
Restoration of application for copies struck off schedule-form	
O. 12 R. 19	58



RULES OF THE HIGH COURT, MADRAS, APPELLATE SIDE, 1965

Under the provisions of **section 122 of the Code of Civil Procedure, 1908**, and all other powers hereunto enabling and with previous approval of the Government of Madras, the High Court hereby issues the following rules to apply, so far as may be practicable, to all proceedings taken on the Appellate Side of the High Court, Madras, in suppression of the existing rules of the High Court, Madras Appellate Side. They shall come into force on the date of their publication in the *Official Gazette*.¹

They shall also apply, so far as may be practicable, to all proceedings taken on and after that day in all causes and matters then pending on the Appellate Side of the Court.

These rules shall be cited as the “**Rules of the High Court, Madras, Appellate Side, 1965**”.

In these rules unless there is anything repugnant in the subject or context –

- (a) “**Code**” means the **Code of Civil Procedure, 1908**.
- (b) “**Court**” means the High Court of Judicature at Madras.
- (c) “**Practitioner**” means an advocate or an attorney or a partnership of practitioners.
- (d) ²[“**Registrar**” means Registrar of the High Court and includes Additional Registrar, Deputy Registrar and Assistant Registrar or any other officer exercising or authorised to exercise the functions of the Registrar under the Rules. The expression “**Registrar**” shall have the same meaning wherever it occurs in the Appellate Side Rules.]
- (e) “**Folio**” means 175 words, four figures being counted as one word.

ORDER - I

CONSTITUTION OF BENCHES

Matters that may be heard and determined by a Single Judge

O. 1 R.1.- Except as otherwise provided, the following matters may be heard and determined by a Single Judge:

Provided that the Judge before whom the matter is posted for hearing may, at any time, adjourn it for hearing and determination by a Bench of two Judges:

- (1) Every application -- (a) for determining in which of several Courts having jurisdiction, a suit, an appeal or other proceeding shall be heard;
- (b) for the transfer of any suit, appeal or other proceeding including any proceedings in execution of a decree from one of the Civil Courts, subordinate to the High Court to another of such Courts or to the High Court;

^{*1} This rule was published in Fort St. George Gazette, Pt. V, Supplement Issue No. 32-A, dt. 18 Aug, 1965.

² Subs. by P.Dis. 228/95 – SROC-1/96, Published in TN Govt Gaz, Issue No.3 Pt. III, Sec. 2 dt.24.01.1996



LAWYERSTATUTES

(c) – (e) ³[~~....deleted....~~]

(2) Every petition under **Art. 227 of the Constitution**.

(3) ⁴[~~.....Omitted~~]

(4) Every petition for leave to appeal to the Supreme Court where the judgment or order sought to be appealed against is that of a Single Judge.

*[Also Refer to - [O.1 R.2 \(3\)](#)]

(5) Every civil revision petition under **Section 115 of the Code** or under **any other enactment except those specified in [Rule 2 \(7\)](#)**.

(6) ⁵[Every Appeal:

(a) from an original decree of a subordinate court or a final order under the Code or any other enactment when the value of the subject-matter of the appeal is below Rs. 15, 00, 000 (Rupees Fifteen Lakhs) or incapable of valuation].

⁶[(b)] from an appellate decree or order.

(7) Every application for the transfer of an enquiry or trial or other proceeding from one of the criminal Courts subordinate to the High Court to another of such Courts or to the High Court.

(8) Every criminal revision petition for the exercise by the High Court of its power to revise the proceedings of a criminal Court except those specified in [Rule 2 \(12\)](#).

(9) Every reference of a criminal Court except that specified in [Rule 2 \(10\)](#).

(10) The admission of an appeal from the judgment or order of a criminal Court except those specified in [Rules 2 \(11\) \(a\) and 2 \(11\) \(b\)](#).

(11) Every appeal from a judgment or order of a criminal Court except in cases in which a sentence of death or imprisonment for life has been passed on the appellant or a person tried with him.

(12) Every matter referred for determination by the Registrar.

⁷[**O. 1 R. 1-A**.- Every petition under **Article 226 of the Constitution** except that specified in [Rule 2 \(4\)](#) shall be posted before a Single Judge or a larger Bench, as the Chief Justice may direct.]

Matters to be heard and determined by a Bench of Two Judges

O. 1 R. 2.- The following matters ⁸[shall] be heard and determined by a Bench of two Judges –

Provided, if both the Judges agree that the matter involves a question of law, they may order that the matter or the question of law be referred to a Full bench.

³ Clauses (c) to (e) deleted by ROC No. 1848/RR/2002, TN Govt Gaz Extra, Issue No. 451, Pt.VI, Sec.I dt. 5th July, 2002 at pg no.1

⁴ Omitted by P.Dis. 68/85.

⁵ Subs. by ROC No.1-A/2006/F1, Published in TN Govt Gaz Extra, Issue No.9, Pt.VI, Sec.1 dt. 09th Jan, 2006 at pg no.17.

⁶ Clause (d) renumbered as (b) by ibid.

⁷ Ins. by P.Dis. 68/85, TN Govt Gaz Pt. II., Sec.2., dt. 24th April, 1985 at pg no.31.(SROC 16/85).

⁸ The word "shall" was subs. by P.Dis. 823/70.



LAWYERSTATUTES

⁹[(1) Every proceeding including one involving a substantial question of law as to the interpretation of the Constitution referred by a Single Judge.]

(2) Every application –

(a) for the admission of an appeal in *forma pauperis* where the appeal is under **Clause 15 of the Letters Patent**; *[Also Refer to - [O.1 R.2 \(5\) \(e\)](#)].

(b) for the admission of a proceeding falling under this rule presented after the period allowed by law;

(c) under **section ¹⁰[256] of the Income-Tax Act, 1961**];

(d) under **section 64 (3) of the Estate Duty Act, 1953**;

(e) under **section ¹¹[27] of the Wealth Tax Act, 1957**;

(f) under **section 25 (3) of the Expenditure Tax Act, 1957**;

(g) under **section 26 (3) of the Gift Tax Act, 1958**.

(3) Every application for leave to appeal to the Supreme Court except that specified in **Rule 1 (4)**.

(4) Every application for a direction, order or writ in the nature of habeas corpus.

*[Also Refer to - [O.1 R.1-A](#)]

(5) Every appeal –

(a) from a decree or order of a Civil Court ¹²[**Deleted**];

(b) under **Clause 15 of the Letters Patent**;

¹³[(c) from a decree where the value of the subject-matter of the Appeal is Rs. 15, 00, 000/- (Rupees Fifteen Lakhs) or upwards];

(d) under **Section 37 of the Tamil General Sales Tax Act, 1959**;

¹⁴[(e) For an admission of an appeal in *forma pauperis* except that specified in Rule **2 (2) (a)**;

(f) of an interlocutory character in appeals and other matters pending in the Court except an application posted before the Registrar under **Order II of these rules**;

(g) for the admission of a proceeding falling under this rule presented after the expiry of the period allowed by the law.]

(6) Every appeal under **Section 116-A of the Representation of the People Act, 1951**.

(7) Every revision petition –

⁹ Clause (1) was subs. By P.Dis. 823/70.

¹⁰ For Sec. 256 corresponding new Sec. 260-A of the Income Tax Act, 1960.

¹¹ For Sec. 27 corresponding new Sec. 27-A of the Wealth Tax Act, 1957.

¹² The words “except those specified in Rules 1 (6) a to 1 6 (c)” deleted by ROC No. 1848/RR/2002.

¹³ Subs. by ROC No. 1-A/2006/F1 vide., TN Govt Gaz Extra, Issue No.9 dt. 9.1.2006., Pt. VI., Sec. 1., pg no.17.

¹⁴ Cls (e) to (g) ins. by *ibid*.



LAWYERSTATUTES

(a) under **Section 54 of the** ¹⁵[Tamil Nadu] **Agricultural Income Tax Act, 1955;**

(b) under **Section 38 of the Tamil Nadu General Sales Tax Act, 1959.**

***[Also Refer to - [O. 1 R.1 \(5\)](#)]**

(8) Every case withdrawn under **Art. 228 of the Constitution.**

(9) Every reference –

(a) under **Section 113 of the Code;**

(b) under **Section** ¹⁶[256] **of the Income-Tax Act, 1961;**

(c) under **Section 64 of the Estate Duty Act, 1953;**

(d) under **Section** ¹⁷[27] **of the Wealth Tax Act, 1957;**

(e) under **Section 25 of the Expenditure Tax Act, 1957;**

(f) under **Section 26 of the Gift Tax Act, 1958.**

(10) Every reference –

(a) under ¹⁸[**Section 374 of the Code of Criminal Procedure, 1898;**

(b) under **Section 432 of the Code of Criminal Procedure, 1898;]**

***[Also Refer to - [O. 1 R.1 \(9\)](#)]**

(11) Every appeal –

(a) from a judgment of a criminal Court in which a sentence of death or imprisonment for life has been passed on the appellant or a person tried with him, including orders for admission of such appeals;

(b) under ***Section** ¹⁹[**411-A of the Code of Criminal Procedure, 1898;**

(c) under ***Section 417 of the Code of Criminal Procedure]** where any of the accused is liable to be sentenced to death or imprisonment for life.

***[Also Refer to - [O. 1 R. 1 \(10\)](#)]**

(12) Every criminal revision petition for enhancement of any sentence passed on an accused to death or imprisonment for life. ***[Also Refer to - [O. R.1 \(8\)](#)]**

(13) Every appeal under **section 10 of the** ²⁰ [Tamil Nadu] **Dramatic Performances Act, 1954;**

¹⁵ The word “Madras” was subs. by the TN Adaptation of Laws Order, 1969 as amended by TN Adaptation of Laws (Second Amendment) Order, 1969.

¹⁶ For Sec. 256 corresponding new Sec. 260-A of the Income Tax Act, 1960.

¹⁷ For Sec. 27 corresponding new Sec. 27-A of the Wealth Tax Act, 1957.

¹⁸ Corresponding new law for Sec. 374 is Sec. 366 and for Sec. 432 new law is Sec. 395 Cr PC, 1974 (2 of 1973).

¹⁹ Corresponding new law for Sec. 411-A is Sec. 374 (1) and for Sec. 417 new law is Sec. 378 under Cr PC, 1974 (2 of 1973).

²⁰ The word “Madras” subs. by TN Adaptation of Laws Order, 1969, as amended by the TN Adaptation of Laws (Second Amendment) Order, 1969.



LAWYERSTATUTES

²¹[(14) Every proceeding by way of reference under **Section 21** and every appeal or revision petition under **Section 22-A of the Chartered Accountants Act, 1949.**]

Powers of Vacation Judge

O. 1 R. 3.- Notwithstanding anything hereinbefore contained the original appellate jurisdiction vested in the Court may, during the vacation of the Court, be exercised by a Single Judge acting as the Vacation Judge, except—

- (1) in cases in which such jurisdiction must be exercised, under any law by more than one Judge; and
- (2) admission of an appeal under **Clause 15 of the Letters Patent.**

Full Bench

Constitution of Full Bench

O. 1 R. 4.- A Full Bench shall consist of not less than three judges.

Matters to be heard by a Full Judge

O. 1 R. 5.- The following matters shall ordinarily be heard by a Bench of three Judges:

- ²²[(a) every enquiry under **Section 13 of the Legal Practitioners Act, 1879;**]
- (b) every reference under the **Indian Divorce Act, 1869;**
- (c) every reference under **Section 57 or Section 60 of the Indian Stamps Act, 1869.**

Matters to be heard by a Full Bench on direction of the Chief Justice

O. 1 R. 6.- Notwithstanding anything in the foregoing rules, the Chief Justice may direct that any application, petition, suit, appeal or reference shall be heard by a Full Bench as defined in these rules.

Powers of a Full Bench to answer Reference

O. 1 R. 7.- When a question of law is referred to a Full Bench, the Full Bench may answer the reference or in its discretion may finally decide the case itself.

ORDER - II OFFICERS OF THE COURT

Power of Chief Justice to direct any Officer to discharge the duties

O. 2 R. 1.- The power and authority which under these or other rules or the practice of the Court are exercisable by the Registrar may be exercised by the Deputy Registrar or the Assistant Registrar of the Appellate Side or such other officers as the Chief Justice may specify. The Chief Justice may, by general or special order, specify the power and authority exercisable by such officers.

²¹ Subs. by P.Dis. No. 263/97.

²² Repealed by Advocates Act, 1961 (25 of 1961), by sec. 50 (4) (a) - w.e.f. 01.09.1963.



LAWYERSTATUTES

O. 2 R. 2.- Where any duty to be discharged under these rules or any enactment or any rules made thereunder is a duty which has heretofore been discharged by any officer, such duty shall, unless or until otherwise ordered, continue to be discharged by the same officer or by such other officer as the Chief Justice may by order direct. Where any new duty is to be discharged; the proper officer to discharge the same shall be such officer as Chief Justice may from time to time appoint.

Registrar's Duties & Powers

O. 2 R. 3.- In addition to the powers conferred by other rules, the Registrar shall have the following duties and powers, subject to any special or general order made by the Chief Justice:

Provided that the Registrar may in his discretion refer any proceeding before him for the decision of the Court;

Provided also, that, at the request of any party, the Registrar shall post the matter before the Court—

(1) to receive appeals, petitions and other proceedings;

(2) to require any memorandum of appeal, petition, application or other proceeding presented to the Court or to the Registrar to be amended (or rectified) in accordance with the procedure or practice of the Court.

(3) (i) In appeals against

(a) original decrees of subordinate Courts;

(b) final judgments in original suits disposed of by the High Court in the exercise of its ²³[.....] original jurisdiction; and ***[Also Refer to - [O. 4 R. 30](#)]**

(c) under **Clause 15 of the Letter Patents** from the Judgment of single judges passed in appeals from appellate decrees or orders, where the certificate provided for in [Order IV Rule 28](#) has already been obtained, the Registrar shall issue notice forthwith.

(ii) In all miscellaneous appeals other than appeals under ²⁴**[Order XLIII, Rule 1 (u) of the Code]**, the Registrar may direct the issue of notice forthwith or post any such appeal before the Court for orders.

(iii) In all appeals under **Clause 15 of the Letters Patent** from judgments of Single Judges, other than those specified in **Rule 3 (3) (i)** ²⁵**[(b) and], (c)**, the Registrar shall post them before the Court for orders.

(iv) In appeals against appellate decrees, miscellaneous appeals under **Order 43 Rule 1 (u) of the Code** and miscellaneous second appeals, the Registrar shall take the orders of the Judge whether notice to the respondent shall issue. If the Judge direct that the appeal be posted for hearing under ²⁶**[Order XLI Rule 11 of the Code]**, the Registrar shall post the appeal for hearing subject to the provisions of [Order I Rule 2 \(5\) \(c\)](#) of these rules.

²³ The word "ordinary" was omitted by P.Dis. 538/68.

²⁴ For Order XLIII Rule 1 (u) – please read as Order 43 Rule 1 (u) of the Code.

²⁵ The brackets, letters and words "(b) and " ins. by P.Dis. 538/68.

²⁶ For order XLI Rule 11 – please read as Order 41 Rule 11 of the Code.



