

(O. S.) HIGH COURT.

RULES OF THE HIGH COURT, MADRAS, 1956.

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RULES OF THE HIGH COURT, MADRAS, ORIGINAL SIDE, 1956

By virtue of the powers conferred by the enactments set out in Appendix I hereto, and of all other powers hereunto enabling, it is ordered that the following rules of practice and procedure and the forms set out in Appendix II hereto, shall be used and observed in the High Court of Judicature at Madras, in all cases coming before the said Court in the exercise of its Ordinary and Extraordinary Original Civil Jurisdiction and in the exercise of its Extraordinary Original Criminal Jurisdiction, and as a Court of Admiralty, and its Testamentary and Intestate, and Matrimonial Jurisdiction, and its jurisdiction with respect to the persons and estates of infants, idiots and lunatics, and also in the exercise of its jurisdiction as regards appeals from all judgments, decrees and orders passed in the exercise of such jurisdiction as aforesaid.

ORDER I.

PRELIMINARY.

1. The following Orders and Rules may be cited as the rules of the High Court, 1956. They shall come into operation on the 1st day of January 1957, and shall also apply so far as may be practicable (unless otherwise expressly provided) to all proceedings taken on and after that day in all cases and matters then pending.
2. The forms in Appendix II hereto shall be used with such variations as circumstances may require.
3. Except to the extent specifically provided for by these rules, the provisions of the Code shall apply to all proceedings. The rules and forms mentioned in Appendix III hereto and all previous rules and forms, and the provisions of the Code, so far as such provisions are inconsistent with these rules and forms, are hereby repealed and superseded and the following rules, orders and forms shall stand in lieu thereof.
4. In these rules, unless there is something repugnant in the subject or context—
 - (1) "Address for service" means the place appointed by a party or his advocate at which service of summons, notice or other process may be made on such party;
 - (2) "Code" means the Code of Civil Procedure, as amended from time to time in Madras;
 - (3) "Court" includes a Judge, or Master, or the First Assistant Registrar, Original Side;

- (4) " Execution Application " means an application to the Court for the execution of a decree or order;
- (5) " First Hearing " includes the hearing of a suit for settlement of issues, and any adjournment thereof;
- (6) " Folio " means 175 words, four figures being counted as one word;
- (7) " Interlocutory Application " means an application to the Court or to the Master or other officer in any suit, appeal or proceeding;
- (8) " Master " means the Master of the High Court at Madras;
- (9) " Original Petition " means a petition to the Court whereby any proceeding, other than a suit or appeal, or a proceeding in execution of a decree or order, is instituted in the Court;
- (10) " Originating Summons " means a summons taken out under the provisions of Order XIII of these rules;
- (11) " Official Referee " means the officer appointed for the hearing and determination of all references made to him by Court;
- (12) " Pleading " includes a plaint, written statement, reply statement, petition, special case, memorandum of appeal, and memorandum of objections;
- (13) " Proceeding " includes all documents, other than documents produced as evidence, presented to, or filed in Court by any party or Commissioner, or other officer of Court;
- (14) " Registrar " means the Registrar of the High Court, and includes the Deputy Registrar and Assistant Registrars;
- (15) " Verified " means verified in the manner prescribed by these rules;
- (16) " Practitioner " includes an advocate or attorney;
- (17) " Suit " means all proceedings commenced by the filing of a plaint;
- (18) " Taxing Officer " includes the Master, the First Assistant Registrar, Original Side, and any other officer appointed by the Chief Justice to tax bills of costs.
- (19) All other expressions used herein shall have the respective meanings prescribed by the Code, or the General Clauses Acts.

5. In all cases in which any particular number of days, not expressed to be clear days, is prescribed by these rules, the same shall be reckoned exclusively of the first day and inclusively of the last day; unless the last day falls on a Sunday or other day on which the office of the Court is closed, in which case the time

shall be reckoned exclusively of that day also, and of any other following day or days during which the office may continue closed.

6. In all cases in which any particular number of days, expressed to be clear days, is prescribed by these rules, the same shall be reckoned exclusively of the first day and of the last day and also of any day on which the office is closed.

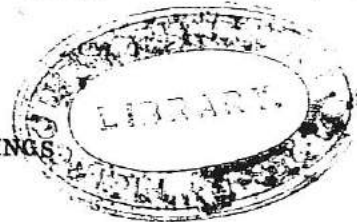
7. The Court shall have power to enlarge or abridge the time appointed by these rules, or fixed by any order enlarging time, for doing any act, or taking any proceeding, upon such terms, if any, as the justice of the case may require; and any such enlargement may be ordered, although the application for the same is not made until after expiration of the time appointed or allowed. Provided that when the time for filing or delivering any pleading or document, or filing any affidavit, answer or document, or doing any act, is or has been fixed or limited by any of these rules or by any direction on or under a summons for directions or by any order of the Court, the costs of any application to extend such time and of any order made thereon, shall be borne by the party making such application unless the Court shall otherwise order.

8. Non-compliance with any of these rules shall not render the proceedings in any suit or matter void, unless the Court so directs; but such proceedings may be set aside either wholly or in part as irregular, or amended, or otherwise dealt with, in such manner and upon such terms as the Court thinks fit.

ORDER II.

FORM AND PRESENTATION OF PROCEEDINGS

Form of Proceeding.



1. A suit shall be commenced by presenting a plaint to the Court or such officer as the Chief Justice appoints in this behalf; all other proceedings shall be commenced by petition unless otherwise provided for by these rules or by rules framed under any special Act.

2. All affidavits, interlocutory applications, and other proceedings presented to the Court shall be written, typewritten or printed fairly and legibly, on substantial white foolscap folio paper, with an outer margin about two inches wide and an inner margin about one inch wide, and separate sheets shall be stitched together bookwise. The writing or printing shall be on both sides of the paper and numbers shall be expressed in figures.

All pleadings presented to the High Court shall be either printed or typewritten.

3. A plaint, or original petition, or originating summons, shall be headed with a cause-title, in form No. 1. The cause-title shall

set out the name of the Court, the serial number of the suit or original petition, and the names of the parties, separately numbered, and described as plaintiff and defendant, or petitioners and respondents, as the case may be.

The plaint shall also contain a statement of valuation. Where it appears that the suit is undervalued or that the stamp affixed to the plaint is insufficient, the Registrar shall require the plaintiff to make good the deficiency within a period fixed by him. If default is made, the Registrar shall post the plaint before the Court for orders under Order VII, rule 11, clauses (b) and (c) of the Code.

If during the hearing of a suit, it appears to the Court that the suit is undervalued or that the stamp affixed to the plaint is insufficient, the Court may require the plaintiff to make good the deficiency within a time fixed by it and in default dismiss the suit.

A memorandum of appeal shall be headed with a cause-title setting out the name of the Court, the serial number of the appeal, the names of the parties, separately numbered and described as appellants and respondents and also the full cause-title of the original suit or matter as in Form No. 2.

All subsequent proceedings shall be headed with a short cause-title as in Forms Nos. 3 and 4.

Every proceeding shall also contain, immediately after the cause-title, a short description of its contents as in Forms Nos. 5 and 6.

4. No fee shall be charged on an application by the Advocate for the Government for the payment of court fees due to the Government in any suit or proceeding instituted or defended *in forma pauperis* out of any fund lying in Court to the credit of such suit or proceeding.

5. The full name, residence and description, of each party, and if such is the case, the fact that any party sues or is sued in a representative character shall be set out at the beginning of the plaint, original petition, memorandum of appeal, or originating summons, as in Form No. 5 and shall not be repeated in the subsequent proceedings in the same suit, appeal or matter.

The first proceeding filed by any party shall also state an address for service, which shall be within the local limits of the jurisdiction of the Court; such address for service shall be regarded as the party's address for service in all interlocutory proceedings and in all proceedings in appeal and for the purpose of execution for a period of one year after the date of final decree.

6. An original petition or other original proceeding shall also state the Act, or other authority under which it is presented, as in Forms Nos. 5 and 6. If it is not intended to serve any person

with notice thereof, it shall be so stated, and the petition or summons shall be headed, as in Form No. 6; but if the Court directs notice to be served on any person, the cause-title shall be amended and shall be in Form No. 1.

Signature and verification of Plaints and other Proceedings.

7. Except as provided for by the Code, if a plaint is subscribed and verified by a person other than the party on whose behalf it is presented, it shall not be admitted or filed, unless it is made to appear, upon affidavit, that such person is a recognized agent of the party as defined by Order III, Rule 2 of the Code, and is duly authorized and competent so to do.

8. The provisions of the Code and these rules relating to the verification of plaint shall apply to written statements, execution applications, and all other documents or proceedings which require to be signed and verified by any person.

Interpretation of Proceedings.

9. Every proceeding which is required to be verified by a person who is unable to read and write English, shall be explained to him by an interpreter of the High Court or a Commissioner for Oaths, or a notary appointed under the Notaries Act, 1952; or, if required to be verified at a place beyond the local limits of the jurisdiction of the High Court, by or before a notary appointed under the Notaries Act, 1952, or by or before the Judge of, or an officer authorized to administer oaths or take affirmations in, any civil or criminal Court other than a village panchayat Court or any other village Court, within whose jurisdiction the said place is situate. The proceeding shall be signed or marked before the person by or before whom the explanation is made, who shall sign a certificate as in Form No. 7 or 8 and shall affix thereto his seal if any, or the seal of the Court to which he is attached.

10. The Registrar may at any time grant permission to an interpreter of the High Court to attend any person outside the Court-house for the purpose of interpreting any proceedings intended to be filed or used on the Original Side of the High Court.

Presentation of Proceedings to the Court.

11. Except in case of urgency, all proceedings and documents shall be presented to the Registrar at any time during office hours. In all cases of doubt, he shall refer the matter to the Court.

In case of urgency, any proceeding or document may be presented to a Judge.

12. Unless the Court otherwise orders, no document or proceeding required to be presented to, or filed in Court, which is sent by post or telegraph, shall be received or filed in Court.

ORDER III.

LEAVE TO SUE.

1. An application for leave to institute a suit in the Court shall be made by Judge's summons entitled in the matter of the intended suit, and shall be supported by an affidavit stating the residence and occupation of the defendant, and the reason for instituting the suit in the Court. The application shall be accompanied by the plaint in the intended suit, or a copy thereof.

The Court may direct notice of the application to be given to the defendant.

If leave to sue is granted, the summons to the defendant shall contain the notice set out in Form No. 9.

Suits by or against numerous persons.

2. An application under Order I, Rule 8 of the Code, shall be supported by an affidavit stating the number or approximate number of the parties, and the places where they respectively reside; that they have all the same interest in the subject-matter of the suit, and the nature of the said interest; and the best means of giving notice of the institution of the suit to the said parties, and the probable cost thereof. If the application is made before suit, it shall be entitled as in Rule I of this Order mentioned, and shall be accompanied by the plaint, or a copy thereof.

If leave is granted, the plaint shall state that the plaintiff sues on behalf of himself and all other persons interested in the subject-matter of the suit, or sues the defendant as representing all persons so interested; and the summons to the defendant shall contain the notice set forth in Form No. 10.

If the application is made by a defendant, notice thereof shall be given to all parties to the suit; and, if permission is granted, the plaint shall be amended by inserting a statement that the defendant is, with the leave of the Court, sued as the representative of all persons interested in the subject-matter of the suit.

ORDER IV.

INSTITUTION OF ORDINARY SUITS AND SERVICE OF SUMMONS.

1. A suit shall be instituted by presenting to the Registrar a plaint in Form No. 5 of Appendix II hereto containing the particulars prescribed by the Code. Statements of accounts, and any document relied upon by the plaintiff, shall not be set out in the body of the plaint, but shall be shortly referred to. The plaint shall, at the foot thereof, contain a list to be signed by the

plaintiff or his advocate, of the documents filed therewith, in Form No. 11 or a statement as aforesaid, that no document is filed therewith. It shall not be necessary to file the list of documents mentioned in Order VII, Rule 14 (2) of the Code.

2. The plaintiff shall, together with the plaint, bring into Court a sufficient number of copies of the plaint and summonses in duplicate and an application for service of the same on the parties concerned. The summons and the copies thereof shall be marked "Original" and "Copy", respectively, and shall be sealed with the seal of the Court and signed by the Registrar or by such other officer as may be appointed for the purpose. The advocate signing the summons and the copy, or if the plaintiff appears in person, the plaintiff, shall be responsible for the correctness of the original and copy summonses.

3. After the admission of the plaint, the Registrar or other officer of the Court shall forward to the Sheriff the summons to the defendant to appear, and if the defendant is resident out of the jurisdiction, he shall transmit the same to the proper local Court or authority for service.

4. The Registrar or such other officer as may be appointed for the purpose shall endorse in the margin of the summons the date on which it is issued, and the dates on which the plaint was presented and filed; and, if a summons is returned unserved, and the period limited for service thereof has not expired, the date of the Registrar's finding on the return of the serving officer. Within fourteen days from the last mentioned date, the plaintiff shall apply for the re-issue of the summons.

Form of Summons.

5. Unless otherwise ordered and except as otherwise provided for by these rules, every summons shall require the defendant, if he intends to defend the suit, to enter an appearance and to file a written statement within fourteen days after service of the summons upon him.

6. In the following cases the Registrar may alter the form of summons by inserting in place of the said period of fourteen days periods not exceeding those hereunder mentioned:—

(a) In the case of a defendant residing outside the local limits of the ordinary original civil jurisdiction of the Court but within the limits of the State of Madras, twenty-one days;

(b) In the case of a defendant residing within India, Burma or Ceylon, six weeks;

(c) In the case of a defendant residing beyond the limits of India, Burma or Ceylon, three months.

7. (1) The summons shall be in Form No. 13 in Appendix II, with such variations as the circumstances may require.

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(2) The summons shall be served within fourteen days from the date thereof in the case of proceedings other than proceedings under Order VII, and within seven days from the date thereof when the proceedings are under Order VII, or in the case of a defendant to be served outside the city of Madras within such time as the Registrar may fix and endorse thereon.

(3) Notwithstanding anything contained in Order V of the Code for the service of summons, where an advocate has entered appearance in an interlocutory proceeding, service of summons in the suit may be made on the advocate on behalf of the party.

8. The plaintiff shall be entitled to serve the defendant with summons in the suit by post registered for acknowledgment in addition to service in the manner aforesaid. An acknowledgment purporting to be signed by the defendant shall be deemed to be sufficient proof of such summons. An endorsement of refusal of the summons shall not be deemed to be due service of the summons.

9. A fresh summons shall not be issued without an order of the Registrar. Within seven days of the order directing the issue of fresh summons, the plaintiff shall deliver to the Registrar the summons in accordance with Rule 2 with the prescribed fees.

10. Any person to whom as the recognized manager or agent of a defendant a summons has been tendered but refused, may, by order of the Master, made on application of the plaintiff, be directed to appear before the Master on a day to be fixed, for the purpose of answering questions relating to such service, and the person so directed shall be bound to appear and answer.

11. The person serving the summons within the local limits of the jurisdiction of the Court shall within three days after service endorse with his own hand on the summons, the date of service and the manner in which the summons is served. Every such endorsement shall be sworn to or affirmed before the Deputy Sheriff.

12. When a summons is returned by the serving officer, the Registrar shall enter in a book, to be called the "Summons Book", his finding on the return; and the said book and the return of the serving officer shall be open to the inspection of all parties to the suit, free of charge.

13. If the plaintiff desires to question the finding of the Registrar upon the return of the summons, the Registrar shall post the suit for the orders of the Master.

14. If the plaintiff is unable to serve one or more of the defendants with the summons, he may apply to the Master for leave to proceed with the suit against such defendant or defendants on whom service has been made, without prejudice to the right of the plaintiff against the other defendants. If leave is

granted, the plaintiff may amend the plaint by striking out the names of the defendants who are not to be proceeded against in the suit.

15. Service of any notice, order or other document (other than a summons to appear and answer), in respect of which personal service is not requisite, upon a party who has not entered an appearance, or upon a person not a party to a suit or matter, whose residence is within the jurisdiction of another Court in India, and between which place and Madras there is communication by registered post, may, where so directed by the Registrar, be effected by posting a true copy of the document required to be served in a prepaid registered envelop addressed to such party or person at the place where he is residing, provided that the time at which the document so posted would be delivered in the ordinary course of post shall be considered as the time of service thereof.

ORDER V.

APPEARANCE BY THE DEFENDANT.

1. If the defendant intends to defend the suit, he shall, within the period limited by the summons served on him, file in Court a written statement setting out the grounds of his defence in the form prescribed by the Code, and also stating his address for service: Provided that a defendant may file his written statement within a further period of five days if the plaintiff or his advocate consents and signifies such consent by endorsement on the written statement. The costs of obtaining and granting consent shall be costs in the cause.

The defendant shall, within the said period, give notice to the plaintiff that he has filed a written statement, and of his address for service.

2. A defendant in a suit may set-off, or plead by way of counter-claim against the claims of the plaintiff, any right or claim, whether such set-off or counter-claim sound in damages or not, and such set-off or counter-claim shall have the same effect as a cross suit, so as to enable the Court to pronounce a final judgment in the same suit both on the original and on the cross-claim. But the Court may, on the application of the plaintiff before trial, if in the opinion of the Court such set-off or counter-claim cannot be conveniently disposed of in the pending suit, or ought not to be allowed, refuse permission to the defendant to avail himself thereof and direct the same to be tried separately.

A defendant pleading a set-off or counter-claim shall within three days of his filing the same serve the plaintiff or his advocate

with a copy of the written statement containing such set-off or counter-claim.

3. If the plaintiff intends to defend any set-off or counter-claim made by a defendant, he shall file a written statement within two weeks after the service upon him of the defendant's written statement containing the set-off or counter-claim, or within a further period of five days with the consent of the defendant or his advocate endorsed on the plaintiff's written statement.

4. A set-off or counter-claim shall, as far as may be, drawn up and verified in the same manner as a plaint in a suit.

5. After the expiration of the time limited by Rule 1 or Rule 3 of this order, a written statement shall not be filed without leave of the Court to be obtained on Master's summons. The application shall be accompanied by an affidavit explaining the delay and by the written statement or by an affidavit stating the grounds of defence and the application may be granted on such terms as the Master thinks fit. If leave is granted, unless otherwise ordered or agreed, the applicant shall pay to the plaintiff a sum of Rs. 25 for his costs of the application.

6. Where any defendant seeks to rely upon any ground as supporting a right of counter-claim, he shall, in his written statement, state specifically that he does so by way of counter-claim.

7. If, in any case in which the defendant sets up a counter-claim, the suit of the plaintiff is stayed, discontinued or dismissed, the counter-claim may nevertheless be proceeded with.

8. Where in any suit a set-off or counter-claim is established as a defence against the plaintiff's claim, the Judge may, if the balance is in favour of the defendant, give judgment for the defendant for such balance or may otherwise adjudge to the defendant such relief as he may be entitled to upon the merits of the case.

ENTRY OF APPEARANCE.

9. A defendant or a third party shall enter his appearance to a suit by delivering to the Manager of the Original Side a memorandum in writing in Form No. 15-B, dated on the day of its delivery containing the name or names of the defendant or defendants or third party, the name of the advocate or stating that the defendant or third party defends in person. He shall at the same time deliver to the said Manager a duplicate of the memorandum which the officer shall seal with the official seal showing the date on which it is sealed and return it to the person entering the appearance, and the duplicate memorandum so sealed shall be a certificate that the appearance was entered on the day indicated by the seal.

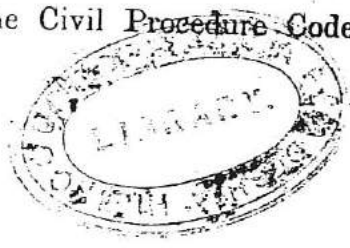
10. At the time of appearance the form of notice of appearance No. 15-B and Appendix II must be filled in and handed to the clerk or officer in charge together with an envelope addressed to the plaintiff or his advocate, or where the plaintiff appears in person to the plaintiff, for transmission by post by the proper officer. Where the appearance is by a third party, the notice of appearance shall be in Form No. 15-E and shall be addressed to the defendant or his advocate and shall be transmitted by post by the proper officer.

11. A defendant or a third party may enter an appearance under protest. Notice of such protest must be endorsed on the memorandum of appearance and on the notice of appearance.

ORDER V-A.

THIRD PARTY PROCEDURE.

The provisions of Order VIII-A of the Civil Procedure Code shall apply.



ORDER VI.

THE POSTING OF CASES.

1. When the summons to the defendant, or if there is more than one defendant, the summonses to all the defendants, have been found by the Registrar to have been duly served, but none of the defendants has filed a written statement, he shall enter the case in the list of undefended causes; when any of the defendants has filed a written statement, he shall enter the case in the General List of Causes.

2. Unless the Court otherwise orders, the Registrar shall post the cases entered in the list of undefended causes before the Judge not less than three days after they are entered in the list, and the same shall then be heard and disposed of *ex parte*. In cases where the defendant appears in person, the case shall be posted before the Judge and the defendant may be allowed to cross-examine the plaintiff's witnesses and to address the Court but unless the Court otherwise directs, evidence shall not be received on his behalf.

3. The Registrar shall enter in the list of default causes every case which through want of prosecution by any party or for any other reason cannot be entered in the lists mentioned in Rule 1.

4. Unless otherwise ordered, after a case has stood in the list of default causes for three weeks, the suit shall stand dismissed for default of prosecution as against the defendant in respect of whom default has been made :

Provided that the plaintiff may within thirty days from the date of dismissal apply to the Master that the suit may be restored, and thereupon the Master may make such order as he thinks fit. Notice of the application shall be given to all the parties who have filed a written statement.

5. The cases entered in the General List shall be posted for the first hearing not less than ten days after they have been entered in the said list.

6. When no question of fact is raised by the plaint and written statement, or when any question of law raised by one party can be decided upon the facts as admitted by that party or as alleged by the other party, or is such as in the opinion of the Judge may conveniently be tried at the first hearing, the Judge may at once proceed to try and determine the suit, or the question of law so raised, or may adjourn the settlement of issues until such question of law has been tried and determined.

7. If, in the opinion of the Judge, the decision of such question of law substantially disposes of the suit, or of any distinct cause of action, ground of defence, or set-off, the Judge may dismiss the suit or give judgment, or make such other order therein as he thinks fit.

8. At the first hearing, the Court may direct the case to be posted for settlement of issues by the Judge or for hearing without settlement of issues and may also give directions as to any of the following matters :—

- (1) Further and better particulars;
- (2) Parties;
- (3) Discovery of documents or interrogatories;
- (4) Inspection;
- (5) The issue of a commission to examine witnesses;
- (6) Mode or time of trial;
- (7) Reference to an arbitrator or commissioner (by consent);

and

- (8) Any other matter or proceeding in the action.

9. Unless otherwise ordered, no defended case shall be posted for trial until after the expiration of one month from the date of the first hearing or any adjournment thereof.

10. When any case is settled, it may, by request to the Registrar, be set down in the list of undefended cases and a note against it "Settled" and may be posted before the Registrar on an order of dismissal and refund of institution fee. Provided always that, where any party to the suit is a minor, the suit shall be posted before the Judge.

11. When one of several defendants does not file a written statement within the period fixed by the summons, the plaintiff may apply to the Master that the suit as against such defendant may be heard *ex parte* and the case may then be disposed of in manner provided by Rule 2 of this Order.

12. Unless the Court shall otherwise order, an application as to any matter in any suit shall be granted only at the cost of the applicant except in cases where the Court is of opinion that the application could not properly, or ought not to, have been previously made.

13. When a party is ordered to give further and better particulars of a matter alleged in a plaint or written statement or otherwise, the same shall be drawn up in the form of pleadings duly verified and shall be endorsed with a reference to the order directing the same, and presented to the Registrar within the time thereby limited.

14. The Court may, at any time, on the application of either party, or of its own motion, appoint a special day for the hearing of the suit or of any issue.

ORDER VII.

SPECIAL PROCEDURE IN RESPECT OF CERTAIN SUITS.

1. A suit to recover a debt or a liquidated demand in money, evidenced by a document, or any money payable by the defendant with or without interest, arising on a negotiable instrument or on a bond or a contract for payment of a liquidated amount of money evidenced by a document, or on a guarantee where the claim arises against the principal in the manner aforesaid, *may*, in case the plaintiff desires to proceed hereunder, be instituted by presenting a plaint in the form prescribed.

For the purpose of this order "Liquidated demand" means a demand for the amount stated or so expressed that the ascertainment of the amount is a mere matter of calculation.

2. Subject to the provisions of Rule 7 below the procedure prescribed by this order shall be followed in all suits instituted under Rule 1 above, the ordinary procedure being excluded to that extent.

3. The summonses shall be in Form No. 13-A or 13-B in Appendix II to these rules, or in such other form as may be from time to time prescribed.

4. In cases specified in Order IV, Rule 6 of these rules, the Registrar may extend the period of ten days in the said form up to the respective periods mentioned in the said rule.

5. In any case in which the plaint and summons are in the form prescribed in this order, the defendant shall not defend the suit unless he obtains leave to defend from the Master as hereinafter provided. In default of the defendant obtaining such leave, or if he fails to defend in pursuance of such leave, the allegations in the plaint shall be deemed to be admitted and the plaintiff shall be entitled to a decree for the sum claimed in the plaint, and in cases where interest is payable either by contract or statute, interest till the passing of the decree and further interest at six per cent per annum from the date of the decree to the date of payment, and such sum for costs as may be prescribed.

6. (1) An application for leave to defend the suit shall be made to the Master supported by such evidence by way of affidavit as the defendant desires to place before the Court.

(2) Leave to defend may be given unconditionally or subject to such terms and directions as the Master thinks fit.

(3) The Master shall, (a) if the defendant does not appear, on proof by affidavit of service of the summons on the defendant, or (b) if leave to defend is not granted, pass a decree for the amount claimed and costs.

7. A suit which has been admitted or marked as a suit under this order may at any stage be directed to be treated as an ordinary suit or as commercial cause by the order of the Court upon the application of any party or of its own motion and upon such terms as to costs as the Court may deem fit.

8. In suits under this order the costs shall be on the scale applicable to undefended suits.

9. After decree the Court may, under special circumstances, set aside the decree, and if necessary stay or set aside execution, and may give leave to the defendant to defend the suit, if it seems reasonable to the Court so to do, and on such terms as the Court thinks fit.

ORDER VIII.

SPECIAL PROVISIONS FOR CERTAIN CLASSES OF SUITS.

1. The provisions of Order XXXII, Rule 7 of the Code, shall apply *mutatis mutandis* to trustees, executors and administrators.

2. When a person is appointed next friend on behalf of a minor, the next friend shall present with the plaint an affidavit stating the age of the minor and that the next friend has no interest directly or indirectly adverse to that of the minor, and is otherwise a fit and proper person to act as next friend.

3. Any person, upon whom a summons has been served, may, within the time prescribed by Order V, Rule 1, present to the Registrar a written statement signed and verified by him on behalf of the infant, together with an affidavit containing the particulars, viz., his name, and position or occupation, that he has no interest directly or indirectly adverse to that of the minor, and is otherwise a fit and proper person to act as guardian and also stating that he is willing to be appointed *guardian ad litem* of the minor defendant. The appointment may be made by endorsement by the Registrar on the affidavit, and thereupon the Registrar shall file the written statement.

Paupers.

4. An application for leave to sue or institute any proceeding *in forma pauperis* shall be made to the Master entitled in the matter of the intended suit or matter, and shall be accompanied by the plaint, petition, or other proceeding, which shall also contain the particulars of the property of the applicant, and be signed and verified, as prescribed by Order XXXIII, Rule 2 of the Code.

5. An application for leave to defend *in forma pauperis* shall be made to the Master and shall be accompanied by an affidavit containing the particulars of the property of the applicant in Order XXXIII, Rule 2 of the Code mentioned; and shall be served on the advocate for the Government and the plaintiff.

Agents.

6. No person who has been disbarred or suspended or whose name has been struck off the roll of advocates shall be permitted to act as a recognized agent of any party within the meaning of Order III of the Code.

Notice of proceedings to the Advocate-General.

7. (a) The Court may direct notice to be given to the Advocate-General in all matters of a constitutional nature coming before it and the Advocate-General may appear and take part in the proceedings.

(b) The Advocate-General may also apply to be heard in any such proceedings before the Court, and the Court may, if in its opinion the justice of the case so requires, permit him to appear and be heard, subject to such terms as to costs or otherwise as the Court may think fit.

ORDER IX.

PRODUCTION, INSPECTION AND DISCOVERY OF DOCUMENTS.

1. All documents, which are not in the English language filed or produced by a party shall be translated, verified, and signed, by the Court Interpreter; or, if there is no Court Interpreter thereunto qualified, by a duly qualified person, who shall verify his translation upon affidavit; and the translations shall be annexed to the originals. The translator shall mark on every translation the day on which he received the original document, the dates upon which stamps were called for and received respectively, and the date on which the translation was ready for delivery.

2. A party shall be at liberty in case of urgency or by consent to furnish to an officer an unofficial translation of any exhibit or document produced before such officer. Should the correctness of such unofficial translation be challenged, the officer may, on reference to a sworn interpreter or translator of the Court, decide the point and amend the translation if necessary or require the document or portion of it to be officially translated.

Where the parties to the suit agree to such unofficial translation being admitted in evidence, the Court may by order allow the advocate to include in his bill of costs, the translation charges given in item 18 of Appendix II to the High Court Fees Rules.

3. If the party filing or producing a document fails, or delays, to apply for the translation thereof, or to furnish the proper stamps, the document shall not be received in evidence, except with the leave of the Court and upon such terms as the Court directs.

4. If under Order VI, Rule 8 or 12 of these rules, a list of documents is directed to be filed, the same shall be in Form No. 12 and if the documents are ordered to be filed in Court, they shall be accompanied by a list in the same form.

5. A defendant upon whom summons to appear and answer to a plaint has been served, shall be entitled, on giving twenty-four hours' notice in writing to the plaintiff or his advocate to inspect all documents produced with the plaint, or annexed thereto, and shall be entitled to be furnished with copies of the documents on payment of the usual charges.

6. A plaintiff, or a defendant, on whom summons has been served, shall be entitled, on giving twenty-four hours' notice in writing to the party who has filed the same, to inspect all documents produced with or annexed to, the written statement filed by any other party, and shall be entitled to be furnished with copies of the said documents on payment of the usual charges.

Under the provisions of Order VI, Rule 17, rules, a defendant, or any party served with notice under Order V-A of these rules, may at any stage of a suit apply to the Master, as against any other defendant for an order for discovery of documents. The application shall be supported by an affidavit stating the interest of such co-defendant in the matter touching which discovery is sought, and the special facts and circumstances upon which the claim to obtain discovery from him is founded.

8. If an affidavit of documents has been filed, no document which is not mentioned in such affidavit and which is or has been in the possession or power of the party making such affidavit shall be admitted in evidence except by the special order of the Court.

9. Where production is sought from a corporation, incorporated company, or company authorized to sue and be sued in the name of an officer or trustee, the affidavit may be made on behalf of the corporation or company by any director, secretary or other principal officer of the corporation or company, who is acquainted with the facts of the case.

10. The Master may for sufficient reason allow the affidavit to be made on behalf of the person from whom production is sought by any person competent to make the same.

11. All questions of privilege, exemption, sealing up, or production without leaving at the Registrar's office, shall be raised in the affidavit.

12. No affidavit, in answer to an affidavit, or further affidavit made by the party from whom production is sought, shall be allowed without special leave of Court.

13. If documents are claimed to be privileged, the party seeking production, if desirous of raising the question, must do so by further application for production. The application shall be made to the Master and may be heard by him or adjourned to be heard in Court.

14. If the affidavit is considered insufficient, as not containing a clear admission or denial of the possession of documents or such description of them that the Court can enforce its order, or for any other cause, the party seeking discovery may obtain an order from the Master to consider the sufficiency of the affidavit, supported by an affidavit by or on behalf of the party seeking discovery.

15. If the affidavit is held to be insufficient, further time may, at the discretion of the Court, be allowed to the deponent to file a full and sufficient affidavit, and such time may be further extended on his application to the Master.

If it appears from the affidavit of the party from whom production is sought, that any books or papers relating to the matter in dispute are in constant use in his business, and necessarily for the purpose, or cannot be deposited without great inconvenience, the order in the first instance may direct that they are to be produced for inspection at the place of business at which they are stated to be in use, or other convenient place.

17. If, where inspection has been ordered out of Court, it is found that a satisfactory inspection cannot be obtained, or if it is shown that the documents are being or are likely to be tampered with, application may be made to the Master for an order for the deposit and inspection of the documents in Court. The application shall be supported by affidavit.

18. If it appears from the affidavit of the party from whom production is sought, that any books or papers contain matter which he is not liable to disclose, the order may be qualified so as to admit of such parts being sealed up.