LAWYERSTATUTES

(v) In civil revision petitions the Registrar shall take the orders of a judge whether notice shall issue and shall post the petition for hearing in the manner prescribed for appeals by **Order XLI Rule 11 of the Code**, if so directed.

(4) To fix the date of hearing of any civil revision petition under **Order IV Rule 26**.

(5) To fix the date of hearing of any application under **Order IV Rule 38**.

(6) To determine all cases referred to him under **Order VII Rule 8**.

(7) To order the supply to parties to a proceeding –

(i) records duly certified as correct copies;

(ii) uncertified printed, cyclostyled or typed records; and

(iii) translations under **Order VIII Rule 17**.

(8) To stop at his discretion the issue of all or any papers to any practitioner who has failed to pay any fee or charges due to the Court.

(9) To require any person or party to file an affidavit in any proceeding before him.

(10) To call for a further deposit, when the deposit already made by the appellant in an appeal to the Supreme Court is not sufficient to defray the cost of preparing the records.

(11) To order repayment of the unexpected balance of charges deposited for the preparation of the record in any proceeding.

(12) To give directions as to the preparation of the record in connected appeals.

(13) To give directions as to the apportionment of costs of the preparation of the record in appeals to the Supreme Court consolidated under **Order XII Rule 6 of the Supreme Court Rules**.

(14) To extend the period mentioned in ²⁷[**Order XLI-A Rule 2 of the Code**] as follows:

(i) if the respondent resides beyond the limits of Tamil Nadu but within India to not more than eight weeks.

(ii) if the respondent resides outside India to not more than ten weeks.

(15) To consider and dispose of claims by a party for the cost of unnecessary printing done at the instance of the opposite party.

(16) To dispense with service of notice on respondents under the proviso to **Order XLI Rule 14 (1) of the Code** on an application by an appellant or petitioner.

(17) To make an order for payment of costs of any application heard by him.

Applications that may be heard and determined by the Registrar

O. 2 R. 4.- In addition to the powers conferred under the preceding rule, the Registrar shall, subject to any special or general order that the Chief Justice may

²⁷ For Order XLI-A Rule 2 – please read as Order 41-A Rule 2 of the Code.



LAWYERSTATUTES

make, have the power to hear and determine the classes of applications set forth below:

Provided that the Registrar may refer in his discretion any proceeding before him for the decision of the Court:

Provided also that at the request of any party, the Registrar shall post the matter before Court for orders.

On application made by stamped petition –

- (1) To advance the hearing of any proceeding posted as ready on the notice board of the Court.
- (2) To extend the time for entering appearance.
- (3) To make an order for change of practitioners.
- (4) To grant leave to withdraw appearance.
- (5) To extend the time originally fixed for furnishing security or to grant further time when default has been made in furnishing security within the time originally fixed.
- (6) To appoint or discharge a next friend or guardian ad litem of a minor, except in proceedings under appeal to the Supreme Court.
- (7) To enter in the record the name of the legal representative of a deceased appellant, petitioner or respondent, except in proceedings under appeal to the Supreme Court.

Provided that contested applications and applications presented out of time falling under **clauses 6 and 7** shall be posted before the Court for orders.

- (8) To appoint a next friend for a person of unsound mind, where he has been so found.
- (9) To dispense with the affidavit required under ²⁸[\[Order IV Rule 35\]](#).
- (10) To make an order directing substituted service under **Order V Rule 20** of the Code.
- (11) To direct the preparation and inclusion in the record of any paper under [Order VIII Rule 8](#).
- (12) To make an order for use in a proceeding papers previously prepared for reference in another proceeding.
- (13) To make an order for the production of documents by a party.
- (14) To order the return of documents in a pending proceeding.
- (15) To dispense with the production of a certified copy of the judgment of the lower Court in appeals against original decrees and orders, appeals against appellate decrees and orders and civil revision petitions on the ground that such a copy has already has been filed in the High Court in another appeal or civil revision petition arising from the same judgment.

²⁸ It should be read O. IV, Rule 33.



LAWYERSTATUTES

- (16) To dispense with the production of the required number of printed copies of judgments in appeals against original decrees and orders, and appeals against appellate decrees and orders.
- (17) To make an order directing change of parties.
- (18) To make an order for amendment of cause-title.
- (19) To excuse the delay in or extend the time for representation of a proceeding.
- (20) To excuse the delay in or extend the time for representation of a proceeding.
- (21) To order the refund of Court-fee paid under a *bona fide* mistake.
- (22) To grant leave for the amendment of the grounds of an appeal or for filing additional grounds.
- (23) To make an order for leave to search the records of the Court under the rules in that behalf.
- (24) To grant certified copies of judicial records of, or in the custody of the Court, presented by persons who are not parties to the proceedings to which such records relate.
- (25) To make an order under **Order XXXII Rule 3 (10) of the Code**.
- (26) To order the expeditious grant of certified copies of documents.
- ²⁹[(26-A) To condone defects in an affidavit and permit it to be filed.]
- (27) To extend the time –
- (a) prescribed in [Order VIII Rule 1](#) for filing lists;
 - (b) prescribed in [Order VIII Rule 3](#) for pointing out portions;
 - (c) prescribed in ³⁰[[Order VIII Rule 6](#)] for payment of estimated charges;
 - (d) prescribed in [Order VIII Rule 25](#) for filing lists;
 - (e) prescribed in [Order VIII Rule 26](#) for filing lists;
 - (f) prescribed in [Order VIII Rule 27](#) for payment of estimated charges;
 - (g) prescribed in [Order VIII Rule 28](#) for delivery of respondent's papers to the appellant;
 - (h) prescribed in [Order VIII Rule 29](#) for filing of papers by the appellant;
 - (i) prescribed in [Order VIII Rule 31](#) for payment of charges;
 - (j) prescribed in [Order IX Rule 3 \(1\)](#) for filing of papers by the appellant;
 - (k) prescribed in [Order IX Rule 4](#) for filing of papers by the respondent;

²⁹ Clause (26-A) ins. by P.Dis. No.533/68.

³⁰ O. 8 R. 6 – Rule 6 omitted by P. Dis. 56/75, (SROC 10/75). Therefore O. 2 (4) (27) (c) is no longer relevant.



LAWYERSTATUTES

(l) prescribed in **Order IV Rules 6, 19, 24, 34, 38, 39, 46** and **Order VII Rule 7** for payment of process-fees;

(m) prescribed in **Order IV Rule 6** for proof of service;

(n) prescribed in **Order X Rule 17** for intimating the number of copies required.

Notes: The extension of time sought may be granted on an informal application bearing a court-fee stamp of Rs. 10/- in matters referred to in clauses (b), ³¹(c), (f), (g), (h), (j), (k), and (n).

ORDER III PRACTITIONERS AND THEIR REGISTERED CLERKS

Attorneys to act in all matters of Appellate Jurisdiction but not in Original Side Appeals.

O. 3 R. 1.- Attorneys of the Court may appear, plead and act in all matters of appellate jurisdiction, civil or criminal, except that they shall not be entitled to appear and plead in appeals from the ordinary original civil jurisdiction of the Court.

Practitioners and their Partnership

O. 3 R. 2.- (1) In these rules, the expressions “**Advocate**” and “**Attorney**” shall include a partnership composed of such persons.

(2) No such partnership shall be entitled to act or plead in any Court unless all the members thereof are entitled to act or plead in such Court.

(3) A partnership may include in its name, the names of persons who were or are members of the partnership but of no others.

(4) The name of no person who has ceased to be a member of the partnership otherwise than by death shall be included in the name of the partnership except with his consent in writing;

Provided that this rule shall not apply to any partnership in existence on the 1st July, 1957.

(5) The words “**and company**” shall not be affixed to the name of any partnership.

(6) The names of all the members of the partnership (i) shall be recorded with the Registrar of High Court and the Bar Council, ³²[Madras,] and (ii) shall also be set out in all professional communications sent out by the partnership.

(7) A partnership shall notify to the Registrar of the Court and the Bar Council, Madras, any change in the composition of the partnership not later than three months from the date on which such change occurred.

(8) Every member of a partnership shall be bound to disclose the names of all the members of the partnership whenever called upon to do so by the Registrar of the Court, the Bar Council, Madras, any Court or tribunal or any party for or against whom the partnership or any member thereof has entered appearance before such Court or tribunal.

³¹ Do.

³² In O. 3 R.2 wherever the word “Madras” appears please read as “Tamil Nadu”.



LAWYERSTATUTES

(9) In every case, where a member of partnership signs any document or writing on behalf of the partnership, he shall do so in the name of the partnership, and shall authenticate the same by affixing his signature.

(10) Neither the partnership nor any member thereof shall advise, act or plead on behalf of a party in any matter or proceeding where the opposite party is represented by any other member of the partnership or by the partnership.

Another Practitioner to appear for a Practitioner retained by a party

O. 3 R. 3.- When a practitioner retained by any party in any proceeding in the Court is prevented by reasonable cause from appearing and conducting the proceeding, he may instruct another practitioner to appear for him, and the Court may allow the hearing to proceed in the absence of the practitioner originally engaged.

Practitioner when to seek leave of Court for appearance

O. 3 R. 4.- Except with the leave of the Court or with the consent of the party, a practitioner who has advised a party in connection with the institution of a suit, appeal or other proceeding, or has drawn up pleadings in connection with any such matter shall not, unless he first gives the party whom he has advised or for whom he has drawn up pleadings an opportunity of engaging him, appear in such suit, appeal or other proceeding, or any appeal, or revision therefrom or in any matter connected therewith, for any person whose interest is opposed to that of such party:

Provided that the consent of the party shall be presumed if without offering to engage him, he engages another practitioner to appear for him in such suit, appeal or other proceeding.

Explanation.- A practitioner who discloses information confided to him in his professional capacity by a party without his consent shall not be protected merely by reason of his being permitted to appear for any other person under his rule.

Appearance by a Practitioner when already another Practitioner on record

O. 3 R. 5.- A practitioner shall not be permitted to file appearance in any proceeding in which another practitioner is already on record, unless he produces the written consent of the practitioner on record, or obtains the permission of the Court.

Practitioners to file Vakalatnama & Memorandum of appearance for appearing on behalf of Government or Public Servant

O. 3 R. 6.- With previous permission of the Registrar a practitioner or his registered clerk may correct any clerical error in a proceeding.

³³[6] No practitioner shall be entitled to act in any civil proceeding, unless he files a vakalatnama in [Form No.1](#) of the Schedule to these Rules:

Provided that –

- (1) where a practitioner is already on record in any proceeding, it shall be sufficient for another practitioner who desires to appear in the proceeding merely for the purpose of pleading to file a memorandum of appearance

³³ Rule 6 – by some oversight No.6 is repeated for two separate rules.



LAWYER STATUTES

bearing the Court-fee payable on a vakalatnama. The consent of the practitioner on record must be endorsed on such memorandum.

- (2) when any practitioner appears on behalf of the Government or any public servant sued in his official capacity, it shall be sufficient for him to file an unstamped memorandum of appearance signed by the practitioner.

Particulars of Memorandum of Appearance

0.3 R. 7.- The memorandum of appearance referred to in the preceding rule shall contain the following particulars:

- (a) the names of the parties to the proceeding;
- (b) the name of the party for whom the practitioner appears; and
- (c) the name of the person by whom the practitioner authorized to appear.

Execution and Attestation of Vakalatnama

0.3 R. 8.- The vakalatnama shall be executed before and its execution attested by –

- (i) any judicial officer,
- (ii) or a village munsif,
- (iii) or a gazetted officer,
- (iv) or a notary appointed under the **Notaries Act, 1952**,
- (v) or a manager of the High Court, Appellate Side,
- (vi) or a commissioner for oaths,
- (vii) or a member of the Legislative Council or Legislative Assembly of any State or a Member of Parliament,
- (viii) or a retired gazetted officer receiving pension from the Government,
- (ix) or a retired non-gazetted officer receiving pension from Government who has served as a Sub-Magistrate or Additional First-class Magistrate prior to his retirement,
- (x) or any superintendent of the office of Commissioner, ³⁴[Madras] Hindu Religious and Charitable Endowments,
- (xi) or a member of a district board or Panchayat constituted under the enactments in force,
- (xii) or a municipal councillor,
- (xiii) or an advocate other than the advocate in whose favour the vakalatnama is executed or an advocate who has appeared for the party in the proceeding,
- (xiv) or in the City of Madras before any Sub-Registrar,
- (xv) or a pleader practising in Madras State;

who shall subscribe his own signature adding his designation on the vakalatnama in authentication of its execution and attestation:

Provided that when a vakalatnama is executed by any individual who appears to the person before whom it is executed, to be illiterate, blind, or unacquainted with the language in which the vakalatnama was read, translated or explained in his presence to the executant, that he seemed to understand it and that he made his mark or affixed his signature in his presence.

Vakalatnama to be dated at the time of execution

0.3 R. 9.- Every vakalatnama shall be dated at the time of its execution.

³⁴ Instead of Madras plz read as Tamil Nadu



LAWYERSTATUTES

Practitioner to endorse his acceptance in vakalatnama

O. 3 R. 10.- The practitioner shall endorse his acceptance of the vakalatnama in his own handwriting with the date of such acceptance noted thereon.

Practitioner to endorse his address for service in vakalatnama

O. 3 R. 11.- ^{*35}Every practitioner shall endorse in the vakalatnama his address for service. When more practitioners than one are named in the vakalatnama it shall be sufficient to give the address of anyone of them.

Practitioner not entitled to receive in excess of ₹ 50/- on behalf of his client without authorization

O. 3 R. 12.- Notwithstanding anything contained in the vakalatnama a practitioner shall not be entitled to receive any money in excess of Rs. 50 on behalf of his client except on the production of an authorization in writing from the client to receive the amount.

Exempted persons - how to execute vakalat

O. 3 R. 13.- Where a party is exempted from personal attendance in Courts or is unable from sickness or other cause to appear before the person authorized in **Rule 9** to attest the execution of a vakalatnama, the vakalatnama may be executed before two or more witnesses, who shall attest the execution. The vakalatnama shall then be produced before a Judicial Officer before whom the attesting witnesses shall verify the execution of the vakalatnama. The Judicial Officer shall thereafter certify to the above fact, sign his name and enter his designation in the vakalatnama.

Vakalatnama to be written on suitable paper

O. 3 R. 14.- The Court may decline to receive a vakalatnama written on paper of insufficient size, thickness and durability.

Party retaining a Practitioner not to be heard in person

O. 3 R. 15.- The Court may decline to hear a party who has retained a practitioner to appear for him, unless he withdraws the vakalatnama.

Separate vakalatnama to be filed in each connected proceedings

O. 3 R. 16.- Where a person is a party in two or more connected proceedings he shall execute a separate vakalatnama in each proceeding, notwithstanding that he may retain the same practitioner in all.

Registered Clerks of Practitioners

O. 3 R. 17.- No person shall be recognized as the clerk of a practitioner unless his name has been entered with the permission of the Registrar, in a register kept for that purpose.

³⁵ It has now become mandatory that every practitioner shall state also his enrolment no and his ph no. in vakalath.



LAWYERSTATUTES

O. 3 R. 18.- A registered clerk may communicate personally with the Manager, ³⁶[Bench Clerks] department, Manager, Translation and Printing department, the Sub-Assistant Registrar, Judicial department, the Superintendent of Copyists and the Accountant; but he shall not communicate with other subordinate members of the establishment or enter the record room.

O. 3 R. 19.- No information shall be furnished to a clerk unless he produces a written memorandum signed by a practitioner.

Practitioner to file fee certificate within seven days

O. 3 R. 20.- Save by special leave of the Court and except in the case of a practitioner appearing on behalf of the Government, no fee shall in any case be entered in a decree or order as recoverable by the party for whom the practitioner appears, except on production within seven days from the date of judgment or order or such further time as may be allowed by Court, of a certificate from the practitioner that he has received the fee.

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

ORDER – IV INSTITUTION OF PROCEEDINGS

Business hours of the office of the Registrar

O. 4 R. 1.- The office of the Registrar shall be open for the transaction of business between 10.30 am and 4 p.m. on all days except Sundays and holidays. But on Saturdays the office shall be open for monetary transactions between 11 a.m. and 1 p.m.

Presentation of appeals etc.

O. 4 R. 2.- Every appeal, petition or other proceeding shall be presented by the party in person or on his behalf by an authorised agent or a practitioner duly appointed or the registered clerk of such practitioner.

Documents to be filed not to be sent by post or telegram

O. 4 R. 3.- Unless the Court otherwise orders, no document required to be presented to or filed into Court which is sent by post or by telegram shall be received or filed into Court.

Form of receipt in duplicate to accompany papers bearing Court-fee stamps

O. 4 R. 4.- When papers bearing Court-fee stamps are filed, each set of papers filed at one time in each shall be accompanied by a form of receipt in duplicate, duly filled up and specifying the amount of Court-fee paid; the receipt shall be in the printed form available for sale at the Registrar's office. The receiving clerk shall, after verifying the correctness of the particulars entered in the receipt, affix the date stamp to the original and duplicate, initial them and return the original to the person filing the papers.

Valuation to be entered in memorandum of appeal etc.,

O. 4 R. 5.- Every memorandum of appeal or objection and every application for review shall contain a statement of the value of the appeal or objection for

³⁶ Please read as "Court Officers".



LAWYERSTATUTES

purposes of the Court-fee and jurisdiction. In the case of a revision petition value of the suit or other proceeding from which it arises should be stated.

Memorandum of Appeal or petition in forma-pauperis - Procedure

O. 4 R. 6.- Every memorandum of appeal or petition presented *informa pauperis* together with the application under ³⁷[**Order XLIV, Rule 1 (1) of the Code**] shall be posted before Court.

Where notice is ordered to Government proof of service of such notice on the Government Pleader shall be filed within three days from the date of the order directing issue of notice.

Where notice is ordered to the respondents, the appellant or the petitioner shall, within three days of such order, file into Court the particulars for service of notices on the respondents in **Form No. 2** of the Schedule to these rules, the notices in **Form No. 3** of the Schedule to these rules in duplicate for service on each respondent, the fees prescribed for service of such notices, and the requisite number of authenticated copies of the affidavit in support of the petition.

The petition shall be posted for hearing before the Court not less than fourteen days after the service of such notice on the respondent.

Within seven days of the date of the order of the Court granting leave to appeal *informa pauperis* against an original decree of a subordinate court, the appellant shall bring into Court the particulars for service of notice of appeal on the respondents in **Form No. 2 of the Schedule** to the rules, the fees prescribed for service of such notices and the requisite number of authenticated copies of the memorandum of the grounds of appeal. *[Plz Refer to - **O. 2 r. 4 (27) (m)**]

Two additional sets of papers to be filed by the practitioner for the use of the Bench of Two Judges

O. 4 R. 7.- In every appeal, petition or other proceeding which under the rules of the Court have to be posted before a Bench of two Judges, the practitioner shall, at the time of filing the appeal or petition, furnish two additional sets of papers duly paged, indexed and stitched in book form for the use of the Bench.

Address for service on Practitioner for the respondent in the lower Court in pending proceedings

O. 4 R. 8.- Every appeal or petition instituted prior to the disposal of the main proceedings in a subordinate court, shall mention the name and address of the practitioner, if any, who represented the opposite party in the main proceeding before the subordinate court in order that service may be effected under **Rule 3 (1) of Order VII** of these rules.

Proceeding not instituted in conformity with the rules to be returned for amendment

O. 4 R. 9.- (1) Every proceeding which is not instituted in conformity with the provisions of the Code, or of these rules or of any special enactment or of the rules applicable to it, shall be returned to the party or the practitioner concerned for amendment and representation. Unless the Registrar prescribes a shorter period, the proceeding shall be represented after compliance with all the defects pointed out, within ten days after the notification of the defect, on the Notice-Board of the Court.

³⁷ Please read as Order 44 Rule 1 (1) of the Code.



LAWYERSTATUTES

(2) Every proceeding represented either without rectifying all the defects pointed out or after the expiry of the time allowed under the preceding sub-rule should be accompanied by a petition for extension of time supported by an affidavit, where necessary.

(3) The period prescribed for representation shall be computed afresh for each return pointing out fresh defects.

³⁸[(4) Proceedings represented after a period of three months after the expiry of time allowed will be posted before Court marked 'not represented in time - for orders.]

Stamped application to be filed for extension of time

O. 4 R. 10.- Where these rules fix a time-limit for doing any act in the Court, the same shall be extended only on a duly stamped application.

Power of Registrar to fix time if no time limit is fixed for doing any act

O. 4 R. 11.- Where these rules fix no time-limit for doing any act in the Court, Registrar may, in his discretion, fix the time within which the act should be done and may grant such further time as he deems proper in the circumstances of the proceeding.

Notice to Attorney-General / Advocate-General in proceeding involving question of law

O. 4 R. 12.- (i) In any proceeding in which a substantial question of law as to the question of interpretation of the Constitution is involved, the Court may direct issue of notice of the proceeding:

(a) to the Attorney-General of India, if the question of law concerns the Union Government, or

(b) to the Advocate General if the question of law concerns the State Government.

(ii) The Court may also direct issue of notice of any other proceeding to the Advocate-General.

(iii) The Attorney-General or the Advocate-General to whom notice is given may appear and take such part in the proceeding as he may be advised.

(iv) The Attorney-General or the Advocate-General may, apply to be heard in any proceeding before the Court, and the Court may, if, in its opinion, the justice of the case requires, hear the Attorney-General or the Advocate-General, subject to such terms as to costs as the Court deem fit.

³⁹[(v) In any proceeding in which any question of interpretation of a State enactment or a rule made by the State Government is involved, the Court may direct the issue of notice of the proceeding to the Government Pleader, whether the State Government is a party to such proceeding or not.]

³⁸ Rule 9 (4) ins. by P.Dis. 222/76, vide., TN Govt Gaz, Pt. III, Sec. 2., dt. 17.11.1996 at pg no.108 – (SROC 30/1976).

³⁹ Rule 12 (5) was added by P. Dis. 238/79, vide., TN Govt Gaz, Pt. III, Sec.2 dt. 12.12.1979 at pg no. 191 – (S.R.O.C. 20/79).



LAWYERSTATUTES

Application for revision against the decision of the taxing officer

O. 4 R. 13.- Any party dissatisfied with the decisions of the taxing officer under ⁴⁰**[Rules 43 and 48 of the Practitioners' Fees Rules]** may, within seven days from the date of the order of the taxing officer, apply to the Court by petition for a revision of the order.

APPEALS AGAINST ORIGINAL DECREES OF SUBORDINATE COURTS

O. 4 R. 14.- Every memorandum of appeal from an original decree of a subordinate court shall be accompanied by –

- (1) as many clear authenticated copies on plain paper of the memorandum of appeal as there are respondents to be served, together with another such copy for the Court record;
- (2) the particulars for service of notices on the respondents set out in **Form No. 2** of the Schedule to these rules;
- (3) the fees prescribed for service of such notices on the respondents;
- (4) such other papers as are referred to in ⁴¹**Order XLI of Order XLI-A** of the Code.

O. 4 R. 15.- Intimation of the order to issue notices to the respondents in every appeal shall be given by affixture of such intimation on the notice board of the Court.

APPEALS AGAINST ORDERS AND APPEALS AGAINST APPELLATE DECREES AND ORDERS

⁴²**[O. 4 R. 16.-** Every memorandum of appeal against an order, appellate decree or appellate order shall be accompanied by –

- (1) as many clear authenticate copies on plain paper of the memorandum of grounds of appeal as there are respondents to be served, together with another such copy for the Court record;
- (2) the particulars for service of such notices on the respondents set out in **Form No.2** of the schedule to these rules;
- (3) the fees prescribed for service of such notices on the respondents; and
- (4) such other papers as re referred to in ⁴³**Order XLII and XLIII** of the code.]

O. 4 R. 17.- A list of appeals to be heard under **XLI, Rule 11 and Orders XLII and XLII read with Order XLI Rule 11 of the Code** shall be affixed to the notice board of the Court. Any such appeal may be posted for hearing not less than three clear days after the list in which it has been entered has been so affixed and such affixture shall be sufficient notice to the appellant.

O. 4 R. 18.- Intimation of the direction to issue notice in every appeal against an order or an appellate decree or an appellate order shall be given by affixture of such intimation on the notice board of the Court.

⁴⁰ For Practitioners Fees Rules R. 43 & 48 - plz refer to corresponding new law Legal Practitioners Fees Rules, 1973.

⁴¹ Please read as Order 41 of Order 41-A of the Code.

⁴² Subs. by P.Dis. 236/79, vide., TN Govt Gaz, Pt. III, Sec. 2 dt. 12.12.1979 at pg no. 190.

⁴³ For XLII and XLIII – please read 42 and 43 of the Code.



CIVIL REVISION PETITIONS

O. 4 R. 20.- Civil revision petitions shall be presented within such time as is prescribed by any enactment. Where no period of limitation is prescribed, the civil revision petition shall be presented within ninety days of the order complained of or within such further time as the Court may, on an application made for the purpose, allow. The provisions of **Section 12 of the Limitation Act** shall apply in computing the said period of ninety days.

O. 4 R. 21.- Civil revision petitions under **section 115 of the Code** or any other enactment shall be accompanied by –

- (1) a certified copy of the decree or order which is to be revised;
- (2) a certified copy of the judgment, if any, on which decree is based;
- (3) a certified copy of the judgment or order, if any, of the Court or tribunal of the first instance;
- (4) one set of additional typewritten copies of the judgments and orders referred to above;
- ⁴⁵ [(5) as many clear authenticated copies on plain paper of the memorandum of grounds on the revision petition as there are respondents to be served, together with another such copy for the Court record;
- (6) the particulars for service of notices on the respondents set out in **Form No. 2** of the schedule to these rules; and
- (7) the fees prescribed for service of such notices on the respondents.]

O. 4 R. 22.- A list of civil revision petitions directed to be posted for order for issue of notices to the respondents in the manner prescribed for appeals under **Order XLI Rule 11 of the Code** shall be affixed to the notice board of the Court. Such petitions shall be posted for orders after expiry of three clear days from the date of such affixture.

O. 4 R. 23.- Intimation of the direction to issue notice in every civil revision petition shall be given by affixture of such intimation on the notice board of the Court.

O. 4 R. 24.- ⁴⁶[..Omitted.....]

O. 4 R. 25.- The provisions of **Order XXII of the Code** and the **Indian Limitation Act** relating to abatement shall apply to civil revision petitions.

O. 4 R. 26.- The provisions of Rules ⁴⁷[(3-A)], **11 (2), 17, 18, 19 and 21 of Order XLI of the Code** shall apply *mutatis mutandis* to civil revision petitions.

*[Also refer [O. 2 r. 3 \(4\)](#)]

⁴⁴ O. 4 R. 19 – omitted by P.Dis. 236/79

⁴⁵ Old sub-rule (5) subs. and sub-rules (6) & (7) ins. by P. Dis. 236/79.

⁴⁶ Rule 24 – Omitted by P.Dis. 236/79 vide, TN Govt Gaz, Pt. III., Sec. 2 dt. 12.12.1979 at pg no. 190.

⁴⁷ The expression “3-A” was ins. by P.Dis. 137/81, vide., TN Govt Gaz., Pt. III., Sec. 2 dt. 5.8.1981 at pg no. 189. [S.R.O.C. 33/81].



LAWYERSTATUTES

O. 4 R. 27.- Notwithstanding anything contained in **Rules 23** and ⁴⁸**[24]**, if on an application of an interlocutory character presented in any revision petition, an interim order is passed with a direction to issue notices to the respondents in the application, notices shall be issued simultaneously fixing the same hearing date both in the application and the petition. A single process fee shall suffice in respect of respondents common to both proceedings. Separate process fee shall be paid in respect of respondents who are parties to the revision petition but not parties to the application.

The civil revision petition and the application shall be posted together for final disposal within a fortnight after service of notices on the parties.

APPEALS UNDER CLAUSE 15 OF THE LETTERS PATENT

O. 4 R. 28.- When an appeal against an appellate decree or order has been heard and disposed of by a Single Judge, any application for a certificate that the case is a fit one for further appeal under **Clause 15 of the Letters Patent** shall be made orally and immediately after the judgment has been delivered.

*[Also Refer to - [O.2 R.3](#)]

O. 4 R. 29.- In every appeal under **Clause 15 of the Letters Patent**, the memorandum of the grounds of the appeal shall be filed in duplicate.

⁴⁹**[O. 4 R. 30.-** An appeal under **Clause 15 of the Letters Patent** not being one specified in **Rule 3 (3)(i)(b) or (c) of Order II** shall be posted before a Bench of two Judges for orders whether notice shall issue to the respondents. A list of such appeals shall be affixed to the Court Notice Board.]

O. 4 R. 31.- Intimation of the direction to issue notices to respondents in every appeal under **Clause 15 of the Letters Patent** shall be given by affixture of such intimation on the notice board of the Court.

O. 4 R. 32.- Within two weeks of the intimation referred to in the preceding rule, the appellant shall serve, on the practitioners on record for a respondent, a copy of the memorandum of the grounds of the appeal and bring into Court the acknowledgment of such service. Such service shall be deemed to be sufficient service on the parties whom they represented.

Where however notice has to be served direct on a respondent, the appellant shall, within two weeks of the intimation referred to in the preceding rule, bring into Court, the particulars for service of notice on the respondent set out in **Form No. 2 of the Schedule** to these rules, the fee prescribed for the service of such notice and an authenticated copy of the memorandum of the grounds of appeal.

In default thereof, the appeal shall be posted before Court for orders.

PETITIONS

O. 4 R. 33.- Every application shall be made by a petition to the Court stating the provision of law under which the relief is sought. Any evidence in such a petition may be given by affidavit.

O. 4 R. 34.- When a practitioner presents a petition, it shall bear his signature; when a party presents a petition, it shall be signed or marked by him and such

⁴⁸ Rule 24 – Omitted by P.Dis. 236/79 vide, TN Govt Gaz, Pt. III., Sec. 2 dt. 12.12.1979 at pg no. 190.

⁴⁹ This rule was subs. By P.Dis. 538/68.