19. If the right to seal up has not been claimed, a special application for leave to seal up may be made to the Master supported by affidavit.

20. If a statement in any affidavit, or plaint, or written statement or the unsealed documents, affords grounds for suspecting that the party has sealed up matter that ought to have been disclosed, the party seeking inspection may apply to the Master for inspection of the documents which have been sealed, and the Master may unseal such documents and examine them in order to see whether the applicant is entitled to inspect the portions sealed up.

21. If documents are ordered to be deposited at the Registrar's office, a copy of the order and a list of the documents shall be left at the time the deposit is made.

22. When the purpose for which the documents have been deposited is satisfied, the party by whom they were deposited may have them delivered out to him with the consent in writing of the other party or on application to the Master after notice to the other party.

23. An order for an affidavit and production, or production only, may be enforced on the orders of Court by serving the same on the party ordered to produce the documents.

24. (a) Unless otherwise ordered, within one month after the filing of the affidavit of documents, each party to the suit may furnish the other side with copies of the documents which have been disclosed, and within one month thereafter, the plaintiff may prepare a single bundle known as the "agreed bundle" containing copies of the documents arranged in chronological order and bound, and file the bundle and a copy thereof into Court. An

agreed bundle may contain documents to which objections are raised but shall not contain documents the genuineness of which is in dispute. Of the two copies of the agreed bundle, one shall be for the use of the Court and the other may be marked as exhibit;

(b) The plaintiff and the defendant shall also file into Court two copies of typed sets of papers containing copies of documents, if any, which they intend to use at the hearing and which have not been included in the agreed bundle, after serving a copy of the same on the opposite party;

(c) If no agreed bundle is prepared as stated in clause (a) before the suit is posted for final disposal before the Court, the plaintiff and the defendant shall each file into Court two clean copies of typed sets of papers containing copies of documents which they intend to use at the hearing, after serving a copy of the same on the opposite party;

(d) The originals of such of the documents referred to in clauses (a), (b) and (c) as are required for marking as exhibits shall be produced at the hearing of the suit; and

(e) The Court may refuse to allow any document not included in the typed sets of papers to be filed into Court by either party.

ORDER X.

INSPECTION AND PRODUCTION OF DOCUMENTS OF RECORD.

1. Except as provided for by Order XI, Rule 15 of the Code, an application by a party to a suit or matter for leave to search, or for copies of, any of the records of, or in the custody of, the High Court, filed in the suit or a matter, shall be made to the Registrar. Except as provided for by the rule above mentioned, leave under this rule shall be restricted, in the case of a pending suit or matter, to pleadings, affidavits, proceedings of the Court, proceedings or report of, or evidence taken by, a commissioner, and documents filed by the applicant; but, when a suit or matter has been disposed of, leave may be granted in respect of the whole record.

2. Applications for leave to search the registers of wills and probates and letters of administration or for copies thereof shall be supported by an affidavit and made to the Registrar, who may grant leave on payment of the usual fees.

Inspection of proceedings by a stranger.

3. Except as provided for by Rules 1 and 2 of this order, an application for inspection, or copies of, records or documents of, or in the custody of, the Court, shall be made to the Master

entitled in the suit, appeal, or matter, in which the records or documents are filed, and specifying as far as possible the particular records or documents, of which inspection is, or copies are, required, by reference to the nature, date, and date of filing of, and the parties to each record or document. The application shall be supported by affidavit stating whether the applicant has any, and what interest in the subject-matter of the document, or of the proceeding in which the record or document is filed, and the purpose for which, inspection or a copy is required, and if the same is required for the purpose of an intended or pending proceeding, the nature of the said proceeding, and the relevancy of the record or document to the case of the applicant.

4. The Master may, in his discretion, cause notice of the application to be given to the parties to the said proceedings or to any other person.

5. The Master shall not grant leave to inspect, or to obtain a copy of any record or document produced by a person not a party to the proceedings in which the same is filed, or to the discovery of which any person is entitled to object, except in either case with the written consent of such person.

6. If leave is granted, the inspection shall be made by the applicant or his advocate in the presence of the record-keeper or his assistant. The applicant or his advocate may at the time of the inspection make a short memorandum of the date, nature and length, of a document, so as to identify it and to enable the party to furnish the prescribed fee, in case a copy is required, but shall not be allowed to make extracts or copies.

7. The Registrar shall, upon the application of any person, whether a party to the suit or proceeding or not, grant a certificate specifying shortly the several proceedings which have been taken in his office and the dates thereof.

8. Every application for the production of records in Court before a Judge or an officer of Court shall be made to the Registrar in writing, not later than the day previous to that on which they are required to be produced, and shall specify the particular documents so required, and thereupon the Registrar shall cause the documents to be produced accordingly; provided that, in any case in which the Registrar may doubt the propriety of producing any document, he shall take the directions of the Court.

ORDER XI.

COPIES OF DOCUMENTS.

1. Where any party is entitled to a copy of a pleading, affidavit, deposition, bill of costs, or any other proceeding or document, filed or prepared by, or on behalf of another party, such copy shall be

furnished by the party by or on whose behalf the same has been filed or prepared, on payment of charges at the rate of three annas per folio for every printed copy and five annas per folio for every written or type-written copy.

2. The name and address of the party or advocate by whom a copy is furnished shall be endorsed thereon, and the said party or advocate shall be answerable for the same being a true copy of the original, or of a certified copy of the original, of which it purports to be a copy, as the case may be.

3. In case a party or advocate who is required to furnish any such copy as aforesaid, either refuses, or neglects, to furnish the same within a week, the person by whom the application was made shall be at liberty to apply to the Registrar, stating such refusal or neglect, for a certified copy.

✓ 4. Any party to a suit or matter shall be entitled to obtain copies of judgments, decrees or orders made and of any documents filed or exhibited in such suit or matter on payment of the charges prescribed for certified copies by these rules on an application to the Registrar with a court-fee of one rupee and four annas containing a brief description of the documents and dates thereof.

5. After computation of the necessary charges payable for the copies applied for has been made, a list showing the amount of fees required to be paid after giving credit to the Court-fee label for Re. 1, attached to the application, shall be prepared and signed by the Manager and affixed to the Court's notice board. Such lists will be affixed daily between the hours of 11 a.m. and 12 noon and will remain affixed for five clear days. If the required fees are not deposited by 4 p.m. on the last of the five clear days, the application shall be struck off; unless it is restored on an application made to the Master for that purpose, a fresh application under these rules must be made for copies. Applications on which requisite additional charges have been paid shall be noted in the list as paid. These lists shall remain filed for six months in the record and shall then be destroyed.

6. A list of copies ready for delivery shall be prepared under the initials of the Manager and affixed to the Court's notice board at 3-30 p.m. each day. The list shall remain affixed for seven clear days, after expiry of which the list shall be taken down and filed in the record for one year and shall then be destroyed. As copies are delivered to the applicants concerned appropriate entries shall be made in the list.

7. Every certified copy shall bear endorsements to be signed by such officer as may be appointed for the purpose, of the several dates on which the application was made, on which the prescribed fee was called for and brought in and on which the copy was ready to be issued to the applicant.

ORDER XII.

COMMERCIAL CAUSES.

1. Commercial causes include causes arising out of the ordinary transactions of merchants, bankers and traders; amongst others, those relating to the construction of mercantile documents, export or import of merchandise, affreightment, carriage of goods by land, sea or air, insurance, banking and mercantile agency and mercantile usages and debts arising out of such transactions and such other causes as the Judge may deem fit to include in that category.

2. At any time after the plaint in a suit has been admitted but (save with the leave of the Judge) not later than seven clear days after the written statement has been filed, any party to the suit, whether he is a plaintiff or defendant may take out a summons before the Judge for such suit to be marked as a " Commercial Cause " and for directions. If on such a summons an order is made before appearance, the defendant may, after appearance, object that the case is not a commercial one.

3. The summons shall be in Form No. 25-A with such variations as circumstances may require and shall be addressed to and served upon all such parties to the suit as may be affected thereby. Upon the hearing of such summons the Court shall, if satisfied that the suit should be treated as a commercial cause, direct that such suit be included in the commercial cause list. And thereafter the Judge may make such order as he thinks fit for the speedy determination of the suit, avoidance of multiplicity of interlocutory proceedings and the avoidance of expense and delay which may arise from commissions to take evidence or otherwise. More particularly the Judge may pass orders with respect to the following matters :—

Pleadings, particulars, admissions, discovery, interrogatories, inspection of documents, inspection of immovable or movable property, commissions, admission of any documents, examination of witnesses, place, date and mode of trial. Such order shall be in Form No. 25-B, with such variations as circumstances may require.

When a suit has been directed to be included in the commercial cause list, all pleadings, summonses and proceedings in such suit shall be marked " Commercial Cause " in addition to the usual headings and endorsements. The Registrar shall keep a separate list of all commercial causes called " Commercial Cause List " and enter all such causes in such list.

4. The parties may, if they so desire, agree in writing to be signed by them or their advocates that the judgment or decision of the Judge in any such suit shall be final.

5. Commercial causes, shall, so far as possible, be set down for hearing before the Judge appointed from time to time by the Chief Justice for that purpose, on the day fixed for the hearing thereof.

and such causes shall be heard in priority to all other causes appearing on the board on that day, except part-heard suits, and other commercial causes on the same board fixed for hearing on a prior date.

ORDER XIII.

ORIGINATING SUMMONS.

1. The executors or administrators of a deceased person, or any of them, and the trustees under any deed or instrument, or any of them, and any person claiming to be interested in the relief sought as creditor, devisee, legatee, heir, or legal representative, or as *cestui qui trust* under the trusts of any deed or instrument, as claiming by assignment or otherwise, under any such creditor or other person as aforesaid, may take out, as of course, an originating summons in the form prescribed for such relief of the nature or kind following, as may by the summons be specified and the circumstances of the case may require (that is to say) the determination, without an administration of the estate or trust, of any of the following questions or matters:—

(a) any question affecting the rights or interests of the person claiming to be creditor, devisee, legatee, heir, or legal representative, or *cestui qui trust*;

(b) the ascertainment of any class of creditors, devisees, legatees, legal representatives or others;

(c) the furnishing of any particular accounts by the executors, administrators, or trustees, and the vouching (when necessary) of such accounts;

(d) the payment into Court of any moneys in the hands of the executors, administrators or trustees;

(e) directing the executors, administrators, or trustees, to do or abstain from doing, any particular act in their character as such executors, administrators or trustees;

(f) the approval of any sale, purchase, compromise or other transaction; and

(g) the determination of any question arising in the administration of the estate or trust.

2. The persons to be served with the summons under the last preceding rule in the first instance shall be the following (that is to say):—

A. Where the summons is taken out by an executor or administrator or trustee—

(a) for the determination of any question under sub-clause (a), (e), (f) or (g) of Rule 1, the persons, or one of the persons whose rights or interests are sought to be affected;

as may seem to the Judge to make them accord with the existing state of facts, so as properly to raise the questions in issue between the parties.

9. If it appears to the Judge that matters in respect of which relief is sought cannot be disposed of in a summary manner, he may refuse to pass an order on the summons, may dismiss the same and refer the parties to a suit in the ordinary course; and he may make such order as to the costs already incurred as may seem to him to be just.

10. The Judge may, if he thinks the question to be determined is of sufficient importance, order the costs to be taxed on the same scale as an Original Suit.

11. If the Judge is of opinion that the matter is fit to be dealt with on an originating summons, he may pronounce such judgment as the nature of the case shall require, and any order made by him shall be drawn up as a decree of the Court. Provided that if the Judge dismisses the summons under Rule 9, it shall be sufficient for him to sign an order to that effect, which shall be filed in the proceedings.

12. The Judge may give any special directions touching the enforcement or execution of such decree, or the service thereof upon persons, not parties, as he may think fit.

13. When any summons under Rule 1 has been taken out, every subsequent summons relating to the same estate or trust shall, so far as possible, be heard by the Judge who heard the original summons.

14. Nothing in Order II, Rule 2 of the Code, shall apply to plaints filed to support an originating summons, or to any proceedings thereunder.

15. For the purposes of taxation of costs a proceeding under this order shall, unless otherwise ordered, be deemed to be a matter coming under Order V, Rule 20 of the High Court Fees Rules, 1956.

ORDER XIV.

INTERLOCUTORY APPLICATIONS.

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1. All applications in a suit or matter shall be made to a Judge or to the Master as provided for by these rules upon a summons in Form No. 15 issued by such officer as may be appointed for the purpose.

(b) for the determination of any question under sub-clause (b) of Rule 1, any member or alleged member of the class;

(c) for the determination of any question under sub-clause (c) of Rule 1, any person interested in taking such accounts;

(d) for the determination of any question under sub-clause (d) of Rule 1, any person interested in such money; and

(e) if there be more than one executor or administrator or trustee and they do not all concur in taking out the summons, those who do not concur.

B. Where the summons is taken out by any person other than the executors, administrators or trustees, the said executors, administrators or trustees.

3. The Judge may, in all cases, direct such other persons to be served with an originating summons as he may think fit.

4. An originating summons shall be in Form No. 13-C and shall specify the relief sought and shall be signed by the Master before being issued. The person entitled to apply shall present with it a ~~plaint~~ without a prayer setting forth concisely the facts upon which the relief sought by the summons is founded. The ~~plaint~~ shall specify at the end but not in the form of a prayer the relief which is sought by the summons. No document shall be annexed to the ~~plaint~~ unless greater brevity or clearness would be gained by reference to annexed documents as opposed to setting out in the ~~plaint~~ itself the contents of documents which are not annexed thereto.

5. The ~~plaint~~ when accepted shall be filed and numbered as an ordinary suit and entered in the register of suits but after the serial number the letters " O.S. " shall be placed to distinguish it from ~~plaints~~ filed in ordinary suits.

6. The summons together with a copy of the ~~plaint~~ shall be served by the advocate taking out the same; and the summons after service shall be filed in the proceedings.

7. Originating summons shall, in ordinary cases, be made returnable in eight days after service but the Master issuing a summons may fix such longer period as to him may seem proper. A written statement or an affidavit may be filed in answer to the ~~plaint~~ but there shall be no obligation to file the same unless the Court otherwise directs.

8. On the hearing of the summons if the parties thereto do not agree to the correctness of the facts set forth in the ~~plaint~~, the Judge may order the summons to be supported by such evidence as he may think necessary; and may give such directions as he may think just for the trial of any question arising thereout. The Judge may order such amendments in the ~~plaint~~ and summons

and such causes shall be referred by the court to all persons interested in the same for their consideration and report to be made to the court sitting on the board on that day, except part-heard suits, and commercial causes on the same board fixed for hearing on a certain date.

ORDER XIII.

ORIGINATING SUMMONS.

1. The executors or administrators of a deceased person, or any of them, and the trustees under any deed or instrument, or any of them, and any person claiming to be interested in the relief sought as creditor, devisee, legatee, heir, or legal representative, or as *cestui qui trust* under the trusts of any deed or instrument, as claiming by assignment or otherwise, under any such creditor or other person as aforesaid, may take out, as of course, an originating summons in the form prescribed for such relief of the nature or kind following, as may by the summons be specified and the circumstances of the case may require (that is to say) the determination, without an administration of the estate or trust, of any of the following questions or matters:—

(a) any question affecting the rights or interests of the person claiming to be creditor, devisee, legatee, heir, or legal representative, or *cestui qui trust*;

(b) the ascertainment of any class of creditors, devisees, legatees, legal representatives or others;

(c) the furnishing of any particular accounts by the executors, administrators, or trustees, and the vouching (when necessary) of such accounts;

(d) the payment into Court of any moneys in the hands of the executors, administrators or trustees;

(e) directing the executors, administrators, or trustees, to do or abstain from doing, any particular act in their character as such executors, administrators or trustees;

(f) the approval of any sale, purchase, compromise or other transaction; and

(g) the determination of any question arising in the administration of the estate or trust.

2. The persons to be served with the summons under the last preceding rule in the first instance shall be the following (that is to say):—

A. Where the summons is taken out by an executor or administrator or trustee—

(a) for the determination of any question under sub-clause (a), (e), (f) or (g) of Rule 1, the persons, or one of the persons whose rights or interests are sought to be affected;

The summons shall be prepared by the party desiring to take out the same and shall together with the required number of copies thereof be filed into Court for the insertion of the return day. If the application is to be supported by affidavit or is to be served on any party, the summons shall so state and the affidavit shall be filed with the summons. The party or the advocate shall be responsible for the correctness of the copies of the summons. The original and copies shall then be issued with the seal of the Court, the original shall be retained and filed and the copies returned to the party or to the advocate for service.

2. Service of summons shall be made by delivering the copies thereof issued by the Court together with copies of any affidavits which the applicant intends to use or on which he intends to rely, to the opposite party or his advocate, unless otherwise ordered, not later than two clear days before the return day. The party or his advocate shall be responsible for the correctness of the copies of the affidavits.

Proof of service of the summons on the respondents shall be filed not later than the day previous to the return day; and no order other than an interim order shall be made without such proof of service being filed.

3. An order shall be in Form No. 16 (A) with such variations as circumstances may require. It shall be sealed and shall be marked with the name of the Judge or Master by whom it is made.

4. Where an order has been made not embodying any special terms, nor including any special directions, but simply enlarging time for taking any proceeding or doing any act, or giving leave (a) for the amendment of any summons or pleadings, or (b) for the filing of any document, it shall not be necessary to draw up such order unless the Court shall otherwise direct; but the production of a note or memorandum of such order, signed by a Judge or Master, shall be sufficient authority for such enlargement of time, amendment, filing, or other act.

A direction that the costs of such order shall be costs in the cause or matter shall not be deemed a special direction within the meaning of this rule.

The advocate or the person on whose application such order is made, shall forthwith give notice in writing thereof to such person (if any) as would, if this rule had not been made, have been required to be served with such order.

only the substance of the facts, for or without any evidence of facts or argument. Unless otherwise ordered, any facts to be proved shall be proved by affidavit.

6. If, on the return day fixed in the application, there is no Court sitting for the hearing of interlocutory applications, the Registrar shall enter the same in the list of applications on the next day thereafter appointed for the hearing of interlocutory applications.

7. The Judge, if satisfied that there is urgency, may, on payment of an additional fee of Rs. 2, hear any application with respect to any matter and make an order *ex parte* or otherwise, upon such terms as to costs or otherwise, as the Court may think just, or may adjourn the further hearing of the application for notice to be given to the party affected by the order. If an order is made *ex parte*, the party affected by the order may apply to set it aside.

8. All applications other than those mentioned in Rule 10 infra shall be disposed of by a Judge. Provided that a Judge may refer any matter brought before him under this rule to a Division Bench.

9. The Master will sit every day on which the office of the Court is open to dispose of the applications specified in Rule 10. In the event of the absence of the Master, such applications, if of an urgent nature, may be made to the Judge.

10. All applications of the description or relating to the matters hereunder mentioned shall be made to the Master:—

(1) Admission and rejection of plaints and applications for excusing delay in re-presentation of pleadings beyond one month.

(2) Applications for leave to sign and verify any pleadings or any other proceedings in a suit or matter.

(3) Applications for revocation of the appointment of an advocate and for change of advocates.

(4) Applications for an order appointing a *guardian-ad-litem* of an infant or a person of unsound mind or for insertion of the name of the legal representative of a deceased party and for amendment of the record accordingly.

(5) Applications by strangers to a suit for leave to inspect the records and for obtaining copies of the records.

(6) Applications for inspection of documents received on subpoena or summons or letter of request or for obtaining copies thereof.

(7) Applications for production of records or documents or accounts filed in such record before any other Court or officer of such Court.

(8) Applications for the issue of a proceeding to another Court for the production of the record of such Court or of notice or summons to a public officer for production of a public record or register.

(9) Applications for an order directing the Registrar of Assurances to transmit a will or codicil to the High Court.

(10) Applications for the issue of a citation to any person to bring into Court any testamentary document or paper.

(11) Applications for enlargement or abridgement of time under Order 1, Rule 7 of these rules, and generally all applications for extension of time under the Code, or under these rules, except with regard to time fixed by the Court in decrees or decretal orders.

(12) Applications for adding or striking out parties in suits or other matters and for leave to amend a pleading or to strike out any matter therein.

(13) Applications for orders for production of prisoners and others under the Prisoners Act, 1900.

(14) Applications under Order I, Rule 8 of the Code, for leave to sue and defend on behalf of or for the benefit of all in the same interest.

(15) Applications for orders concerning substituted service of summons or notices.

(16) Applications for leave to appear after eight days by a third party under the *third party* procedure.

(17) Applications for directions in respect of matters referred to in Order VI, Rule 8 (1) to (5) and (8) of these rules.

(18) Applications relating to the conduct of suits previous to the hearing unless the suit is in one of the lists of causes for the day.

(19) Applications for further and better statement of particulars under Order VI, Rule 5 of the Code.

(20) Applications for decrees under Order VII of the rules, in default of the defendant obtaining leave to defend or of his defence in pursuance thereof.

(21) Applications for summary suits, all of which these rules being treated as ordinary suits.

(22) Applications for transfer of suits from the list of default causes to the General List of Causes or Monthly list of causes. Applications for transfer of suits from the list of contested suits to any other list.

✓(23) Applications for leave to file further written statements.

(24) Applications for discovery and inspection.

(25) Applications for delivery of interrogatories and determining whether interrogatories are properly answered.

(26) Applications for examination of witnesses *de bene esse*.

(27) Applications, except in cases coming under Order VIII of these rules or Order XXXII of the Code for an order permitting the withdrawal or dismissal of a suit, appeal, application or matter, by consent or where the other side has not answered, or for passing a decree by consent.

(28) Applications for the return of exhibits, both documentary and non-documentary, including applications under Order XIII, Rule 9 of the Code.

(29) Applications for or relating to an order for transmission or for the execution of a decree or order for arrest, attachment, sale or otherwise, with power to issue notice under Order XXI, Rule 16, 22 or 37 of the Code, or where notice is otherwise necessary or considered advisable (except matters dealt with by the Registrar under the powers delegated to him by the Chief Justice).

(30) Applications for precept under Section 46 of the Code.

(31) Applications for the withdrawal of attachment or for return of a warrant.

(32) Applications for confirming a sale in execution of, or under a decree held by the Official Referee, Commissioner or by the Sheriff.

(33) Applications for the examination of a judgment-debtor as to his property under Order XXI, Rule 41 of the Code.

(34) Applications under Section 52 of the Code.

(35) Applications under Order XXI, Rule 50, sub-rule (2) of the Code where the liability is not disputed.

(36) Applications for possession under Rules 95 and 96 of the Code.

(37) Applications in execution for appointment of a receiver or for the issue of an injunction.

(38) Uncontested applications for recording satisfaction or adjustment of a decree.

(39) Applications for concurrent and simultaneous execution of decrees.

(40) Applications for payment out of moneys paid in execution of decrees or orders of Court or for delivery of effects and securities into or out of Court.

(41) Applications for rateable distribution under Section 73 of the Code.

(42) Applications arising from the death, marriage or insolvency of parties to suits or petitions or from the assignment, creation or devolution of any interest, estate or title *pendente lite*.

(43) Applications to set aside abatement of suits.

(44) Applications for commissions to examine witnesses under Order XXVI, Rules 1 to 8 of the Code.

(45) Applications under Order XXX, Rule 2 of the Code, for disclosure of partners' names.

(46) Applications for leave to institute or defend any proceedings *in forma pauperis* and for investigation of pauperism.

(47) Applications by Receivers and others relating to the ordinary management of property.

(48) Uncontested applications in respect of proceedings for probate or Letters of Administration.

(49) Uncontested applications for amendment of decrees, and orders, settling and approving deed of assignment in case of sale under the Guardians and Wards Act, applications by persons interested in the property of minors for inspection and taking copies of statements of accounts by the guardian.

(50) All applications relating merely to procedure under the Indian Companies Act, 1913; the Guardian and Wards Act, 1890; Indian Lunacy Act, 1912; the Indian Succession Act, 1925; the Court Fees and Suits Valuation Act, 1955; the Indian Trust Act, 1882; the Arbitration Act, 1940; the Powers-of-Attorney Act, 1882;

... Books Evidence Act, 1891; and ...
 or any Act unless otherwise provided for in the Act itself or by
 rules thereunder or by these rules.

11. The Master or Registrar may refer to the Judge any matter which he considers to be a proper one to be so referred, and the Judge may either dispose of the matter or refer the same back to the Master or Registrar as the case may be with such directions as he may think fit.

12. Any person affected by any order or decision of the Master (except on a question of Court fees) or of the Registrar, in respect of all matters judicially dealt with in the exercise of the powers delegated to him by the Honourable the Chief Justice from time to time may appeal therefrom to a Judge. Such appeal shall be by Judge's summons filed within eight clear days of the date of the order or decision or within such further time as the Judge may allow and shall briefly set out the grounds of the appeal. Except with the special leave of the Court no fresh affidavit or document or evidence will be allowed to be filed or adduced.

It shall not be necessary to file a copy of the order or decision appealed against and the time for obtaining any such copy shall not be excluded in computing the said period of eight days.

Unless the Court shall otherwise order, the filing of an appeal shall not operate as a stay of the order or decision appealed against.

13. All applications except appeals filed under Rule 12 shall be posted before the Master in the first instance. If the application is one which by these rules or by the Judge's directions is required to be dealt with by a Judge, the Master shall adjourn the matter to the Judge as soon as the matter is ready for hearing.

Appeals filed under Rule 12 shall be posted before the Judge immediately they are filed.



ORDER XV.

AFFIDAVITS AND FORMS OF OATH.

1. In any suit or proceeding evidence may be given by affidavit; but the Court may order the attendance for cross-examination of the person making such affidavit.

Two or more persons may depose separately to such facts which are within his personal knowledge and those facts shall be stated in separate paragraphs.

2. Every affidavit shall be drawn up in the first person and divided into paragraphs numbered consecutively, and each paragraph, as nearly as may be, shall be confined to a distinct portion of the subject. It shall also state on whose behalf it is filed.

3. Every person making an affidavit shall be described therein in such manner as shall serve to identify him clearly and shall state to the extent possible the full name, the name of his father, his religious persuasion, his age, his profession, calling or occupation and the place of his residence, and shall be signed or marked by him.

4. Affidavits shall, if taken at a place within the local limits of the jurisdiction of the High Court, be taken before a Commissioner for taking affidavits or before a Notary appointed under the Notaries Act, 1952; if elsewhere in India, before a Notary appointed under the Notaries Act, 1952, or before the Judge of, or an officer authorized to administer oaths or take affirmations in any civil or criminal Court, other than a Village Munsif's Court or a Village Panchayat Court, within whose jurisdiction the place is situate; in any other place before a Commissioner of the High Court of Madras or before a Judge or a Magistrate or Justice of the Peace or other person duly qualified to administer oaths in that place (he being certified to be qualified as aforesaid by a Consular Representative of the Union of India or by a Notary Public).

5. Alterations and interlineations shall, before an affidavit is sworn or affirmed, be authenticated by the initials of the officer before whom the affidavit is taken, and no affidavit having therein any alteration or interlineation not so authenticated, or any erasure, shall, except with the leave of the Court, be filed or made use of in any matter.

6. The officer before whom an affidavit is taken shall state the date on which and the place where the same is taken, and shall affix his seal, if any, or the seal of the Court to which he is attached, thereto, and sign his name and description at the end, as in Form No. 7 or 8; otherwise the same shall not be filed or read in any matter without the leave of the Court.

7. When an affidavit is sworn or affirmed by a person who appears to the officer taking the affidavit to be illiterate, blind, or unacquainted with the language in which the affidavit is written, the officer shall certify in the jurat that the affidavit was read, translated or explained in his presence to the deponent, that the deponent seemed perfectly to understand it, and made his signature or mark in the presence of the officer as in Form No. 8, otherwise the affidavit shall not be used in evidence.

8. Every affidavit or statement of opinion shall show the qualification of the deponent to express such opinion by reference to his length of experience, acquaintance with or other means of knowledge of the person or matter as to which the opinion is expressed.

9. Documents intended to be attached to an affidavit shall be referred to as exhibits, and shall be marked in the same manner as exhibits admitted by the Court; and shall bear the certificate in Form No. 18 which shall be signed by the officer before whom the affidavit is taken.

10. Before an affidavit is used, it shall be filed in Court, but the Court may with the consent of both parties, or in case of urgency, allow any affidavit to be presented to the Court and read on the hearing of an application.

11. The party filing an affidavit intended to be read in support of an application shall give not less than two days' notice thereof to the other parties, who shall be entitled to a copy of the same free of charge, and to file counter-affidavits, and shall give notice thereof to the applicant, who may obtain copies of the same free of charge, and file affidavits in reply, copies of which shall be furnished free of charge; but, except with the leave of the Court, no further affidavit shall be filed or read. If any party fails to give notice of filing an affidavit or to furnish a copy thereof, the Court may grant an adjournment of the hearing and order the party in default to pay the costs thereof, or make any order it may think fit.

Forms of Oath and Affirmation.

12. Forms Nos. (1) and (2) under each of the headings I, II and III are to be used in the case of Christian witnesses, deponents, interpreters and jurors. In the case of Hebrews, the same form shall be used, the Pentateuch being substituted for the Bible.

13. The officer whose duty it is to administer the oath shall inform each Christian or Hebrew witness, deponent, interpreter or juror, as the case may be, of the two forms of oath which are permissible—the form which involves kissing the book, and the form which dispenses with it—and shall ask him to select the form by which he wishes to be sworn.

14. Form No. (3) under each of the headings I, II and III is to be used in affirming witnesses, deponents and interpreters, who are not Christians or Hebrews.

15. Form No. (4) under each of the headings I, II and III may be used in place of Form No. (3) in the case of children, and persons who object to use Form No. (3).

16. The oath or affirmation shall not be administered to a deponent to an affidavit unless the officer whose duty it is to take

affidavits is satisfied that he understands the nature and contents of the affidavits.

F.I.—OATHS AND AFFIRMATIONS TO BE TAKEN BY A WITNESS.

1. *Form of Oath.*—The witness shall stand up and raise his right hand above his head while repeating the following words: "I, A.B., swear by Almighty God that the evidence I shall give to the Court touching the matters in question, shall be the truth, the whole truth and nothing but the truth."

2. *Form of Oath.*—The witness shall hold a copy of the Bible in his right hand and shall kiss the book, after the words following have been pronounced by the officer administering the oath: "A.B. the evidence you shall give to the Court touching the matters in question, shall be the truth, the whole truth, and nothing but the truth. So help you God."

3. *Form of Affirmation.*—The witness shall say as follows: "I, A.B., solemnly affirm in the presence of Almighty God that the evidence I shall give to the Court touching the matters in question, shall be the truth, the whole truth, and nothing but the truth."

4. *Form of Affirmation for children and persons who object to use Form No. (3).*—The witness shall say as follows: "I, A.B., solemnly, sincerely and truly declare and affirm that the evidence I shall give to the Court touching the matters in question, shall be the truth, the whole truth, and nothing but the truth."

F.II.—OATHS AND AFFIRMATIONS TO BE TAKEN BY THE DEPONENT TO AN AFFIDAVIT.

1. *Form of Oath.*—The deponent shall, after signing his name, stand up and raise his right hand above the head, and shall repeat the words following: "I swear by Almighty God that that is my name and handwriting and that the contents of this my affidavit are true."

2. *Form of Oath.*—The deponent shall hold a copy of the Bible in his right hand and shall say "I do" and kiss the book after the words following have been pronounced by the officer administering the oath: "You do swear that that is your name and handwriting, and that the contents of this your affidavit are true. So help you God."

3. *Form of Affirmation.*—The deponent shall after signing his name, say as follows: "I, A.B., solemnly affirm in the presence of Almighty God that that is my name and handwriting, and that the contents of this my affidavit are true."

4. *Form of Affirmation to be used in case of persons who object to the use of Form No. (3).*—The deponent shall, after signing his name, say as follows: "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."

5. *Form of Oath or Affirmation.*—The deponent.—The deponent shall affix his mark to the affidavit, and the officer administering the oath or affirmation shall write the name of the deponent over against the mark and read it to the deponent and then the form and words prescribed by Form No. (1), (2), (3) or (4) shall be used, the word "mark" being used instead of "handwriting".

F.III.—OATHS AND AFFIRMATIONS TO BE ADMINISTERED TO AN INTERPRETER OTHER THAN A COURT INTERPRETER.

1. *When the evidence is to be given viva voce.*—The oath or affirmation shall be administered in the manner prescribed by Part I of this rule except that the substance of the oath or affirmation shall be "I shall well and truly interpret the oath that shall be administered, and the questions that shall be put to the witness, as also the answers that he shall make to all such questions, to the best of my skill and knowledge."

2. *When the evidence is to be given upon an Affidavit or Affirmation.*—The oath or affirmation shall be administered to the interpreter in the manner prescribed by Part I of this rule except that the substance of the oath or affirmation shall be "I well understand the language, and that I have truly, distinctly and audibly interpreted the contents of this affidavit (or affirmation) to the deponent A.B., and that I will truly and faithfully interpret to him the oath (or affirmation) about to be administered to (or made by) him".