LAWYERSTATUTES

signature or mark shall be acknowledged or made before a person authorized under **Order III, Rule 9**, to attest a vakalat. Where a party cannot read or write the language in which the petition is drafted, the person before whom the party acknowledged the signature or mark shall append a certificate as follows:

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

O. 4 R. 35.- Petitions which are couched in improper language or are unnecessarily prolix shall be returned for amendment. ***[Plz refer O. 2 r.4 (9)]**

O. 4 R. 36.- In every application where notice is ordered and notice through Court becomes necessary, the applicant shall, within three days after the order directing issue of notice, bring into Court, the particulars for service of notice on the respondents in **Form No. 2 of the Schedule** to these rules, the notices in **Form No. 3 of the Schedule** to these rules in duplicate for service of notice on each respondent, the fees prescribed for service of such notice and the requisite number of authenticated copies of the affidavit filed in support of the petition.

In default thereof, the petition shall be posted before Court for orders.

In every such application, unless the Court otherwise directs, the date fixed for hearing shall be not less than three weeks from the date of the order to issue notice.

O. 4 R. 37.- (i) In every application of an interlocutory nature seeking any relief pending disposal of the main proceeding in the Court, unless the Court otherwise directs, notice need not be given to a party who has been served with notice of the main proceeding and has not entered appearance within the time allowed, or to whom notice of the main proceeding has been dispensed with by Court.

(ii) Before such an application is made for an interlocutory order against a party who has entered appearance, the applicant or his practitioner shall serve on the practitioners on record for the opposite party in the main proceeding, copies of the petition and affidavit and file, along with the application, acknowledgements of service. Such service shall be deemed to be sufficient service on the party whom they represent.

(iii) In case of urgency, the applicant may apply to the Registrar that any such application may be posted for orders without notice to any party.

(iv) Where an application is presented before the date fixed for the appearance of the respondents in the main proceedings, and notice is ordered to the respondents, the applicant shall bring into the Court within three days after the order directing issue of notice, the particulars for service of notice on the respondents set out in **Form No. 2 of the Schedule** to these rules, the notices in **Form No. 3 of the Schedule** to these rules in duplicate for service of notice on each respondent, the fees prescribed for service of such notices and the requisite number of authenticated copies of the affidavit filed in support of the application.

In default thereof, the petition shall be posted before the Court for orders.

(v) Any interim order made on any such application shall not be communicated to the subordinate Court until the process fees and the necessary papers have been filed for service on the respondents, where such service is necessary.

O. 4 R. 38.- The Court may, in its discretion, direct that the costs of only the first notice shall be allowed to the applicant. ***[Plz refer O. 2 r. 3 (5)].**



LAWYERSTATUTES

O. 4 R. 39.- An affidavit intended to be used in support of a petition shall be filed therewith and notice thereof shall be given to the other parties. If any party served with such notice intends to use an affidavit at the hearing of the petition, he shall, not less than three days before the hearing, file the affidavit into Court together with proof of service on the petitioner.

An affidavit in respect of which default has been made shall not be read in evidence except by leave of Court.

MISCELLANEOUS MATTERS

Receipt of findings from lower Court and filing of objections thereto.

O. 4 R. 40.- When, in an appeal or petition, a finding is called for from a subordinate Court and the finding is received, intimation of the receipt of such finding shall be given by affixture of such intimation on the notice board of the Court. Any party desirous of objecting to the finding shall, unless otherwise ordered, within seven days after such notice, file into Court a memorandum of his objections and serve a copy thereof on the opposite party.

Application for amendment of memorandum of appeal or objections or petition of revision

O. 4 R. 41.- Every application for leave to amend a memorandum of appeal or objections or a petition of revision shall be made by petition supported by affidavit, if necessary, and after notice to the opposite party.

Notice in review petition

O. 4 R. 42.- Where, in a petition for review, notice is ordered to the opposite party, such notice shall be served on the practitioner who represented the party in the main proceeding and such service shall be deemed to be sufficient service on the party whom he represented. A practitioner may refuse, in writing, to accept such notice. The petitioner shall then be required to take out notice to the party direct. The practitioner who has refused to accept notice shall not be presumed to appear for the party thereafter except on filing a fresh vakalat. In cases where the opposite party has not appeared by a practitioner in the main proceeding, notice shall be served to the party direct.

Permission to move before another Bench if one Bench is not sitting

O. 4 R. 43.- An applicant may, if a matter is urgent and the Bench before which it ought to be moved is not sitting, apply to the Registrar for permission to move the same before another Bench. The Registrar shall thereupon obtain the orders of the Honourable the Chief Justice.

Notice to substituted or newly added parties

O. 4 R. 44.- Where in any proceedings an order is made for the substitution or addition of any party and service of notice of the proceeding on the party substituted or added becomes necessary, the appellant or the petitioner shall, within seven days after the order directing the substitution or addition, bring into Court the particulars of service of notice on the party in **Form No. 2** of the Schedule to these rules, the fee prescribed for service of such notice and an authenticated copy of the memorandum of the grounds of appeal or petition.



ORDER V - APPOINTMENT OF GUARDIAN

Application for appointment of Guardian

0.5 R. 1.- Every application for the appointment of a guardian for a minor respondent shall be supported by an affidavit stating that the proposed guardian has no interest in any manner in question in the proceeding adverse to that of the minor. No order shall be made on the application unless notice thereof has been duly served upon the father or guardian of the minor or upon the person with whom the minor resides, six clear days before the day named in the notice for the hearing of the application.

Separate application for bringing on record legal representatives and for appointment of guardian

0.5 R. 2.- An application for the appointment of a guardian *ad litem* shall not be combined with an application for bringing on record the legal representatives of a deceased appellant, petitioner or respondent.

Funds to conduct appeal by guardian

0.5 R. 3.- When a guardian *ad litem* of a minor respondent is appointed, and it is made to appear to the Court that the guardian is not in possession of any or sufficient funds for the conduct of the appeal on behalf of the respondent, and that the respondent will be prejudiced in his defence thereby, the Court may, from time to time, order the appellant to advance moneys to the guardian for the purpose of the defence, and all moneys so advanced shall form part of the costs of the appellant in the appeal. The order may direct that the guardian do, as and when directed, file in Court an account of the money so received by him.

ORDER - VI AFFIDAVITS

Affidavits & Its form

0.6 R. 1.- Every affidavit used on the appellate side, shall be entitled 'in the High Court of Judicature, Appellate Side, Madras' and shall set forth the cause-title of the appeal or other proceeding in which the affidavit is sought to be used as evidence. An affidavit in support of, or in opposition to, an interlocutory application relation to an appeal, petition or other proceeding pending in the High Court shall also be entitled as made in such appeal, petition or other proceeding.

0.6 R. 2.- Every declarant of an affidavit shall be described in such a manner that he can be identified clearly; his full name, his father's name, his age, his religion, his profession or trade, and his place of residence shall be given.

0.6 R. 3.- An affidavit shall be confined to statements of fact and be divided into numbered paragraphs, each paragraph being confined, as nearly as may be, to a distinct portion of the subject.

0.6 R. 4.- When the affidavit covers more than one side of the sheet of paper, the writing shall be on both sides of the sheet, and the declarant shall sign his name at the foot of each page.

0.6 R. 5.- When the declarant speaks to any fact within his own knowledge, he shall do so directly and positively using the words '*I make oath (or affirm) and say*'.



LAWYERSTATUTES

O. 6 R. 6.- When a particular fact is not within the declarant's own knowledge, but is stated upon information, the declarant shall use the words 'I am informed by (giving the source of the information, if possible) and verily believed it, to be true,' and set forth the grounds of his belief, if any.

Affidavit before whom to be attested

O. 6 R. 7.- Affidavit intended for use on the Appellate Side of the Court may be made before any person authorised under these rules to attest a vakalatnama.

Documents referred to in an affidavit, how to be marked and certified

O. 6 R. 8.- Documents referred to in affidavits shall be referred to as exhibits and shall bear a certificate signed by the person before whom the affidavit is made in the following form:

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

(Signed) CD

Designation

Form of attestation by the person before whom affidavit is made

O. 6 R. 9.- The person before whom an affidavit is made shall state the day when and the place where the same is made and sign his name and add his designation at the end in the following form:

Sworn (or solemnly affirmed) aton this.....day of.....19....

(Signed) A.B.

Before Me

(Signed) C.D.

(Designation)

Alterations and interlineations in an affidavit to be authenticated

O. 6 R. 10.- Alterations and interlineations, if any, in an affidavit shall be authenticated by the initials of the person before whom the affidavit is made and no affidavit containing any alternation or interlineations not so authenticated, or any erasure, shall, except with the leave of the Court, be filed or made use of in any manner. The number of alterations or interlineations so authenticated shall be noted at the foot of each page under the initials of such person. Each page shall be serially numbered at its foot under the initials of the person before whom the affidavit is made.

If declarant to an affidavit affixing thumb impression Identifying to the swearing officer necessary

O. 6 R. 11.- If the person before whom an affidavit is made does not know the declarant himself, he shall require him to be identified to his satisfaction. In such cases, he shall specify at the foot of the affidavit the name and description of the person who identified the declarant before him.



LAWYERSTATUTES

Where there has been no such identification, he shall take the impression of the left thumb of the declarant at the foot of the last page and the following certificate shall be appended to it:

‘Certified that this is the impressions of the left thumb of the declarant of the above affidavit.’

(Signed) C.D.

(Designation)

Affidavit by illiterate or blind person

O. 6 R. 12.- If the person making affidavit is ignorant of the language in which it is written, or appears to be illiterate, or blind, the person before whom it is made shall have it read over to him in his presence in a language which he understands. Thereafter he shall be sworn or be affirmed in the usual manner, and a certificate in the following form shall be appended to the affidavit:

*Sworn (or solemnly affirmed) at.....
onthis.....day of.....19, before me.*

(Sd) A.B.

*The contents of this affidavit (or solemn affirmation)
and the exhibits therein referred to have been first
truly and audibly read over to the declarant in.....
he being unacquainted with (or being blind or illiterate),
who appeared perfectly to understand the same and made
his mark thereto (or signed his name) in my presence.*

*(Signed) C.D.
(Designation)*

O. 6 R. 13.- In administering oaths and affirmations, the provisions of the ⁵⁰**Indian Oaths Act (X of 1873)** shall be observed.

The following forms are to be used:

OATH

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

SOLEMN AFFIRMATION

‘I, A.B., do solemnly affirm in the presence of Almighty God that that is my name and handwriting and that the contents of this my affidavit are true.’

OR

‘I, A.B., do solemnly, sincerely and truly declare and affirm that that is my name and handwriting and that the contents of this my affidavit are true.’

ORDER – VII - SERVICE OF NOTICES

O. 7 R. 1.- Unless otherwise ordered, every notice issued in respect of proceedings in the High Court shall be sent in the first instance to the address of the respondent given in the memorandum of appeal or petition, as the case may be, by means of registered post, prepaid for acknowledgment. An acknowledgment purporting to be signed by the respondent shall be deemed to be sufficient proof of service of such notice.

⁵⁰ Indian Oaths Act, 1873 (10 of 1873) repealed and replaced by The Oaths Act, 1969 (44 of 1969)



LAWYERSTATUTES

Provided that a notice issued in respect of the following proceeding shall, in the first instance, be sent through Courts –

- (i) Notice or Rule Nisi in an application for the issue of a writ;
- (ii) Injunctions;
- (iii) Notice to a proposed guardian *ad litem*;
- (iv) Notice to a party residing in the City of Madras.

⁵¹[Provided further that the Court may, in addition to the service of notice in the manner as aforesaid, whether in the first instance or subsequently, order service of notice privately also, by registered post prepaid for acknowledgement and the filing into the Court of the acknowledgement of such service of notice, together with an affidavit of such service.]

An acknowledgement purporting to be signed by the respondent or respondents, as the case may be, filed together with an affidavit of service, shall be deemed to be sufficient proof of service of notice in the proceedings. An endorsement of refusal, however, of the notice shall not be deemed to be due service of notice in the proceedings or be declared as such by the Court.]

⁵²[Provided further that in case the Court orders Notice of Motion or Notice before Admission on any Writ Petition, the process fee paid for the Writ Petition at the time of filing may be utilised for effecting service. Even after such service, if any respondents remained unserved and the Court admits the Writ Petition subsequently and issues *rule nisi*, then for the unserved respondents, fresh process fee (Bata) will have to be paid by the petitioners.]

Service of notice on Practitioner who has entered appearance for respondent before service

O. 7 R. 2.- When, in an appeal or petition of revision, appearance has been entered by a practitioner for a respondent, before the notice of appeal is served on him, a copy of the notice shall be served by the Registrar on the practitioner immediately on his entering appearance. Such notice shall be deemed to be a notice for the purpose of **sub-rule (2) of Rule 2 of Order XLI-A in the first Schedule of the Code.**

Service of notice on pleader for parties in the lower Court

O. 7 R. 3.- (1) In any appeal, or other proceeding instituted in the High Court before the disposal of the main proceeding in the subordinate Court, notice shall be served on the practitioner who represents the party in the main proceeding in the sub-ordinate Court and such service on the party who is represented by such practitioner. Where a party is not represented by a practitioner in the main proceeding, notice shall be served on the party direct.

(2) Where the practitioner on record for a party declines to receive such notice, the case shall be posted before Court for orders. ***[Also Refer to - O. 4 R.8]**

Schedule of Process fees

⁵³**O. 7 R. 4.-** The following fees shall be charged for the service and execution of processes issued by the High Court, Madras, in its Appellate Jurisdiction.

⁵¹ Second proviso ins. by SROC 13/85, also vide., TN Govt Gaz., Pt. III., Sec. 2 dt. 24.4.1985 at pg no. 28.

⁵² Ins. by ROC No. 194-A/2010/F1: SRO C-6/2012 vide., TN Govt Gaz., Pt.III., Sec. 2., Issue No. 26 dt. 4.7.2012 at pg no. 52.

⁵³ Subs. By P.Dis. 209/85, vide., TN Govt Gaz, Pt. III., Sec. 2 dt. 27.4.1985 at pg no. 74.

LAWYERSTATUTES

Nature of Process		Amount Leviable Rs. P.
(A)	For each summons or notice --	
	(i) When served by Registered Post for each respondent or witness.	³⁹ [30].00
	(ii) When served by an Officer of the Court	
	(a) for a single respondent or witness.	2.25
	(b) for each additional respondent or witness residing in the same village, if the process is applied for at the same time.	1.15
(B)	(i) Process fee for W.M.P.'s C.M.P. 's including notice except injunction.	4.00
	(ii) For each injunction or Rule Nisi (other than a Rule Nisi in a writ in the nature of habeas corpus).	4.50
	(iii) Process fees for Writ Petitions (to be paid at the time of filing of the writ petition).	5.00
(C)	For urgent process, the fee shall be the ordinary fee and half as much again.	

Notes: (1) Where notice is served on a practitioner on behalf of several respondents under **Rule 3**, there shall be a single service and a single fee. Where a guardian represents several minors, a combined notice shall be sent and a single fee shall be charged therefor. A single process fee shall be charged for each party in a case, where notice of an interlocutory application as well as of a revision petition is to be served on him under provisions of **Order IV Rule 27**.

(2) When a process under item (A) or (C) above is to be sent to any country outside India by Air Mail, the amount of fee leviable shall be 75 paise plus actual charges required for postage, which shall be deposited by the party in the shape of postal stamps.]