ORDER XVI.

SUMMONING AND ATTENDANCE OF WITNESSES.

1. An application for the issue of a subpoena shall be in Form No. 19 of Appendix II to these rules accompanied by the subpoena in the form prescribed by these rules. The application for subpoena and the subpoena form with the necessary particulars filled in shall be signed by the party or his advocate on record.

2. The forms of subpoena to a witness shall be in one of the Forms Nos. 20, 21 and 22 and the form of letter of request to another Court for production of records shall be in Form No. 23 and the summons for the production of public records and other documents in the possession of a public servant other than a Court shall be in Form No. 23 (A) of Appendix II.

3. A subpoena might be either for a fixed date or for the final hearing of the suit. If a subpoena is issued "for the final hearing of the suit" it shall be the duty of the party issuing the same

of the advocate to the date, day and hour when the witness is required to attend.

4. Subpoenas requiring public servant to give summons to produce documents shall be addressed and served through the head of the department in which the public servant is employed at least three days before the date when the witness is required to attend or the document is required to be produced.

5. In the interval between the issuing and service of any subpoena, the party at whose instance the subpoena was issued may apply to correct any error in the names of the parties or the witnesses.

6. An application for the issue of a subpoena to a witness residing beyond the local limits of the ordinary original jurisdiction of the High Court shall mention the name of the railway station nearest to the place where the witness resides.

7. An application for the production of records either in the custody of another Court or of other public officers shall be made to the Master supported by an affidavit of the party at whose instance such application is made setting out (1) the document or documents the production of which is required; (2) the relevancy of the document or documents; and (3) in cases where the production of a certified copy would answer the purpose, whether application was made to the proper officer for a certified copy and the result of such application.

8. If the Master considers the production of the original documents necessary or is satisfied that the application for a certified copy has been duly made and has not been granted, he shall in every case record his reasons in writing and shall require the applicant to deposit in Court, before the letter of request or summons is issued, such sum as he may consider necessary to meet the estimated cost of making a copy of the document when produced. If the copying charges exceed the amount deposited, the deficit shall be paid by the party at whose instance the document was directed to be produced and if there is excess, the same shall be refunded to the said party.

9. A letter of request to any other Court for production of records or documents shall provide at least three days' time after its receipt for their despatch.

10. On production of the document the Master unless he or the Court when he refers the matter to it, thinks it necessary to retain the original, shall direct a copy to be made at the expense of the applicant and have the same certified and shall with all convenient speed return the original retaining the said certified copy.

11. Unless the Master requires the production of the original every such letter of request or summons to another Court or a public officer shall state that the said Court or public officer is at liberty to produce instead of the original a copy certified in the manner prescribed by Section 76 of the Evidence Act.

12. Nothing in the above rules shall prevent a Court of its own motion from issuing a letter of request or summons for the production of public records or other documents in the custody of another Court or other public officer if it thinks necessary for the ends of justice to do so. The Court shall in every case record its reasons in writing.

13. When the Court sees reasons to believe that a person to whom a summons has been issued either to attend to give evidence or to produce a document, has without lawful excuse, failed to attend, or produce the document in compliance with such summons or has intentionally avoided service, it may issue a proclamation requiring him to attend to give evidence or to produce the document at the time and place to be named therein; and a copy of such proclamation shall be affixed on the outer door or other conspicuous part of the house in which he ordinarily resides.

In lieu of or at the time of issuing the proclamation, or any time afterwards, the Court may, in its discretion, issue a warrant either with or without bail for the arrest of such person and may make an order for the attachment of his property to such amount as it thinks fit.

14. When a party to a suit is required by another party thereto to give evidence or to produce a document, the provisions as to witnesses shall apply to him so far as applicable.

15. Unless the Court otherwise orders, the costs of, and incidental to, an application for production of records which are material and relevant to the case, or which are sent for by the Court of its own accord, shall be costs in the cause.

ORDER XVII.

FINAL DISPOSAL COURT.

1. The ordinary and extraordinary original civil jurisdiction of the Court and all such original civil and maritime jurisdiction as may be exercised by the Court as a Court of Admiralty or for the trial and adjudication of prize causes and other maritime questions, and all such original jurisdiction as may be exercised by the Court in relation to the granting of probates and letters

of administration and all original jurisdiction in civil matters matrimonial, may be exercised by one Judge, or by a Division Court composed of two or more Judges; provided that the Judge before whom the matter is posted for hearing may at any time adjourn it for hearing and determination by a Division Court.

2. The extraordinary original criminal jurisdiction, and all such criminal jurisdiction as may be exercised by the Court as a Court of Admiralty or otherwise in connexion with maritime matters, or matters of prize, shall be exercised by one Judge.

3. The following matters shall ordinarily be disposed of by a single Judge sitting in Court :—

(a) the final hearing and disposal of suits entered in the General List of Causes;

(b) the final hearing of all matrimonial suits, whether defended or not;

(c) all applications mentioned in Order XIV, Rule 8 of these rules :

Provided that the Judge may direct any of the said matters to be heard in Chambers.

4. At the final hearing of any suit in which issues have not been previously framed, the Judge may frame the issue to be tried and at once proceed with the trial of the suit, or try the suit without any formal issues.

5. Where one or more of several defendants has, or have, but the other defendants have not, filed a written statement, the last mentioned defendants shall not be allowed to raise any issue and the suit shall as regards them be tried and determined in manner provided for by Order VI, Rule 2 of these rules.

6. Upon the final hearing of any suit, the party having the right to begin shall state his case and produce his evidence. The other party shall then state his case and produce his evidence and may then address the Court on the whole case; the party beginning may then reply on the whole case; provided that, if no evidence is put in by any party other than the party beginning, the party beginning shall, in place of a right to reply on the whole case, sum up his case at the close of the evidence and the other party may thereupon reply.

7. Notwithstanding anything contained in Rule 6, the Court may for sufficient reason direct any party to examine any witness at any stage of the suit.

8. Every document proved or admitted shall immediately be endorsed with the following particulars, viz. :—(1) number and title of the suit; (2) the person producing the document; (3) the date on which it was produced; and (4) the person for whom it

was made. It shall be signed or initialled by the officer appointed for that purpose. The document shall then be filed as part of the record (Form No. 25).

9. To facilitate the return of the documents tendered as exhibits, any party when tendering a document, book, or entry in a book, may produce a copy of the same; and unless the Court otherwise orders, the copy, upon being certified as correct, shall be marked as an exhibit, and the original document, book or entry after a note of the exhibit mark given to the copy has been endorsed, shall be returned forthwith to the person producing the same.

10. In all cases in which any original document, book or entry in a book, produced by any person not a party to the suit or proceeding, is marked as an exhibit, the Advocate of the party marking the exhibit shall, within seven days of the date of the judgment or order in the suit or proceeding, lodge in Court with the proper officer a copy of the exhibit, countersigned by the party producing the document and by the party marking it, and upon such copy being certified by the proper officer of the Court, the exhibit shall be returned to the person producing the document upon obtaining from such person an undertaking to produce the original in Court if required to do so, such undertaking to be filed in Court. But this rule shall have no application if the Court has passed an order directing the retention of the exhibit.

11. The costs and charges incurred in complying with the two last mentioned rules shall be borne in the first place by the party marking the exhibit, unless the Court otherwise orders. Such costs and charges shall be taxable as between party and party.

12. If a document, book or entry in a book, exhibited be not returned or offered to be returned within the time mentioned in Rule 10, the person producing the same may apply to the Master for the return of the same, and upon a certified copy being supplied and upon the undertaking to produce it when required being given, the exhibit shall, unless the Master sees fit to direct the document to be retained, be returned to such person. The costs of and incidental to the application and of furnishing the certified copy shall, unless the Master shall otherwise order, be paid by the party at whose instance the exhibit was put in.

✓ 13. (1) A shorthand note shall be taken of the oral evidence adduced at the hearing of any suit or other proceeding. Either party may apply to the Court at any stage of the suit or other proceeding for a transcript of the evidence to be made and, if it is ordered by the Court, a transcript thereof shall be made. At any time after the final disposal of the suit or other proceeding but not later than two weeks of such final disposal either party

For the purpose of making a transcript of the evidence to be made and the Registrar may direct that a transcript thereof shall be made.

(2) The Registrar may direct a similar note and transcript to be made in any suit or other proceeding.

(3) When an appeal is preferred against a judgment or order in any such suit or other proceeding, the appellant shall, at the time of filing his memorandum of appeal and the respondent within two weeks of service on him of the notice of appeal, specify in the list of documents and papers for translation and printing whether he intends to have the evidence of all or any of the witnesses to be transcribed for the purpose of appeal, and the Registrar shall then direct that a transcript thereof shall be made :

Provided that the transcript so prepared shall be of the whole of the evidence of the witnesses and not merely a portion thereof :

Provided further that the party who applies for such transcript of the evidence shall not be permitted to omit to print any portion of the evidence the transcript whereof was prepared at his instance.

(4) The shorthand note and the transcript shall form part of the record.

(5) A copy of the transcript so made shall be supplied to any party to the suit or other proceeding on his application and on payment of five annas for every 175 words, and if the party requires the copy urgently, he shall pay an extra fee of Rs. 2 on his application.

14. The judgment shall be pronounced in open Court, and a minute thereof shall be made by the Bench Clerk, and the Registrar shall afterwards draw up the decree in accordance therewith.

ORDER XVIII.

DECREES AND ORDERS.

1. All decrees and orders shall, immediately after they are made, be drawn up and prepared in the Registrar's office, and shall be signed by the Registrar, and sealed with the seal of the Court. Original decrees or orders so prepared shall be filed with the record of the suit or matter.

2. In cases of difficulty, or where a doubt arises as to the form of decree or order, the Registrar may give notice to the advocates of the several parties to the suit or matter, that the draft of the decree or order will be open to their inspection at the

and other, at such time and hours, for a period not exceeding seven days from the date of the notice, and that the decree or order will be drawn up in accordance with such draft, if no objection thereto is filed with the Registrar's office, within the said period. If within the said period, objection to the draft is taken by a party, the Registrar may appoint a time for the advocates of the several parties to appear before him and state their objections. The Registrar may, and if required by any party, shall submit the draft to the Court by which the decree or order has been made. After the decree or order has been issued, an application, if any, to rectify it, shall be made to the Court. The party who has failed to object to the draft shall not be allowed any costs of the application to amend or alter the same.

3. The Court may, whenever it thinks fit, direct any party to draw up the decree or order in accordance with the judgment, and thereupon, unless otherwise ordered, the party so directed shall, within seven days, or such further time as may be allowed by the Court, bring the draft into the Registrar's office and obtain an appointment from the Registrar to settle the draft. Not less than two days' notice of the appointment shall be given to the opposite party who shall be entitled to inspect the draft in the Registrar's office, free of charge, and to obtain a copy from the party filing the same, on payment of the usual charges.

In case of default, the Registrar shall draw up and issue the decree or order, and no costs of, or relating to, the amendment or alteration thereof, shall be allowed to the defaulting party.

4. A decree shall contain the number of the suit, the names and description of the parties, and particulars of the claim, and shall state the appearance of the parties, and whether any evidence was taken, and shall specify clearly the relief granted or other determination of the suit; but no issues or findings thereon or recitals shall be inserted unless by special directions of the Court. Unless the Court otherwise directs, decrees and orders shall be drawn up in accordance with the respective forms prescribed by Appendix II hereto, with such variations as circumstances may require.

5. Every certified copy of a judgment, decree or order, in respect of which an appeal may be preferred, shall bear endorsements, to be signed by the Registrar or other officer, of the several dates on which application therefor was made, the prescribed fee, if any, was called for and brought in, and the copy was ready to be issued to the applicant.

6. If costs (other than fixed costs) are awarded, and unless otherwise ordered by the Court, the award of the costs of the suit or matter, as the case may be, shall be inserted in the decree or order, followed by the words "when taxed and noted in the margin hereof"; and the Registrar shall, within two weeks after

the said costs, insert the same in the decree, and the same shall bear interest at the rate of six per cent per annum from the date of taxation until payment.

7. Every decree or order for the payment of money out of a fund or funds shall, for the purpose of such payment, be deemed to authorise the sale and subdivision of the securities for money belonging to the fund or a sufficient portion thereof.

8. In every decree or order, money and securities for money shall be expressed in words written at length.

9. Unless otherwise expressly ordered, every decree or order for the payment of money shall be drawn up for payment of the money to the party or parties who are entitled to receive the same, and no order for payment of money shall be made to an advocate unless specially authorised by the party by an affidavit.

10. No decree or order shall be made for payment of money out of Court except upon a certificate of the Registrar as to the state of the accounts between the parties.

11. No order for payment out of money standing to the credit of a suit in the High Court instituted by or against a pauper shall be made on the application of any party except after notice duly given by him to the advocate for the Government.

12. Unless the Court otherwise directs, a party consenting to a decree or order shall appear before the Court, and signify his consent by his advocate, or in person, if he has no advocate.

13. When a suit is allowed to be withdrawn with liberty to bring a fresh suit for the same matter, unless the Court otherwise orders, the decree shall direct the payment of the costs of the suit as a condition precedent to the plaintiff's instituting a fresh suit.

14. In a decree for maintenance out of property charged with payment of the allowance, the Court may appoint, subject to such conditions, if any, as it shall think fit, a receiver thereunder with directions, in case of default in payment of maintenance, to take possession of the property, realise the income, or sell the property and out of the income or sale-proceeds to pay the allowance for maintenance.

15. An injunction shall be by a decree or order, which shall have the effect of a writ of injunction, and shall be in the form prescribed in Appendix II (Form No. 26).

16. After the decree or order has been sealed, any application to rectify an inaccuracy, or clerical or arithmetical error, shall, save as provided in Order XIV, Rule 5 (c) of these rules, be made to the Judge who made the decree or order, or in the event of his absence on leave, or retirement to any other Judge, and he may in his discretion, after notice to the parties, when the Judge

Seems it necessary, amend the same so as to bring it into conformity with the judgment, or rectify such inaccuracy or error. Save as aforesaid, no alteration or variation shall be made without a review of judgment and rehearing under the provisions of section 114 and Order XLVII of the Code.

ORDER XIX. (old order XXI)

CONTEMPT OF COURT.

1. An application for the punishment of any person for disobedience of any decree, rule, or order of the Court, or for any other contempt shall be made to the Court, and every notice of such application shall contain the specific ground upon which the application is founded.

2. The application together with a copy of the decree, rule or order, which is sought to be enforced, and a list of the affidavits intended to be used, shall be served upon the person in contempt personally. Where the Court is satisfied that such person is keeping out of the way to avoid service, or has absconded, the Court may order substituted service and also order his arrest.

3. If the party in contempt cannot be arrested by reason of his absconding or keeping out of the way to avoid arrest, a Judge may, upon being satisfied thereof, grant an order for the attachment of the property of the person in contempt, to such amount as the Judge deems reasonable, which attachment shall be proceeded with in the same manner as upon execution of a decree for money. If, after such attachment, the party in contempt, appears and shows to the satisfaction of the Court that he did not abscond, or keep out of the way to avoid arrest, and complies in all respects with the decree or order of the Court, or shows sufficient cause for his failure to do so, the Court shall order the release of the property from attachment upon such terms as to costs, and otherwise, as the Court thinks fit.

4. Every person arrested for contempt shall be brought before the Court forthwith, and may be examined orally. If he confesses the contempt committed by him, and submits to the judgment of the Court thereon, his submission and confession shall be recorded; and the Court may, in its discretion, either commit him to jail or accept bail for his appearance before the Court, at such time as may be appointed, to receive the judgment of the Court for his contempt.

affidavits explanatory of the contempt, at any time not later than the fourth day before the day appointed for awarding judgment and on that day the Court may also examine the parties or their witnesses.

6. If the person in contempt appears or is brought before the Court and fails or refuses without lawful excuse to comply in all respects with the decree or order of the Court, the Court may commit him to jail for such limited time as the Court thinks fit, subject to the provisions of section 4 of the Contempt of Courts Act of 1952, unless and until he complies in all respects with the decree or order of the Court, in which case he shall be entitled to apply, to the Court, for his discharge from imprisonment.

7. If, at the end of the time limited in the warrant of imprisonment, the person in contempt persists in his disobedience to the decree or order of the Court, his property may be attached in the manner provided for the attachment of property in execution of a decree for money, and the said attachment shall continue until the said person complies with the decree or order in all things to be immediately performed, and gives such security as the Court directs for compliance with the other parts of the Decree or order, if any, at the future days and times thereby appointed or until the Court orders the property to be released.

8. At any stage of a suit or proceeding, the Court may of its own motion direct the attachment of the property of the person alleged to be in contempt.

ORDER XX.

PROCEEDINGS BEFORE THE OFFICIAL REFEREE.

1. Subject to the rules hereinafter contained, Order XXXII of these rules relating to accounts and enquiries referred to a Commissioner shall, as far as practicable, apply to all proceedings before the Official Referee.

2. Within seven days from the date of the receipt of the order of reference, the Official Referee shall fix a day for the hearing and shall affix notice thereof to the notice board of the Court.

3. Where any party fails to attend at the hearing or any adjournments thereof, the Official Referee may proceed *ex parte* as regards him.

4. Where a party has made default in filing any statement of accounts, objections, surcharge, or in doing or performing any act which he has been directed to do or perform, the Official Referee shall be at liberty to proceed *ex parte* as regards such party as

though they had not appeared, or he may adjourn the hearing, or direct any other party to file a statement of account, or proceed to determine the reference on the evidence before him, or, if he is unable to do so, he may, for reasons to be recorded in writing, return the record in the suit to the Court with a report of the circumstances which rendered him unable to proceed with the case

5. Any proceeding, order or direction under the last two preceding rules, shall not be reconsidered unless the Official Referee, upon a special application made to him for that purpose within one week or within such time as may be allowed by the Official Referee, by the party who was absent or in default, is satisfied that such party was not guilty of wilful delay or negligence. In such case the costs occasioned by non-attendance or by his default shall be in the discretion of the Official Referee who may direct them to be paid by the party before he is permitted to have such proceedings, orders or directions reconsidered, or may make such other order as to costs as the Official Referee thinks fit.

6. In cases where it is not expedient or practicable for the Official Referee to proceed by reason of the refusal or neglect of a party to do some act required to be done, the adverse party may apply to the Court for an order that the party in default do the act required to be done within a time to be fixed by the Court or that a writ of attachment may issue against him on default, and the Court shall thereupon make such order as it thinks fit.

7. The Official Referee shall, in the course of every month, make up a list of suits or matters to be enquired into in the ensuing month and shall post the list on the notice board of the Court not less than five days before the end of the month.

8. The enquiry before the Official Referee shall, as far as practicable, be proceeded with in a similar manner as in actions tried before a Judge. In examining a witness before him, the Official Referee shall, as the examination proceeds, make a memorandum of the substance of what the witness deposes, and such memorandum shall be written and signed by the Official Referee and shall form part of the record.

9. The Registrar shall cause the pleadings, issues and order of reference to be produced at the hearing before the Official Referee, and also such other records as any party may apply to be produced.

10. The result of the enquiry by the Official Referee shall, unless otherwise ordered, be stated in the form of a certificate or report drawn up in separately numbered paragraphs.

11. The Official Referee shall, on completion of his report, give

parties as appear on the date and hour fixed in the notice. The report shall bear the date on which it is pronounced. The Official Referee shall transmit the report and all the records with an index to the Registrar.

12. Notice shall be affixed by the Registrar to the notice board of the Court of the filing of the report and the date thereof and any party to the suit or matter may apply, within seven days, to the Registrar for copies thereof.

13. Any party desirous of filing objections to the report shall do so within fourteen days from the date of the pronouncement of the report. In computing the said period, time required for obtaining copies of the report shall be excluded.

14. Objections to the report shall be in the form of a memorandum signed by the party objecting and his advocate and shall set forth concisely and under distinct heads the grounds of objection to the report. Each ground shall be separately numbered.

15. A party filing objections shall give notice of such filing to all the other parties who have appeared before the Official Referee and shall, within seven days, after filing objections, serve each of such parties with a copy thereof.

16. A party desirous of filing additional grounds may obtain the leave of the Court by a Master's summons served on all the other parties not less than five days before the date fixed for the hearing or consideration of the report.

17. No party shall, without leave of the Court, urge or be heard in support of any ground of objections not raised by him in his memorandum of objections.

18. When objections have been filed by the parties or when the time for filing the same has elapsed, the suit shall be set down in the final disposal list for further consideration by the Judge. The Judge may direct either party to pay the hearing fee on such further consideration.

19. The Registrar shall draw up a decree embodying the result of the proceedings and shall give notice to all the parties who have appeared calling upon them to approve of the same within seven days. If no objections are taken, the decree shall be issued in terms of the draft.

20. The following rules shall not apply to proceedings before the Official Referee, namely, Order XXXII, Rule 1, paragraph 1, Rules 2, 10 and 16 and the second sentence in Rule 4 commencing with the words "If the Commissioner" and ending with the words "to all parties".

Seems it necessary, amend the same so as to bring it into conformity with the judgment, or rectify such inaccuracy or error. Save as aforesaid, no alteration or variation shall be made without a review of judgment and rehearing under the provisions of section 114 and Order XLVII of the Code.

ORDER XIX. (11/5/56 381)

CONTEMPT OF COURT.

1. An application for the punishment of any person for disobedience of any decree, rule, or order of the Court, or for any other contempt shall be made to the Court, and every notice of such application shall contain the specific ground upon which the application is founded.

2. The application together with a copy of the decree, rule or order, which is sought to be enforced, and a list of the affidavits intended to be used, shall be served upon the person in contempt personally. Where the Court is satisfied that such person is keeping out of the way to avoid service, or has absconded, the Court may order substituted service and also order his arrest.

3. If the party in contempt cannot be arrested by reason of his absconding or keeping out of the way to avoid arrest, a Judge may, upon being satisfied thereof, grant an order for the attachment of the property of the person in contempt, to such amount as the Judge deems reasonable, which attachment shall be proceeded with in the same manner as upon execution of a decree for money. If, after such attachment, the party in contempt, appears and shows to the satisfaction of the Court that he did not abscond, or keep out of the way to avoid arrest, and complies in all respects with the decree or order of the Court, or shows sufficient cause for his failure to do so, the Court shall order the release of the property from attachment upon such terms as to costs, and otherwise, as the Court thinks fit.

4. Every person arrested for contempt shall be brought before the Court forthwith, and may be examined orally. If he confesses the contempt committed by him, and submits to the judgment of the Court thereon, his submission and confession shall be recorded: and the Court may, in its discretion, either commit him to jail or accept bail for his appearance before the Court, at such time as may be appointed, to receive the judgment of the Court for his contempt.

ORDER XXI.

GUARDIANS AND WARDS.

1. All proceedings under the Guardians and Wards Act, 1890, in this order called "the said Act" shall be entitled "in the matter of the minor" as in Form No. 27.

Appointment of guardian.

2. An application by any person, other than the Collector, for the appointment of a guardian, or for a declaration that a person is the guardian of a minor, shall be by original petition.

3. The application shall, in addition to the particulars required by section 10 of the said Act, state whether the minor is entitled to any property absolutely, or subject to the rights or interests of any other person, and whether any property is subject to any, and what, incumbrance; and shall specify all persons of the same degree of relationship as, or of nearer degree than, the proposed guardian, and where a female is proposed as guardian, the nearest male relation of the minor.

4. Where the father of the minor is living, and is not proposed as guardian, the application shall also state any facts relied on as showing that he is unfit to act as guardian of the minor, or that he consents to the application.

5. Where it is proposed to deal with any property of the minor in manner mentioned in section 29 of the said Act, the grounds of the application, and the relief prayed, shall be stated shortly in the original petition, and it shall not be necessary to present a separate petition or application. (Form No. 27.)

6. The declaration of the willingness of the proposed guardian to act shall be in Form No. 27 (A) and may be written at the foot of, or annexed to, or exhibited with, the petition.

7. Notice of the application shall be in Form No. 28 and shall be issued and served in manner prescribed for summons to a defendant and shall be served on such person or persons as the Registrar shall direct. The Registrar may also direct the petitioner to publish the notice in such newspaper or newspapers as he thinks fit, and shall direct such publication in any case in which the petitioner is the Collector or is not a relation of the minor.

As soon as the service of the notices directed by the Registrar has been proved, the petition shall be posted before the Court for hearing.

8. A person appointed or declared to be the guardian of the property of the minor shall, when ordered by the Court to furnish security, furnish one or other of the following kinds of security:—

(a) Immovable property, (b) a fidelity bond by a Guarantee Society or an Insurance Company duly approved by the Court.

(c) cash, (d) Government security, (e) fixed deposit or cash deposit in the Post Office Savings Bank, (f) Post Office cash certificate, (g) National Savings Certificate. Such security shall, unless the Court otherwise orders, be for twice the amount or value of the movable property and of the annual rents, profits or other income of the movable and immovable property to be received or accounted for by the guardian and the guardian shall furnish the statement of the property and debts mentioned in sub-section (b) of section 34 of the said Act, and shall pass his accounts once in every year. The security bond shall not be cancelled until after the expiry of three years after attainment of majority by the minor.

If the Court thinks fit to appoint a guardian without giving security, unless otherwise ordered, the order shall direct that an undertaking shall be given by the guardian to furnish the statement above mentioned and to keep a full and correct account of all moneys and property of the minor received or expended by the guardian on his behalf and to file and prove the same in Court whenever so required.

9. At the hearing, the Court may determine the amount to be allowed for the maintenance and education of the minor, and the amount, if any, to be allowed to the guardian, as his remuneration, and may also give any special directions as to the powers to be exercised by the guardian.

10. If any person is entitled to maintenance out of the property, or to reside in any house, of the minor, the Court may fix the amount to be paid to such person for maintenance, or in respect of maintenance and residence, or give such directions with respect thereto as it thinks fit.

Interlocutory Applications.

11. Every application under the said Act subsequent to the determination of the original petition under which the guardian of the minor was appointed, or declared by the Court, shall be made to the Master entitled in the said petition or if the application is one which is required to be dealt with by a Judge, by Judge's summons.

Unless the Court otherwise orders, or unless the written consent of the parties is filed in the Court, notice of the application shall be given to every party to the original petition, and to such other persons interested in the person or property of the minor as the Court directs.

Applications to deal with Immovable Property of a Minor.

12. An application for leave to deal with immovable property of a minor by way of sale, mortgage, lease or otherwise, shall state, concisely, the substance of the order prayed for: and shall be supported by the affidavit of some disinterested and independent person, stating what, in his opinion, is the value of the property

proposed to be dealt with, and the best manner of disposing thereof in the interests of the minor, and also by the affidavit of some person acquainted with the circumstances of the minor showing the necessity or advantage of the said disposition.

13. If leave to sell is granted, the sale shall, unless the Court otherwise orders, be made by public auction with the sanction of the Court; and the sale shall be conducted in manner prescribed by Order XXXVIII of these rules.

14. If a particular sale or other disposition of property is authorized, unless the Court otherwise orders, the proceeds realized by such sale or disposition shall be paid into Court, and the deed of assignment or other document required to carry out the transaction shall be brought into Court, and shall be settled and approved by the Master.

Discharge or Removal of Guardian.

15. An application for discharge or removal of a guardian appointed or declared by the Court shall be made by Judge's summons; in the case of a guardian appointed by will, or other instrument, it shall be made by original petition. Except where the minor has attained his full age, the application shall also pray for the appointment of a guardian in place of the guardian to be discharged or removed.

16. Unless the Court otherwise orders, a guardian shall not be discharged from his liabilities until he has filed and passed his accounts, and has paid into Court any balance which may be found to be due from him, and, except where the minor has attained full age, notice of the application shall be given to all the parties to the original petition and to all persons interested in the property of the minor and to such other person or persons as the Court shall direct.

Preservation and Inspection of Accounts.

17. All persons, to whom notice of the original petition for the appointment or a declaration of a guardian was issued, may, at any time during the minority of the minor, and without obtaining an order of the Court for this purpose, inspect and take copies of such statement and accounts; and any person interested in the person or property of the minor, may at any time apply to the Master by summons supported by an affidavit showing the nature of his interest, and the purpose for which the same is required, for leave to inspect and take copies of the said statement and accounts.

Payment into Court and Investment.

18. Unless the Court otherwise orders, and excepting any moneys or securities directed by the Court to be paid or retained by a guardian for a specific purpose, all moneys and securities for

money belonging to his ward received by, or in the possession or control of, a guardian shall, after deducting any costs, charges and expenses of the guardian properly incurred, be paid into Court to the credit of the original petition under which the guardian was appointed or declared.

If a guardian of the property of a ward fails to pay into the Court the balance due from him on the accounts exhibited in compliance with a requisition of the Court and improperly retains any moneys in his hands over and above what was permitted by the Court, the Court may charge interest at a rate not less than six per cent per annum on the moneys so retained for the period of such retention without prejudice to any other proceedings which might be taken against him.

19. Moneys belonging to wards shall, unless otherwise ordered, be invested in the securities specified in Appendix IV to these rules.

Allowances to Guardians.

20. An allowance may be granted to a guardian in respect of any special work or service to be performed by him, other than work or service in connection with the custody or care of the person, or the general control and management of the property of the minor, and shall not exceed in amount the remuneration usually paid for the said work or service; and except as aforesaid, no remuneration shall be allowed to a guardian.

Costs.

21. The costs of any application with respect to the person or property of a minor may, if the application is for his benefit, be ordered to be paid out of the income of his property, or if that is insufficient, out of capital money, or moneys realized by a sale or mortgage of any property of the minor authorized by the Court for this purpose.

ORDER XXII.

RULES UNDER THE INDIAN LUNACY ACT IV OF 1912.

1. Every application under section 38 of the Act shall be made to the Court by a verified petition stating—

(a) the age of the alleged lunatic, his position in life and residence, and where he has his domicile;

(b) the nature of his lunacy, and time during which it is alleged he has been of unsound mind;

(c) the persons who are his relatives and their residences;



(d) the name of the person proposed as guardian of his person or manager of his property;

(e) the nature of his property and the income thereof; and shall be supported by the duly verified certificate of at least one medical practitioner and an affidavit of fitness of proposed guardian or manager.

2. All other applications under the Act and all applications in pending matters shall be made to the Master in all cases of procedure or ministerial acts and by Judge's summons in other cases.

3. The notice to be issued under section 40 of the Act shall be by service of a copy of the order upon the alleged lunatic and the other persons to be therein named, to whom, in the opinion of the Court, notice should be given.

In cases where the alleged lunatic is an inmate of the Government Mental Hospital, the notice shall be sent to the Superintendent of such hospital in triplicate with copies of the order of Court for service as follows :—

(a) One copy to be received by the Superintendent as having the care and custody of the alleged lunatic.

(b) The second to be tendered personally to the alleged lunatic.

(c) The third to be returned by the Superintendent to the High Court (1) with his acknowledgment of his having received a copy and (2) with an endorsement as to whether the other copy was tendered to the patient and if not, with the reason therefor.

4. The appointment of a manager to the property of a lunatic shall be subject to the same terms as to security and accounts as the appointment of a guardian. Every manager shall file and pass his accounts half-yearly.

5. The costs of all proceedings for the purpose of ascertaining whether a person is a lunatic, and of all proceedings in the matter of a lunatic shall be in the discretion of the Court which may order all or any of such costs to be paid by the lunatic or alleged lunatic, or to be charged upon and paid out of his estate, or such part thereof as the Court thinks fit, or by any other party to the proceedings; and in the case of the death of the lunatic or alleged lunatic, an order for payment of costs out of his estate may be made within three years next after the right to recover the costs has accrued and every such order shall have the effect of an order of the High Court.

6. The provisions of Order XXI of these rules shall *mutatis mutandis* apply to proceedings under this Act.

ORDER XXIII.

PARTNERSHIP SUITS.

1. In a suit for the dissolution of partnership, or for an account of partnership dealings, all the partners and all persons entitled to share in the profits of the partnership business shall be made parties. (Form of plaint Form No. 32.)
2. If, at any time, it appears to the Court that any party has not had inspection of the books of account or papers of the partnership, either through his own neglect or the default of any other party, the Court may order the same to be produced for his inspection at the Court-house or other convenient place; and, if any party alleges that the books of the partnership do not correctly set forth all the dealings and transactions of the firm, or contain items or transactions not proper to be included therein, the Court may direct such party to furnish particulars of the errors or irregularities complained of. If the hearing is adjourned, the party in default may be ordered to pay the costs of the adjournment.
3. If any party desires to impeach a settled account on the ground of error, he shall in his plaint or written statement set out the specific errors or irregularities alleged by him; if, on the ground of fraud, or of a mistake affecting the whole account, he shall in his plaint or written statement set out full particulars of the fraud or mistake alleged by him.
4. If, at the first hearing, the partnership, and the terms thereof, and the correctness of the books of account, are admitted and it is only necessary to take an account, the Court may at once pass an interim decree specifying the account to be taken and the manner of taking the same. (For forms of orders and decrees, see Forms Nos. 33 to 45.)
5. At the hearing of the suit, the Court shall determine the persons who are partners of the firm and who are entitled to share in the profits thereof, and the proportions in which they are entitled to share profits and are liable for losses, and also whether the books of the partnership have been regularly and properly kept and correctly represent the transactions and dealings of the partnership, or, if any allegations have been made in this behalf by any party, whether there are any errors or irregularities therein, or any party has been guilty of fraud in respect thereof. If the Court finds that there are errors or irregularities in the accounts, or that fraud has been committed, it shall declare generally the nature of the said errors or irregularities, or fraud, or the particular transaction in respect of which the same have been committed.
6. At the hearing of the suit, the Court shall also determine what accounts are to be taken and from what date and give such directions as may be necessary for taking the same and shall direct what notice, if any, is to be given, by advertisements in the local

newspapers or otherwise, of the dissolution of the partnership; and may, if a receiver has not been previously appointed, appoint a receiver of the assets of the partnership. The Court shall then pass an interim decree in Form No. 80 and adjourn the further hearing of the suit or may refer the further hearing to the Official Referee or to a Commissioner.

7. In the case of a settled account, if errors or irregularities are proved, the Court may either rectify particular items, or give liberty to any party to file a statement of objections and surcharge; if fraud, or a mistake affecting the whole account is proved, the Court may direct an account to be taken from the date of the settlement of accounts, if any, preceding the fraud or mistake.

8. If the Official Referee, or a Commissioner is appointed to take an account, he shall take the same in accordance with the directions and findings of the Court as contained in the interim decree; and except as aforesaid, none of the matters in Rules 5 and 6 above mentioned, shall be referred to, or dealt with by the Official Referee or by a Commissioner.

9. When the accounts of the firm have been duly taken and approved, the Court may pass an order for the discharge of the debts and liabilities of the firm, the realization or distribution of the assets of the firm, the payment of any balance due from any partner and the payment of the costs of the suit, or for any of the purposes aforesaid and may, after the said debts and liabilities have been discharged or provided for, pass a final decree in the suit as in Forms Nos. 40 and 36.

10. If the assets exceed the debts and liabilities of the firm, and if the parties agree to retain the assets in their hands respectively, on account of their respective shares in the firm, the order may provide for the payment of any balance which may be due by the firm to any of the parties, after debiting them with the estimated value of the assets in their hands. If the parties apply for the distribution of the assets in any other manner, the order may direct realization of sufficient assets to discharge the debts and liabilities of the firm, and to provide for equality of partition.

11. If the debts and liabilities exceed the assets of the partnership or the parties do not consent to a distribution of the assets, the Court shall direct the balances due from the several partners to be paid into Court, and the assets to be realized; and if, at the adjourned hearing, it appears that the debts and liabilities have been fully discharged, the Court may pass a final decree.

12. If any party ordered to make any payment or to do any other act, fails to comply with the order of the Court, any other party may apply that he may be committed for contempt of Court, or that a receiver may be appointed to collect and realize the assets of the firm and for an injunction to restrain the party in default

from retaining, or parting, or dealing in any manner with the said assets. (Form No. 45.)

13. This order shall apply, so far as may be, to a suit for an account against an agent, or other person liable to render an account.

14. A final decree effecting a partition of partnership assets shall be engrossed on non-judicial stamp paper of the same value as that required for an instrument of partition.

ORDER XXIV.

PARTITION SUITS.

1. In every suit for partition of property, all persons entitled to share therein, or to maintenance or residence or to an allowance shall be joined as parties, and if it is alleged that any co-owner has alienated any portion of the joint property or his interest therein, in circumstances rendering the alienation not binding on the co-owners, the alienee shall be made a party to the suit and the plaint shall set out the particulars of the alleged alienation.

2. The plaint shall state the relationship, if any, of the parties, and the shares to which they are respectively entitled, and the allowances or residences, if any, which it is proposed to allot to them respectively; and unless a general account is prayed for, the particular items of joint property of which division is sought, the encumbrances, charges, and outgoings, if any, to which the same are subject, and the net value of each item; and shall also state whether any debts or liabilities of the co-owners, payable out of the joint property are outstanding or unsatisfied.

3. If, upon the application of any party, to be made by Judge's summons, it appears to the Court that only the amount of the property to be divided, or the debts or liabilities of the parties, is in dispute, it may at once pass an order, directing the taking of the necessary accounts. (Form No. 47.)

4. At the hearing of the suit, the Court shall determine who are the persons interested in the joint property and their respective shares and interests therein; whether there are any outstanding debts and liabilities, which should be satisfied out of the joint property; and if any allegation has been made in this behalf, whether any person has alienated any portion of the property in circumstances rendering the alienation not binding on the co-owners or is liable to account for any particular property in his possession, or in any other manner. No such question as aforesaid shall be referred to or dealt with by a Commissioner appointed to take an

account or divide any property, and if any such question arises before him, he shall reserve the same for the determination of the Court.

5. If it appears to the Court that there are outstanding debts or liabilities which ought to be satisfied out of joint property and that the same cannot then be ascertained, the Court shall direct an account to be taken thereof, and may, in its discretion, direct notice to be given to all the persons having claims against the property, or the co-owners, by advertisement in the newspapers or otherwise, to bring their claims into Court before a fixed day.

6. If it is necessary to take an account, the Court *may* pass an interim decree, specifying the several accounts to be taken, and the further hearing of the suit may be adjourned or the Court may direct such accounts to be taken before the Official Referee or by a Commissioner.

7. If any debts or liabilities other than encumbrances, charges, or outgoings, on or out of immovable property, are outstanding, the same shall, unless the Court otherwise directs, be ascertained and as far as practicable discharged or provided for, before any order or decree is made for the division or distribution of the joint property.

8. If there are any outstandings due to the co-owners, unless the same is accepted by any party in satisfaction or part-satisfaction of his share, they shall, unless the Court otherwise directs, be collected and brought into Court, by means of the appointment of a Receiver, or otherwise, before any order or decree is made for the division or distribution of the joint property.

9. If, under the Partition Act, 1893, or otherwise, the sale of any property by public auction is ordered, the Court shall determine by whom the same is to be conducted, and an order for sale shall be made, and the subsequent proceedings shall be conducted, in manner prescribed by Order XXXVIII of these rules so far as the same may be applicable. Provided that Order XXXVIII, Rule 7 of these rules, shall not apply to the said sale and the Court may grant leave to any party, including the party having the conduct of the sale, to bid for and purchase the property or any part thereof, on such terms as the Court thinks fit.

10. If the sale is to be made free from incumbrances, the party having the conduct of the sale shall, together with the certificate of incumbrances in Order XXXVIII, Rule 3 of these rules mentioned, bring into Court the written consent of the incumbrances verified by affidavit; or any party may apply, at the hearing that the sale may be made under section 57 of the Transfer of Property Act, 1882. If notice of the application is ordered, the applicant shall, within two days or such other period as may be fixed by the Court, bring into Court two copies of a notice to each incumbrancer, or other person, to

whom notice is directed to be given in Form No. 53; and the provisions of these rules with respect to issue and service of summons to a defendant shall apply to the said notice.

11. At the final hearing of the suit, the Court shall determine of what the joint property consists, and the manner in which the same is to be divided, and the amount of the allowances, and the residences, to be allotted to any person entitled to an allowance for marriage, or maintenance or residence, and the manner in which the same are to be paid and secured.

12. The final decree shall in all cases specify the several portions of the joint property assigned to the several parties as their respective shares. (Forms Nos. 46 to 52.)

The decree in partition suits shall be engrossed on revenue stamp paper as provided by Article 45, Schedule I of Act II of 1899 as amended in Madras.

13. If an indemnity bond is directed to be executed, it shall be in Form No. 54.

ORDER XXV.

TESTAMENTARY AND INTESTATE MATTERS.

1. Non-contentious business shall include the business of obtaining probates and letters of administration (with or without the will annexed, and whether general, special or limited) and the business of obtaining succession certificate and extension of such certificate, when there is no contention as to the right thereto including the passing of probates and letters of administration and succession certificates through the Court in contentious cases when the contest is terminated and all *ex parte* business to be taken in the Court in matters of testacy and intestacy, not being proceedings in any suit, and also the business of lodging caveats against the grant of probate or letters of administration.

2. Application for probate or letters of administration or succession certificate to the Registrar shall be made either through an advocate of the Court or in person.

3. The word "Will" in this order includes a "Codicil".

4. Application for probate shall be made by a petition with the will annexed, accompanied, if the will is not in English, by an official translation thereof in English: such application shall be in Form No. 55 or as near thereto as the circumstances of the case may permit and shall be accompanied by—

(a) a vakalat or appointment signed by the petitioner, unless he appears in person.

(b) a certificate under Section 60 of the Estate Duty Act, 1953,

(c) an affidavit of one of the attesting witnesses, if procurable, in Form No. 56,

— (d) a notice to the Collector (vide Section 55 of the Court Fees and Suits Valuation Act XIV of 1955) in Form No. 57 signed by the petitioner or his advocate, and

(e) except in the case of applications made by the Administrator-General of Madras, the affidavit of assets prescribed by Section 55 of Madras Act XIV of 1955, and a copy of such affidavit.

The notice shall as soon as the petition is admitted be signed by the Registrar, and sent by him to the Collector. The copy of the affidavit of assets shall also be sent by the Registrar to the Collector.

The affidavit of assets shall, in addition to particulars given in Annexure A, Part I of Schedule III of the Court Fees Act, give as far as possible particulars of the survey or patta number of all lands, and shall include the rents of all lands or houses that have accrued since the date of the death of the deceased, and of the debts with the names of the creditors and the dates of debts.

5. Every application for letters of administration or for letters of administration with will annexed shall be made by petition in Form No. 58 or No. 59 or as near thereto as the circumstances of the case may permit, and shall be accompanied by Annexures (a), (b), (d) and (e) or (a), (b), (c), (d) and (e) mentioned in the last preceding rule.

✓ 6. Application for succession certificate shall be made by petition in Form No. 60 in the schedule or as near thereto as the circumstances of the case may permit.

✓ 7. Every application for succession certificate shall be accompanied by a certificate of the Registrar that duty payable has been paid unless the Court shall otherwise direct.

8. Application for probate of a nuncupative will or privileged will and applications by persons claiming to be executors according to the tenor of the will and applications under Sections 244 and 300 of the Indian Succession Act, 1925, shall be posted before Court.

9. In any case where probate or letters of administration is for the first time applied for after the lapse of three years from the death of the deceased, the reason for the delay shall be explained in the petition.

10. An application for the issue of a citation to the Registrar of Assurances or any other person to produce or cause to be produced any will in deposit with him or in his possession, as the case may be, shall be made to the Master supported by an affidavit by the applicant stating among other facts that he intends to apply

for a grant of probate of the will or of letters of administration with the will annexed, and the Master may issue citation accordingly.

11. Upon the production of the will under the above rule, the petitioner and the verifying witness shall be present at the Court-house with the petition and the affidavit, respectively, and the will shall be annexed and exhibited thereto; provided that, if the petitioner or the verifying witness is unable to attend, the petitioner shall, stating the reasons for such inability, apply to the Court and the Court may give such directions with respect to the verification and proof of the will as it thinks fit.

12. The petition for probate or letters of administration shall be subscribed by the petitioner and his advocate, if any, and shall be verified by the petitioner in the manner set out in the forms.

13. If the affidavit of any of the attesting witnesses be not procurable, the reason why it cannot be procured shall be stated in the petition which on admission shall be posted before Court for proof of the due execution of the will.

14. All grants for probate or letters of administration, with or without the will annexed, other than grants under the Administrator-General's Act shall, unless otherwise ordered, be drawn up by the Registrar so as to have effect throughout the State of Madras.

15. In all cases under the Indian Succession Act, in which it is sought to obtain a grant of probate or letters of administration (with or without the will annexed) to have effect throughout the Union of India, such grant must be expressly asked for giving reasons therefor, and it must be further stated in the petition that, so far as the petitioner has been able to ascertain or is aware, there are no property and credits other than what are specified in the Schedule attached to his affidavit of assets. The petitioner shall furnish copies of the affidavit of assets for transmission to all the other High Courts mentioned in Rule 16.

16. With every certificate to be sent to a High Court, under the provisions of Section 274 of the Indian Succession Act, the Registrar shall send a copy of so much of the schedule of property and credits of the deceased as relates to the estate within the jurisdiction of such Courts.

17. In all applications by a creditor for letters of administration it shall be stated particularly how the debt arose.

18. No grant of letters of administration, other than letters of administration *pendente lite*, shall issue to a creditor or to a legatee other than a universal legatee, or to a friend of the deceased until citation has first issued to the Administrator-General of Madras.

19. When interlineations, alterations, erasures or **obliterations** appear on the will annexed as required by the **Indian**

Succession Act or tested in or otherwise identified by the attestation clause), a statement must, if possible, be made in the affidavit of the attesting witness whether they existed in the will before its execution or not.

20. If a will contains a reference to any deed, paper, memorandum, or other document of such a nature as to raise a question whether it ought not to form a constituent part of the will, such deed, paper, memorandum, or other document should be produced with a view to ascertain whether it is entitled to probate and if not produced, its non-production must be accounted for.

21. In cases in which it is not necessary that a will should be signed by the testator or attested by witnesses to constitute a valid testamentary disposition of the testator's property, the testator's intention that it should operate as his testamentary disposition must be clearly stated in the petition.

22. Any appearance of an attempted cancellation of a testamentary writing by burning, tearing, obliteration or otherwise, and every circumstance leading to a presumption of abandonment or revocation of such writing or part thereof must be accounted for.

23. No grant of probate or letters of administration with the will annexed of any blind or obviously illiterate or ignorant person shall be made unless it is proved by affidavit or otherwise to the satisfaction of the Court that the said will was read over to the testator before its execution or that the testator had at such time knowledge of its contents.

✓ 24. The bond prescribed by Section 291 of the Indian Succession Act, 1925, shall be in the name of the Chief Justice, to enure for the benefit of the Chief Justice of the High Court for the time being in Form No. 63 or No. 65 and shall be with one or more sureties as the Court may direct and shall be for an amount equal to the gross value of the estate; provided that if the value is under Rs. 500, one surety only may be taken; and in case of limited or special grants, unless the Court otherwise orders, the amount of the bond shall be equal to double the value of the property to be administered.

25. A bond from a guarantee society, or Insurance Company duly approved by the Full Court in Form No. 65 may be accepted in lieu of a bond from a surety or sureties.

26. Where such a guarantee society or Insurance Company is represented by agents, the latter shall apply to the Court for permission to act on behalf of the society producing the document or documents authorizing them to do so. The person actually executing the bond shall in each case file with the Registrar an affidavit showing his authority to sign.

27. Every such society or insurance Company shall, each year, file with the Registrar, a copy of the society's annual balance-sheet duly audited, which copy shall be verified by the affidavit of the agent or principal officer and be submitted by the Registrar to the Full Court.

28. The bond shall be signed before, and the affidavits of justification of the sureties shall be taken by the Registrar or other officer or commissioner appointed by the Court, and the grant shall not be issued until the same are filed in Court.

29. An application for the assignment of the bond may be made to the Master.

30. Unless the Court otherwise orders, notice in Form No. 36 of an application for letters of administration shall be given in such of the following modes as the Registrar directs:—

(1) by affixing the copy of the notice to the notice-board of the Court;

(2) by publication thereof in two issues at an interval of seven days, in such language or languages as may be directed, in one or more of the principal newspapers published in the city of Madras, and also, if the deceased was resident elsewhere, and the Registrar so directs, in one or more of the principal newspapers published or circulated in the district in which the deceased was resident at the time of his death;

(3) by sending a copy thereof in a pre-paid registered cover to such persons as the Registrar directs.

An affidavit proving the said service and publication shall be filed by the petitioner at least three days before the petition is placed for orders as to the grant.

31. Where administration is applied for by one or some of the next-of-kin only, there being another or other next-of-kin equally entitled thereto, the Registrar may require proof by affidavit that notice of such application has been given to such other next-of-kin.

32. If the Court directs a citation to issue to any person, the same shall be taken out by the petitioner, and served in manner prescribed by these rules for the issue and service of summons to a defendant.

33. The *fiat* of the Judge endorsed on the petition, shall be sufficient authority to the Registrar to issue the probate or letters of administration, and it shall not be necessary to draw up the order.

34. Limited administrations are not save as aforesaid to be granted except by order of the Judge unless every person entitled to the general grant has consented or renounced or has been cited and failed to appear.

35. Except by order of the Judge, no person entitled to a general grant of administration of the property of the deceased will be permitted to take a limited grant.

35. An application for letters of administration may be made by a constituted attorney of a person residing out of the State, provided that such constituted attorney resides within the State and that such application is made through an advocate of the Court.

37. Unless a power-of-attorney constituting such attorney can, under Section 85 of the Indian Evidence Act, 1872, be presumed to have been executed and authenticated as in the said section mentioned, the Registrar may require further proof of its due execution.

38. Whenever the Court, under Section 254 of the Indian Succession Act appoints an administrator, other than the person who would have been entitled to the grant, the same is to be made plainly to appear in the letters of administration and in the administration bond.

39. The Registrar may, in cases where he deems it necessary, require proof in addition to the oath of the executor or administrator of the identity of the deceased or of the party applying for the grant.

40. Every will, a copy of a will, or other testamentary paper to which an executor or administrator with the will annexed is sworn or affirmed shall be marked by the person before whom he is sworn or affirmed.

41. No person, who renounces probate of a will or letters of administration of the property of a deceased person in one character, shall, without the leave of the Judge, take out representation to the same deceased in another character.

42. Applications under Sections 10 and 11 of the Administrator-General's Act (Act III of 1913), or either of them shall be made to the Court on petition duly verified.

43. Subject to the provisions of Sections 22 and 29 of the Administrator-General's Act (Act III of 1913), these rules shall apply to all proceedings under the said Act.

44. If a petitioner for a grant of probate or letters of administration, for three months from the admission of the petition, neglects to proceed with the petition, or for three months of the date of the order for grant neglects to give the required security or otherwise to proceed with the petition, or to take out the grant, the Registrar shall give notice in writing of his default to the Administrator-General and post the petition thereafter for orders of Court. Notice of the posting of the petition shall be served on the petitioner not less than five clear days before the date to which the petition is posted for orders.

45. In case of doubt or difficulty in any non-contentious matter, the Registrar may obtain the direction of the Judge, or call upon the petitioner to move the Judge for directions.

46. The inventory prescribed by Section 317 of the Indian Succession Act, 1925, shall be in Form No. 67 and shall be verified by the affidavit of all the executors or administrators. It shall be headed with the cause-title of the matter, and shall set out under the several heads contained in the said form, a detailed description of the property, credits, and effects, of the deceased; and, if the deceased did not possess property falling under a particular head it shall be so stated in each case. A true copy of such inventory shall also be filed for transmission to the Collector of Madras.

✓✓ 47. The account prescribed by the said section shall be in the form of a debtor and creditor account; all moneys and other properties received by the executors or administrators being placed on the debit side, and all disbursements made by them being placed on the credit side; and a balance shall be struck. The account shall be headed with the cause-title of the matter, and shall be verified by the affidavit of all the executors or administrators and shall be passed by the Registrar if applied for.

48. An application by an executor or administrator for further time to file an inventory or account, or by a person interested in the estate of the deceased, for leave to inspect an inventory or account or for directions to the executor or administrator to file the same shall be made to the Master entitled in the original petition under which the grant of probate or letters of administration was made and shall be supported by affidavit stating the cause of the delay in filing the same, or the interest of the applicant, as the case may be.

49. An application to amend a grant of probate or letters of administration so as to extend its effect throughout the Union of India, shall be made by Judge's summons: provided that the said summons shall be entitled in the original petition under which the said grant was made.

50. Where an executor or administrator has given notice to creditors and others in the form contained in Form No. 68 such notice shall be deemed to satisfy the requirements of Sections 360 and 367 of the Indian Succession Act, 1925.

Contentious Proceedings.

51. Any person intending to oppose the issue of a grant of probate or letters of administration must either personally or by his advocate file a caveat in the Registrar's office in Form No. 69. A caveat in addition to the particulars prescribed by Section 284 (4), Schedule V of the Indian Succession Act, 1925, shall state the name, place of abode, description, occupation and the address for service of the caveator. Such address for service must be within the local limits of the jurisdiction of the Court and shall hold good in interlocutory proceedings, throughout the appellate stages and for one year after final decision. No caveat shall affect any grant made on the day on which the caveat is filed.

When a caveat against the grant of probate or letters of administration is filed, the Registrar shall give notice thereof in Form No. 70 to the petitioner by leaving the same at, or by sending the same by post, in a prepaid cover directed to, the address for service of the petitioner.

52. Where a caveat is entered after an application has been made for a grant of probate or letters of administration, the affidavit in support of the caveat shall be filed within eight days of the caveat being filed. Such affidavit shall state the right and interest of the caveator and the grounds of the objections to the application.

53. Where an application for grant of probate or letters of administration is filed after a caveat has been filed, the Registrar shall forthwith issue notice to the caveator, calling upon him to file his affidavit in support of his caveat within eight days from the service of such notice.

54. When the caveator fails to file any affidavit in support of his caveat in compliance with the last two preceding rules, the caveat may be discharged by an order of Court.

55. Upon the affidavit in support of the caveat being filed (copy whereof has been given by the caveator to the petitioner), the proceedings shall be numbered and registered as a suit in which the petitioner shall be the plaintiff, and the caveator shall be the defendant.

56. A caveat shall bear date on the day it is entered and shall remain in force for the space of six months only and then expire and be of no effect; but caveats may be renewed from time to time.

57. In a probate suit the party opposing a will may, with his affidavit, give notice to the party setting up the will that he merely insists upon the will being proved in solemn form of law, and only intends to cross-examine the witnesses produced in support of the will, and he shall thereupon be at liberty to do so, and shall not, in any event, be liable to pay the costs of the other side, unless the Court shall be of opinion that there was no reasonable ground for opposing the will.

58. If a petitioner for probate or letters of administration with the will annexed, desires to prove the will in solemn form, he shall make the next of kin, or other persons interested, respondents to the petition which shall thereupon be numbered and registered as a suit, in which the petitioner shall be the plaintiff and the persons made respondents shall be the defendants.

59. If a person to whom a grant of probate or letters of administration has been made, desires to have the same revoked, he shall file a petition setting out the grounds therefor, and the same shall be posted before the Court which may at once hear and determine the same or may direct evidence to be given in support

of the averments therein, or may order citation to issue to any person. If citation is ordered to issue, the petition shall be numbered and registered as a suit, in which the petitioner shall be the plaintiff, and the person cited shall be the defendant.

60. Within fourteen days from the date on which the case is registered as a suit, the petitioner shall take out a citation to the defendant or apply to the Registrar for the transmission thereof for service, in manner prescribed in the case of summons to a defendant in an ordinary civil suit. The Registrar shall endorse in the margin of the citation the dates of issue, and of the registration of the case as a suit; and the provisions of Order IV, rule 4 of these rules, inclusive, shall apply in the same manner as if the petition was a plaint filed on the last mentioned date.

61. Unless the Court otherwise orders, a citation issued in pursuance of the last preceding rule shall be served not less than twenty-one days before the day appointed for hearing; and if defendant intends to defend his suit, he shall file his written statement not less than fourteen days before the said day.

62. If, subsequent to the grant of probate or letters of administration, any person interested in the property of the deceased, other than the grantee, desires that the will may be proved in solemn form or that the said grant may be revoked, he shall file an affidavit setting out the grounds therefor, and applying for the issue of a citation to the grantee. The petition for probate or letters of administration shall be registered and numbered as a suit in which the petitioner shall be the plaintiff and the person applying for the citation shall be the defendant. The Registrar shall appoint a day for the hearing of the suit and shall issue a citation in Form No. 71 or 72. The case shall be posted for first hearing on the day so appointed, and the petition and the said affidavit shall be taken as the plaint and the written statement of the defendant, respectively.

63. If the Court directs that a grant of probate or letters of administration is to be made to a party, the Registrar shall thereafter act in accordance with the rules relating to non-contentious proceedings.

64. If costs are awarded to a petitioner (plaintiff), unless the Court otherwise orders, the taxing officer shall allow only such costs as have been occasioned by reason of the proceedings having become contentious.

65. A citation to bring in and deposit in the registry, probate or letters of administration, or an alleged will or codicil or other testamentary document, shall appoint a day certain before which the same is to be brought in; and if the person cited alleges that he is unable to comply with the citation, he shall before the said day, file in Court, an affidavit of the cause of his alleged inability,

and give notice thereof to the person issuing the writ. In case of default or if the Court considers the said affidavit to be insufficient, the person cited shall be considered in contempt of Court; and any party to the proceedings may apply that the person cited may be ordered to attend for the purpose of being cross-examined on the affidavit or that he may be committed for contempt.

66. Subject to the foregoing rules, the provisions of these rules with respect to civil suits and matters shall apply, so far as may be, to all proceedings in testamentary suits and matters.

✓67. In cases not provided for by this order, the rules of procedure laid down in the Indian Succession Act or by the Civil Procedure Code, the practice and procedure of the Probate Division of the High Court of Justice in England shall be followed so far as they are applicable and not inconsistent with this order and the said Acts.

68. The Registrar shall have full power to administer oaths, or solemn affirmations and to take affidavits in all matters relating to the business of the Court in its testamentary and intestate jurisdiction, to issue citation to bring in and lodge testamentary papers and generally to exercise such of the powers in non-contentious matters conferred by the Indian Succession Act on the District Judge as he now exercises.

ORDER XXVI.

EXAMINATION *De Bene Esse*.

1. For the purpose of examining a witness *De Bene Esse*, the party may apply to the Court either for his examination in Court or for the issue of a commission under section 76 or under Order XXVI, Rule 4 of the Code.

2. If the examination of the witness is in Court, such examination shall be taken up after notice to the other party, and the deposition of the witness so examined shall be recorded as in the case of a witness at the final hearing of the suit.

3. Where a commission is issued for the examination of a witness *De Bene Esse* either within the local limits of the High Court or outside the limits, the Court shall adopt the procedure prescribed for the examination of a witness on commission under the Code.

RULES OF THE HIGH COURT, MADRAS

ORDER XXVII.

MATRIMONIAL SUITS.

1. Every proceeding under the Indian Divorce Act, which is thereby required to be made by petition, shall be by an original petition entitled in the matter of the said Act. Every such petition shall be accompanied by a certified copy of the certificate of marriage if such a certificate is available to the petitioner.
2. The original petition shall state whether the parties are domiciled in India at the commencement of the proceedings and shall be presented to the Registrar who shall if the same is admitted endorse thereon a day certain for the first hearing.
3. The petition shall conclude with a prayer setting out particulars of the relief claimed, including the amount of any claim for damages and any order for custody of children which is sought and shall be signed by the petitioner: provided that where the petitioner is, by reason of absence or for other cause, unable to sign the petition, it may be signed by any person duly authorised by him or her to sign the same or to sue on his or her behalf.
4. The statements contained in every petition shall be verified by the petitioner or some other competent person in manner required by the Code for the verification of plaints.
5. The summons to the respondent shall be in Form No. 73 and shall require the respondent to file in Court a written statement, not less than three days before the day appointed for the first hearing and shall be accompanied by a copy of the petition. The provisions of the Code and of these rules relating to issue of summons and service thereof, shall apply thereto: provided that no service shall be necessary of any petition or notice to make a decree absolute.
6. Where a husband is charged with adultery with a named person, a certified copy of the pleading containing such charge shall, unless the Court for good cause shown otherwise directs, be served upon the person with whom adultery is alleged to have been committed, accompanied by a notice that such person is entitled, within the time therein specified, to apply for leave to intervene in the cause, and the intervenor may thereupon file into Court an answer to the petition.

When a petitioner in any matrimonial suit has been guilty of adultery, the petition shall include a paragraph stating that the petitioner has committed adultery and there shall be added a prayer for the exercise by the Court of discretion in favour of the petitioner in spite of the adultery committed. With the petition there shall be filed an affidavit by the petitioner setting out fully all the facts

in respect of each act of adultery including dates, places and name or names, of the person or persons with whom and circumstances in which committed together with the grounds upon which the discretion of the Court is sought. This affidavit will be placed in a sealed cover by the Registrar or other officer of the Court and be kept with the petition and will not be open to inspection by any party or person named in the suit.

7. Unless otherwise ordered, an original petition shall be served not less than fourteen clear days before the day appointed for the first hearing and on the said day the Registrar shall post the case in the undefended board if no written statement is filed in the meanwhile.

8. An application in a pending original petition, which is required by the said Act to be by petition, shall be entitled in the said original petition and shall state the section of the Act under which it is presented. The petition and copy thereof for service shall be presented to the Registrar, who shall, if the same is admitted, endorse the date appointed for the hearing on the petition and copy. Service shall be effected by serving the copy so endorsed in manner prescribed for service of a summons in Form No. 15, not less than five clear days before the day appointed for the hearing.

9. The Registrar shall, unless the application is one that may be made to the Master, post the case before the Judge on the day so appointed, or if there is no Judge then sitting, on any day thereafter.

10. The following applications shall be made to the Judge and unless the Court otherwise orders, notice thereof, and of any affidavits to be used in support thereof, shall be served not less than five clear days before the return day :—

- (1) for leave to show cause why a decree *nisi* should not be made absolute;
- (2) to discharge or vary a protection order made under section 28 of the said Act;
- (3) to discharge or modify an order for permanent alimony;
- (4) to appoint a new trustee in respect of permanent alimony;
- (5) for the settlement of any property or damages, if not made at the hearing of the suit.

11. Except as provided by the said Act, or by these rules, an application in any pending proceeding, under the said Act may be proved upon an interlocutory application, shall be proved by

12. Unless the Court otherwise orders, any facts required to be proved upon an interlocutory application, shall be proved by

V 13. Unless otherwise ordered, a decree *nisi* shall direct that the further hearing of the suit be adjourned to a day certain, not less than six nor more than nine months from the date thereof. On the adjourned day the case shall be posted for hearing, and if the petitioner does not appear and move for the decree to be made absolute, the Court may dismiss the suit, or make such order as it thinks fit. In moving for the decree being made absolute, the petitioner shall file an affidavit that no proceedings for the dissolution of the marriage have been instituted and are pending in any other Court and that search has been made in the proper books at the Court up to within six days of the time appointed and that at such time no person had intervened or obtained leave to intervene in the suit, and that no appearance has been entered nor any affidavits filed on behalf of any person wishing to show cause against the decree *nisi* being made absolute; and in case leave to intervene had been obtained or appearance entered or affidavits filed on behalf of such person, it must be shown by affidavit what proceedings, if any, have been taken thereon.

14. Subject to the foregoing rules, the provisions of the Code and of these rules with respect to civil suits and matters shall apply to all proceedings under the said Act.

15. Any person other than the officer appointed under section 17 (a) of the Indian Divorce Act, wishing to show cause against making absolute a decree *nisi* shall, if the Court so permits, enter an appearance in the petition in which such decree *nisi* has been pronounced and at the same time file affidavits setting forth the facts upon which he relies. Such application shall be made to the Court.

16. Unless the Court otherwise orders, notice of the said application and certified copies of the affidavits shall be served upon the officer and the party or the advocate of the party in whose favour the decree *nisi* has been pronounced not less than five clear days before the return day.

17. The party in the petition in whose favour the decree *nisi* has been pronounced may, unless the Court otherwise orders, within three days from the date of service of the notice and the affidavits, file affidavits in answer.

18. The person showing cause against the decree *nisi* being made absolute shall then be served with certified copies of the affidavits in answer, and he may thereupon, unless the Court otherwise orders, file within three clear days from the date of service, affidavits in reply.

19. Certified copies of affidavits in answer and affidavits in reply shall also be served on the officer

20. The rules framed under Section 17-A of the Indian Divorce Act (IV of 1869) shall be read as part of these rules.

21. All proceedings of the Parsi Chief Matrimonial Court of Madras under the Parsi Marriage and Divorce Act (III of 1936) shall be regulated by the provisions of the Code, save and so far as such provisions are varied or modified by these rules.

ORDER XXVIII.

SPECIFIC RELIEF ACT, 1877.

1. Every application under Chapter VIII of the Specific Relief Act shall be entitled in the matter of the said Act and of the applicant, and be made to the Judge to whom Writ work is assigned and shall be supported by the affidavit containing the particulars mentioned in Section 46 of the said Act, and shall set out the exact terms of the order sought.