⁵⁴[(3) Where parties file petitions for bringing on record the legal representatives along with.-

(a) petitions to set aside the abatement; or

(b) petitions to set aside the abatement, along with petitions for condonation of delay in setting aside the abatement.

A single batta shall be charged.]

In references under Indian Divorce Act & Stamp Act No fee to be charged for issue of notice

O. 7 R. 5.- In references under the provisions of the **Indian Divorce Act (Act IV of 1869)** and **the Indian Stamp Act (Act II of 1899)** no fee shall be charged for the issue of notices to any of the parties to such references.

Process Fees in Court Fee labels

O. 7 R. 6.- The fees for the service of notices on respondents shall be paid in the form of Court-fee labels and the Court-fee labels shall be affixed to a memorandum in **Form No. 2 of the Schedule** to these rules.

Deposit of further fees for service of fresh notice

O. 7 R. 7.- If any notice is returned unserved, that fact and the reason therefor shall be notified on the notice board of the Court. Within fifteen days thereafter,

⁴⁰ Added by SRO No. 11/2010, Roc. No. 1660-A/2010/F1., vide., TN Govt Gaz., Pt. III., Sec. 2 dt. 8.12.2010.



LAWYERSTATUTES

except when the notice has not been served because the respondent concerned is dead, the appellant or his practitioner shall deposit a further fee for service of a fresh notice with particulars for service of such notice. ***[Plz refer O.2 r.4 (27)(1)].**

Service by affixture

O. 7 R. 7-A.- ⁵⁵[(1) Where the Court is satisfied that there is a reason to believe that the respondent is keeping out of the way for the purpose of avoiding service or that for any other reason the notice cannot be served in the manner above contained, 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 respondent 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;

(2) Service substituted by order of the Court shall be effectual as if it had been made on the respondent personally; and

(3) Where service is substituted by order of Court, the Court shall fix such time for the appearance of the respondent as the case may require.]

Bench Clerk to determine whether notice served

O. 7 R. 8.- The Bench clerk of the Court shall determine whether a notice has been duly served or not and direct the issue of fresh notice. ***[Plz refer O. 2 r. 3 (6)]**

Provided that if any party or practitioner is dissatisfied with the direction of the Bench clerk, the matter shall be referred to the Registrar for orders.

If default in payment of process fee Matter to be posted for orders of the Court

O. 7 R. 9.- When a party or practitioner has failed to pay into the office of the Registrar, within the prescribed period, the fees required for the service of any notice to the respondent, the matter shall be posted for orders of the Court.

ORDER VIII

PREPARATION OF THE RECORD IN APPEALS AGAINST ORIGINAL DECREES OF SUBORDINATE COURTS

The following rules shall have effect unless otherwise ordered by Court:

⁵⁶[.....Omitted.....]

Filing of lists of papers to be called for from lower Court by Appellant and respondent in First Appeals.

O. 8. R. 1.- The appellant, at the time he files his memorandum of appeal, and the respondent, within 30 days after service on him of the notice of the appeal, shall each file into Court a list in **Form No. 4 of the Schedule** to the rules setting out all interlocutory applications and other papers which he requires to be called for from the subordinate court for purposes of the appeal. ***[Plz refer O. 2 r. 4 (27) (a)]**

⁴¹ Rule 7-A was ins. by SROC 12/77, vide., TN Govt Gaz., Pt. III., Sec. 2, dt. 25.5.1977.

⁵⁶ The heading "General" was omitted by P.Dis. 118/72., vide., TN Govt Gaz., Pt. III., Sec. 2 dt. 5.1.1982.



LAWYERSTATUTES

⁵⁷[The list above referred to shall contain a full description of the papers required to be called for. No papers other than pleadings and records relating to amendments thereof, B. Diary, Judge's Notes, if any, exhibits, depositions and records relating to commission enquiry will be called for from the subordinate court, unless specifically mentioned in the list.]

The parties shall specify in the lists the number of copies that they require of the record prepared in accordance with these rules.

Time for pointing out portions required to be translated and included in the record.

O. 8 R. 2.- Notwithstanding anything in **Rule 1**, where the respondent prefers a memorandum of cross-objections, he shall be entitled to file, along with the memorandum, a list of further papers, if any, which he desires to be called for from the subordinate court; and if he does so, the appellant also shall be entitled, within two weeks of the service of the memorandum of cross-objections on him, to specify any additional papers he desires to be called for. If parties exercise the option conferred by this rule, the provisions of **Rule 1** shall *mutatis mutandis* apply to the additional papers called for from the subordinate court.

⁵⁸**O. 8 R. 3.**- ⁵⁹(i) The pleadings specified in **Rule 9** shall be prepared by Court compulsorily and the preparation of documents shall commence only on payment of charges therefor; ***[Plz refer O. 2 r. 4 (27) (b)].**

(ii) As soon as practicable, after the records called for have been received from the subordinate court, the Registrar shall cause a notice or memorandum to be issued to the advocate for the appellant requiring him within twenty-five days of the date of the said notice or memorandum or within such time, as the Court, may, on application, allow, to deposit into Court, the estimated charges for the preparation of the pleadings; in the event of default; the appeal shall be posted before the Court for orders under **Rule 10 of Order XLI-A of the Code**;

(iii) As soon as practicable, after the estimated charges for the preparation of the pleadings is deposited, the Registrar shall cause a notice to be issued to the advocate for the appellant, requiring him within two weeks from the date of the said notice to point out the documents or portions thereof, which he desires to be translated and typed and included in the record of the case. After the appellant points out his documents, notice shall issue to the counsel for the respondent requiring him, within two weeks of the date of the said notice to point out the documents or portions thereof which he desires to be translated and typed and included in the record of the case. In default, the documents will be excluded from the record;

(iv) The Registrar, shall estimate the charges for the preparation of the record pointed out by the parties including the charges for translation if any, and shall issue a bill for the payment of the same. The parties shall pay into Court the sum specified within twenty-five days from the date of the bill. On such payment, the preparation of the record shall be commenced.]

Inspection of list of documents and obtaining of copies thereof

O. 8 R. 4.- Any party shall be entitled to inspect, in the Registrar's office, the list of documents pointed out under the preceding rule by any other party in the case, and at his own expense, to obtain a copy of the whole or any portion thereof under the rules of the High Court relating to the grant of copies.

⁵⁷ Subs. by P.Dis. 396/72., vide., TN Govt Gaz., Pt. III, Sec. 2., dt. 27.7.1972 at pg no. 113.

⁵⁸ Subs. By P.Dis. 396/75., vide., TN Govt Gaz., Pt. III, Sec. 2 dt. 2.4.1975 at pg no. 24.

⁵⁹ Subs. by P.Dis. 396/75, vide., TN Govt Gaz., Pt. III, Sec. 2 dt. 2.4.1975 at pg no. 24.



LAWYERSTATUTES

Papers other than Tamil to be translated into English

O. 8 R. 5.- Except as provided in ⁶⁰[[Rule 35](#)] it shall not be necessary to translate into English any papers in the Tamil language. Papers in languages other than Tamil shall be translated into English. Where it is necessary to translate any paper into English, it shall be done through Court.

O. 8 R. 6.- ⁶¹[.....**Rule 6 omitted**.....].

Dismissal of appeal under rule 10 of XLI-A CPC any respondent who has filed memo of objection may with the leave of the Court deposit funds for further preparation.

O. 8 R. 7.- When an appeal is dismissed under **Rule 10 of Order XLI-A of the Code**, any respondent who has filed a memorandum of cross-objection may, with the leave of the Court, deposit within a time specified, funds sufficient for the further preparation of such record as may be necessary for the hearing of the memorandum of cross-objections.

Registrar's power to direct the translation and inclusion in the record of any paper not already on record.

O. 8 R. 8.- When an application is made for the translation and inclusion in the record, of any papers not already on record with a view of its admission in evidence, the translation and inclusion thereof in the record may be ordered by the Registrar, provided that the order shall be made without prejudice to the posting of the case. *[Plz O. 2 r. 4 \(11\)](#)].

Preparation and arrangement of records in First Appeals

⁶²**[O. 8 R. 9.-** The records shall be arranged into two parts –

(A) Pleadings and (B) Documents.

(A) Pleadings

Pleadings shall include –

- (i) a table of contents with reference to the appropriate pages in the record;
- (ii) the plaint, written statement and reply statement, if any;
- (iii) the judgment and decree and Schedules thereto;
- (iv) grounds of appeal and memorandum of cross-objections, if any, and any order calling for a finding or report, together with such finding or report, and the objections thereto, if any.

Notes:-

- (1) Issues, Judges' Notes and B Diary shall be included in the pleadings, if the parties apply for the same.
- (2) Judgments shall be printed by the High Court unless they have been already printed in accordance with the rules in the Civil Rules of Practice.

⁶⁰ Rule 35 subs. for Rule 37 by P.Dis. 56/75 (SROC 10/75).

⁶¹ O. 8 R. 6 – Rule 6 omitted by P.Dis. 56/75, (SROC 10/75).

⁶² Subs. By P.Dis. 56/75 (SROC 10/75).



LAWYERSTATUTES

- (3) Where judgments are printed in the High Court, one free copy thereof shall be granted to the respondent, and, if there are more respondents than one, to the respondent who applied for the same.
- (4) The paper book prepared through Court or privately shall be in separate volumes, one for pleadings and the other for documents. No volume of the paper book should contain more than 250 pages.

(B) Documents

This part shall include all the papers other than the pleadings which the parties desire to be included in the record. The documents exhibited shall be arranged in chronological order followed by the deposition of the witnesses examined in the case. The papers included under **Rule 8** shall next be arranged in their chronological order. A table of contents with reference to the pages of the record shall also be prefixed.

Note: In the depositions of witnesses, the rank and status of every witness in the array of parties in the suit, should be indicated.]

O. 8 R. 9-A.- ⁶³[**...Omitted**].

O. 8 R. 10.- Each part of the records A and B shall be separately and securely stitched and bound.

Hearing of appeal not to be delayed for failure of parties to include papers in record or to deposit required sum in Court in time

O. 8 R. 11.- The hearing of the appeal shall not be delayed by reason of the failure of a party to point out portions of papers to be included in the record or to deposit the required sum in Court within the prescribed period;

Provided that he may apply for further time in the manner prescribed by **sub-rule (2) of Rule 3 of Order XLI-A of the Code of Civil Procedure**. He shall then produce a certificate which will be granted by the Registrar, showing the dates on which the acts prescribed by the rules were or should have been done.

Provided further that the Registrar may, whenever he thinks fit, dispense with a formal application for extension of time, subject, however, to the condition that the fees payable in the case of a formal application are paid.

Provided further that the Registrar may, whenever he thinks fit, dispense with a formal application for extension of time, subject, however, to the condition that the fees payable in the case of a formal application are paid.

Appeals for hearing to be posted on the Court Notice Board after record been prepared

O. 8 R. 12.- When the record has been prepared so far as the sum deposited within the prescribed period permitted, the appeal shall be posted on the notice board of the Court as ready for hearing;

Provided that, unless otherwise ordered, no case shall be posted until after the expiration of eight weeks from the date of service of the notice of appeal upon the respondent.

⁶³ O. 8 R. 9-A – Rule 9A omitted by P.Dis. 118/72, vide., TN Govt Gaz Pt.III, Sec. 2, dt. 5.1.1972.



LAWYERSTATUTES

Power of Registrar to calculate the costs of the preparation of record

O. 8 R. 13.- The Registrar shall calculate the cost of the preparation of the number of copies of the record required by each party in the list filed under [Rule 1](#), and, if the said sum is less than the amount already deposited by the party, that party will be entitled to delivery of the copies and, the excess, if any, may be refunded after the case is disposed of. Where, however, the cost of the copies exceeds the sum deposited, the parties shall pay the same and the copies shall be delivered only on payment of such excess;

Provided that in cases to which Government is a party, the Law officers of the Government shall be supplied with the copies of the record free of charge, but the charge incurred there for shall be entered in the accounts maintained for the purpose.

Practitioner to be responsible for charges for preparation of records

O. 8 R. 14.- Practitioners shall be responsible to the Registrar for all the translation and other charges for the preparation of the record incurred on their behalf under these rules. The Registrar shall have power to stop at his discretion the issue of all or any papers to any practitioner who has failed to pay any money due by him under these rules ⁶⁴[unless the practitioner show cause as to why such action should not be taken against him;

Provided that any sum due as translation and printing charges under these rules may be directed to be recovered from the parties concerned under the provisions of the ⁶⁵[Madras] Revenue Recovery Act, 1864, as though they were arrears of land revenue.]

Charges to be levied for preparation & translation of record

O. 8 R. 15.- The rates of charges to be levied for the preparation of the record including the charges for translation of papers and comparison of records privately prepared, with the originals in Court, shall be as determined, from time to time, by the Chief Justice and published on the notice board of the Court.

Charges for translation and preparation will be costs in the cause

O. 8 R. 16.- The charges for translation and preparation of the record will, as a rule, be costs in the cause. But if it appears to the Court that the translation, or the inclusion in the record, of any paper was not necessary for the proper determination of the case, the party, at whose instance the translation or inclusion was effected, may be ordered to bear the costs thereof.

Copies of translation made for the convenience of the Court

O. 8 R. 17.- When a paper not included in the record under these rules is in a language other than English and has been translated into English for the convenience of the Court, any party to the case, who desires to have a copy of such translation for the purpose of the hearing of the case or of any interlocutory application in connection therewith, shall apply therefor in writing to the Registrar. ***[Plz refer O. 2 r. 3 (7)]**

O. 8 R. 18.- The application shall be granted unless the Registrar is satisfied that it has been preferred with some improper object. All copies granted under this rule shall be clearly marked as follows:-

⁶⁴ The words - Ins. by SROC 10/75.

⁶⁵ For the word "Madras" instead read as "Tamil Nadu".



LAWYERSTATUTES

Uncertified copy of a translation of exhibit in Appeal / Petition No:.....of 19.....on the file of the High Court. This translation was prepared in the High Court for the purpose of Appeal / Petition No:.....of19.....and the copy wasgranted.....to counsel / advocate for.....solely for use at the hearing of the said appeal / petition and must not be made use off or any other purpose.

Fees for oral translations made in Open Court

O. 8 R. 19.- Whenever, with permission of the Court, a paper which has not been previously translated as provided above is translated orally in open Court, the party at whose instance the translation is made shall be charged a special fee of Rs. 3 per page or fraction of a page.

Court may refuse to permit either party to rely on any paper not included in the record

O. 8 R. 20.- At the hearing of an appeal, the Court may refuse to permit either party to refer to, or rely on, any paper not included in the record prepared in accordance with the rules.

⁶⁶[.....Omitted.....]

O. 8 R. 21.- ⁶⁷[Unless the Court otherwise orders, it shall not be necessary to print any part of the record, but the record shall be got cyclostyled by the Registrar on paper of metric size 21.5 x 30 cm with double spacing and with an outer margin not less than 3.5 cm wide, each page containing not more than 30 lines:

Provided that the Registrar, may, in his discretion, have the record typed so however that the charges for typing the record shall not exceed the charges for having it cyclostyled]

Preparation of records privately

O. 8 R. 22.- An appellant may, at any stage, apply to the Registrar for permission to prepare the record privately:

⁶⁸[Provided however, that no such application be entertained if filed beyond four weeks of the date of the bill of the estimated charges referred to in **Rule 3 (iv).**]

O. 8 R. 23.- If the application is granted, **Rules 24 to 34** shall govern the preparation of the record by the appellant.

O. 8 R. 24.- The record shall be cyclostyled or typed on paper of substantial thickness and in conformity with the requirements of **Rule 21**.

O. 8 R. 25.- Within two weeks after the application under **Rule 22** is ordered, the appellant shall file into Court, together with proof of service on the respondents who have entered appearance –

(1) a list setting out all the papers on which the appellant proposes to rely at the hearing of the appeal and desires to be included in the record; and

(2) a list setting out the papers of which the appellant requires copies from Court for being included in the record. ***[Plz refer O.2 r.4 (27) (d)].**

⁶⁶ "Section A" and preamble were omitted by P.Dis. 118/72., vide., TN Govt Gaz., Pt.III, Sec. 2 dt. 5.1.1972.

⁶⁷ Subs. by SROC 1/75, vide., TN Govt Gaz., Pt.III., Sec. 2 dt. 22.1.1975 at pg no. 2.

⁶⁸ Subs. by SROC 10/75., vide. P.Dis. 56/75 vide., TN Govt Gaz., Pt.III., Sec. 2 dt. 2.4.1975 at pg no. 24.



LAWYERSTATUTES

O. 8 R. 26.- The respondent shall, within two weeks after he is served with the notice by the appellant under **Rule 25**, file into Court, together with proof of service on the appellant, a list of the papers on which the respondent proposes to rely at the hearing of the appeal and desires to be included in the record, with a further list setting out the papers of which he requires copies from Court for inclusion in the record. The respondent shall be entitled to exclude from his list the papers which the appellant has included in the list he has furnished under **Rule 25**. **[Plz refer [O. 2 r. 4 \(27\) \(e\)](#)].*

O. 8 R. 27.- The Registrar shall thereafter estimate the charge for (1) translating into English such papers as the appellant desires to be translated and (2) copying such papers as the appellant desires to be copied, and notify the charges on the notice board of the Court. The appellant shall pay the sum specified within twenty-five days thereafter. On such payment being made, the papers shall be prepared.

A list of cases in which copies of translation of papers applied for by the parties are ready to be delivered to them, with the charges for preparation due from the parties, if any, entered therein, shall be published on the notice board from time to time.

The Registrar shall calculate the actual charges for the preparation of translation and copies and, if the said sum is less than the amount deposited, the appellant shall be entitled to delivery of the papers and the excess, if any, shall be refunded. When however, the cost of preparation exceeds the sum deposited, the appellant shall pay the same and the copies shall be deliverable only on payment of such excess.

Papers so delivered shall be used only for the purpose of the appeal and shall not deemed to be certified copies.

The provisions of this rule shall apply *mutatis mutandis* to translation and copy of papers required by the respondent. **[Plz refer [O. 2 r. 4 \(27\) \(f\)](#)].*

O. 8 R. 28.- (1) Within two weeks of the service, on the respondent, of the list under **Rule 25** and, in cases where he applies for and obtains the translation for copies from Court under **Rule 26**, within two weeks from the receipt by him of the papers from Court under **Rule 27** or within such further time as the Registrar may, on the application of the respondent, allow, the respondent shall forward to the appellant the papers which have been delivered to him by Court under **Rule 27**, together with the certified copies of all the other papers which he desires to be included in the record to be printed by the appellant. The respondent shall simultaneously lodge with the Registrar a list of papers delivered to the appellant, together with the acknowledgment of the appellant.

(2) The appellant shall include in the record all papers which the respondent desires to be included therein and of which copies have been furnished to him under sub-rule (1), provided that--

(i) It shall be open to the appellant to apply to the Court to exclude any paper required to be included by the respondent from the record required to be prepared by the appellant;

(ii) It shall be open to the respondent to prepare any such paper he desires to refer, and have them examined by the office under **Rule 30** at his cost. He shall file into Court copies equal to the total number of copies prepared in the case.



LAWYERSTATUTES

(iii) Appropriate orders might be made by the Court hearing the appeal, as regards costs incurred by the inclusion of unnecessary papers at the instance of any party. ***[Plz refer O. 2 r. 4 (27) (g)].**

O. 8 R. 29.- Within six months after the delivery, by the Court to the appellant, of all papers for which he has applied, or within three months after the delivery to him of the papers by the respondent under **Rule 27** above, whichever is later, or within such further time as the Registrar may on the application of the appellant allow, the appellant shall prepare the record as required under these rules and file into Court as many copies of the record as are specified below –

In addition to the number of copies specified in the lists filed by the appellant and the respondent respectively under **Rule 1**, the appellant shall file into Court four copies of the record for the use of the Court.

The appellant shall also file into Court the translation and copies furnished to him by the Court under **Rule 27** as also the paper delivered to him by the respondent under **Rule 28**.

The appellant shall file into Court, along with the copies of the record, a statement of account of the charges incurred by him for preparing the record showing separately the cost of including the documents which the respondent desired to be included in the record. ***[Plz refer O. 2 r.4 (27) (h)].**

O. 8 R. 30.- The Registrar shall examine the copies of the record filed under the preceding rule and have them compared with the record received from the subordinate Court or with the translations furnished as the case may be, and if they are found correct, shall certify to that effect. Copies of the record prepared by the appellant shall not be accepted for use in Court at the hearing of the appeal unless they have been so certified.

O. 8 R. 31.- The Registrar shall prepare a bill of charges for the examination and comparison effected under **Rule 30** and require the appellant to pay the same, within two weeks of the date of service thereof. On payment of the bill, the Registrar shall retain four copies of the record for the use of the Court and deliver the other copies to the appellant. ***[Plz refer O. 2 r. 4 (27) (i)].**

O. 8 R. 32.- The Manager, Translation and Printing Department, shall, in each case, fix the sum which the appellant may reasonably charge the respondent for each of the copies delivered to him, taking into account the total cost involved, the volume of the record included at the instance of the respondent and other relevant factors. In case of dispute, the matter shall be referred to the Registrar whose decision shall be final.

O. 8 R. 33. – Each of the respondents shall be entitled to obtain from the appellant the number of copies specified by that respondent in the list filed by him under Rule 1 on payment of the charges fixed under **Rule 32**.

O. 8 R. 34.- Subject to the examination and comparison of the record provided for in **Rule 30**, the appellant may get the record printed instead of getting it cyclostyled or typed.

⁶⁹**O. 8 R.34-A.-** The Court may, at its discretion, permit the appellant or the respondent to file additional papers not already included in the record.

⁷⁰[Provided that such additional papers are certified to be true and correct by the Counsel appearing on both sides.]

⁶⁹ Ins. By P.Dis. 146/80 SROC 27/80., vide., TN Govt Gaz., Pt.III., Sec. 2 dt. 6.8.1980 at pg no. 198.

⁷⁰ Ins. by P.Dis. 56/75, SROC 10/75.



LAWYERSTATUTES

⁷¹**[O. 8 R. 34-B.-** Notwithstanding anything contained in the above rules, either party may be allowed to file typed set of papers within two weeks of the appeal, appearing in the warning (Rough) list, after duly serving a copy thereof on the counsel for the other side with a petition to receive the said typed set of papers.]

The provisions of **Rules 30 and 31** shall apply to such typed set of papers.

⁷²[.....]

⁷³**[O. 8 R. 35.-** Notwithstanding anything in the foregoing rules, the Registrar, may, on an application made for the purpose and if all the parties agree, direct that the record be printed in the Supreme Court form, through Court, in conformity with the Rules of the Supreme Court in this regard.

When the record is printed in the Supreme Court form, the preparation of the record and the arrangement of the papers shall as far as practicable be in conformity with the rules of the Supreme Court in this regard and care shall be taken that the oral evidence begins at the commencement of a page and is printed in such a way that this portion of the record can easily be detached and bound together with the documents, so as to constitute a separate volume for the use of the High Court in hearing the appeal. Each exhibit shall be printed separately and paged at the foot of each page, so as to admit of the papers readily detached and re-arranged in accordance with the rules of the Supreme Court.

When the record is printed in the Supreme Court form, any part of the record in any language other than English, shall be translated through Court into English and the translation shall be printed.

Where the appellant has been permitted to print the record privately –

The provisions of **Rules 25 to 28** regarding the obtaining of translations and copies of documents through Court, of **Rules 30 and 31** regarding the comparison of the record prepared privately, with the papers in Court, and of **Rules 32 and 33** regarding the charges payable by a respondent for the delivery of the copies by him, shall apply *mutatis mutandis*.]

O. 8 Rules. 36 – 38.- ⁷⁴[.....Omitted.....]

O. 8 R. 39.- The following rules shall govern the preparation of the record for the use of the Supreme Court in the case of appeals from the High Court.

(1) Where the record has been printed privately or through Court in the manner and form set out in **Section B**, or where the record has been prepared in the manner and form set out in **Section A** and at least twenty-five copies of the record are in either case available for despatch to the Supreme Court, there shall be no further printing or other preparation of the record except in regard to the papers set out in **sub-rules (3) and (4)**.

(2) Where the record has been prepared in the manner and form set out in **Section A** and a sufficient number of copies is not available for despatch to the Supreme Court, the record shall be printed at the instance of the appellant before the Supreme Court, either privately or through Court in the manner and form set out in **Section B**.

⁷¹ Ins. by *ibid*.

⁷² The words “Section B” and the preamble omitted by P.Dis. 118/72, vide., TN Govt Gaz., Pt. III., Sec. 2 dt. 5.1.1972

⁷³ Rule 35 subs. By P.Dis. 118/72,, TN Govt Gaz., Pt.III., Sec. 2 dt. 5.1.1972.

⁷⁴ In O. 8 Rules 36-38 – Omitted by P.Dis. 118/72., vide., TN Govt Gaz., Pt.III., Sec. 2 dt. 5.1.1972.



LAWYERSTATUTES

(3) Where any part of the record which is in Tamil has not already been translated into English through Court, the appellant before the Supreme Court shall have the same so translated through Court and the said translation included in the record.

(4) In addition to the record prepared for the High Court the record for the Supreme Court appeals shall include –

(a) the judgment and decree of the High Court;

(b) the application and affidavits or statements filed by the parties in connection with the grant of leave to appeal to the Supreme Court, and the orders of the High Court thereon;

(c) the certificate issued by the High Court regarding the deposit of security for costs; and

(d) any other papers which the Registrar considers necessary to be included.

(5) The additional record to be included under sub-rules (3) and (4) shall be printed, cyclostyled or typed so as to be uniform with the rest of the record. The appellant before the Supreme Court shall be responsible for all the charges for the preparation of the additional record.

ORDER IX

PREPARATION OF RECORD IN PROCEEDINGS (OTHER THAN ORIGINAL SIDE APPEALS AND APPEALS AGAINST ORIGINAL DECREES OF SUBORDINATE COURTS IN SUITS) INCLUDING REFERENCES

The following rules shall have effect unless otherwise ordered by Court:

Appeal includes petition and appellant a petitioner

0.9 R. 1.- In these rules, unless the context otherwise requires—

“**Appeal**” shall include a petition and “**Appellant**” shall include a petitioner.

Matters ready in notice to be notified on Court Notice Board

0.9. R. 2.- Every such appeal or reference shall, after notices are served on the respondents or parties to the reference, as the case may be, and the time for filing the appearance has expired, be notified on the notice board of the Court as ready in notice.

Time for filing material papers by appellant

0.9 R. 3.- (i) Within six weeks after the notification referred to in **Rule 2**, or within such further time as the Registrar may, on an application made for the purpose, allow the appellant shall file into Court three sets of material papers on which he proposes to rely at the time of the hearing of the appeal, together with proof of service of such papers on the advocate on record for the opposite party.

(ii) The judgment or order of a subordinate Court appealed against shall be printed at the cost of the appellant unless it has already been printed under **Rule 135 of the Civil Rules of Practice**. *[Plz refer [O. 2 r. 4 \(27\) \(j\)](#)].



LAWYERSTATUTES

(iii) Where an appeal is against an interlocutory order of a subordinate Court, the papers filed by the appellant shall include –

(a) the application on which the order appealed against or sought to be revised was made; and

(b) the affidavit, counter-affidavit and reply affidavit in the application.

(iv) Where an appeal relates to an order in execution of the decree, the papers filed by the appellant shall include --

(a) the decree;

(b) the application for execution of the decree, the counter and the reply; and

(c) the B. Diary.

(v) In appeals under **Clause 15 of the Letters Patent** against judgment in petitions for writs under **Article 226 of the Constitution**, the papers filed by the appellant shall include the petition, affidavit, counter-affidavit, reply affidavit and other papers, if any, filed in the writ petition, the judgment of the High Court and the memorandum of grounds of appeal.

(vi) In appeals under **Clause 15 of the Letters Patent** other than those referred to in sub-rule (v), the papers filed by the appellant shall include the judgment and decree of the High Court and the memorandum of grounds of appeal.

(vii) Subject to the provisions in sub-rules (ii) to (vi) above, where – an appellant does not propose to rely on any paper other than the judgment or order of the subordinate Court, printed copies of which have already been filed, he shall, within the time prescribed in **Rule 3 (i)**, serve on the respondent, an intimation to that effect and file into Court proof of service of such intimation of the respondent.

Time for filing material papers by respondent

O. 9 R. 4.- Within four weeks of service, on him, of the papers filed by the appellant under **Rule 3 (i)**, or the intimation referred to in **Rule 3 (vii)**, or within such further time as the Registrar may on an application made for the purpose allow, the respondent shall file into Court, three sets of material papers on which he proposes to rely at the time of hearing, together with proof of service of such papers on the advocate on record for the appellant. ***[Plz refer O. 2 r. 4 (27) (k)].**

Directions regarding preparation of records

⁷⁵**[O. 9 R. 5.-** (i) The record shall be printed, cyclostyled or typed on paper of metric size 21.5 x 30 cm with double spacing and with an outer margin not less than 3.5 cm wide, each page containing not more than 30 lines.]

(ii) The appellant and the respondent shall each prepare the record in the manner prescribed in **Order VIII Rule 9** to these rules.

Translation of documents other than those in Tamil necessary

O. 9 R. 6.- (i) It shall not be necessary to translate into English any paper in the Tamil language.

⁷⁵ Subs. By P.Dis. 275/75



LAWYERSTATUTES

(ii) If a party desires to include in his record a paper which is in a language other than Tamil or English, he shall pay the prescribed charges and get it translated into English through Court and copies of such translations alone shall be included in the record.

(iii) In an appeal against an interlocutory order, if a party desires to include in the record a paper which is in a language other than Tamil or English, he shall file into Court a certified copy of such paper for translation.

Papers not in conformity with these rules are to be returned

O. 9 R. 7.- Papers containing a large number of mistakes, corrections and omissions and otherwise not in conformity with these rules are liable to be returned.

Proceedings to be notified as ready for hearing after expiry of the period for filing papers

O. 9 R. 8.- Every such proceeding shall, after the expiry of the period prescribed for the parties to file into Court the material papers, be notified on the notice board as ready for hearing. The hearing of an appeal shall not be delayed by reason of the failure of any party to file his papers.