2. Any rule granted on such application shall, unless the Judge otherwise orders, be made returnable not less than ten days from the date of the order. The rule shall be taken out by the applicant and unless otherwise ordered, shall be served in the manner prescribed for issue and service of summons to a defendant not less than five days before the return day. Affidavits in reply shall be filed and notice of the filing and copies of such affidavits thereof shall be given to the applicant, not later than one clear day before the return day.

3. The Court may in its discretion order any rule under Chapter VIII to be served on any person affected by the Act to be done or forborne.

4. If cause be shown or answer made upon affidavit, putting in issue any material question of fact, the Court may adjourn the matter to some early day for hearing upon the testimony of witnesses to be examined in like manner as in a suit.

5. The Judge hearing the application may refer to the Chief Justice any question involving Article 226 of the Constitution for being posted before a Bench.

6. Subject to the foregoing rules, the provisions of these rules with respect to civil suits and matters, shall apply, so far as may be, to all proceedings under the said Act.

7. In other respects the rules framed by the High Court for proceedings under Article 226 of the Constitution shall apply.

ORDER XXIX.

PRACTITIONERS OF THE COURT.

1. Every appointment of an advocate to make or do any appearance, application, or act, shall be in writing, and shall bear the date of execution, and shall be endorsed with the address for service of the advocate and the said endorsement shall be signed by him.

No advocate shall be allowed to appear, plead, or act, in any suit, appeal, or matter, until he has filed in Court an appointment in accordance with these rules. If the appointment is executed by an agent of the party, the advocate shall, if required, produce the power of attorney authorizing the agent to appoint him, and, if required, shall also file in Court a copy thereof with the appointment.

An appointment on behalf of a firm may be signed by any partner in the name of the firm.

In cases in which the party is represented by more than one advocate, it shall be necessary for all and each of them to file a joint or separate appointment on his behalf in Court in accordance with these rules.

2. The appointment of an advocate shall, unless otherwise provided therein, or unless the appointment ceases by reason of the death of the client, or the advocate, or is revoked under Rule 3 of this order, continue in force in the suit or matter in all proceedings in the High Court, whether in execution of, or on appeal from, or otherwise in connexion with, any decree or order which may be passed in the said suit or matter, or in any appeal or other proceedings in connexion therewith.

An advocate appointed under the provisions of Order III, Rule 4 (2) of the Code, proposing to file an appointment in a suit or proceeding in which there is already an advocate on record, may not do so, unless he produces the written consent of the advocate on record, or unless, where the consent of such advocate is refused, he obtains the special permission of the Court and on such terms as the Court deems fit to impose.

3. The appointment of an advocate may be revoked by an order to be obtained on an application to the Master. Unless the consent of the client or the advocate (as the case may be) is endorsed thereon, notice of the application shall be given to him.

4. Except when specially authorized by the Court or by consent of the party, an advocate who has advised in connexion with the institution of a suit, appeal or other proceeding, or has drawn pleadings in connexion with any such matter, or has during the progress of any such proceeding, acted for a party, shall not, unless he first gives the party for whom he has

advised, drawn pleadings or acted, an opportunity of engaging his services, appear in such suit, appeal or other proceeding, or in an appeal or application for revision arising therefrom, or in any matter connected therewith, for any person whose interest is opposed to that of his former client :

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

5. The party who has filed an appointment of an advocate, shall not be allowed to appear before the Court except in the absence of his advocate, or to make any application, or do any act, in person, so long as the appointment is in force.

6. An advocate may appear, act and plead upon all proceedings.

An attorney may appear, act and plead upon all proceedings, provided that he shall not be allowed to appear or plead, upon a hearing in Court, of a suit or appeal therefrom.

7. The advocate shall be responsible to the Registrar for all fees and charges payable in the suit, appeal or matter in which he is appointed. If any fee or charge is not paid within seven days from the same becoming due, the Registrar shall stop the issue of all papers from his office to the advocate responsible therefor: provided that, in case of urgency or for other sufficient cause, the Registrar may direct a particular paper to be issued to the advocate.

8. The Registrar shall, on application by an advocate, furnish him with a statement of any fees and charges payable by him and such statement shall, subject to correction within a reasonable time, protect the advocate from all liability in respect of any fees and charges for which he is liable up to the date of such statement.

ORDER XXX.

OFFICERS OF COURT.

1. The powers and authority which, under these rules, or the practice of the High Court, are exercisable by the Registrar of the High Court may be exercised by a Deputy Registrar or an Assistant Registrar (except such as may from time to time be expressly excepted by the Chief Justice).

2. Where any duty to be discharged under the Code, or these rules, or any other enactment, is a duty which has theretofore been discharged by any officer, such duty shall, unless and until otherwise directed, continue to be discharged by the same officer, or by

such other officer as the Chief Justice may by order direct; and where any new duty is to be discharged, the proper officer to discharge the same shall be such officer as the Chief Justice may from time to time direct.

3. All acts directed or permitted to be done by these rules, or orders passed by, the Registrar, Master or taxing officer, shall be deemed to be *judicial, quasi-judicial or non-judicial* acts as the case may be within the meaning of Section 128 (2) (i) of the Code.

4. In addition to, and not by way of derogation of, all other powers conferred by these rules, the Registrar shall have the following powers:—

(1) To require any plaint, petition, application, memorandum of appeal or other proceeding presented to the Court, or to the Registrar to be amended within a time to be fixed, not exceeding thirty days in the aggregate: provided that the Registrar shall in default of compliance or when so required post the matter before Court.

(2) To determine whether service of any notice, summons or other process, has been duly proved.

(3) To transmit any summons, notice, decree, or other process for service or execution by any other Court or authority.

(4) To sign and issue an order of dismissal of a suit or matter, in any case, which under these rules stands dismissed for default of prosecution.

(5) To determine the proper sum to be tendered to a witness, according to the scale for the time being in force, and to endorse the same on the summons.

(6) To enter in a list, to be called the General List of Causes, all cases in which the defendant has filed a written statement, the cases entered at any one time being entered according to their respective serial numbers.

The said General List shall be divided into four classes, A, B, C and D—

Class A to comprise the following causes of action and suits:—

(i) Summary suits under Order VII in which leave to defend has been given.

(ii) Commercial Causes under Order XII.

(iii) Suits for movables or money claims or damages for breach of contract or for tort.

(iv) Suits for dissolution of partnership or for the taking of partnership accounts.

(v) Suits for injunction.

(vi) Suits for specific relief.

Class B to comprise—

- (i) Suits for immovable property.
- (ii) Suits relating to Hindu and Muhammadan Law of inheritance, succession or joint family, adoption and the like.
- (iii) Suits for declaration.
- (iv) Mortgage suits.
- (v) Suits relating to trusts.
- (vi) Administration suits.
- (vii) Suits for maintenance.

Class C to comprise : Matrimonial suits.

Class D to comprise : Testamentary suits.

In cases of doubt as to which class any suit should be entered in, the Registrar shall refer the matter to the Senior Judge sitting for the time being on the Original Side.

(7) In the course of every month, to make up from the General List of Causes and in the order in which they stand therein, a list of causes to be tried in the ensuing month, the said list to be divided into classes A, B, C and D as mentioned in sub-rule (6) above. The said list shall be called by the name of the month to which it refers and shall be published not more than five days, and not less than three days, before the end of the preceding month: and on the last day of such preceding month the causes standing over untried from the list of such month shall be inserted at the head of the list for the ensuing month.

(8) To note in the General List of Causes the adjournment, or disposal of any case.

(9) To publish supplemental monthly list of causes, if, at any time, it appears to the Registrar that the causes in the monthly list are likely to be disposed of before the end of the month: provided that, except with the consent of the parties, no cause entered in a supplemental list shall be called on for trial, until after the expiration of five days from the publication of the lists.

(10) To direct notice to issue under Order XXI, Rule 22 of the Code, to a party against whom execution has been applied for, and to fix the time for the appearance of such party.

(11) If any property is ordered to be sold, to appoint a person to sell the property, to fix his commission, and the date and place of sale, to determine the manner in which the property is to be sold, and to settle and approve the proclamation and conditions of sale and the manner in which it should be published.

(12) To settle and approve the certificate of sale or other instrument necessary to carry out any sale, or other transaction, directed by the Court.

(13) To execute, endorse or otherwise perfect, conveyances, negotiable instruments, policies of assurances, share transfers and

certificates or other instruments or documents, under Order XXI, Rule 34 and Order XXI, Rule 80 of the Code.

(14) To have the custody of the records of the High Court, and the Courts preceding it.

(15) To have the custody of all instruments deposited into Court under the Powers of Attorney Act, 1882, and to keep a register therefor.

(16) To collect all fees and charges due to the Court.

(17) To stop at his discretion the issue of all or any papers to any advocate who has failed to pay any fees or charges to the Court.

(18) To examine and impound any instrument coming before the Court or the Registrar, which, in his opinion, is not duly stamped.

(19) To require any person or party to adduce evidence to be given upon affidavit with respect to any application or matter in respect of which he has power to exercise any discretion, or to pass any order.

5. All writs, summonses, warrants, and other judicial process shall be signed by the Registrar or other proper officer and sealed with the seal of the Court, and shall bear the date on which they issue. All decrees and orders shall be signed by the Registrar or proper officer and sealed with the seal of the Court and shall bear the dates of the judgments or orders of the Court.

6. The cost of all proceedings before the Master or the Registrar, shall be in the discretion of the Master or the Registrar.

7. The office of the Registrar shall be open for the transaction of business from 10-45 a.m. to 4 p.m. on all days except Sundays and holidays.

ORDER XXXI.

PAYMENT INTO COURT OF MONEYS TO THE CREDIT OF CIVIL COURT DEPOSITS AND ACCOUNT OF SUITORS' MONEY.

1. For the purposes of this order "Registrar" means the Registrar of the High Court and "Registrar, Original Side", includes the Deputy Registrar and the Assistant Registrars.

2. Any person desirous of paying money into Court under a decree or order of Court shall present a lodgment schedule to the Head Accountant of the High Court for the issue of a challan to enable the party to make payment into the Reserve Bank of India,

with a copy of the decree or order directing the payment of money into Court.

3. If, for any valid reason, it is not possible to produce a copy of the decree or order, the applicant may obtain a certificate from the Registrar, or from the Registrar, Original Side, on the lodgment schedule as to the amount to be paid and the time within which it should be paid.

4. On the presentation of the lodgment schedule, a challan in duplicate specifying the amount and the date within which it should be paid shall be issued by the Accounts Department to the person desirous of making the payment who will deliver the challan to the bank which will retain the original and deliver the duplicate duly signed to the person making the payment.

5. On the production of the duplicate from the bank duly signed, the person making the payment shall be given credit in the books maintained in the High Court for the amount paid into the bank.

6. A receipt signed by the Registrar shall then be issued to the party producing the duplicate challan and the duplicate challan shall be retained in the Accounts Department.

7. The Registrar shall be responsible for the work of the Head Accountant of the High Court, who shall keep a register causewise of all money, effects and securities of the suitors of the Court or persons interested which shall be ordered to be paid or delivered into or out of the Reserve Bank of India, and the said books shall be open to the inspection of all persons interested during office hours on payment of the prescribed charges.

8. The Registrar, Original Side, shall make in a register to be kept by him causewise, hereinafter referred to as the money order book, an entry of every decree or order for transfer of money or effects from civil courts deposits to the Suitors' Fund Account in the Reserve Bank of India for investment in securities referred to in Appendix IV of these rules, or for delivery into or out of the Reserve Bank of India of any securities, or for sale of such securities, and shall before delivery of the copy of the decree or order to the person or persons entitled to the same or his or their advocate, mark "entered" at the foot of such copy and subscribe his name thereto.

9. When a decree or order is made for payment or delivery into or out of the Reserve Bank of India, with the privity of the Registrar of the Court of any money or effects or any securities invested as aforesaid of any of the suitors of the Court or persons interested therein, an office copy signed by the Registrar, Original Side, and sealed with the seal of the Court shall be taken to the Registrar, by the suitor or suitors or persons interested or to the Registrar, for payment or delivery or by the suitor or suitors or person or persons

to whom the payment or delivery is ordered to be made or by the advocate or authorized agent of such suitor or suitors or person or persons.

10. The Registrar, High Court, shall make an entry of the decree or order of the Court in his book and he shall mark "entered" on the copy of the decree or order produced before him and subscribe his name thereto, and shall (except in the case provided for by Rule 14) certify under his hand at the foot of the said copy of the decree or order to the Manager, Reserve Bank of India, that he is to receive from the person or persons mentioned in the said decree or order, the money or effects mentioned therein or that he is to pay or deliver out to the person entitled thereto under the said decree or order the money or effects mentioned therein, specifying the amount and particulars thereof, and that he is to place the same to the debit or credit, as the case may be, of the Suitors' Fund Account. In the case of securities, the Registrar, High Court, shall make a similar entry of the decree or order and he shall mark "entered" on the copy of the decree or order produced before him and subscribe his name thereto and shall (except in the case provided for by Rule 14) certify under his hand at the foot of the said copy of the decree or order to the Manager, Reserve Bank of India, that he is to receive from the person or persons mentioned in the said decree or order the securities mentioned therein. Where, however, the decree or order directs the delivery to the person entitled thereto of securities in the custody of the Manager of the Reserve Bank, the Registrar shall, by a letter, request the Manager of the said Bank to forward the said securities to him. The Registrar shall then deliver the securities, after making the necessary endorsement, to the person entitled thereto, and getting a receipt from him which shall be filed with the connected papers in the office of the Registrar, High Court.

11. When any money or effects are paid out or delivered by the Manager, Reserve Bank of India, the person or persons receiving the same shall give a receipt to the said Manager which receipt together with the said copy of the decree or order and the certificate of the Registrar, shall be filed of record in the office of the said Manager and shall be a sufficient acquittance to the said Reserve Bank of India for any sum of money or effects so paid over or delivered to the party entitled to receive the same under such decree or order and certificate. Provided that, when the decree or order requires the payment to any person or persons of the interest upon any Government securities as it accrues due, no certificate by the Registrar to the Manager of the Reserve Bank of India shall be required to authorize the payment of such interest by the said Manager; but the Registrar shall draw a cheque upon the said Manager for the amount of such interest when due; and the person or persons entitled thereto or his or their advocate or authorized agent shall take the said cheque to the said Manager who shall

thereupon pay the amount mentioned therein to the person or persons entitled thereto or his or their advocate or authorized agent and the said cheque shall be filed of record in the office of the said Manager.

12. The interest upon any money invested in securities under a decree or order of the Court and delivered to the Reserve Bank of India exceeding in amount a sum of Rs. 100 shall, unless otherwise ordered by the Court, be received by or with the privity of the Registrar and be by him or with his privity forthwith or as soon as conveniently may be, laid out and invested in new Government securities and such new securities shall be deposited to the credit of the same accounts respectively and the Registrar shall specify all such sums so received or invested as aforesaid in the accounts kept by him.

12-A. If any of the securities in the accounts kept by the Registrar matures or is redeemed by Government, the Registrar shall, unless otherwise ordered by the Court, re-invest the money, after notice to the advocate on record or the party, in other Government securities, and the Registrar shall specify the new investment in the accounts kept by him.

13. Neither the Registrar (except as provided by Rules 11 and 12) nor the Registrar, Original Side, nor any other officer of the Court, shall inter-meddle with the actual receipt of any money, effects or securities, which shall be ordered by the Court, to be paid or delivered into or out of the Reserve Bank of India by or to the suitors or other persons; but money paid into Court, by way of satisfaction or amends may, unless otherwise ordered by the Court, be paid out to the plaintiff or to his advocate on the written authority of the plaintiff and no affidavit shall be necessary to verify the plaintiff's signature to such written authority unless specially required by the officer of the Court.

14. If the amount or value of the money, effects or securities to be paid out is below Rs. 500 or under special circumstances during any adjournment of the Court, a Judge or Master may make an order for the payment or delivery of moneys or effects out of the Reserve Bank of India and of the securities out of Court.

15. It shall not be necessary in any decree or order for the payment or delivery into or out of the Reserve Bank of India of money or effects or securities to set out the Registrar's certificate of funds at length; but it shall be sufficient to refer thereto.

16. Unless the Court shall otherwise direct, every decree or order for payment of money or delivery of securities into Court shall direct such money to be paid or securities to be endorsed and delivered over to the Manager for the time being of the Reserve Bank of India (or such other officer or officers as shall for the time

being have the custody of the funds of the suitors) with the privity of the Registrar.

17. Unless the Court shall otherwise direct, every decree or order for the payment or delivery out of Court of money or securities for money, deposited in Court in conformity with the last preceding rule shall direct such money to be paid by the Manager for the time being of the Reserve Bank of India (or such other officer or officers as shall, for the time being, have the custody of the funds of suitors) with the privity of the Registrar. The securities however shall be transmitted by the said Manager of the Reserve Bank of India or officer or officers to the Registrar, High Court, to be delivered over direct by him.

18. All moneys ordered to be invested by the Secretary and Treasurer of the Imperial Bank of India with the privity of the Accountant-General before 19th April 1927 shall thenceforth be deemed to have been invested with the privity of the Registrar as provided for in Rule 7 and shall be dealt with accordingly.

19. The accounts of the Suitors' Fund shall be audited annually by the Examiner of Local Fund Accounts, Madras, and he shall be entitled to a fee of decimal two per cent on the gross receipts of all moneys paid to the Manager of the Reserve Bank of India with the privity of the Registrar of the High Court. This fee shall be levied by the Registrar of the Court and paid to the said Examiner.

ORDER XXXII.

REFERENCE TO COMMISSIONER.

1. Unless otherwise ordered, an order referring a suit or matter to a Commissioner shall direct that his report be filed in Court within thirty days from the date of the order or within such time as the Court may allow and that the case be set down before the Court for hearing, fourteen days from the date of filing the report.

A copy of all orders referring a suit or matter to a Commissioner shall be sent by the Registrar to the Commissioner.

2. The party having the conduct of the reference shall obtain from the Commissioner an appointment for the hearing of the case, and shall serve notice thereof on the opposite party.

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

A statement of objection to an account shall specify the items to which objection is taken, by reference to their number in the account, or the date of the item and page of a particular book of account, or otherwise.

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

A statement of objection or surcharge shall also state shortly and concisely the grounds of the objection or surcharge; and shall also state the balance, if any, admitted or claimed to be due. The statements shall be verified by the affidavit of the party concerned.

Any party improperly objecting to an account or statement of facts shall be liable to pay the costs occasioned by the subsequent proof and also such costs for delaying the reference as the Court may direct.

4. The proceedings shall, so far as possible, continue from day to day and every adjournment of the hearing shall be to a fixed day and hour. If the Commissioner is unable to appoint a fixed day or to attend at the hearing or any adjournment, he shall give notice of the further hearing to all parties. The Commissioner shall annex to his report a statement of the days, and the number of hours of each day, on which the case was heard, and of the number of adjournments and the reasons for the same.

5. If any party fails to attend at the time appointed, or at any adjournment, the Commissioner may proceed in the absence of such party, or if he is unable so to do, he may for reasons to be recorded in writing, adjourn the hearing, or return the record in the suit to the Court with a report of the circumstances which rendered him unable to proceed with the case.

6. If, upon the hearing, it appears to the Commissioner, that the directions of the Court should be taken upon any matter, he may adjourn the hearing and direct the party having the conduct of the proceedings to apply to the Court for directions.

7. Unless the Court otherwise directs, payments of Rs. 20 and upwards shall be supported by vouchers, and payments under Rs. 20 may, in the absence of vouchers, be proved by oral evidence, showing to whom the payment was made, for what purpose, and on what date.

8. The Commissioner shall make his report in manner prescribed by Form No. 74 with such variations as circumstances may require, and shall annex thereto a statement of the proceedings had before him together with lists of the witnesses examined, and exhibits marked by him. If he is empowered to state his opinion.

he shall state his opinion on the matter referred to him and shall append to his report schedules setting out the several contested items allowed or disallowed by him and stating shortly his reasons for so doing, as in the said form.

9. The Commissioner shall give notice to the parties of the filing of his report; and any party to a suit or matter may apply to the Registrar for a copy thereof.

10. The Registrar shall enter all cases referred to a Commissioner in a separate list to be called the "Reference List" with the date for filing the report set opposite thereto; and if the report is not filed within the period limited, he shall set down the case for hearing, and thereupon the Court may discharge the order of reference to the Commissioner, and proceed to hear and determine the case, or may grant a further time for filing the report, or may make such order with respect thereto, and as to costs, as to the Court may seem fit.

11. A party desirous of objecting to or varying a report shall, within fourteen days from the receipt of the notice of the filing of the report, or within such further time as may be allowed by the Court, file in Court and serve upon the opposite party a statement of his objections to the report in the form prescribed by rule 3 of this order, and may at the hearing apply to vary or discharge the report accordingly. No objection shall be heard, of which due notice has not been given, without the leave of the Court.

12. At the hearing upon a report the Court may at once proceed to give judgment in the case, or make such order as it thinks fit.

13. A report, unless discharged or varied, shall, for the purposes of the hearing thereon, be taken as conclusive evidence of the facts found therein. Any question of law, arising upon the facts so found, may be raised at the hearing without notice.

14. The order of reference may be made conditional upon the payment into Court, within a specified time, by the party applying for the order, or by any party to the suit, of a sum sufficient for the remuneration of the Commissioner, or for the general costs of the reference.

15. Unless otherwise ordered, the costs of a reference to a Commissioner shall form part of the general costs of the cause. And any party to whom costs have been awarded may, at the hearing on the report, apply to the Court for the payment out of Court of any money paid in under the preceding rule.

16. In determining the amount of the remuneration to be allowed to a Commissioner, the Court may consider whether any unnecessary delay or expense has been caused by the failure of the Commissioner to comply with the rules, or otherwise through his act or omission.

17. The party having the conduct of the reference shall deliver to the Commissioner, at his request, copies of the pleadings, issues, and other documents or proceedings, necessary to inform him of the questions at issue between the parties. Upon the application of the Commissioner, the Registrar shall transmit any records in the suit or matter, specified in such application, to the Commissioner, who shall be responsible for the safe custody and return thereof. In case of doubt, the Registrar shall refer the application to the Judge.

18. Application for summons to a person to attend and give evidence or to produce a document, before the Commissioner shall be made to the Registrar.

19. Notwithstanding anything in these rules the Judge may refer to himself in Chambers any account or enquiry.

Commissions to examine witnesses.

20. Unless otherwise ordered, a commission to examine witnesses living in the town of Madras, or within twenty miles thereof, shall be made returnable in ten days; a commission to examine witnesses residing beyond twenty miles, and within 500 miles, shall be made returnable in four weeks; and a commission to examine witnesses beyond that distance, and within the State of Madras shall be made returnable in six weeks.

Unless otherwise ordered, a commission to examine witnesses, issued in a suit or proceeding shall not operate as a stay thereof.

21. A commission shall not be issued by the Registrar until the party applying therefor has deposited with him a sum sufficient for the service of summons upon, and the allowances to, the witnesses and for the other expenses of the commission.

22. An order for a commission to examine witnesses shall be in Form No. 75 and a warrant of commission shall be in Form No. 76, with such variations as circumstances may require. The Court may direct that the evidence of the witnesses may be taken down in shorthand by a sworn shorthand-writer.

23. The examination shall take place in the presence of the parties, or their advocates or agents, and the witnesses shall be subject to cross-examination and re-examination.

24. The evidence of a witness shall be taken down in writing by, or in the presence of, the Commissioner, not necessarily by question and answer, but so as to represent as nearly as may be the statement of the witness, and when completed shall be read over to the witness and signed by him in the presence of the parties, or their advocates or agents, and if the witness refuses to sign the same, the Commissioner shall sign the same in the presence of the parties, or their advocates or agents, and the Commissioner shall certify that the witness has refused to sign the same.

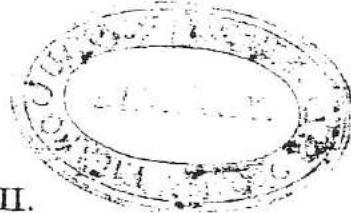
RULES OF THE HIGH COURT, MADRAS

to sign the deposition, the Commissioner shall sign the same. The Commissioner may take down any particular question or answer, if there appears to be any special reason for doing so, and may put any question to the witness as to the meaning of any answer, or as to any matter arising in the course of the examination. Any question which may be objected to shall be taken down by the Commissioner in the deposition and he shall state his opinion thereon to the advocate or parties and shall refer to such statement in the deposition; but he shall not have power to decide upon the materiality or relevancy of any question. Notice of the return of a commission shall be given at once by the Registrar to the parties or their advocates and, unless otherwise ordered, the case shall not be posted before seven days from such notice.

25. Any party may apply to the Registrar for a copy of the evidence returned when received by the Registrar and, unless otherwise ordered, the costs of the said copy shall be costs in the cause.

26. The rules relating to a reference to a Commissioner to take accounts shall apply, *mutatis mutandis*, to a reference to a Commission to examine witnesses, or for any other purpose.

ORDER XXXIII.



TAKING SECURITY AND CANCELLATION OF SECURITY BOND.

1. Where security is ordered to be given to the satisfaction of the Registrar, the party ordered to give security shall take out a summons in Form No. 77 and shall serve the same upon the opposite party not less than one clear day before the return day.

The summons shall state the name and address of each surety to be tendered, and the description of the property in respect of which he will offer to justify.

2. Where security of immovable property is ordered to be given, the party required to give security shall take out summons in Form No. 78 and shall serve the same upon the parties interested not less than one clear day before the return day. The summons shall contain a description of the property tendered as security.

3. A receiver appointed by the Court shall, unless otherwise ordered by the Court, furnish security in the form of immovable property or a fidelity bond by a guarantee society or insurance company duly approved by the Full Court, and unless the Court otherwise orders, the penalty of the bond shall be double the annual rental of any immovable property, and double the value of the movable property, which is likely to come into the hands of the

receiver. The amount of such penalty shall be fixed by the Court appointing the receiver.

Unless otherwise ordered by the Court, no person appointed as a receiver shall take possession of the property, of which he is appointed the receiver, or act as the receiver thereof until he has furnished the required security to the satisfaction of the Registrar.

4. Where any person required or ordered to give security pays or lodges into Court towards such security to the credit of the suit or matter in which the security is to be given, to a separate account, cash or Government security, deposit in Post Office savings bank, Post Office cash certificates and National Savings Certificates, to the amount or the value of the security required or furnish security of immovable property belonging to him or any other party, the Registrar may upon such payment or security, accept the bond of the person and the surety if any in respect of the security required or ordered to be given.

5. If a party is required to give security for costs, unless the Court otherwise orders, the penal sum in the bond shall be one thousand rupees.

6. Every person other than a guarantee society, or an insurance company, offering himself as surety shall produce before the Registrar his title-deeds and vouchers, and shall be examined by him on oath or solemn affirmation, touching the value of his property, and the debts and liabilities to which it is subject. After being examined and allowed, the surety shall make and file his affidavit of justification and sign the bond, and where the Registrar so requires, deposit his title-deeds and vouchers. In cases where the security offered is immovable property encumbrance certificate for such property shall be called for. The sureties may be bound in unequal sums, and the number of the sureties may be increased by the Registrar so as to make up the full amount of the bond.

7. Affidavits of justification shall be deemed insufficient, unless they state that each person justifying is worth the amount required by the Registrar over and above what will pay his just debts, and over and above every other sum for which he is then surety.

8. A guarantee society or insurance company duly approved by the Full Court may be accepted as surety upon its joining a bond with the person ordered to give security.

9. Rules 25 to 27 of Order XXV of these rules shall *mutatis mutandis* apply to a guarantee society or insurance company under the last preceding rule.

10. All bonds shall be attested by a gazetted officer of the Court or if executed out of the Court-house, by such gazetted officer as may be appointed by the Court.

11. The title-deeds may relate to immovable property situate beyond the local limits of the ordinary jurisdiction of the Court. Pattas shall not, in the absence of title-deeds, be accepted as evidence of title. A surety may justify also in respect of movable property, of which he can produce evidence satisfactory to the Registrar, such as deposit notes, promissory notes, or other evidence of title.

12. Unless the Court otherwise orders, an advocate practising within the local limits of the jurisdiction of the High Court, a clerk of such advocate, a partner, assistant, clerk or other employee of any person tendering security or of any person proposed as surety, shall not be accepted as surety to a bond.

13. (a) No person other than the party giving security, the sureties and their respective advocates shall be present at the examination of any surety by the Registrar except the party or the parties, if any, on whom notice has been served, his or their advocate or advocates.

(b) All papers and records relating to the taking of security shall be kept in the personal charge of the Registrar.

14. The security bonds executed by or on behalf of receivers shall not be cancelled until after the expiry of one year from the date of their discharge as receivers.

ORDER XXXIV.

Receivers

1. There shall be constituted a panel of advocates from whom receivers shall ordinarily be appointed.

2. The strength of the panel shall be ten and may from time to time be varied at the discretion of the Chief Justice. Appointment to and removal from the panel shall be made by the Chief Justice.

3. Every person appointed to the panel shall, on such appointment, furnish security, for the sum of rupees five thousand in favour of the Registrar, High Court, in the form prescribed (Form No. 79) to cover his liability in respect of all receiverships to which he may be appointed. He shall furnish one or other of the following kinds of security:—(a) immovable property; (b) a fidelity bond by a guarantee society or insurance company duly approved by the High Court; (c) cash; (d) a Government security; (e) a fixed deposit or a cash deposit in the post office savings bank; (f) post office cash certificates; (g) National Savings Certificates. On such security being furnished, the name of the person appointed shall be entered in the panel.

4. (a) Unless otherwise ordered, a receiver shall file his accounts twice every year. The first of such accounts commencing from the date of his appointment and brought down to the end of six months from such date shall be filed within ten days from the expiry of the six months and subsequent accounts shall be filed at intervals of six months being brought down to the end of the half-year for which they are filed. The order appointing a receiver shall be drawn up in Form No. 80.

(b) The accounts of the receiver shall be in Form No. 81 and the items shall be numbered consecutively. The accounts shall be verified by an affidavit in Form No. 82.

(c) Where a receiver has not, since the date of his appointment or since the date of his last account, as the case may be, received or paid any sum of money, he shall file an affidavit of no receipts or payments in Form No. 82 on the date on which he has to file his accounts for the period.

(d) The receiver shall maintain true and regular accounts of the receivership and shall in particular maintain a cash book, in which shall be entered from day to day all receipts and payments, and a ledger. He shall also maintain a counterfoil receipt book with the leaves numbered serially in print, from which shall be given as far as possible all receipts for payments made to the receiver.

(e) Unless the Court otherwise orders, the Receiver shall, as soon as may be, after his appointment, open an account in the name of the receivership in a Scheduled Bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, as the Court may direct, and shall deposit into it all moneys received in the receivership immediately on receipt thereof, save any sums that may be required for current expenses. All payments by the receiver shall, as far as possible, be made by cheques drawn against the account.

5. All receivers of estates shall pass their accounts upon oath before the Registrar or Official Referee or such other officer appointed by the Court for that purpose, twice every year or at such other period as the Court directs, and the Registrar or other officer shall, upon the passing of such accounts, fix the days on which such receivers are to pay the balance found to be due on their accounts into Court.

6. If a receiver fails to maintain true and regular accounts, or fails to file his accounts into Court on the due date, without proper cause, or unduly delays the passing of his accounts by failing to appear before the passing officer, or improperly retains any cash in his hands, the Registrar or other officer passing his accounts may disallow the whole or any portion of his salary or percentage due to him for the period of the accounts with reference to which default is committed, and may also charge interest at twelve per cent.

sum on the moneys improperly retained by him for the purpose of such retention.

7. Unless the Judge otherwise directs, the receiver shall be entitled on his passing his accounts, to draw from the moneys in Court to the credit of the suit or matter or from the moneys in the bank to the credit of the receivership, his commission at the rate of five per cent on rents, or outstandings recovered, and on sales of properties, movable or immovable, calculated on the total value realized by him.

8. No clerk or ministerial officer of the Court shall be appointed receiver or manager of any estate, or agent for the sale of property in execution of a decree or order.

9. The Manager, Original Side, shall prepare and send to the Registrar every month a list of the receivers, managers, guardians administrators and liquidators who have failed to file their accounts on the due dates. The list shall be put up on the Court notice board for one week, and if no steps are taken at the end of the week to rectify the default, the list of those still in default shall be posted before the Judge for his orders. The Judge may pass orders directing the filing of accounts or may give directions that the persons whose names appear in the said list be not again appointed or may pass such orders as he shall think fit. The party who obtained the order for the receiver, manager, guardian, administrator or liquidator shall also inform the Registrar of any such default.

ORDER XXXV.

ADMINISTRATION SUITS.

1. Where a decree or order is made directing an account of debts, claims or liabilities, or an enquiry for heirs, next of kin, kindred of a deceased or other unascertained persons, unless otherwise ordered, all persons who do not come in and prove their claims within the time which may be fixed for that purpose by advertisement, shall be excluded, from the benefit of the decree or order.