Court may refuse to permit either party to refer to any paper not included in the record

O. 9 R. 9.- At the hearing of the appeal, the Court may refuse to permit either party to refer to, or rely on, any paper not included in the record, prepared and served in accordance with these rules.

Charges for printing, etc., shall form part of the cost in the appeal

O. 9 R.10.- The charges incurred or paid or printing, cyclostyling or typing and the charges paid for translation under Rule 6 (ii) shall form part of the costs in the appeal.

Material record in proceeding under Legal Practitioners Act to be printed

O. 9 R. 11.- [(i) In proceedings under the **Legal Practitioners Act**, the material record of the proceeding shall be printed for the Court.

(ii) In references under the provisions of any other enactment and in cases withdrawn to the High Court under **Art 228 of the Constitution**, the material record shall be prepared for the Court.

Unless the Registrar directs the record to be printed, the material record shall be cyclostyled or typed.]

Power of Registrar to direct the preparation of the record in the manner and form prescribed in Order VIII

O. 9 R. 12.- Notwithstanding anything in the foregoing rules in this Order the Registrar may, ⁷⁶[.....] or on an application made for the purpose by an appellant, at the time he files the appeal, or a respondent before the expiry of the time for filing his appearance, direct that the record in an appeal be prepared in the manner and form prescribed in ⁵⁹[.....] **Order VIII** of these rules.

⁷⁶ The word "on his own motion", "Section A or Section B of" omitted by P.Dis. 118/72, vide., TN Govt Gaz., Pt.III., Sec. 2., dt. 5.1.1972.



ORDER X APPEALS TO THE SUPREME COURT

Subject to the provisions of **Order XLV and XLV-A of the Code** and **the rules of the Supreme Court** made for the purpose or any special directions that the Supreme Court or the High Court may give in any particular case, the following rules shall govern petitions for leave to appeal to the Supreme Court and the preparation and transmission to the Supreme Court of the record of the proceedings under appeal to the Supreme Court.

PETITIONS FOR CERTIFICATE OF LEAVE TO APPEAL

Petition for leave to appeal to Supreme Court shall be accompanied by two copies of judgment appealed against etc.

O. 10 R. 1.- (1) Every petition for leave to appeal to the Supreme Court shall be accompanied by:

- (a) two copies on plain paper, of the judgment or final order appealed against, duly paged;
- (b) proof of service of copies of the petition on the respondent in the proceeding appealed against;
- (c) the particulars for service of notice on the respondent or respondents in case the Advocate on record has declined to receive the notice or the respondent is not represented by a practitioner in the proceeding appealed against, in **Form No. 2 of the Schedule** to these rules, the fees prescribed for service of such notice and as many authenticated copies of the petition as there are respondents to be served; and
- (d) a certified copy of the decree or of the final order, where the application is filed after the expiry of sixty days from the date of the judgment or final order.

(2) Nothing in the preceding sub-rule shall be deemed to require 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 appeal either at the hearing in the Court whose decree is complained of or at any proceedings subsequent to the decree of that Court;

Provided, however, that the notice 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.

Petitions after service of notice to be posted for orders before the Judge

O. 10 R. 2.- Every such petition shall, after the service of notice on all the respondents impleaded therein, be posted for orders before the Judge or Judges whose decision is sought to be appealed against and, in the event of such Judge or any or all of such Judges being precluded by absence or other cause from hearing the same, before such Judge or Judges as the Chief Justice may direct. A copy of the certificate of leave to appeal to the Supreme Court, when granted shall be forwarded to the Registrar, Supreme Court.



LAWYERSTATUTES

PREPARATION AND TRANSMISSION OF THE TRANSCRIPT AND THE ORIGINAL RECORDS TO THE SUPREME COURT

O. 10 R. 3.- (1) Within 2 weeks from the date of service of the notice on the respondent, of the lodgement of the appeal in the Supreme Court, the Registrar shall, by notice in writing, call upon the parties to file into Court, within the time specified in the notice, a list of the papers which each of them proposes to include in the paper book that will be printed in the Supreme Court. Every such list filed into Court shall be accompanied by proof of service thereof on each other parties.

(2) After all the parties have filed their lists, the Registrar shall settle the list of papers to be included in the paper book.

O. 10 R. 4.- (1) As soon as the list of papers has been settled by the Registrar, he shall estimate the charges for translating, comparing indexing and making three typed copies of those papers and transmitting the same to the Supreme Court, together with the original record of the case.

(2) Where several appeals are consolidated, the consolidated appeal shall be deemed to be a single appeal for purposes of the deposit to be made by the appellant.

The Registrar shall, by notice in writing, call upon the parties to deposit into Court such sum and within such time as may be specified in the notice.

(3) If the sum deposited under sub-rule (2) is found to be insufficient for the purpose, the Registrar shall call upon the party concerned to deposit such further sum as may be necessary.

O. 10 R. 5.- The Registrar shall give notice of the despatch of the transcript and the original records to the Supreme Court to all parties who have entered appearance at the hearing of the appeal in the High Court and to such of the respondents as have entered appearance in pursuance of the notice under **Rule 1 supra**.

O. 10 R. 6.- After the records have been transmitted to the Supreme Court, any balance remaining out of the sum or sums deposited by the parties under **sub-rules (2) and (3) of Rule 4 supra** shall be refunded to them by the Registrar on application made in that behalf.

PREPARATION OF THE PAPER BOOK UNDER THE SUPERVISION OF THE REGISTRAR

O. 10 R. 7.- Where the Supreme Court directs that the record shall be prepared and printed or cyclostyled under the supervision of the Registrar of the Court, the Registrar shall follow the procedure prescribed in **Rules 3 and 4 supra**. The bill of estimated charges shall then include the charges for printing or cyclostyling the record.

PREPARATION OF THE RECORD PRIVATELY

O. 10 R. 8.- The Registrar may, on an application made by the appellant for the purpose, within seven days after he receives the notice to deposit the charges for the preparation and printing of the records, permit the appellant to print or cyclostyle the record privately under the supervision of the Registrar.

O. 10 R. 9.- (1) Where leave is granted to the appellant to print or cyclostyle the record under **Rule 8 supra**, the Registrar shall estimate the charges for



LAWYERSTATUTES

translation (if any), copying, comparing and indexing and transmission of the records to the Supreme Court and call upon the appellant, by notice in writing, to deposit into Court the said charge within such time as may be specified therein; upon the deposit being made, the records shall be prepared arranged, indexed and delivered over to the appellant.

(2) The appellant shall thereupon within such time as may be specified or extended by the Registrar, bring into Court, not less than 35 copies of the record printed or cyclostyled in the manner prescribed in the **First Schedule to the Supreme Court Rules, 1966**, together with the transcript of the record supplied to him under sub-rule (1).

(3) The Registrar shall have the printed or cyclostyled record so brought in under the last preceding sub-rule examined and compared with the transcript of the record supplied and shall certify to its correctness. The printed or cyclostyled record or any part of it shall be liable to be rejected, if in the opinion of the Registrar it contains too many mistakes.

(4) The appellant shall pay the prescribed charges for the examination and comparison of the record under the preceding sub-rule.

(5) The appellant shall certify to the Registrar the charges incurred by him for the printing and the examination of the record under this rule.

GENERAL

Paper translated for appeal not to be translated afresh without leave

O. 10 R. 10.- No paper which has been translated for purposes of the appeal in the High Court shall be translated afresh for inclusion in the transcript under **Rule 4** in the paper book under **Rule 7** except with the leave of the Court obtained on a petition supported by affidavit and after notice to all parties.

Inclusion in record of document sought to be received as additional evidence

O. 10 R. 11.- Any party who desires to include in the record any document in respect of which he intends to apply to the Supreme Court for leave to be received as additional evidence, may, within seven days after the deposit is made under **Rule 4** or **Rule 7** as the case may be, apply to the High Court by petition supported by an affidavit after previous notice to the other parties.

Payment of charges of translation and preparation of record

O. 10 R. 12.- The party at whose instance papers are translated shall pay the charges therefor. All other charges shall be paid by the appellant, except as otherwise provided for in **Order XV Rule 18 Supreme Court Rules, 1966**.

O. 10 R. 13.- If the appellant fails to deposit the charges within the time fixed or within such further time as may be granted by the Registrar on an application made to him in this behalf, no steps shall be taken for the preparation and transmission of the record to the Supreme Court and the Registrar shall report the default to the Supreme Court.

If any respondent fails to deposit the charges called for from him, his papers shall be excluded from the record and a note shall be made in the index to this effect.



Preparation of record to be taken up after deposit of charges

O. 10 R. 14.- The preparation of the record shall be taken up after the charges referred to in **Rules 4, 7 or 9 (1)** have been deposited into Court.

Notice of transmission of records to Supreme Court to be given to parties

O. 10 R. 15.- When the record in an appeal has been despatched to the Registrar of the Supreme Court, notice of such despatch, shall be given to the parties and by affixture of a copy of the notice on the notice board of the High Court.

Recovery of charges from parties

O. 10 R. 16.- (1) Any sum certified by the Registrar to be due as charges for preparation and transmission of the record under these rules shall, without prejudice to any other mode of recovery be recoverable from the parties concerned under the provisions of the **Tamil Nadu Revenue Recovery Act, 1864**, as though it were an arrear of Land Revenue.

(2) Where several appeals have been consolidated the expenses of preparing the record shall be borne by the appellants in each of the appeals in such proportion as may be agreed upon among them, and failing agreement, as may be determined by the Registrar.

(3) 35 copies of the record shall ordinarily be printed or cyclostyled.

(4) The appellant shall, at the time of making the deposit for the preparation of the record, and the respondent within 10 days of the receipt of the notice of such deposit, intimate to the Registrar the number of copies of the record he required.

The parties shall each be entitled to one copy of the record free of charge. Extra copies applied for by the respondent shall be delivered on payment of prescribed charges. In computing the charges payable by the appellant for the preparation of the record in the final closing of accounts, credit shall be given for the charges collected from the respondent.

Fee for service of notice to be borne by the party at whose instance notice is issued

O. 10 R. 17.- The fees for the service of the notices referred to in this order shall be borne by the party at whose instance they are issued and the provisions of **Order VII** of these rules shall apply.*[Plz refer **O. 2 r. 4 (27) (n)**].

Power of Registrar to fix time if no time limit is fixed by these rules

O. 10 R. 18.- Where these rules fix no time-limit for doing any act in the High Court, the Registrar may, in his discretion, fix the time within which the act should be done and may grant such further time as he may deem proper in the circumstances of each case.

Application for refund of unexpended balance of amount deposited under Rule 7 or 9

O. 10 R. 19.- Application for obtaining refund of the unexpended balance of any amount deposited under **Rule 7 or Rule 9** *supra* may be made after the appeal records have been transmitted to the Supreme Court by a letter addressed to the Registrar.



LAWYERSTATUTES

Power of Chief Justice to determine the rates for the preparation of records privately

O. 10 R. 20.- The rates of charges to be levied for the preparation of the record including the charges for translation and comparison of records prepared privately shall be as determined from time to time by the Chief Justice and published on the notice board of the Court.

Service of notice on Advocate for party

O. 10 R. 21.- Where notice is required to be served on any party by any rule in this order, it shall be served on the Advocate on record for the party, in the proceeding appealed from, such service being deemed sufficient service on the party whom he represented; if such Advocate declines to receive the notice, or if there is no advocate on record, the notice shall be served on the party by Registered Post prepaid for acknowledgment.

Registrar to forward certificate to Supreme Court as amount incurred by parties for preparation and transmission of record.

O. 10 R. 22.- As soon as practicable, after the records including the transcript or printed / cyclostyled paper books as the case may be, have been transmitted to the Supreme Court, the Registrar shall forward to the Supreme Court a certificate, showing the amount actually incurred by the respective parties for the preparation and transmission of the records.

CRIMINAL APPEALS

Preparation of records in Criminal Appeals

O. 10 R. 23.- (1) No deposit of printing charges shall be required to be made by the appellant – (i) in a criminal appeal in which a sentence of death has been passed or confirmed by the High Court, and (ii) in a criminal appeal by a Public Officer whose defence has been undertaken by Government. The preparation of the record shall be commenced immediately after leave to appeal to the Supreme Court has been granted by the High Court or special leave has been granted by the Supreme Court as the case may be.

(2) In other criminal appeals, the preparation of the record shall be commenced, as soon as possible after the deposit for the preparation of the record is made by the appellant.

(3) Besides the number of copies required to be transmitted under **the Supreme Court Rules, 1966**, fifteen additional copies shall be prepared and retained in the High Court.

(4) Subject to this rule and the rules contained in **Order XXI of the Supreme Court Rules, 1966**, the procedure prescribed in this Order shall apply, so far as may be, to appeals to the Supreme Court in criminal matters.

ORDER XI SEARCH OF RECORDS

Application for search of record to be made in Form No. 7

O. 11 R. 1.- Every person desiring to make a search of the records of the Court for the purpose either of inspection or of obtaining copies of records, shall submit an application for the same in **Form No. 7 of the Schedule** to these rules.



LAWYERSTATUTES

Explanation.- No explanation shall be required for examination of the records for the purposes of preparation or amendment of the lists of paper referred to in **Order VIII** of these rules.

No separate application is necessary for each document if the documents are in the record of a single proceeding

O. 11 R. 2.- A separate application need not be presented in respect of each document for which a search is required if the documents are in the record of a single proceeding.

Practitioner or registered clerk or party in person can search the records

O. 11 R. 3.- When leave has been granted, the practitioner on record, or the registered clerk or the party in person, may search the record in the presence of the record-keeper or his assistant.

Fees for search

O. 11 R. 4.- The fee for a search shall be two rupees for every hour or part of an hour and it shall be paid in Court-fee stamps affixed to the application.

Not to take copies of document while searching records

O. 11 R. 5.- The payment of fees for a search will entitle the applicant to read the document or to have it read to him. But it shall not entitle him to take a copy of the document or any part thereof or to take extracts therefrom. He shall, however, be entitled to make a memorandum of the date, the nature of the document and the name of the parties thereto.

Judge's notes and minutes, correspondence not strictly judicial and confidential correspondence not to be inspected

O. 11 R. 6.- Nothing in these rules shall entitle any person to inspect –

- (i) the Judges' notes or minutes;
- (ii) correspondence not strictly Judicial; and
- (iii) confidential correspondence.

ORDER XII CERTIFIED COPIES

Copies of Judge's notes and minutes, correspondence not strictly judicial and confidential correspondence not to be furnished

O. 12 R. 1.- Nothing in these rules shall entitle a person to a copy of (1) Judges' notes or minutes, (2) correspondence not strictly judicial, and (3) confidential correspondence.

Grant of copies of documents to parties

O. 12 R. 2.- Any party to a proceeding shall be entitled to obtain copies of judgments, decrees or orders made or of any documents filed or exhibited in such proceeding on payment of charges in the manner prescribed under these rules.



Grant of copies to third parties

O. 12 R. 3.- Any person who is not a party to a proceeding, requiring copies of judgments, decrees or orders made or of any documents filed or exhibited in such proceeding, may apply to Court for grant of such copies by a duly stamped petition ⁷⁷[.....~~deleted~~.....].

Procedure for obtaining copies

O. 12 R. 4.- A person entitled to obtain a copy under **Rule 2** or who has obtained an order of Court under **Rule 3** may present an application therefor to the Superintendent of copyists of the Court or to such other officer as the Registrar may appoint.