2. Every advertisement for creditors or other persons having any claim upon, or interest in the distribution of any asset to be administered by the Court, which is issued pursuant to any decree or order, shall direct every such creditor or other person, within a time to be thereby fixed, to send to the Registrar his name, address and description and the full particulars of his claim or interest,

and a statement of his account, and the nature of the security, if any, held by him, and shall inform such creditor or other person that in default thereof he will be peremptorily excluded from the benefit of the decree or order. The time for adjudicating on the claims shall be fixed by the advertisement and the name of the officer appointed to hear the reference and adjudicate on the claims shall be stated in the advertisement.

3. The advertisement shall be prepared by the party prosecuting the reference, and shall be settled and signed by the officer hearing the reference, and published in such newspapers as he directs.

4. No creditor or other person need make any affidavit or attend in support of his claim, unless he is served with a notice requiring him to do so.

5. Every creditor shall transmit to the Registrar with the particulars of his claim on shall produce at the time appointed for adjudicating on the claims, any security held by him; and every creditor shall also, if required by notice in writing to be issued by the officer hearing the reference, produce all other deeds and documents necessary to substantiate his claim at the time appointed for adjudicating on the claims.

6. Every person claiming as heir-at-law, devisee or next of kin or legatee shall, if required by notice in writing to be issued by the officer hearing the reference, produce any pedigree or proof mentioned in such notice at such time as is specified therein.

7. In case any creditor or other person neglects or refuses to comply with the last two preceding rules, he shall not be allowed any costs of proving his claim unless the Court otherwise directs.

8. At the time appointed for adjudication upon the debts or claims, the officer hearing the reference may take evidence orally or by affidavit of the executor, administrator, or other accounting party upon such debts or claims, and may, in his discretion, allow any of such debts or claims without further proof, and may direct such investigation of all or any of the debts or claims not allowed, and require such further particulars, information, or evidence, relating thereto, as he may think fit, and may, if he so thinks fit, require any creditor or other person to attend and prove his claim, or any part thereof; and the adjudication on such claims as are not then allowed shall be adjourned to a time to be then fixed.

9. Notice of the allowance of claims admitted under the preceding rule shall, if necessary, be advertised under the signature and directions of the officer.

10. Notice shall be given to every such creditor, or other person as the officer thinks fit to file an affidavit in support of his claim, or such part thereof as he may think fit, by a time to be named in such notice, not being less than ten days after such notice, and to

attend at a time to be therein named, being the time to which the adjudication thereon has been adjourned, and if any creditor fails to comply with such a notice, his claim or such part thereof as aforesaid shall be disallowed.

11. A notice to be given under rules 5 and 6 and the last two preceding rules, shall be prepared by the party having charge of the reference and shall be signed by the officer and served in like manner as a summons to a defendant or as the Court directs.

12. Any creditor or other person, who has not sent in the particulars of his claim pursuant to the advertisement, may do so four days previous to any day to which the adjudication is adjourned.

13. No claim shall be received after the time fixed by the advertisement (except as before provided) without special leave of Court at any time before the distribution of the assets to be administered and may be granted upon such terms and conditions as to costs and otherwise as to the Court shall seem fit.

14. Where an account of debts is directed to be taken, the plaintiff, if a creditor, shall send in his claim to the Registrar in compliance with the advertisement for creditors and may be required by any party having an interest in the estate to prove his debt on the reference, notwithstanding that he may have already given such proof thereof in Court as to establish his right to the decree.

15. Any such party requiring such proof unnecessarily may be ordered to pay the costs thereof.

16. Unless otherwise ordered, or unless the provisions of Order XX, Rule 13 (2) of the Code, are applicable, creditors shall be allowed interest in respect of debts, as to such of them as carry interest, at the rate at which they respectively carry interest, to the date of proof, and subsequent interest, at the rate of six per cent per annum and as to all others, at the rate of six per cent per annum from the date of proof.

17. Interest shall be computed on legacies at the rate of six per cent per annum from the end of one year from the date of the testator's death unless otherwise ordered, or a different rate is directed by the will.

18. In the case of a mortgagee who has obtained a decree on his mortgage, interest shall be computed at the rate and for the time and in the manner specified in such decree or where the time for payment has been enlarged under Order XXXIV of the Code, according to the terms of the order postponing the day fixed for the payment.

19. The costs of a creditor who is a plaintiff shall not be added to his debt, but shall form part of his costs in the suit. The costs of a creditor (other than a plaintiff) of establishing his claim under a decree or order in a suit shall be added to the amount of his claim.

20. Where, after payment of the costs of the suit, the assets are insufficient to pay the creditors, their principal, interest and costs of proof in full, any dividend ordered to be paid to them shall be computed on the total amount thereof, including the costs.

21. A claimant who fails to prove his claim may be ordered to pay the costs occasioned thereby.

22. The result of the proceedings had on a reference shall be stated in the form of a report which may be drawn up in paragraphs, each paragraph being separately numbered.

23. A report of an officer, unless discharged or varied, shall be taken as conclusive evidence of the facts found therein.

ORDER XXXVI.

APPEALS.

1. A memorandum of appeal shall be in Form No. 2 and shall be accompanied by a certified copy of the decree and judgment or order amounting to judgment appealed from, and a notice to the respondent in Form No. 83 and also a copy thereof signed by the appellant or his advocate.

The provisions of these rules with respect to a summons to a defendant shall apply to the said notice and copy.

2. If the respondent intends to defend the appeal, or file a memorandum of cross-objections, he shall within twenty days from the date of service of the notice of the appeal, or within such other time as may be fixed in the notice of appeal by the Registrar, file in Court his memorandum of objections and a copy of the same and deliver to the appellant a memorandum of appearance in Form No. 83 (a).

The respondent or his advocate shall, at any time after filing his memorandum of appearance, be entitled to obtain on application to the appellant or his advocate a list of all the papers and documents to be included in the appellant's case.

3. The appellant's case shall consist of the following documents arranged as far as possible in the following order:—

(1) Index.

(2) Plaint or original petition.

(3) Written statement.

(4) Issues and other relevant interlocutory proceedings.

(5) Judgment.

(6) Decree or order.

(7) Memorandum of appeal.

(8) Transcript of evidence, if any.

(9) Such other papers as are relevant and necessary for the purposes of the appeal which shall be arranged according to their exhibit marks, if any, and otherwise in chronological order.

The respondent's case shall consist of the memorandum of objections (if any) and any proceedings or exhibits not printed by the appellant which are relevant or necessary for the purposes of the appeal or memorandum of objections, together with an index.

4. Unless otherwise ordered, the case of the appellant or respondent, shall be printed in accordance with Order II, Rule 2 of these Rules, and shall be properly paged, and furnished with an index, which shall contain the description and date of documents in chronological order. It shall not be necessary to print the cause-title, or other formal parts, of the several proceedings, except in the case of the first pleading and of the memorandum of appeal.

5. If the appellant desires that the printing of his case should be done by the Court, he shall file along with his memorandum of appeal or within such other time as may be allowed, an application for translation and printing in the form prescribed for first appeals under the Code.

If the respondent desires that his case should be printed by the Court, he shall file a similar application within fourteen days after filing his memorandum of appearance.

In cases in which the appellant or the respondent elects to print his own case privately, he shall file the proper number of printed copies in Court, within two months of the filing of the memorandum of appeal or the memorandum of appearance and the same shall be examined, and compared with the original record, by an officer of the Court on payment of three annas for every 175 words or part thereof. Copies containing a large number of mistakes or omissions are liable to be returned.

The party printing shall, on demand in writing, furnish to any other party to the appeal and upon payment of the usual charges for printed copies, such copies of his case as may be required, not exceeding five.

6. At any time after the admission of the appeal, any party may apply, to the Court, with respect to the following matters:—

(1) That the appeal may be rejected on any ground on which the admission thereof might have been refused by the Court:

(2) that any other party may be ordered to give security for the costs of the appeal or of the original suit or of both;

(3) for a stay of further proceedings or of execution;
 Unless otherwise ordered, not less than two clear days' notice of the application shall be given to the opposite party.

7. Except in cases where the directions of the Court are necessary, applications relating to the matters hereundermentioned shall be made before and heard by the Master :—

- (1) for an order for change of advocates;
- (2) for issue of fresh notice of an appeal or other process or for an order for substituted service of notice of appeal or other process;
- (3) for an order permitting the withdrawal of an appeal by consent or where the other side has not appeared;
- (4) for appointment or discharge of a next friend or guardian-ad-litem to a minor;
- (5) for entering in the record the name of the representative of a deceased appellant, petitioner or respondent;
- (6) for dispensing with the printing of the whole or a specified part, of the record;
- (7) all other matters which are merely processual or which relate to the preparation of the appeal:

Provided that the Master may in his discretion direct that any application be posted before a Bench for disposal.

The Master shall have power to make an order for payment of costs of any application heard by him.

✓ 8. In case of urgency, a memorandum of appeal or an application therein may be presented to the first Division Bench or a Judge, sitting for the disposal of civil business, and the Court may thereupon make such order as it thinks fit.

9. If the Master dispenses with printing the record, the appellant shall, unless otherwise ordered, within fourteen days from the date of the order dispensing with such printing, file in Court three copies of the pleadings in the Court of first instance, and in the appellate Court, and of the judgment, and decree or order, appealed against, for the use of the Court. If a shorthand note of evidence has been taken, he shall at the same time file three copies of the transcript thereof. The copy shall be examined and compared with the original record by an officer of Court on payment of charges calculated at the rate of three annas for every 175 words or part thereof. Copies containing a large number of mistakes and omissions and those not in accordance with Order II, Rule 2 of these rules, are liable to be returned.

10. The preparation and printing of the record and the payment of the charges therefor shall be regulated by the rules for the time being in force relating to first appeals under the Code.

Special rules relating to appeals

11. An appeal from an order amounting to a judgment shall be made to the Court by a memorandum of appeal in Form No. 2 and stamped with the fee prescribed. In case of doubt whether an order amounts to a judgment, the Registrar shall post the appeal for orders as to admission. It shall be issued in the same manner as a Judge's summons on the Original Side and shall be served not less than ten clear days before the date fixed for hearing.

12. The appellant shall, seven days before the date fixed for hearing, file in Court three typed copies of the judgment or order appealed against and of all pleadings, affidavits or documents used or read at the original hearing on which he intends to rely or to which he intends to refer, and the same shall be examined and compared with the original record by an officer of the Court. Copies containing a large number of errors and omissions and those not in accordance with Order II, Rule 2 of these rules, are liable to be returned to the party for rectification. The charges for examining copies shall be three annas for every 175 words or part thereof.

13. The respondent shall file in Court three days before the hearing, three typed copies of all pleadings, affidavits or documents, used or read at the original hearing on which he intends to rely or to which he intends to refer and the same shall be examined and compared with the original record by an officer of the Court. Copies containing a large number of errors and omissions and those not in accordance with Order II, Rule 2 of these rules are liable to be returned to the party for rectification. The charges for examining copies shall be three annas for every 175 words or part thereof.

14. Such memorandum of appeal shall be posted before the Bench hearing appeals from the Original Side not less than 14 days after the date of issue. Such appeal from an order may thereupon be disposed of without printing, and the costs of supplying typed copies filed by the successful party to the Court shall be costs in the appeal.

15. The provisions of section 5 of the Limitation Act, 1908, shall apply to applications for readmission of appeal dismissed for default.

16. Subject to the provisions of this order, these rules shall, as far as the same are applicable, apply to all proceedings in appeals from the Original Side of the Court.

Paupers.

17. An application for leave to appeal, or defend an appeal, *in forma pauperis*, shall be made to the Court. If the application is made by an appellant, it shall be entitled in the matter of the intended appeal and shall be accompanied by a memorandum of appeal containing the schedule of the property prescribed by Order XXXIII, Rule 2 of the Code, and signed and verified by the

applicant. If the application is made by a respondent, it shall be accompanied by an affidavit containing the said schedule of property.

18. If an enquiry into the pauperism of the applicant is directed, the application shall be adjourned to a fixed day and the Registrar shall insert the same in the summons as the return day. The applicant shall take out the summons in the manner prescribed by Order XIV, Rule 1 of these rules; and shall deliver the copies thereof to the party for service on the advocate for the Government and on the opposite parties or, if a party is resident beyond the local limits of the jurisdiction, shall apply to the Registrar for transmission thereof to the proper authority for service on him.

An affidavit of service shall be filed in Court not less than two days before the return-day :

Provided that if the applicant was allowed to sue as a pauper in the Court from whose decree the appeal is preferred, no further enquiry in respect of his pauperism shall be necessary, unless the appellate Court, sees cause to direct such enquiry.

ORDER XXXVII.

MORTGAGES AND CHARGES.

1. Every plaint shall contain an allegation that the plaintiff has caused a search to be made in the office of the Registrar of Assurances of the district, or sub-district, in which the immovable property comprised in the mortgage or subject to the charge sued on, is situate, for a period of not less than twelve years prior to the date of presentation of the plaint, or for the period subsequent to the mortgage sued on, whichever may be shorter, and that he is not aware that any person other than the persons mentioned in the plaint, has any interest in the said property. The certificate of the Registrar of Assurances, stating the result of the search, shall be filed with the plaint.

The cost of making the search, and filing the certificate shall be costs in the cause. Provided that a plaint which does not comply with the above provisions shall be returned for rectification of defects within a time to be fixed, and shall be rejected if it be not complied with within the time fixed.

2. The plaint shall be in one of Forms Nos. 84 to 87 inclusive with such variations as circumstances may require.

3. Where there are several parties to a suit claiming successive charges or incumbrances on the mortgaged property, the Court shall determine their respective rights and priorities and insert in its decree a declaration with respect thereto as in Form No. 88.

4. If, in any suit or matter, it is found necessary to take an account, an interim decree shall be drawn up in Form No. 89 with such variations as circumstances may require and at the adjourned hearing, the Judge may declare the amount due on taking the account, and, if the balance is found to be against the plaintiff, may appoint a day for payment by him, and declare the aggregate amount of principal, interest and costs due on that day, and thereupon an order shall be drawn up on Form No. 90, and the suit shall be adjourned to a day as soon as possible after the day so fixed. If the balance is found against the defendant, the Judge may at once pass a decree directing payment thereof to the plaintiff, and, if the defendant is in possession of the mortgaged property, directing delivery thereof to the plaintiff, and payment of mesne profits, and may make such order as to the costs of the suit as is just.

5. A sale of the mortgaged property shall be conducted in manner prescribed by Order XXXVIII of these rules. Provided that if leave to bid is granted to the plaintiff or applicant, unless the Court otherwise orders, in the event of the property being sold, leave may be granted to the decree-holder to purchase each lot for not less than the market value of each lot; and if the mortgaged property is sold in one lot, for not less than the market value of the property.

6. If an order for sale is passed on the application of any defendant who is interested, the Court may direct that that person shall have the conduct of the sale and be entitled to the further costs of the proceedings.

7. If at any time it is made to appear to the Court that the plaintiff or other party having the conduct of the sale, has failed to comply with any order of the Court or any of the provisions of these rules, or is not proceeding with due diligence, the Court may give the further conduct of the suit to any other party; or may refuse to allow to the plaintiff or such other party any further costs of the proceeding, or interest on the mortgage moneys.

8. Decrees and orders in this section shall be in Form Nos. 91 to 107 with such variations as circumstances may require.

DEPOSIT IN COURT OF MORTGAGE MONEY.

9. When a mortgagor desires, under the provisions of the Transfer of Property Act, 1882, to deposit in Court the amount due on his mortgage, he shall file a petition duly verified, entitled in the matter of the mortgage, and the said Act, stating the facts of the case.

10. (1) Unless otherwise ordered, the mortgagor shall, in addition to the amount due on his mortgage, deposit in Court a sum sufficient to provide for the costs of the mortgagee, of obtaining payment out of Court of the mortgage moneys and of reconveying

the mortgaged property, or executing an acknowledgment of the discharge of the mortgage, as the case may be, and of registering the said re-conveyance or acknowledgment in the office of the Registrar of Assurances of the district, or sub-district in which the mortgaged property is situate.

(2) If, by the terms of the mortgage, the mortgagee is entitled to notice before payment or tender of the mortgage moneys, the mortgagor shall, in addition to the said sums, deposit in Court a sum sufficient to provide for any subsequent interest to which the mortgagee may be entitled.

11. Notice of the deposit shall be in Form No. 108 and shall, subject to the provisions of section 102 of the said Act, be taken out and served on the mortgagee in manner prescribed for service of summons on a defendant. The notice shall require the mortgagee to deposit in Court the mortgage deed and all documents in his possession or power relating to the mortgaged property.

12. The Court may order the deposit to be received. Such order shall specify the several sums to be paid into Court and the purposes for which each sum is intended.

13. Every application by a mortgagee for payment out of any moneys paid into Court under section 83 or section 102 of the said Act, shall be by original petition as in Form No. 109 entitled in the matter of the mortgage, stating the facts and shall specify the documents in his possession or power relating to the mortgaged property, and shall be accompanied by the mortgage deed and the said documents, and a draft deed of re-conveyance of the mortgaged property, or acknowledgment of discharge of the mortgage, as the case may be. The Registrar shall appoint a day for the hearing of the petition and notice thereof in Form No. 110 shall be served on the mortgagor, not less than five days before the said day.

14. The draft deed of re-conveyance or acknowledgment shall, if so required by either party, be settled by the Master and, if approved, shall be signed by him as approved.

At the hearing, the Court may, if the provisions of the said Act and these rules have been complied with, pass an order that upon the mortgagee bringing into Court a re-conveyance or acknowledgment of discharge, as agreed on or settled by the Master, duly stamped and executed, the moneys in Court be paid out to the mortgagee.

15. If it is made to appear to the Court that, previously to payment of any moneys into Court, under section 83 or section 102 of the said Act, a sufficient tender was made to, and refused by the mortgagee, he shall not be allowed the costs of obtaining payment out of the said moneys. Except as aforesaid, or unless the Court otherwise orders, the mortgagee shall be allowed all costs properly incurred by him and he shall not be compelled to execute the re-conveyance or acknowledgment of discharge until such costs have been paid.

ORDER XXXVIII.

SALE OF PROPERTY UNDER ORDER OF COURT.

1. Subject to the provisions of Order XXXIX, Rules 18 to 42, inclusive of these rules with respect to the sale of attached property, a sale by public auction of any property, when directed in a suit or matter, shall be conducted in manner prescribed by this Order read with Order XXI of the Code.

2. In the case of a sale of immovable property, the applicant shall cause a search to be made in the office of the Registrar of Assurances of the district or sub-district in which the property is situate, or if a previous search has been made in the suit or matter, then from the date to which the same was made, but so that the whole period shall be not less than twelve years: or, if no search has been made, then for a period of not less than twelve years prior to the date of the order for sale.

3. The applicant shall, within one calendar month from the date of the order for sale, or such other period as may be fixed by the Court, bring into Court, (1) two copies of a proclamation of sale, in Form No. 115 or No. 116; (2) an affidavit by himself or by some person acquainted with the property, stating the matters required by Order XXI, Rule 66, sub-rule (2) of the Code, and what, in his opinion, is the best time and place of sale and method of advertising the same, the lots, if any, into which the property should be divided, and the market value of, and reserve price to be fixed for, the property or the several lots; (3) if an officer of the Court is not to be appointed, an affidavit as to the fitness of the proposed auctioneer; and (4) in the case of immovable property, a certificate of the result of the search in the preceding rule mentioned and the extract from the register of the Collector mentioned in Order XXI, Rule 14 of the Code, and of the Corporation of Madras, respectively, showing the quit rent and taxes payable in respect of the property, and what amounts are due in respect of the same and also all title deeds and other documents affecting the property proposed to be sold which may be in the applicant's possession or power.

4. The ^{Court} Registrar shall determine the manner of advertising the sale; and shall fix the date and place of sale. In the event of an objection being raised to the lots, the market value or reserve price mentioned in the affidavit in the last preceding rule, the Registrar, shall call upon the party objecting, to file an affidavit in support thereof, and may thereupon consider and dispose of the objection.

An application to amend a proclamation of sale finally settled by the Registrar shall be made to the Master, and notice shall be served on all parties interested in the property sought to be sold.

5. Except in the case of attached property, the Official Referee or any other officer of Court appointed by the Registrar shall sell the property. The Court may, under special circumstances, upon

... of a party or *suo motu* appoint an advocate or other
... Commissioner to sell the property and may fix as his
remuneration a sum certain, or a percentage on the net sale-
proceeds not exceeding the scale fixed by items 29 and 30 of
Appendix II of the High Court Fees Rules.

6. The copies of the proclamation of sale, if approved by the Registrar, shall be signed by him, and he may then order the sale to proceed, or make such order as he thinks fit. If an order for sale is made, and unless otherwise ordered, the further hearing of the suit or matter shall be adjourned to a date not less than thirty days from the day fixed for the sale.

7. An application for leave to bid at the sale may be made to the Master supported by affidavit setting forth any facts showing that an advantageous sale cannot otherwise be had; and unless otherwise ordered, an undertaking shall be given by or on behalf of the applicant, that, in the event of his being declared the purchaser of the property, or of any lot or lots, he will give credit, or will enter up satisfaction of the decree or order under which the sale is made, for a sum not less than the market value of the property, or of the lot or lots purchased by him, as determined by the Court. Provided that, if there are several decree-holders entitled to rateable distribution, the purchase money shall be paid into Court.

Unless otherwise ordered, notice of the application shall be given to the other parties to the suit or matter.

8. The Registrar shall deliver to the Official Referee or other officer of the Court or to the Commissioner as the case may be, one of the said copies of the proclamation of sale, and a certified copy of the decree or order for sale, and the same shall be authority for the sale; and it shall not be necessary to take out a warrant of sale.

9. The Commissioner shall conduct the sale in the manner prescribed by the Code for the sale of attached property and shall pay into Court any deposit or sale moneys as soon as they are received by him.

Upon the completion of the sale, the Commissioner appointed to sell the property shall file in Court a report of the sale.

10. Where it appears that the Commissioner conducting the sale has failed, without sufficient cause, to bring in the money deposited, the Court may disallow his commission and compel him to repay or restore the money with interest not exceeding twelve per cent per annum, and may pass such other orders as the Court may think fit.

11. At the adjourned hearing referred to in rule 6, the Court may pass an order directing the payment to the applicant of the

expenses of the sale and to the Commissioner of his commission, if any, and provision for the application of the balance of the sale proceeds.

If the sale of immovable property is confirmed by the Court, an order confirming the sale shall be drawn up. The purchaser shall, within the time limited by the conditions of sale, or such period as may be allowed by the Court in the case of immovable property, bring into Court a draft of the certificate of sale, and in the case of movable property in respect of which an instrument of transfer is required, a draft deed of assignment or transfer of the property, as the case may be; and the same, if approved by the Registrar, shall be signed by him in the margin as approved, and the purchaser shall bring into Court two copies of the said documents, one of which shall be on duly stamped paper. The certificate or sale or deed of assignment shall be signed by the Registrar or by the person directed to convey the property as the case may be.

12. If the sale is set aside under Order XXI, Rule 90 of the Code, the Judge shall determine whether any and what party is responsible therefor, and may order such party to pay the costs of the sale, and may pass an order for resale of the property and give the conduct of the resale to any other party.

13. If at any time it is made to appear to the Court that any party who applied for the sale has failed to comply with any order of the Court, or any of the provisions of the Code or of these rules, or is not proceeding with due diligence, the Court may make such orders as to the further conduct of the sale and the costs thereof, as the Court thinks fit.

Sales by the Official Referee.

14. Unless otherwise ordered by Court, all sales by the Official Referee shall be by public auction and in cases of immovable property the sale shall be held at the premises.

If the Official Referee under an order of the Court attends to conduct a sale or to inspect a property out of the Court-house, a fee of annas eight per mile or part of a mile for the total mileage covered from the Court-house to the place of sale or inspection and back to the Court-house shall be deposited into Court by the applicant for sale or by the person at whose instance the inspection of the property is required.

15. Notice of all applications for stay of sale, or for the postponement of a sale and notice of any settlement out of Court, shall be given to the Official Referee.

16. The Official Referee shall keep a book in which he shall enter the name of each bidder and the bid offered by him.

17. Unless otherwise ordered, the deposit in the case of immovable property and the whole of the purchase money in the

case of movables shall be paid to the Official Referee and thereupon grant a certificate to the purchaser in the following form:—

" I declare A B to be the purchaser of _____ item in the proclamation of sale for Rs. _____ and I have received from him Rs. _____ the deposit or the purchase money payable in respect of such purchase."

13. The Official Referee shall, as soon as possible after the sale, certify the result to the Registrar. Such certificate shall contain the date of sale, the names of the bidders and their bid, the purchaser and the highest bid and shall set out the objections, if any, taken by any party at the time of the sale and the result.

19. The purchaser shall pay the balance of the purchase money into Court. Applications to receive payment shall be accompanied by the certificate of the Official Referee and the rules of the Original Side relating to payment of moneys into Court shall apply to such payments.

20. The Official Referee shall, as soon as possible, pay into Court the deposit or purchase money received by him at the time of the sale.

ORDER XXXIX.

EXECUTION OF DECREES AND ORDERS.

1. All applications for the execution of decrees or orders whether of the High Court or of any other Court (except as otherwise provided by these rules), shall be made by advocates or by parties in person to the Registrar. The transmission of decrees and the issue of all necessary warrants and notices by him and all amendments thereof shall be deemed quasi-judicial acts.

2. An application under Section 39 of the Code to transmit a decree or order to another Court for execution shall be by verified application in Form No. 117 with such variations as circumstances may require and shall be supported by affidavit clearly stating the particulars mentioned in clauses (a), (b), (c) or (d) of the section; and shall be accompanied by a certified copy of the decree or order.

3. If the application complies with the provisions of the Code and of these rules, the Registrar shall transmit the documents mentioned in Order XXI, Rule 6 of the Code to the Court to which transmission is sought. *Court*

4. An application under Section 50 or Order XXI, Rule 16 of the Code, may be combined with an application under Section 39

of the Court. The application must in such case be by a verified execution application, and where an order is made on such application, a copy of the order shall be transmitted with the papers.

5. Unless the Court otherwise orders, the transmission of a decree to another Court for execution shall not operate as a stay of execution of the decree in any Court.

6. Where a person against whom execution is sought has property in two or more districts, the Court may, on being satisfied of its necessity, cause a copy of the decree obtained against such person to be transmitted for execution in some or all of the districts contemporaneously. In the certificate of non-satisfaction to be sent therewith to the Court in each of such districts, it shall be stated to what other Courts the decree has been sent for execution. At the same time, a letter shall be sent to the Judge of one of such Courts requesting him to attach and sell the property in his district (hereinafter mentioned as district A) or a sufficient portion thereof, and certify the result to this Court; and with such letter shall be sent a copy of the letter sent to the Judge of each of the other Courts. A letter shall also be sent to the Judge of each of the other Courts requesting him to attach the property in his district, but not to sell the same until requested by this Court so to do.

7. Where the amount realized in execution in district A shall not be sufficient to satisfy the decree, a certificate stating the result of the sale shall be sent to the Judge of another of such Courts with a letter requesting him to sell the property under attachment in his district (hereinafter mentioned as district B) or a sufficient portion thereof and certify the result to this Court. The application is to be made to the ~~Master~~ stating the result of proceedings in district A and asking that a certificate and letter be sent to district B.

8. Where the amount realized in execution in district B shall not be sufficient to satisfy the balance payable under the decree or order, the procedure indicated in the last preceding rule shall be followed in respect of each of the other districts successively, until the balance payable under the decree is satisfied, or until the property attached in all such districts has been sold.

9. Where the amount realized in execution in district A or district B, or any other district, except the last, shall be sufficient to satisfy the decree, a certificate that such is the case shall be sent to the Court of each district in which property shall at the time be in attachment in execution of the decree.

10. Where a copy of a decree of another Court is transmitted to this Court for execution, the Registrar may return the same if the requirements of Section 50 or Order XXI, Rules 6 or 16 of the Code, have not been complied with.

If after a decree has been received by this Court for execution the decree-holder does not, within six months from the date of the receipt of the decree, apply for execution thereof, the Registrar shall certify to the transmitting Court the fact that no application for execution has been made and shall also return the decree to that Court.

Application for Execution.

11. An application which does not comply with the provisions of the Code or these rules, or does not claim any substantial relief shall be returned for amendment or rejected.

12. Where notice is necessary, the Registrar shall direct notice to be taken out and served and fix the return day. Unless the judgment-debtor gives notice to the applicant of his intention to appear, an affidavit of service of the notice shall be filed in Court not less than two days before the return day.

If application is made for the issue of execution against the person and property of the judgment-debtor at the same time, the Registrar shall refer the case to the Master; and the application shall be supported by affidavit stating the ground therefor.

In all cases of doubt and when required by the applicant, the Registrar shall refer the application to Court.

13. All notices under Section 145 or under Order XXI of the Code shall be issued by the Registrar and after service of the notice, the applications shall be posted before the Master for final disposal if there is contest.

14. If the application complies with the provisions of the Code and of these rules, the Registrar may, by endorsement on the application, direct execution to issue, and upon the payment of the prescribed fees, process shall be drawn up and issued accordingly.

15. In every application for the execution of a decree for the delivery of immovable property under Order XXI, Rule 35 or 36 of the Code, it shall be stated whether the property is in the possession or occupancy of the judgment-debtor, or any other person bound by the decree to vacate the property or whether it is in the occupancy of a tenant or any other person entitled to occupy the same and not bound by the decree to relinquish such occupancy.

16. In every application under Order XXI, Rule 95 or 96 of the Code, for possession of immovable property sold in execution of a decree, it shall be stated whether the property is in the occupancy of the judgment-debtor or of some person claiming under a title created by the judgment-debtor subsequently to the attachment of such property, or whether it is in the occupancy of a tenant, or other person entitled to occupy the same. The petition on which the application is made shall be accompanied by a certificate of sale

under Order XXI, Rule 91, shall be granted to and in the name of the person who at the time of the sale was declared to be the purchaser, or a certificate of the Registrar that such a certificate of sale was granted in cases where the original certificate is not produced.

17. With every warrant for the arrest of any person in execution of a decree or order, there shall be deposited with the Sheriff a sum of Rs. 5 for the intermediate subsistence of the judgment-debtor pursuant to Order XXI, Rule 39(1) of the Code.

Joint Decree-holders.

18. When an application is made under Order XXI, Rule 15 of the Code, by one or more of several joint decree-holders, unless a written authority, signed by the other decree-holders, for the applicant to execute the decree and to receive the money or property recovered, is filed in Court, the applicant for execution may be directed to give notice of the application to all the decree-holders who have not joined in the application; and unless otherwise ordered, the process, if any, issued thereunder, shall direct the money or property recovered in execution to be brought into Court.

Payment and Satisfaction.

19. Except when payment is ordered to be made to the decree-holder, all moneys recovered by the Sheriff or received by a Commissioner shall be paid into Court; and notice of the payment shall be given to the decree-holder or his advocate.

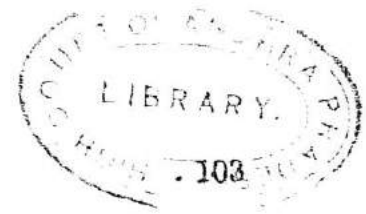
20. A judgment-debtor paying money or bringing property into Court in satisfaction of a decree shall, give notice of his intention to make such payment or deposit to the judgment-creditor; an affidavit proving service of the notice shall be filed in Court and, in default thereof, an order for lodgment shall not be issued.

21. An application by a decree-holder under Order XXI, Rule 2 of the Code, shall be made in writing (unstamped) to the Registrar, signed by the applicant.

An application by a judgment-debtor under Order XXI, Rule 2 (2) of the Code, shall be made to the **Master**. If after service of the notice of the application, the decree-holder fails to show cause why the payment or adjustment should not be recorded, the Master shall direct such payment or adjustment to be recorded.

Execution of Documents.

22. The procedure prescribed by Order XXI, Rule 34 of the Code, shall apply to all documents whereof the execution by any party has been directed by the Court.



23. The notice under Order XXI, Rule 34 of the Code, shall be in Form No. 120 of these rules. Where the judgment-debtor objects to the draft, the Master may approve or alter the draft as he thinks fit.

24. The acts directed to be done by the Court under Order XXI, Rules 34 (5) and 80 of the Code, shall, unless otherwise ordered by the Court, be done by the Master. The execution by or endorsement of the Master shall be in the following form:—

"A.B. by C.D. Master of the High Court of Judicature, at Madras in its Original Civil Jurisdiction under Order, dated the _____ day of _____ and made in suit No. _____ of _____ wherein _____ is plaintiff and _____ is defendant."

Duration of Warrant or attachment.

25. Every warrant of arrest or attachment shall be returnable by the Sheriff to the Office of the Registrar immediately after the execution or service thereof, or where he has been unable to serve or execute the same, not later than three months from the date of delivery to him of the order for arrest or attachment, unless such time be extended by an order to be obtained *ex parte* from the Master. The Sheriff shall certify by endorsement on the warrant the date and manner in which it is has been executed or why it has not been executed.