⁷⁸[Provided that, in cases where issuance of certified copies to the third parties is restricted by any judicial order to maintain secrecy and privacy the Registrar shall refuse the application.].

O. 12 R. 5.- The application shall be in **Form No. 8 of the Schedule** to these rules and shall set out the name of the applicant and, when he is a party to proceeding, his position in the proceeding and a description of the document of which a copy is required. An application, which is not in proper form, shall be returned for amendment.

Copy application when to be struck off

O. 12 R. 6.- When an application is returned for amendment, a time-limit of seven days shall be fixed for its representation. A defective application, which is not taken return of by the applicant and not represented within the period specified above, shall be struck off.

Intimation as to stamp papers and time for depositing stamp papers

O. 12 R. 7.- Every day a list showing the applications in which the records have been received, and the number of stamp papers required in each case shall be prepared and affixed to the notice board of the Court between the hours of 3 and 4.30 p.m. Such lists shall remain on the board for three clear working days. Applications upon which the requisite stamps have been deposited shall be struck off the list. After the expiry of the period prescribed for deposit of stamps the list shall be taken down and filed in the record for one year and shall then be destroyed.

If the required stamp papers have not been deposited by 3 p.m. on the fourth working day counting from and including that on which the list was first affixed, the application shall be struck off and, unless it is restored on an application made to the Court for the purpose, copies shall be granted only on a fresh application.

⁷⁷ The words "supported by an affidavit stating the purpose for which the copy is required" deleted by SROC 18/2010, vide., TN Govt Gaz, Pt. III, Sec. 2 Issue No. 50 dt. 22.12.2010 at pg no. 129.

⁷⁸ Ins. by ibid. And that prior to substitution, the proviso stood as follows:- "Provided that, in cases of doubt whether the copy applied for should be furnished, the application shall be placed before the Registrar for his decision. If the application is refused by the Registrar, it shall be returned to the applicant with the order of the Registrar endorsed on it."



**Procedure to call for additional stamp papers
and power to strike off in default**

O. 12 R. 8.- The procedure laid down in the preceding rule shall apply also to calls for additional stamp papers when the number first supplied has been found to be insufficient.

Provided that, where the additional stamp papers called for are not deposited, but the stamp papers originally deposited are sufficient for the preparation of complete copies of one or more of the document applied for, the application shall be struck off only as regards the documents which cannot be prepared by reason of the insufficiency of the stamp papers supplied. In such cases, the Superintendent of Copyists or such other officer as the Registrar may appoint, shall decide which document shall be copied and the decision shall be final.

**Papers with Court-fee stamps affixed can be furnished
in lieu of stamp paper with the permission of the Registrar**

O. 12 R. 9.- It shall be open to the parties, after obtaining the previous order of the Registrar in this behalf, to furnish white half foolscap paper of durable quality with the requisite Court-fee stamps affixed on each sheet in lieu of stamp papers, and the papers so stamped shall, for all purposes, be deemed to be stamp papers.

Order in which copies are to be prepared

O. 12 R. 10.- The preparation of the copies of documents applied for or such of them as admit of being copied in full on the stamp papers deposited shall, as far as possible, be undertaken in accordance with the serial number of the applications;

Provided that copies of decrees and judgments, if any, comprised in an application shall have precedence over copies of other documents included in the application.

O. 12 R. 11.- A special order for precedence as regards any particular application shall be made only on an application duly stamped under the Court-Fees Act and paying for such an order.

Posting of list of copies ready for delivery

O. 12 R. 12.- A list of copies ready for delivery shall be posted on the notice board of the Court at 11 am each day and shall remain thereon for three clear working days.

Immediately after the copies are delivered to the applicants concerned, the entries relating thereto shall be struck out of the list. The list shall be retained for twelve months after which they shall be destroyed. As and when copies are delivered to the parties, appropriate entries shall be made in the list.

The copies and any unused stamp papers shall be delivered to the applicant between the hours of 11 am and 12 noon and 3 pm and 4 pm.

If the copies are not claimed by the applicant within twelve months from the first date on which the said list was published, they shall be destroyed; and the unused stamp papers, if any, shall be forwarded to the Collector of Madras.



Disposal of unused stamp papers

O. 12 R. 13.- (i) Where an application is struck off under [Rule 7](#) or under [Rule 8](#), the applicant shall not be entitled to the incomplete copy of any document prepared on his behalf. The incomplete copy shall be destroyed after twelve months from the date on which the application was struck off.

(ii) Where an applicant has furnished the required number of stamp papers, but any remain unused owing to the copyists writing too closely, the Registrar shall forward the unused stamp papers to the Collector of Madras.

(iii) Where stamp papers have been furnished in excess of the requirements or where an insufficient number of stamp papers has been furnished and the applicant fails to furnish the requisite number of additional stamp papers within the prescribed period, a notice shall be affixed to the notice board of the Court that the unused stamp papers will be held at his disposal for a month from the date of affixture of such notice. If the applicant does not take delivery of the stamp papers within the prescribed period, the stamp papers shall be treated as cancelled and forwarded to the Collector of Madras.

Copies to be certified as true copies and sealed

O. 12 R. 14.- All copies furnished by the Court shall be certified to be true copies and shall be sealed with the seal of the Court. The Superintendent of Copyists, or the officer appointed by the Registrar in that behalf, shall initial every alteration and interlineations in the copy, and shall also certify, in his own hand, at the foot thereof, that the same is a true copy, and shall further state on each page, the number of alterations and interlineations made therein.

Endorsement on copies as to dates of several stages from filing till delivery of copies

O. 12 R. 15- Every copy shall bear an endorsement showing the date on which –

- (1) the application was made,
- (2) the application was returned,
- (3) the application was represented,
- (4) the stamps were called for,
- (5) the stamps were deposited,
- (6) the additional stamps were called for,
- (7) the additional stamps were deposited,
- (8) the copy was ready, and
- (9) the copy was delivered.

Number of words to be copied on each stamp paper and charges for copying

O. 12 R. 16.- (1) One copy stamp paper shall be furnished for every 350 words or part thereof. In the case of a copy for which ⁷⁹**Article 20 Schedule I-A of the Indian Stamp Act, 1899**, and the rules made under that Act, require the production of non-judicial stamp paper of a particular value, the stamp paper or papers supplied for the purpose shall be used for copying and shall be written

⁷⁹ Plz refer to Article 24 of Schedule I.



LAWYERSTATUTES

on in the same manner as if they were copy stamp papers. Copy stamp papers shall be furnished to make up the deficiency in the papers required to complete the copying.

(2) One hundred and seventy-five words shall be written on each page.

(3) The copying fee for each page shall be ⁸⁰[rupee one]. Where the value of the stamp paper is less than rupee one, the deficiency shall be made good in the shape of adhesive Court-fee stamps. When the copy is written on non-judicial stamp paper, adhesive Court-fee stamps of the value of ⁶³[rupee one], shall be affixed to each page on which the copy has been made.

(4) The cost of copying maps or other matter requiring special skill shall be fixed by the Registrar or other officer appointed by him and shall be deposited in cash in Court. Notice of such amount shall be posted on the notice of the Court and the provisions of [Rule 7](#) shall apply to the payment of such amount.

(5) Except in a case requiring special skill, copying charges for the preparation of execution petitions, diglot registers, sale proclamations, books of account or other matters including lines and columns shall be levied with reference to the space occupied, provided that not more than 175 words shall ordinarily be written on each page.

Rates for Photostat copies

⁸¹ [[O. 12 R. 17](#)]- The Court may grant photostat copies of a proceeding or document filed or in the custody of the Court, on payment of charges at the rates mentioned hereunder. These charges shall be paid in Court-fee stamps which shall be affixed to the application copy within such time as the Registrar may grant:

	Amount
	Rs. P
Per print not exceeding 419 sq cms	1. 80
Per print not exceeding 419 sq cms and up to 594 sq cms	2. 50
Per print not exceeding 594 sq cms and up to 742 sq cms	3. 15
Per print not exceeding 742 sq cms and up to 987 sq cms	4. 20
Per print not exceeding 987 sq cms and up to 1, 484 sq cms	6. 25
Per print not exceeding 1, 484 sq cms	12.50]

Issue of urgent carbon copies

[O. 12 R. 18](#).- Any person who is entitled to obtain a certified copy of a judgment or order of the Court may, immediately after the judgment or order is pronounced, apply, in writing, to the Registrar, for a type-written (carbon) copy thereof, stating the reasons for the urgency. If the Registrar is satisfied of the urgency, such a copy shall be issued on plain paper. The charge for such a copy shall be what would have been payable if the copy had been issued on copy stamp papers. The copy so issued shall contain all the entries specified in the rules above and shall have the same force and effect as a certified copy. The party or practitioner making the application shall be responsible to the Court for payment of the charges for the copy:

⁸²[Provided that in the case of final orders and judgments in appeals, revisions, writ petitions and tax cases, the charges shall be pre-paid in the form of Court-fee within three days of the same being called for as per the list published in the Notice Board:

⁸⁰ The figure "70" was subs. By the words "rupee one" by P.Dis. 15/87.

⁸¹ Subs. By P.Dis. 206/79,. Vide., TN Govt Gaz., Pt.III., Sec. 2 dt. 14.11.1979 at pg no. 173.

⁸² Ins. by P.Dis. 122/77, vide., TN Govt Gaz., Pt.III., Sec. 2 dt. 13.7.1977 at pg no.50.



LAWYERSTATUTES

Provided further that the Registrar shall have power to stop at his discretion the issue of all or any papers to any practitioner who has failed to pay the charges under this rule:

Provided also that the charges due under this rule may be directed to be recovered from the parties concerned under the provisions of the **Tamil Nadu Revenue Recovery Act, 1864 (Tamil Nadu Act 1 of 1864)**, as though they were arrears of land revenue.]

Restoration of application for copies struck off

O. 12 R. 19.- Any application for copies struck-off under [Rule 6](#) or under [Rule 7](#) *supra* may be restored by the Court on a petition supported by an affidavit preferred for that purpose.

The petitioner may deposit the required copy stamps along with the petition, for restoration of the application for copies. If he does not do so, the required stamps should be called for in the usual course, after the application is ordered to be restored.

Every certified copy, furnished after such restoration of the application for copies, shall bear an endorsement showing, in addition to the details specified in [Rule 15](#) *supra*;

- (1) The date on which the application was struck-off.
- (2) The date on which petition was filed to restore the application.
- (3) The date on which the application was restored to file.

FORMS

SCHEDULE

Form No. 1

[\(Order III Rule 7\)](#)

Form of Vakalatnama

Cause title

I,appellant / respondent / petitioner in the appeal / petition do hereby appoint and retain.....advocate / attorney of the High Court to appear for me in the above appeal / petition and to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein, including all applications for return of documents or the receipt of any moneys that may be payable to me in the said appeal / petition and also in applications for review, in appeals under clause 15 of the Letters Patent and in applications for leave to appeal to the Supreme Court, and in all proceedings subsequent thereto.

.....



Form No. 2

(Under Order IV, Rule 6)

Form of memorandum giving particulars for service on the respondent

Court – Fee stamp affixed for Rs.

Appeal No.....of 19

Petition

Particulars for service of process on respondent

Name	Father's name or if minor name of guardian	Occupation If any	Address for service Dist Taluk Village and the name of nearest post office (if a town, street and door number)
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Form No. 3

(Under Order IV, Rule 6)

Form of Notice

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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

In

No:.....of 19

Petitioner

Respondent

To,

.....Respondent

Whereas the petitioner above named has presented the above petition, praying that in the circumstances stated in the affidavit filed in support thereof a copy of which is annexed hereto, the High Court will be pleased to.....

.....and whereas the petition will come on for hearing on the day of19.....or as soon thereafter as the Court may direct, you are hereby required to appear, in person or by advocate, to show cause why the petitioner's prayer should not be granted, in default of which the matter will be heard and decided in your absence.

(By Order of the Court)

Madras.

Dated.....19.....Sub-Registrar, Appellate Side.

The hours of attendance at the office of the Registrar in the High Court Buildings are from 11 a.m. to 4 p.m. except on Sundays and other holidays.



Form No. 4

(Under Order VIII, Rule 1)

Form of List of documents to form the record
in appeal in the High Court

Mark in lower Court	Date and Description of Document	Whether the whole or part of the document	Number of Pages		Estimate of costs Rs. P.	
			Translation	Copying		
			Total			

The applicant will require.....copies of the record in addition to the first copy.

Signed A.B.

Advocate for appellant / respondent

These columns are to be filled in by the officer of theCourt.

.....

Form No. 5 & Form No. 6 omitted vide., P.Dis No. 134 of 1971.

.....

Form No. 7

(Under Order XI, Rule 1)

Form of application for search of records

To

The Registrar, High Court, Madras.

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

Date:

Signature of Applicant

.....



LAWYERSTATUTES

Form No. 8
(Under Order XII, Rule 5)

Copy Application form

To,

The Deputy Registrar,
High Court, Appellate Side,
Madras.

Sir,

Please furnish me with the certified copies of the documents mentioned herein.

Name of the Case	Pending or Final	Date of Disposal	Description of Document	Number of copies

Counsel For appellant / respondent
HIGH COURT

Dated:

*The description of the document applied for should be clearly given.



(On the reverse)

C.D. No:
Returned:

APPELLATE SIDE
MADRAS

No:.....of 19

COPY APPLICATION

Madras High Court
Of Judicature –
Madras

Deputy Registrar
Appellate Side

/ 19

To,
Mr.

Counsel of Respondent

Counsel for appellant
/ respondent

.....

Statutes Referred in this Rule:

- Chartered Accountants Act, 1949 - Section 22-A
- Civil Rules of Practice - Rule 135
- Code of Civil Procedure, 1908 - section 113, 122, O. 41 R. 11, Order 32 Rule 3 (10);
- Code of Criminal Procedure, 1898 - Section 374, 411-A, 417 & 432
- Constitution of India – Arts. 226, 227, 228
- Estate Duty Act, 1953 - section 64 (3)
- Expenditure Tax Act, 1957 - section 25 (3)
- Gift Tax Act, 1958 - section 26 (3)
- Income-Tax Act, 1961 - section 256 (2)
- Indian Stamp Act, 1899 - Section 57, 60, Article 20 Schedule I-A
- Legal Practitioners Act, 1879 - Section 13 – Repealed by Section 50 (4) (a) of Advocates Act, 1961 (25 of 1961) – w.e.f. 01.09.1963.
- Letters Patent – clause – 15
- Limitation Act, 1963 - Section 12
- Madras Dramatic Performances Act, 1954 - section 10
- Practitioners Fees Rules – Rules 43 & 48.
- Representation of the People Act, 1951 - Section 116-A
- Tamil Nadu Agricultural Income Tax Act, 1955 – section 54
- Tamil Nadu General Sales Tax Act, 1959 Section 37 & 38
- Wealth Tax Act, 1957 - section 27 (3)



LAWYERSTATUTES

Disclaimer:

Every effort has been undertaken "in good faith" to ensure the contents herein are free from mistakes and up dated, however, if there is any mistake, any loss or damage accruing therefrom, the compiler is not responsible for the same.

Compiled by

**P. VAIRAVA SUNDARAM
ADVOCATE**