26. If after the expiration of three months from the date of attachment, or such further time as the Court may grant, no further steps are taken, the Registrar shall post the application for dismissal or orders, and the Registrar may, if satisfied that by reason of the decree-holder's default, the Court is unable to proceed further with the application for execution, dismiss the application or for any sufficient reason adjourn the proceedings to a future day.

Attachment of Money and Property in Court.

27. In the case of money or other property standing to the credit of a suit on the file of the High Court, or in the possession of an officer of the Court. the attachment shall be made by an order prohibiting any dealing with the money or the property without notice to the judgment-creditor, in Form No. 123 and by service of the order upon the Registrar or other proper officer of the Court.

Service of the said order may be made by the party or his advocate, and it shall not be necessary to take out a warrant to the Sheriff.

28. The judgment-creditor may apply entitled in the suit or matter to the credit of which the money or property is held, for payment out of Court, or for sale of the property and payment of the proceeds, to the judgment-creditor: unless otherwise ordered, notice of the application shall not be given to the judgment-debtor, but notice shall be given to all other persons interested therein.

Handwritten notes and signatures on the right margin, including 'Nagiv' and 'Rajiv'.

29. Where the property sought to be attached is in the custody of another Court, the execution application shall ask that, after attachment, the decree may be transmitted to that Court for execution; and if the attachment is made, and upon payment of the prescribed fees, the Registrar shall transmit the decree accordingly. The applicant shall then apply to that Court for execution. If the application is not made within the period limited by the prohibitory order, or if the same is refused, the Court shall retransmit the decree to the High Court with a certificate stating whether any and what proceedings have been taken in the former Court.

30. If the property sought to be attached is in the custody of a public officer, the execution application shall ask that the property may be brought into Court and realized; and the notice of attachment shall request that the money or property may be brought into Court, or that the officer shall state whether he has any and what objection to so doing. If any objection is raised by the officer, the applicant may apply to the Master for the determination of the objection.

31. Form No. 122 in Appendix II hereto shall be used in the place of Form No. 21 in Appendix E of the Code.

Attachment of Decrees.

32. An application for the attachment of a decree in the High Court shall also pray that the applicant may be at liberty to apply for execution thereof.

An order of attachment of a decree of the High Court shall be in Form No. 124 and shall be served on the Registrar.

An application for execution of the attached decree shall be made within the period limited by the order of attachment, by execution application, entitled in the suit or matter in which the attached decree was made; and the application shall be accompanied by certified copies of the order of attachment and of the decree sought to be executed.

33. If the decree sought to be attached is a decree for money passed by another Court, the Registrar may send the notice to that Court in Form No. 125 and the applicant may, within the period limited by the notice, apply for execution of the decree. If the attached decree is the decree of another Court, other than a decree for money, the applicant shall also pray for the transmission of the decree sought to be executed to that Court, and upon payment of the prescribed fees, the Registrar may transmit the same accordingly together with a notice in Form No. 126. The applicant may then apply to the former Court for execution of its decree.

No decree shall be ordered to be sold in execution of another decree.

34. If a decree is attached by more than one decree-holder, liberty to execute the same shall be given to the decree-holder whose attachment is first in date; and the money or property recovered by the said decree-holder shall be brought into Court for rateable distribution. Provided that, if the decree-holder to whom liberty is given as aforesaid, does not show due diligence in executing the attached decree or for any other and sufficient reason, the Court may give to any other decree-holder liberty to execute the attached decree in place of the former decree-holder.

35. On the application of the holder of a decree sought to be executed by the attachment of another decree, the Court making an order of attachment under this rule shall give notice of such order to the judgment-debtor bound by the decree attached; and no payment or adjustment of the attached decree made by the judgment-debtor in contravention of such order after receipt of notice thereof, either through the Court or otherwise, shall be recognized by any Court so long as the attachment remains in force.

Claims to attached property.

36. Unless otherwise ordered notice of an application by a claimant or objector under Order XXI, Rules 58, 99, 100 or 101 of the Code, shall be served on the decree-holder, not less than three clear days before the return day, but the claim shall not be heard until the expiry of seven clear days from the date on which the notice is served except with the consent of the opposite party.

Realization of Property attached by Seizure.

37. If an attachment of property is made by actual seizure, and within three months from the date of attachment, no order is made for the sale or release from attachment of the property, the Sheriff may apply to the Registrar to issue a warrant of sale, and the same may be issued accordingly. The proceeds of the sale, after payment of the expenses of the sale, and the prescribed fees, shall be brought into Court to the credit of the suit or matter in which the attachment was made.

Sale of Attached Property.

38. The decree-holder may apply at any time within three months from the date of the attachment by a written application to the Registrar, in Form No. 126 (a) and in the case of attachments before judgment, by an execution application for a warrant for the sale of attached property. After the expiration of the said period and except in the case of attachments before judgment, the application shall be made to the Master supported by an affidavit stating the reason for the delay. The Master may thereupon order the sale of the property or direct notice of the application to be given to any person, or make such orders as he thinks fit.

39. The applicant shall together with his application, file in Court the affidavit prescribed by Order XXXVIII, Rule 3 of these rules, which shall also state the interest of the judgment-debtor in the attached property, and whether any person other than the judgment-debtor has any, and what, interest therein; and, in the case of immovable property, that a search has been made in the office of the Registrar of Assurances of the district or subdistrict, in which the property is situate, for not less than twelve years prior to the date of the attachment. A certificate of the result of the search shall be filed with the said affidavit.

The applicant shall with the said affidavit also bring into Court two copies of a proclamation of sale in Form No. 115 or Form No. 116 the return of the Sheriff to the warrant of the attachment, extracts from the registers of the Collector mentioned in Order XXI, Rule 14 of the Code, and of the municipality respectively showing the quit-rent and taxes payable in respect of the attached property and the prescribed fee for the warrant of sale.

40. An application by the judgment-creditor for leave to bid shall be made to the Master supported by an affidavit. Unless otherwise ordered, notice of the application shall be given to the judgment-debtor.

41. If the provisions of the Code and of these rules have been complied with, and the proclamation of sale is approved by him, the Registrar may issue a warrant of sale. In case of default, the Registrar may refer the application to the Master who may, if the Court is unable to proceed further with the application by reason of the decree-holder's default, either dismiss the execution application or for any sufficient reason adjourn the proceedings to a future date, or may adjourn the application to a Judge or make such orders as he thinks fit.

42. Subject to the foregoing rules, the provisions of Order XXXVIII of these rules shall apply to all sales in execution of a decree or order.

Execution of Process.

43. Except where otherwise provided by these rules, the process of the Court shall be executed, and the sale of attached property shall be conducted within the local limits of the jurisdiction of the Court by the Sheriff of Madras, or by an officer authorized by him. All warrants addressed to the Sheriff shall be sealed with the seal of the Court and signed by the Registrar and shall be sent to the Sheriff for execution.

44. The Sheriff shall keep a register of the names of all judgment-debtors against whom warrants are outstanding in his hands or have been returned un-executed: and, if several warrants have been lodged by different judgment-debtors against the same judgment-debtor, and moneys are recovered or received by the

Sheriff under one of the said warrants, he shall pay the same into Court with a certificate showing what warrants have been lodged with him, and by whom, and for what amounts and whether any and what proceedings have been had thereunder. Unless otherwise ordered, the party applying for payment out of the said moneys shall give notice of the application to all persons mentioned in the said certificate.

45. Subsistence money payable into Court under Order XXI, Rule 30 of the Code shall be paid to the Sheriff.

46. Subsistence money paid to the Sheriff prior to the arrest of a judgment-debtor shall be accounted for to the judgment-creditor if the judgment-debtor is not arrested, or having been arrested is released without being committed to jail.

47. When a judgment-debtor is committed to jail, the balance of the subsistence money paid prior to his arrest, if any, shall be deemed to be a payment in part of the first payment of the monthly allowance payable for his subsistence in jail.

48. All sums paid to the Sheriff for the subsistence of the judgment-debtor in jail shall be forthwith forwarded by him to the Superintendent of the Civil Prison.

49. An account shall be kept by the Sheriff of all subsistence moneys paid to him, and may be inspected during office hours by any person having an interest. All moneys received by the Sheriff in execution or in pursuance of a decree or order of the Court shall be paid into Court within two days from the receipt thereof. Subsistence and other moneys paid to the Sheriff and remaining unclaimed by the parties shall be paid into Court within one month from the time when they become repayable.

50. If under any warrant of arrest issued against two or more persons, all such persons are not taken at one and the same time, the Sheriff shall make a separate return of the execution of the warrant with respect to the person or persons taken, as soon as he or they are taken respectively; but the warrant itself shall not be returned until it is completely executed or the last day for returning the same has arrived; and any such person, if otherwise entitled, shall be admitted to bail as if the warrant itself had been returned.

Arrest.

51. The Sheriff shall as soon as possible after making an arrest, give notice in writing thereof, and of the day and hour at which the debtor is to be brought before the Court, to the judgment-creditor or his advocate; and shall endorse a memorandum of the day so appointed on the warrant. On the said day the judgment-creditor may apply orally for the commitment of the debtor; and the debtor may apply orally for his release.

52. When a judgment-debtor is committed to the Civil Prison in execution of a decree and his classification determined, a note of the purport of the order shall be endorsed on the warrant of arrest by the Registrar. Upon production in the Registrar's office of the warrant with such endorsement, a separate warrant shall be issued for the commitment of the judgment-debtor.

ORDER XL.

GARNISHEE PROCEEDINGS.

1. This order applies in the case of (1) a debt due to a judgment-debtor not secured by a negotiable instrument, (2) a debt secured by a negotiable instrument which has been attached under Order XXI, Rule 51 of the Code, and (3) movable property not in the possession of the judgment-debtor, when the person by whom the debt is due, or who is in possession of the movable property hereinafter called the "Garnishee" resides or carries on business or personally works for gain within the local limits of the Court.

2. In the case of a debt or movable property referred to in Rule 1 (1) or (3), the execution application shall be supported by an affidavit setting forth the residence and description of the garnishee, and in what manner, and to what amount, the garnishee is indebted to the judgment-debtor, or in what manner and to what extent the judgment-debtor and the garnishee are respectively interested in the property sought to be attached. The Master may thereupon issue an order calling upon the garnishee to show cause upon a day therein mentioned, why he should not pay to the judgment-creditor the debt due from him to the judgment-debtor, or so much thereof as may be sufficient to satisfy the decree or order, or why the property should not be delivered into Court or sold, and the proceeds applied in satisfaction of the decree or order, and prohibiting the garnishee from paying, or delivering, and the judgment-debtor from receiving the debt, or property, until the further order of the Court. The debt or property shall be attached by serving the said order on the garnishee and the judgment-debtor.

3. In the case of a debt referred to in Rule 1 (2), the judgment-creditor may apply, at any time within three months from the date of the order of attachment, to the Registrar by application in writing, and after the expiration of the said period, to the Master for the issue of an order to the garnishee to show cause, upon a day therein mentioned, why he should not pay the debt, or so much thereof as is sufficient to satisfy the decree or order, to the judgment-creditor.

4. Unless otherwise ordered the orders in Rules 2 and 3 mentioned shall be served by the Sheriff or the advocate of the decree-holder not less than five clear days before the return day. In cases where the judgment-debtor resides outside the local limits of the jurisdiction of the Court, the order may, by leave of the Court, be served by registered post on the judgment-debtor.

5. If the garnishee, two clear days before the return day, pays into Court the amount due from him to the judgment-debtor, or an amount equal to the decree or order, or delivers into Court the movable property, and gives notice thereof to the judgment-creditor, he shall not be liable for any costs incurred by the judgment-creditor.

6. If the amount paid into Court is not accepted by the judgment-creditor, he shall one clear day at least before the return day, give notice to the garnishee that he does not accept the same and intends to continue the proceedings against the garnishee.

7. If the garnishee does not make the payment or delivery into Court as in Rule 5 mentioned, and does not on the return day dispute the debt or possession of the movable property or if he does not appear on the return day, the Court may order the garnishee to comply with the terms of such notice, and on such order execution may issue as though such order were a decree against him and on an execution application being filed may direct execution to issue against the garnishee, for the amount due by the garnishee, or so much thereof as is sufficient to satisfy the decree or order, or make such other order as the Court deems fit.

8. If the garnishee disputes his liability, the Court may order that any issue or question necessary for determining his liability be tried or determined in any manner in which any issue or question in a suit may be tried or determined.

If the subject-matter of the dispute be more than five thousand rupees in amount or value, the Master shall, after the matter is ripe for hearing, post the issue or question for determination before a Judge.

If the subject-matter of the dispute be not more than five thousand rupees in amount or value, the Master shall ordinarily determine such issue or question himself.

9. If it is alleged by the garnishee that the debt or property sought to be attached belongs to some third person, or that a third person has a lien, charge, or interest, upon or in it, the Court may order such third person to be served with notice to appear and state the nature and particulars of his claim.

10. After hearing such garnishee or such third person, and any other person, who may be ordered to appear, or in the case of such third or other person not appearing when ordered, the

Court may pass such order as is hereinbefore mentioned, or make such other order, and upon such terms as the Court thinks fit: Provided that the Court may at any stage refer the parties to a suit if it considers that the matter raises a complicated question of fact or law.

11. Payment or delivery made under an order of the Court by or execution levied upon, the garnishee, under any such proceeding or order as aforesaid, shall be a valid discharge to him as against the judgment-debtor, and any other person ordered to appear as aforesaid, for the amount paid, delivered, or levied, although such proceeding or order may be set aside or reversed.

12. Costs of any application or proceeding under this order shall be in the discretion of the Court.

Appointment of Receiver.

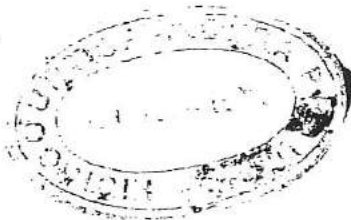
13. Notwithstanding anything contained in Order XXXIX or this order, a judgment-creditor may, by his execution application apply for the appointment of a Receiver to recover the amount of a decree or debt, or immovable property in the possession of a third party or to realize any other property belonging to the judgment-debtor. The Master may, in his discretion, upon security for such amount as he thinks fit, appoint a Receiver to recover and get in the property; unless otherwise ordered, the order shall be drawn up in Form No. 79. Such Receiver shall furnish security in the manner prescribed by Rule 2 of Order XXXIII and on security being given, the Registrar shall endorse a certificate thereof on the order. The attachment shall then be effected by serving the order on the judgment-debtor and the person in possession of the property of, or who is indebted to, the judgment-debtor, and, in the case of a decree of the High Court on the Registrar, and in the case of a decree of any other Court, upon the Court.

ORDER XLI.

SERVICE OF PROCEEDINGS.

1. (1) Summons, citation, or notice to appear and answer a plaint, or original petition, shall be served in the manner hereinbefore prescribed for service of summons in a suit.

(2) Unless otherwise ordered, notice under clause 14 of the Letters Patent of the High Court, notices under Order XXI, Rule 22, Section 145 and Order XXI, Rule 34 of the Code, shall be served personally and may be served by an officer of Court or by an advocate, or a person employed by him, in manner aforesaid.



(3) Notice under Order XXI, Rule 16 of the Code, and of a memorandum of objections, and save as aforesaid, notice of an interlocutory application, need not be served personally.

2. Where a party is not found at the address for service mentioned in Order II, Rule 5 of these rules, and no advocate or agent or adult male member of his family on whom a summons, citation, plaint, original petition, memorandum of appeal or notice mentioned in Rule 1, paragraphs (1), (2) and (3) of this order, can be served is present, a copy of such summons, citation, plaint, original petition, memorandum of appeal or notice shall be left at the address for service or affixed to the outer door of the house and such service shall, unless the Court at any stage otherwise orders, be deemed to be due service of the summons, citation, plaint, petition, memorandum of appeal or notice.

Where the address for service mentioned in Order II, Rule 5 of these rules, is the office of an advocate of this Court, service of any summons, citation, plaint, petition, memorandum of appeal, or notice may be effected by tendering the summons, citation, plaint, petition, memorandum of appeal or notice to the advocate on any day between 11 a.m. and 5 p.m., Sundays and holidays excepted: provided that if the advocate signifies his intention to withdraw his appearance by endorsing to that effect on the summons, citation, plaint, petition, memorandum of appeal or notice tendered to him and applies to the Court within ten days for leave to withdraw his appearance, the summons, citation, plaint, petition, memorandum of appeal or notice shall be served on the party direct.

3. Except where otherwise provided by these rules, all notices, pleadings, summonses, orders and other documents, proceedings, and written communications in respect of which personal service is not required, shall be sufficiently served if left by a party or his advocate or by a person employed by him between the hours of 11 a.m. and 5 p.m. at the address for service of the person to be served, or of his advocate with any person in the service of the said person, or of his advocate, resident at or belonging to the said place.

4. Notices sent from the office of the Registrar may be sent by registered post; and except where the notice has been actually served, the time at which the notice so posted would be delivered in the ordinary course of post, shall be considered as the time of service thereof and the posting thereof shall be sufficient service.

5. Except where otherwise provided by these rules, personal service shall be effected, within the local limits of the jurisdiction of the Court by the Sheriff of Madras, or by an officer, bailiff, or special bailiff, authorized by him.

ORDER XLII.

RULES FOR REGULATING THE PROCEDURE AND PRACTICE IN CASES
 BROUGHT BEFORE THE HIGH COURT OF JUDICATURE AT MADRAS
 IN THE EXERCISE OF ITS ADMIRALTY JURISDICTION.

1. In the construction of these rules the following terms shall (if not inconsistent with the context or subject-matter) have the respective meanings hereinafter assigned to them, that is to say:—

“ The Court ” shall mean the High Court of Judicature at Madras.

“ Judge ” shall mean a Judge of the said Court.

“ Registrar ” shall mean the Registrar of the said Court, on its Original Side, or other officer who may be authorized to perform the duties of such Registrar.

“ Registry ” shall mean the office of the Registrar.

“ Sheriff ” shall mean the Sheriff or the Deputy Sheriff of Madras or other officer who may be appointed to execute the process of the said Court.

“ Attorney ” shall mean any attorney or advocate entitled to practice in the said Court, or the party himself if conducting his suit in person.

“ Suit ” shall mean any suit, action, or other proceeding instituted in the said Court in its Admiralty Jurisdiction.

“ Affidavit ” shall in addition to its ordinary meaning, include a statement in writing on solemn affirmation wherever by law a person may make a solemn affirmation instead of an oath.

2. A suit shall be instituted by a plaint drawn up, subscribed and verified according to the provisions of the Code, save that if the suit is *in rem*. the defendants may, subject to such variation as the circumstances may require, be described as “ the owners and parties interested in ” the vessel or other property proceeded against instead of by name.

3. In suits *in rem*. a warrant for the arrest of property may be issued at the instance either of the plaintiff or of the defendant at any time after the suit has been instituted, but no warrant of arrest shall be issued until an affidavit by the party or his agent has been filed, and the following provisions complied with:—

(A) The affidavit shall state the name and description of the party at whose instance the warrant is to be issued, the nature of the claim or counter-claim, the name and nature of the property to be arrested, and that the claim or counter-claim has not been satisfied.

(B) In a suit of wages or of possession, the affidavit shall state the national character of the vessel proceeded against; and if against a foreign vessel, that notice of the institution of the

suit has been given to the consul of the State to which the vessel belongs, if there be one resident in Madras, and a copy of the notice shall be annexed to the affidavit.

(C) In a suit of bottomry, the bottomry bond and if in a foreign language also a notarial translation thereof, shall be produced for the inspection and perusal of the Registrar, and a copy of the bond, or of the translation thereof, certified to be correct shall be annexed to the affidavit.

(D) In a suit of distribution of salvage, the affidavit shall state the amount of salvage money awarded or agreed to be accepted, and the name and address and description of the party holding the same.

4. The Court or Judge may in any case, if they or he thinks fit, allow the warrant to issue, although the affidavit in Rule 3 mentioned may not contain all the required particulars and in a suit of wages, the Court or Judge may also waive the service of the notice, and in a suit of bottomry the production of the bond.

5. In suits *in rem.* no service of writ of warrant shall be required when the attorney of the defendant waives service and undertakes in writing to appear and to give security or to pay money into Court in lieu of security.

6. An attorney not entering appearance or giving security or paying money into Court in lieu of security in a suit *in rem.* in pursuance of his written undertaking so to do shall be liable to attachment.

7. Every writ, warrant and process shall be served by the Sheriff or his bailiff. Every warrant shall be returned to the Registry within six days from the date thereof.

8. In suits *in rem.* service of summons or warrant against ship, freight or cargo on board is to be effected by nailing or affixing the original writ or warrant for a short time on the main mast or on the single mast of the vessel and by taking off the process leaving a true copy of it nailed or affixed in its place.

9. If the cargo had been landed or transhipped, service of the writ or warrant to arrest the cargo and freight shall be effected by placing the writ of summons or warrant for a short time on the cargo and by, on taking off the process, leaving a true copy upon it.

10. If the cargo be in the custody of a person who will not permit access to it, service of the writ or warrant may be made upon the custodian.

11. In a suit *in rem.* any person not named in the writ may intervene and appear on filing an affidavit showing that he is interested in the property under arrest or in the fund in the Registry.

12. After the expiration of twelve days from the return of a warrant, if no appearance shall have been entered in the suit, the attorney for the plaintiff may cause the suit to be set down for hearing.

13. If when the suit comes before the Court, the Judge is satisfied that the plaintiff's claim is well founded, he may pronounce for the claim and may order the property to be sold with or without previous notice and the proceeds paid into the Registry or make such order in the premises as he shall think just.

14. An attorney desiring to enter an appearance in any suit, shall file in the Registry a præcipe, a copy of which shall have been previously served on the adverse attorney.

15. The præcipe shall contain the name of the attorney and an address for service in Madras at which it shall be sufficient to leave all instruments and documents in the suit.

16. Where security is to be given in the Registry, it shall be given according to these rules and practice of the Court as to security in the case of an attachment before judgment in an ordinary civil suit.

17. Property arrested by warrant shall only be released under the authority of an instrument issued by the Registrar, to be called a "release".

18. An attorney at whose instance any property has been arrested may, before an appearance has been entered, obtain the release thereof by filing a præcipe to withdraw the warrant.

19. An attorney may obtain the release of any property by paying into the Registry the sum in which the suit has been instituted.

20. Cargo arrested for the freight only may be released by an order of a Judge upon proof by affidavit of the value of the freight and by paying the amount of freight into the Registry.

21. In a suit of salvage the value of the property under arrest shall be agreed to or proved by affidavit to the satisfaction of a Judge before the property is released.

22. Where security shall have been given in the sum in which the suit has been instituted, or such sum shall have been paid into the registry and if the suit be one of salvage the value of the property arrested shall have been proved to the satisfaction of a Judge, an Attorney shall be entitled to a release of the same, unless there be a caveat against the release thereof.

23. The release, when obtained, shall be left with a præcipe in the office of the Sheriff by the attorney taking out the same,

who shall also at the same time pay all costs, charges and expenses attending the care and custody of the property whilst under arrest, and the Sheriff shall thereupon release the property.

24. An attorney in a suit desiring to prevent the release of any property under arrest, shall file in the Registry a *præcipe*, and thereupon a Caveat against the release of the property shall be entered in the register of Admiralty suits.

25. A party delaying the release of any property by the entry of a Caveat shall be liable to be condemned in costs and damages, unless he shall show to the satisfaction of the Court or a Judge, good and sufficient reason for having so done.

26. The party desiring to prevent the arrest of any property may cause a Caveat against the issue of a warrant for the arrest thereof to be entered in the Registry.

27. For this purpose he shall cause to be filed in the Registry a notice, signed by himself or by his attorney undertaking to enter an appearance in any suit that may be instituted against the said property and to give security in such suit in a sum not exceeding an amount to be stated in the notice, or to pay such sum into the Registry, and a Caveat against the issue of a warrant for the arrest of the property shall thereupon be entered in the register of Admiralty suits.

28. Before issuing a warrant for the arrest of the property, the Registrar shall ascertain whether or not any Caveat has been entered against the issue of a warrant for the arrest thereof.

29. An attorney instituting a suit against any property in respect of which a Caveat has been entered in the register of Admiralty suits shall forthwith serve a copy of the plaint upon the party on whose behalf the Caveat has been entered or upon his attorney.

30. Within three days from the service of a copy of the plaint, the party on whose behalf the Caveat has been entered shall, if the sum in which the suit has been instituted does not exceed the amount for which he has undertaken, give security in such sum or pay the same into the Registry, or if it exceeds that amount give security in the sum in which the suit has been instituted or pay the same into the Registry.

31. After the expiration of twelve days from the service of a copy of the plaint, if the party on whose behalf the Caveat has been entered shall not have given security in such sum, or paid the same into the Registry, the plaintiff's attorney may proceed with the suit by default and have it heard: Provided that the Court may, on good cause shown and on such terms as to payment of costs as it may impose, extend the time for giving security or paying the money into the Registry.

32. If when the suit comes before the Court it is satisfied that the claim is well founded, it may pronounce for the amount which appears to be due and may enforce the payment thereof by order and attachment against the party on whose behalf the Caveat has been entered and by the arrest of the property if it then be or thereafter come within the jurisdiction of the Court.

33. The preceding rules shall not prevent an attorney from taking out a warrant for the arrest of any property, notwithstanding the entry of Caveat in the Register of Admiralty suits, but the party at whose instance any property in respect of which a Caveat is entered shall be arrested, shall be liable to be condemned in costs and damages, unless he shall show to the satisfaction of the Court good and sufficient reason for having so done.

34. Every sale under the decree of the Court, shall, unless the Judge shall otherwise order, be made by the Sheriff in like manner as a sale of movable property in execution of a decree in an ordinary civil suit.

35. The Sheriff shall pay into Court the gross proceeds of sale of any property sold by him, and shall at the same time bring into the Registry the account of sale, with vouchers in support thereof, for taxation by the taxing officer of the Court, to whom the same shall be transmitted by the Registrar for that purpose.

36. Any person interested in the proceeds, may be heard before the taxing officer on the taxation of the account of expenses and an objection to the taxation shall be heard in the same manner as an objection to the taxation of a bill of costs.

37. All money paid into Court shall be paid to the Registrar.

38. Money paid into Court shall not be paid out of Court except in pursuance of an order of the Court or a Judge.

39. Security for latent demands shall not, unless the Judge shall otherwise order, be required on the payment of money out of Court.

40. An attorney desiring to prevent the payment of money out of the Registry shall file a notice and thereupon a Caveat shall be entered in the Register of Admiralty suits.

41. Applications may be made either in Court or to a Judge.

42. Forms of præcipes required to be filed in the Registry or the Sheriff's office may be obtained on application in the registry. They may be varied or altered by a Judge at his discretion.

43. Every præcipe shall be either by the party or by his attorney.

44. If a præcipe be not properly filled up, the Registrar or the Sheriff, as the case may be, may refuse to receive the same or to act thereon.

45. A Caveat, whether against the issue of warrant, the release of property, or the payment of money out of the Registry, shall not remain in force for more than six months from the day of the date thereof.

46. A Caveat may be withdrawn by the party on whose behalf it has been entered or by his attorney; but the præcipe to lead the withdrawal thereof shall, save by permission of the Registrar, be signed by the person who signed the præcipe to lead the entry of the Caveat.

47. Application may be made to the Court to overrule any Caveat.

48. The fees of Court and the fees to be allowed to the attorneys shall be those set out in the tables of fees sanctioned for proceedings under the Original Civil Jurisdiction of the High Court. The fees to be taken by the Sheriff shall be those set forth in the schedule hereto.

49. The forms used in the Admiralty Division of the Supreme Court in England under the Rules of the Supreme Court shall be adopted and followed as nearly as the circumstances of each case will allow.

50. Where no other provision is made by these rules, proceedings in suits brought in the Court in the exercise of its Admiralty Jurisdiction shall be regulated by the Rules and Practice of the Court in suits brought in it in the exercise of its Ordinary Original Civil Jurisdiction.

Special Summary Procedure.

51. A party to any suit may have the same dealt with, heard and determined in accordance with the following special rules upon filing in the Registry a consent signed by the parties or their attorneys duly authorized in that behalf in the form given below.

52. After such consent has been filed application may be made by any party to the Judge to appoint a day for the hearing and to give directions.

53. There shall be no pleading beyond a statement of claim verified by affidavit, but if there be a counter-claim notice thereof shall be given in writing before such consent as aforesaid is signed.

54. Lists of documents shall be exchanged and mutual inspection of documents granted at or before a time appointed by the Judge on the hearing of the application aforesaid.

55. At the hearing of the application aforesaid, unless it shall sufficiently appear from the statement of claim or otherwise in writing, the plaintiff shall specify the cause or causes of action in

respect of which the suit is brought, and, if practicable, the amount actually claimed, and the defendant shall specify the grounds of defence on which he relies and in salvage claims, the plaintiff and the defendant respectively shall at the same time, or within such time as the Judge shall direct, state the value of their property and if required, by affidavit. In the case of a counter-claim the cause or causes of action and the claim therein and grounds of defence thereto shall be similarly stated.

56. The Judge shall be at liberty to receive, call for and act upon, such evidence documentary or otherwise, whether legally admissible or not, as he may think fit.

57. If in any suit, the sum awarded, or for which judgment is given exceeds the sum, if any, tendered, the Judge may nevertheless exercise his discretion as to how and by whom the costs shall be borne.

58. There shall be no appeal from any order or judgment of the Judge except on a question of law, and then only by his leave.

59. In other respects the ordinary rules in practice shall apply so far as may be necessary. Notwithstanding anything in these special rules, the Judge may, if he thinks fit, make such orders as he might make under the ordinary rules and practice.

60. The foregoing rules shall apply to suits brought in the Court in the exercise of its Admiralty Jurisdiction in supersession of all former rules.

FORM OF CONSENT TO THE APPLICATION OF SUMMARY PROCEDURE

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(As a Court of Admiralty.)

Between

... .. Plaintiff
and
... .. Defendant.

We the undersigned respectively hereby agree that this cause shall be dealt with, heard and determined according to the Summary Procedure.

Dated this ... day of ... 19 ..

... .. Plaintiff's Attorney.

... .. Defendant's Attorney.

NOTE.—As the abovementioned rules depart from the ordinary rules and practice it will be necessary for attorneys signing this consent to obtain their client's authority to do so.

Schedule of fees and charges to be allowed to the Sheriff.

	RS.	A.	P.
1 For serving every writ of summons including Bailiff's charges for serving the same and making affidavit	10	0	0
2 For every search of service of summons or other process	2	①	0 0
3 For every ordinary return	2	①	0 0
4 For every special return	5	②	0 0
5 For translation when necessary per folio	0	8	0 3.50
6 For arresting a vessel or goods or person or on the execution of other warrant including Bailiff's charge for executing the same	35	③	0 0
7 For serving every notice and other judicial process not specified in this schedule for each person served including Bailiff's charge for serving same	5	0	0
8 On the execution of any decree, order, commission, or other instrument not specifically mentioned in this schedule	15	0	0
9 On attending, appointing and swearing appraisers	15	0	0
10 On delivering up a ship or goods to a purchaser agreeably to the inventory	15	0	0
11 On attending the delivery of cargo or sale or removal of a ship of goods per day	32	0	0
12 On retaining possession of a ship with or without cargo, or of a ships cargo without a ship, to include the cost of a ship-keeper, if required, per day	4	8	0
13 If the Sheriff or any of his substitutes is required to go a greater distance than five miles from his office to perform any of the above duties, he shall be entitled to his reasonable expenses for travelling, board, and maintenance, in addition to the above fees.			
14 On the sale of any vessel or goods, sold pursuant to a decree or order of the Court or on money realized in execution for every Rs. 750 or fraction of Rs. 750 realized	7	8	0 10.00
15 For release of a vessel, goods or person from arrest.	5	8	0 10.00
16 For every certificate of seizure	5	0	0
17 For every other certificate	2	0	0

Form No. 1.

WRIT OF SUMMONS IN ADMIRALTY SUITS IN ERM (RULES 8 AND 51).

Suit No. _____ of 19 _____

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Admiralty Jurisdiction.

Between

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

Plaintiff

Defendant.

To the owners and parties interested in the ship or vessel of the port of (or cargo and freight, etc., as the case may be).

Whereas (enter the name, description and address of the plaintiff) has instituted a suit in this Court against you (set out concise statement as appearing in the plaint) you are hereby required to cause an appearance to be entered for you in the Registry, i.e., the office of the Registrar of this Court on its Original Side) within days from the service upon you of this summons, exclusive of the day of such service; and are summoned to appear before this Court in person or by an advocate duly instructed to answer the plaintiff's claim on the day the case is set down for hearing, upon which date you must be prepared to produce all your witnesses and all documents in your possession or power upon which you intend to rely in support of your case; and you are hereby required to take notice that in default of your causing an appearance to be so entered, the suit will be liable to be heard and determined in your absence.

Witness, Chief Justice at Madras, the day of in the year of One thousand nine hundred and

Advocate Registrar.

NOTE 1.—An appearance in person or through attorney is to be entered in the Registry, within the time limited. In default thereof, the suit will be liable to be heard ex parte.

NOTE 2.—The written statement called for must be filed within the time limited, the defendant having first entered an appearance. In default thereof the suit will be liable to be heard ex parte.

NOTE 3.—This writ must be returned to the High Court immediately after the service thereof, or, if not served and the time for the return thereof shall not have been extended on the day of next.

NOTE 4.—Should you apprehend your witnesses will not attend of their own accord you can have subpoenas from this Court to compel the attendance of any witness and the production of any document that you have a right to call upon the witness to produce, on applying to the Court at any time before the trial, and on payment to them of the fees and expenses prescribed by the Rules of the Court.

NOTE 5.—If you admit the demand you should pay the money into Court with the costs of the suit to avoid sale of any property in respect of which the suit is brought or execution of the decree which may be against your person or property, or both.

Form No. 2.

PRAECIPE FOR WARRANT (RULE 4).

Suit No. of 19

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Admiralty Jurisdiction.

Between

... .. Plaintiff
and
... .. Defendant.

I, _____, attorney for the (state whether plaintiff or defendant), pray a warrant to arrest (state name and nature of property).

Dated the _____ day of _____ 19 _____

(To be signed by the attorney.)

Form No. 3.

WARRANT OF ARREST IN ADMIRALTY IN REM. (RULE 4).

Suit No. _____ of 19 _____

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Admiralty Jurisdiction.

Between

... .. *Plaintiff*

and

... .. *Defendant.*

To

The Sheriff of Madras.

You are hereby commanded to arrest the ship or vessel of the port of _____ (and the cargo and freight, etc., as the case may be) and to keep the same under safe arrest, until you shall receive further orders from us.

Witness, etc.

Form No. 4.

PRAECIPE FOR SERVICE BY THE SHERIFF OF ANY INSTRUMENT IN REM., OTHER THAN A WARRANT (RULE 8).

Suit No. _____ of 19 _____

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Admiralty Jurisdiction.

Between

... .. *Plaintiff*

and

... .. *Defendant.*

I, _____, attorney for the (state whether plaintiff or defendant), pray that the (state nature of instrument) left herewith be duly executed.

Dated the _____ day of _____ 19 _____

(To be signed by the attorney.)

Form No. 5.

PRAECIPE FOR APPEARANCE (RULE 15).

Suit No. of 19 .

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

*Admiralty Jurisdiction.**Between*... *Plaintiff**and*... *Defendant.*

Enter an appearance for in this suit.

Dated the day of 19 .

(Signed)

Attorney for the said defendant
whose address for service is**Form No. 6.**

PRAECIPE FOR RELEASE (RULES 19 AND 24).

Suit No. of 19 .

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

*Admiralty Jurisdiction.**Between*... *Plaintiff**and*... *Defendant.*

I, _____, attorney for the (state whether plaintiff or defendant) in a suit (state the nature of suit), commenced on behalf of _____ against the (state name and nature of property), now under arrest by virtue of a warrant issued from the Registry, pray a release of the said _____ (bail having been given, or the suit having been withdrawn by me before an appearance was entered therein, etc., as the case may be), and there being no caveat against the release thereof outstanding.

Dated the day of 19 .

(To be signed by the attorney.)

Form No. 7.

RELEASE (RUE 18).

Suit No. of 19

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Admiralty Jurisdiction.

To

The Sheriff.

Whereas in a suit of commenced in our said High Court on behalf of against , you were commanded to arrest the said and to keep the same under safe arrest until you should receive further orders from us. Now you are hereby commanded to release the said from the arrest effected by virtue of the warrant in the said suit, upon payment being made to you of all costs, charges and expenses attending the care and custody of the property whilst under arrest in that suit.

Witness, etc.

Release

Taken out by on the day of 19 the or vessel (or cargo and freight, etc., as the case may be) released from arrest pursuant to his instrument of release.

Form No. 8.

PRAECIPE FOR CAVEAT RELEASE (RULE 24).

Suit No. of 19

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Admiralty Jurisdiction.

Between

... .. Plaintiff and Defendant.

I, , attorney for the plaintiff in this action, pray a caveat against the release of the (state the name and nature of the property).

Dated the day of 19

(To be signed by the attorney.)

Form No. 9.

PRAECIPE FOR CAVEAT WARRANT (RULE 27).

Suit No. of 19 .

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Admiralty Jurisdiction.

Between

... *Plaintiff*
and
... *Defendant.*

I (state name, address and description) hereby undertake to enter an appearance in any suit that may be commenced in this Honourable Court against (state name and nature of the property) and within three days after I shall have been served with a copy of the plaint in such suit to give bail therein for a sum not exceeding (state amount for which the undertaking is given) Rupees, or to pay such sum into the Registry. And I consent that all instruments and other documents in such suit may be left for me at

Dated the day of 19 .

(To be signed by the attorney.)

Form No. 10.

PRAECIPE FOR CAVEAT WARRANT BY PLAINTIFF (RULE 27).

Suit No. of 19 .

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Admiralty Jurisdiction.

Between

... *Plaintiff*
and
... *Defendant.*

I (state name, address and description) hereby undertake within three days after I shall have been served with a notice of any counter-claim herein in respect of which the defendant is entitled to arrest (state name and nature of property) to give bail to answer such counter-claim in a sum not exceeding (state amount for which the undertaking is given) Rupees, or to pay such sum into the Registry.

Dated the day of 19 .

(To be signed by the attorney.)

Form No. 11.

PRAECIPE TO WITHDRAW CAVEAT (RULE 46).

Suit No. of 19

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Admiralty Jurisdiction.

Between

... .. Plaintiff

and

... .. Defendant.

I, , attorney for the (state whether plaintiff or defendant), pray that the caveat against (state tenor of caveat) entered by me on the day of 19 on behalf of (state name) may be withdrawn.

Dated the day of 19

(To be signed by the person by whom the Praecipe for the entry of the caveat was signed.)

ORDER XLIII.

PROCEEDINGS UNDER THE ARBITRATION ACT (ACT X OF 1940).

1. All applications, affidavits and proceedings under the Act shall be entitled in the matter of the Act and in the matter of the arbitration agreement or in the matter of the reference to arbitration in the suit, as the case may be.

2. All applications under this Act except those under sections 13 (b), 14 (2), 30 and 33 shall be by Judge's summons. Applications under sections 13 (b), 14 (2), 30 and 33 shall be by petition.

3. Every application shall be supported by an affidavit containing a statement of facts relied on, the fact showing that the Court has jurisdiction and shall specify the persons liable to be affected thereby.

4. (1) Where an arbitrator or umpire seeks to file the award into Court at the request of any party to the arbitration agreement or any person claiming under him, he shall do so by a petition stating the relevant facts and enclosing the award or a signed copy thereof (duly stamped) as an annexure thereto together with any depositions which have been taken and any document which have been filed before him and a list of the same with description and dates thereof. He shall also file a copy of the

notice issued to the parties concerned with an affidavit of service of such notice and a sufficient number of copies of the notice of the filing of the award, for service on the parties concerned. The Registrar shall, as soon as the petition is admitted and the award is filed, issue notice to the parties interested in the award informing them that the Court will pronounce judgment thereon on a date to be fixed in the said notice. Such notice shall be served by the party at whose instance the award was filed into Court in manner provided for service of summons in a suit, within such time as the Registrar may fix.

(2) Where at the instance of any of the parties the Court has made an order directing the filing of the award, the arbitrator or umpire shall file the award in such proceedings and in that event the same shall be accompanied by an affidavit of the arbitrator or umpire and the documents mentioned in clause (1) supra.

5. Petition under section 13 (b) of the Act shall contain a statement in a summary form of the material facts and the points for the opinion of the Court. Notice under section 14 (3) shall be served by the Registrar in manner prescribed for service of summons in a suit. A certified copy of the opinion of the Court shall be added to and shall form part of the award.

6. A petition under section 30 of the Act shall set out clearly the grounds upon which the award is sought to be set aside.

7. A petition under section 33 of the Act for challenging the existence or validity of an arbitration agreement or an award or to have the effect of an arbitration agreement or award determined shall set out the grounds upon which the petition is made and if the petitioner is in possession of the arbitration agreement or award as the case may be, he shall file the same along with the petition.

8. An application under section 20 of the Act shall be by Judge's summons supported by an affidavit, the petitioner being called the plaintiff and the respondent being called the defendant. The original agreement if in the possession of the applicant or a copy thereof if the original is not in possession of the applicant, shall be filed with the application and notice under section 20 (3) of the Act shall be served in manner prescribed for service of summons in an ordinary civil suit.

9. An application under section 21 of the Act shall be by Judge's summons in the suit to which it relates.

10. An application under the proviso to section 16 (2) or under section 28 of the Act shall be by Judge's summons and notice thereof shall be served upon all the parties interested.

11. An application under section 34 of the Act shall be made to the Court entitled in the suit which the applicant seeks to have stayed.

12. All proceedings under the Act shall be heard by a Judge.
13. Processes to the parties to arbitration proceedings shall be issued by the Registrar on the written application of the arbitrator or umpire.
14. The Master may, on an application made to him for that purpose, dispense with any of the formalities prescribed herein for sufficient cause.
15. The provisions of Order XXXVI of these rules shall, so far as they are applicable, apply to appeals under section 39 of the Act.
16. The Court-fees in respect of proceedings under the Act shall be those set out in the Court Fees and Suits Valuation Act (Madras Act XIV of 1955) and practitioners' fees shall be those set out in the High Court Fees Rules.
17. The forms prescribed shall be used for the purposes mentioned therein with such variations as circumstances of each case may require.
18. In cases not provided for in the foregoing rules or in the Act, the provisions of the Code and the Rules and forms of this Court shall apply *mutatis mutandis* to all proceedings before the Court and to all appeals under the Act.

APPENDIX I.

ENACTMENTS ABOVE REFERRED TO.

1. The Government of India Act, 1915, 5 and 6 Geo. V, 61.
2. The Letters Patent of the High Court at Madras, dated the 25th December 1865, as amended by Letters Patent, dated the 11th March 1919.
3. The Code of Civil Procedure, 1908, and the Acts amending the same.
4. The Indian Oaths Act, 1873 (X of 1873).
5. The Transfer of Property Act, 1882 (IV of 1882).
6. The Partition Act, 1893 (IV of 1893).
7. The Guardians and Wards Act, 1890 (VIII of 1890).
8. The Indian Succession Act, 1925 (XXXIX of 1925).
9. The Indian Divorce Act (IV of 1869) and the Acts amending the same.
10. The Specific Relief Act, 1877 (I of 1877).
11. The Indian Arbitration Act, 1940 (X of 1940).
12. The Indian Stamp Act, 1899 (II of 1899) and the Acts amending the same.
13. The Indian Trusts Act, 1882 (II of 1882).
14. The Legal Practitioners' Act, 1879 (XVIII of 1879).
15. The Constitution of India.



APPENDIX II

Form No. 1.

ORDER II, RULE 3—CAUSE-TITLE OF A SUIT OR ORIGINAL PETITION.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

For Ordinary Original Civil (or Matrimonial, or Testamentary, or Admiralty) Jurisdiction.

Suit No. of 19

(or Original Petition No. of 19)

BETWEEN

1. A. B. and
2. C. D.—Plaintiffs (or Petitioners)

AND

1. E. F. and
2. G. H.—Defendants (or Respondents).

Form No. 2.

ORDER II, RULE 3—CAUSE-TITLE OF AN APPEAL.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Appellate Jurisdiction.

Appeal No. of 19

BETWEEN

1. A. B. and
2. C. D.—Appellants

AND

1. E. F. and
2. G. H.—Respondents.

On appeal from the judgment or Order of the Honourable Mr. Justice, dated the day of in the ordinary original civil (or Matrimonial, or Testamentary, or Admiralty) jurisdiction of this Court.

Suit No. of

(or Original Petition No. of 19 .)

(or Application No. of 19 .)

(in C. S. No. of 19 .)

BETWEEN

1. A. B. and
2. C. D.—Plaintiffs

AND

1. E. F. and
2. G. H.—Defendants.

Form No. 3.

ORDER II, RULE 3—SHORT CAUSE-TITLE OF A SUIT.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Exhib Ordinary Original Civil (or Matrimonial or Testamentary, or Admiralty)
Jurisdiction.

Suit No. of 19 .

(or Original Petition No. of 19 .)

BETWEEN

1. A. B. and 2 others—Plaintiffs (or Petitioners)

AND

1. C. D. and 3 others—Defendants (or Respondents).

Form No. 4.

ORDER II, RULE 3—SHORT CAUSE-TITLE OF AN APPEAL.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Appellate Jurisdiction.

Appeal No. of 19 .

BETWEEN

1. A. B. and 2 others—Appellants

AND

1. C. D. and 3 others—Respondents.

Form No. 5.

ORDER II, RULES 3 AND 5—FORMAL PARTS OF A PLAINT OR ORIGINAL PETITION.

(Cause-title.)

Plaint.

(or Petition under the *Guardians and Wards Act, 1890*).

The abovenamed plaintiffs (or petitioners) state as follows:—

1. A.B., the first plaintiff (or petitioner) is a land-owner and resides at _____ C.D., the second plaintiff (or petitioner), is a dealer in grain, and resides at _____

The address of the plaintiffs (or petitioners) for service of all notices and process is _____

2. E.F., the first defendant (or respondent), is a land-owner and resides at _____; G.H., the second defendant (or respondent), is an infant of about _____ years and resides with L.M., a land-owner at _____ and is sued as the legal representative of N.O., land-owner, deceased.

3. (Set out the facts showing the cause of action in consecutive numbered paragraphs.)

4. The value of the suit for purposes of Court-fees is as detailed below:—

5. The plaintiffs (or petitioners) _____ pray that
(a) (Set out reliefs claimed in successive paragraphs.)

6. I, A.B., declare that what is stated in paras. (_____) is true to my knowledge, and that what is stated in paras. (_____) is stated on information and belief, and I believe the same to be true.

(Signed) A.B.

(Signed) XY.

(„) C.D.

Advocate for plaintiffs (or petitioners).

Form No. 6.

ORDER II, RULES 3 AND 6.—ORIGINAL PETITION WHEN NOTICE IS NOT REQUIRED.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

*Testamentary (or Ordinary Original Civil Jurisdiction).**Original Petition No. of .*

[In the matter of the debts of X, Y, of (description) deceased.]

1. A.B. and
2. C.D.—Petitioners.

Petition under *the Indian Succession Act, 1925.*

The abovenamed petitioners state as follows:—

1. (*Insert as in paragraph 1 of Form No. 5.*)
2. (*Set out facts relied on in numbered paragraphs.*)
3. (*Insert as in paragraph 4 of Form No. 5.*)
4. It is not intended to serve any person with notice of this petition.
5. The petitioners pray that
 - (a) (*Set out reliefs asked for in successive paragraphs.*)
6. (*Copy verification from Form No. 5.*)

(Signed) A.B.

(„) C.D.

Form No. 7.

ORDER II, RULE 9, AND ORDER XV, RULE 6.—AFFIDAVIT OR SOLEMN AFFIRMATION.

(Cause-title.)

1. Madura Ramaswami Pillai, son of A.B., and a Hindu of the caste of _____ years of age, land-owner, residing at _____, do solemnly and sincerely affirm (or make oath and say) as follows:—

- 1.
- 2.

Solemnly affirmed (or sworn, at the office of the Registrar of the High Court this _____ day of _____) (Signed) Madura Ramaswami Pillai.

Before me.

(Signed) G.H.,

Commissioner for Oaths or Deputy Nazir of the Court.

Seal.

Form No. 8.

ORDER II, RULE 9, AND ORDER XV, RULE 7—JURAT WHEN DEPONENT IS UNACQUAINTED WITH THE LANGUAGE OF THE AFFIDAVIT, OR IS BLIND OR ILLITERATE.

Solemnly affirmed (or sworn) at the office of the Registrar of the High Court this _____ day of _____ before me, the contents of this affidavit (or solemn affirmation and the exhibits therein referred to) having been first truly and audibly read over to the deponent in *(Tamil)*, he being unacquainted with English (or being blind or illiterate) who appeared perfectly to understand the same, and made his mark thereto (or signed the same) in my presence.

C. D. (Deponent)
(Signed)

G.H.,
Commissioner for Oaths.

Seal.

Form No. 9.

ORDER III, RULE 1—NOTICE OF GRANT OF LEAVE TO SUE IN THE HIGH COURT.

And also take notice that leave to institute the said suit in this Court was granted by an order, dated the _____ day of _____, and that you are at liberty to apply to this Court to stay the said proceedings.

Form No. 10.

ORDER III, RULE 2—NOTICE OF PERMISSION TO SUE ON BEHALF OF NUMEROUS PARTIES.

And also take notice that by an order, dated the _____ day of _____ permission was granted to the plaintiff to sue on behalf of himself and all the other creditors of X.Y., late of, etc., deceased (or, to sue you, the abovenamed defendants, as representing all Persons interested in _____).

Form No. 11.

ORDER IV, RULE 1—LIST OF DOCUMENTS UNDER ORDER IV, RULE 1, FILED WITH THE PLAINT.

(Cause-title.)

List of Documents filed with this Plaintiff.

Serial number.	Date, if any, of document.	Parties to the document.	Description of document.

(or none.)

(C.D., Advocate of A.B. the plaintiff.)

(Signed) E.F.

Form No. 13.

ORDER IX, RULE 4.—LIST OF ALL THE DOCUMENTARY EVIDENCE RELATING TO ANY MATTER IN QUESTION IN THE SUIT ON WHICH THE PLAINTIFF (OR THE DEFENDANT) INTENDS TO RELY FILED UNDER ORDER VI, RULE 13, AND ORDER IX, RULE 5.

List of documents relied upon by the plaintiff (or the defendant) filed or list of documents filed by the plaintiff (or the defendant) pursuant to the order of Mr. Justice (or of the Master), dated the day of A.D.

Serial number.	Date, if any, of document.	Parties to the document.	Description of document.

(Signed) A.B., Plaintiff or Defendant
(or C.D., Advocate of A.B., the plaintiff or defendant).

Form No. 13.

ORDER IV, RULE 5.—SUMMONS TO APPEAR AND ANSWER.
IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Ordinary Original Civil Jurisdiction.

Suit No. of 19

To

Defendant.

Whereas, on the day of 19 the abovenamed plaintiff instituted a suit in our said Court against you by presenting a plaint, whereby claim the relief whereof the short particulars are endorsed hereon (or annexed hereto), you are hereby summoned to appear before the Court at the hour of 10-45 o'clock in the forenoon of the day after service of this summons upon you, in person or by Advocate, to answer the plaintiff's claim, and to bring with you any document in your possession or power relating to the merits of the plaintiff's case, or upon which you intend to rely in support of your defence and take notice that in default of your so doing the suit will be heard and determined in your absence.

And also take notice that, if you intend to defend the suit, you must cause an appearance to be entered on your behalf and file in Court a written statement stating the grounds of your defence within 14 days after service of this summons upon you in which case the suit will be entered in the general list of causes.

And also take notice that leave to institute this suit in this Court was granted by order, dated the day of and that you are at liberty to apply to this Court to stay the said proceedings.

ORDER IV, RULE 5.—PAUPER NOTICE.

(Continue as in Form No. 13.)

Also take notice that by an order, dated the day of permission was granted to the plaintiff to sue in *forma pauperis*.

Witness, the Hon'ble Chief Justice at Madras, the day of the year of One Thousand nine hundred and Assistant Registrar (or Bench Clerk),

N.B. - (1) This summons shall be served within 14 doys from the date hereof.

(2) This summons was taken out by plaintiff whose address for service is No. Georgetown, Madras Concise statement of the claim made.

And further interest at per cent per annum until payment and the costs of this suit. If the amount claimed be paid before the time limited for the appearance of the defendant, further proceedings will be stayed.

I hereby acknowledge service of this summons. The summons was served by an Officer of the Sheriff (or of the Court of the Munsif of) on

Hours of attendance at the Office of the Registrar in the High Court Buildings, Madras, from 10-45 a.m. till 4 p.m., Sundays and holidays excepted.

Form No. 13-A.

ORDER VII, RULE 3.—SUMMONS IN SUMMARY SUIT ON NEGOTIABLE INSTRUMENT.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Ordinary Original Civil Jurisdiction.

Summary Suit No. of 19

BETWEEN

A.B. ... Plaintiff

AND

C.D. ... Defendant.

To

C.D.—Defendant.

(Name, description and place of residence.)

Whereas, the plaintiff has instituted a suit against you under Order VII of the Rules of the High Court, 19, for the sum of being the balance of principal and interest due to him on a (promissory note, Bill of Exchange, Hundi), dated day of 19,

a copy of which is hereunto annexed and further interest at per cent on the principal sum of Rs. till the date of decree, you are hereby summoned to obtain leave from the Court within days from the service hereof to defend the suit, and within such time to cause an appearance to be entered for you. In default whereof the plaintiff will be entitled at any time after the expiration of such days to obtain a decree for any sum not exceeding the sum of Rs. and further interest at per cent, on the principal sum of Rs. till date of decree and sum of Rs. for costs and interest on the said sum and costs at the rate of six per cent per annum from date of decree till payment.

Leave to defend may be obtained on an application to the Master supported by affidavit, or declaration showing such facts as would make it incumbent on the plaintiff to prove, consideration for the negotiable instrument, or that it is reasonable that you should be allowed to defend the suit.

Witness, the Hon'ble Chief Justice at Madras, the _____ day of _____ in the year of One thousand nine hundred and fifty-
Assistant Registrar (or Bench Clerk).

I hereby acknowledge receipt of this summons. This summons was served by _____ an Officer of the Sheriff (or of the Court of the Munsif of _____) on _____

Hours of attendance at the Office of the Registrar in the High Court Buildings Madras, from 10-45 a.m. till 4 p.m. Sundays and holidays excepted.

N.B.—(1) This summons shall be served within seven days from the date hereof.

(2) This summons was taken out by _____ Advocate for the plaintiff whose address for service is No. _____ Madras.

Form No. 13-B.

ORDER VII, RULE 3.—SUMMONS IN SUMMARY SUIT FOR RECOVERY OF LIQUIDATED CLAIM.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Ordinary Original Civil Jurisdiction.

Summary Suit No. _____ of 19 _____

BETWEEN

A.B. _____ Plaintiff

AND

C.D. _____ Defendant.

To

C.D.—The Defendant.

(Name, description and place of residence).

Whereas on the _____ day of _____ 19 _____ the abovenamed plaintiff instituted a suit in the High Court against you by presenting a plaint, whereby the plaintiff claims a liquidated debt or demand for the sum of Rs. _____ according to the particulars summarised in the endorsement of this summons, You are hereby summoned to obtain leave from the Court within _____ days of the service hereof to defend the suit and within such time to cause appearance to be entered for you. In default whereof the plaintiff will be entitled at any time after the expiration of such _____ days to obtain a decree for any sum not exceeding the sum of Rs. _____ and the sum of Rs. _____ for costs and interest on the said sum and costs at the rate of 6 per cent per annum from the date of decree till date of payment.

Leave to defend may be obtained on an application to the Master supported by affidavit or declaration showing that there is a defence to the suit on the merits, or that it is reasonable that you should be allowed to defend the suit.

Witness, the Hon'ble Chief Justice at Madras, the _____ day of _____ in the year One thousand nine hundred and fifty,
Assistant Registrar (or Bench Clerk).

Concise statement of the claim.

And further interest at _____ per cent per annum until payment and Rs. _____ for costs. If the amount claimed be paid before the time limited for the appearance of the defendant, further proceedings will be stayed.

I hereby acknowledge service of this summons.

This summons was served by _____ an officer of the Sheriff or
of the Court of the Munsif of _____
on _____

Hours of attendance at the Office of the Registrar in the High Court
Buildings, Madras, from 10-45 a.m. till 4 p.m., Sundays and holidays
excepted.

N.B.- (1) This summons shall be served within seven days from the
date hereof.

(2) This summons was taken out by _____
(or Advocate) for the plaintiff whose address for service is No. _____
Madras.

Form No. 13-C.

ORDER XIII, RULE 4.—ORIGINATING SUMMONS.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Ordinary Original Civil Jurisdiction.

C.S. No. _____ of 19 (O.S.)

Plaintiff

versus

Defendant.

Upon reading the plaint herein and upon hearing _____ Advocate
for the plaintiff. It is ordered that the defendant abovenamed within eight
days after service of this summons upon him do attend before the Judge,
for the determination of the following questions:—

(Here set out the questions which the plaintiff desires to have
determined.)

By the Court.

Dated the _____ day of _____ 19 _____

Master.

Note.—If the defendant does not appear at the time and place above-
mentioned, such order will be made and proceedings taken as the Judge
may think just and expedient.

Form No. 12-D.

ORDER VII, RULE 6—LEAVE TO DEFEND—SECURITY BOND.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Ordinary Original Civil Jurisdiction.

(Cause-title.)

KNOW ALL MEN BY THESE PRESENTS that I/we _____
son of _____, residing _____ am/are bound unto
Sri _____ the Registrar of the High Court of Judicature
at Madras, in the sum of Rs. _____ (Rs. _____) of good and lawful
money to be paid unto the said Sri _____, the Registrar of the
said High Court of Judicature at Madras for the time being or his
successors-in-office or assigns, for which payment to be well and truly made.
I/we do hereby bind myself/ourselves in the whole, my/our and each and
every one of my/our heirs, executors, administrators and legal representa-
tives firmly by these presents, and I/we do hereby create a charge over the
properties set out in the schedule hereunder in favour of the said Registrar
of this Court for the due payment of the said sum of Rs. _____ (Rs. _____).
Dated at Madras, this _____ day of _____ 19 _____

WHEREAS by an order of Court in Application No. _____ of 19____ in the above dated _____, the defendant was granted leave to defend the suit on his furnishing security to the satisfaction of the Registrar of this Court in the sum of Rs. _____ (Rs. _____) on or before _____.

AND WHEREAS the defendant has offered the undermentioned properties, more fully described hereunder as security therefor, and the same has been accepted by the Registrar of this Hon'ble Court on _____ subject to a charge being created over the said properties for Rs. _____ (Rs. _____).

NOW THE CONDITION OF THE ABOVE WRITTEN BOND IS SUCH that if the defendant duly complies with any decree that may be passed herein, then the above bond shall be void and of no effect, otherwise it shall remain in full force and virtue.

I/we _____ do hereby declare that I/we have good title to the property mentioned hereunder and doth further covenant and undertake to make good any loss or damage that may be occasioned by reason of either defect in title or otherwise.

I/we _____ do hereby declare that there are no encumbrances on the property mentioned hereunder other than the charge hereby created in favour of the Registrar of this Court for the due payment of the said sum of Rs. _____.

I/we _____ do hereby undertake not to alienate the said property either by way of sale, mortgage, gift, etc., without the specific sanction of this Court.

Description of property.

SCHEDULE.

Signed sealed and delivered by the abovenamed
bounden in the presence of

Before me.

Assistant Registrar and Commissioner.

Form No. 14.

ORDER VIII, RULE 3.—SUMMONS TO PARENT, OR GUARDIAN OF A MINOR
DEFENDANT.

(Cause-title.)

To

A.B. of (address and description).

C.D. of (address and description).

WHEREAS, on the _____ day of _____ 19____, the abovenamed plaintiff has instituted a suit in the High Court against the abovenamed A.B., a minor, of whom you C.D. are alleged to be the father (or the testamentary, or natural guardian or the custodian), by presenting a plaint whereby he claims the relief whereof the short particulars are endorsed hereon (or annexed hereto), you, the said A.B., are hereby summoned to appear before the High Court at (10-45) o'clock in the forenoon of the day after 3, 4 or 6 weeks after service of this summons upon you (continue in Form No. 13).

And you, the said C.D., are hereby commanded to take notice that unless you apply to the Court, not less than seven clear days before the day fixed for the appearance by the said A.B., for your appointment as guardian of the said defendant for the purpose of this suit, any party to the suit may apply to this Court that an advocate or other officer of Court or other fit and proper person, be appointed to be such guardian as aforesaid, and that, if you intend to defend the suit on behalf of the said A.B. you must file in Court a written statement setting forth the grounds of his defence not less than seven clear days before the day on which he is required to appear.

Form No. 15.

ORDER XIV, RULE 1.—JUDGE'S (MASTER'S OR REGISTRAR'S) SUMMONS.

(Heading as in Form No. 1.)

Let all parties concerned attend the Judge (Master, Registrar) on the _____ day of _____ 19____ at 10-45 o'clock in the forenoon to show cause why

Dated this _____ day of _____ 19____
Assistant Registrar or Bench Clerk.

This summons was taken out by L.M. (advocate for the plaintiff) (or defendant) (and will be attended at the hearing by counsel on his behalf).

(The following affidavits are served with and will be used in support of this summons, viz., _____).

To

Insert the names of the persons (or their advocates) to be served (or, it is not intended to serve this summons on any person).

(Signed) L.M.,
Advocate for the plaintiff (or defendant).

Form No. 15-A.

THIRD PARTY NOTICE.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Ordinary Original Civil Jurisdiction.

Suit No. _____ of 19____.

versus

Plaintiff

Defendant.

To Mr. X.Y.,

Take notice that this suit has been brought by the plaintiff against the defendant (as surety for M.N. upon a bond conditioned for payment of _____ and interest to the plaintiff).

The defendant claims to be entitled to contribution from you to the extent of one-half of any sum which the plaintiff may recover against him, on the ground that you are (his co-surety under the said bond; or, also surety for the said _____ in respect of the said matter, under another bond made by you in favour of the said plaintiff, dated the _____ day of _____).

Or (as acceptor of a bill of exchange for _____, dated the _____ day of _____, drawn by you upon and accepted by the defendant and payable three months after date.

The defendant claims to be indemnified by you against liability under the said bill on the ground that it was accepted for your accommodation).

Or (to recover damages for a breach of a contract for the sale and delivery to the plaintiff of 1,000 tons of coal).

The defendant claims to be indemnified by you against liability in respect of the said contract, or any breach thereof, on the ground that it was made by him on your behalf and as your agent.

And take notice that, if you wish to dispute the plaintiff's claim in this suit as against the defendant or your liability to the defendant, you must cause an appearance to be entered for you within eight days after service of this notice.

In default of your so appearing, you will be deemed to admit the validity of any decree passed against the defendant and your own liability to contribute or indemnify to the extent herein claimed which may be summarily enforced against you pursuant to the rules of the High Court.

Master or Registrar.

Advocate for the defendant.

Form No. 15-B.

MEMORANDUM OF APPEARANCE IN GENERAL.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Ordinary Original Civil Jurisdiction.

C.S. No. _____ of 19 _____.

BETWEEN _____ Plaintiffs

A.B.

AND

C.D. Defendants.

Please enter an appearance for _____ in this suit who was served with summons on the _____ day of _____ 19 _____.

The address for service of the defendant is that of his Advocate, No. _____ Advocates' Chambers, High Court, Madras.

Dated this _____ day of _____ 19 _____.

(Signed),

Defendant, Advocate.

Form No. 15-C.

ENTRY OF APPEARANCE BY A THIRD PARTY.
IN THE HIGH COURT OF JUDICATURE AT MADRAS.
Ordinary Original Civil Jurisdiction.

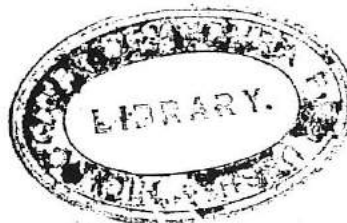
C.S. No. of 19 .

BETWEEN
A.B. Plaintiffs
AND
C.D. Defendants.
X.Y. Third Party.

Please enter an appearance for X.Y. (third party) to the third party
notice issued in this suit on the day of by the defendant
C.D., and served on the said X.Y. on the day of 19 .
The address of the third party for the service of process is

Madras, dated

(Signed)
Third party, Advocate.



Form No. 15-D.

ORDER V, RULE 10.—NOTICE OF APPEARANCE BY DEFENDANT.
IN THE HIGH COURT OF JUDICATURE AT MADRAS.
Ordinary Original Civil Jurisdiction.

C.S. No. of 19 .

BETWEEN
A.B. Plaintiffs
AND
C.D. Defendants.

Take notice that I have this day entered an appearance on the Original
C.D.
Side of the High Court of Judicature at Madras for T.P.
the defendant in this suit who was served on the day of 19 ,
and that the address for service of the said C.D. is (No. Advocates' Chambers, High Court, Madras).

Dated this day of 19 .

(Signed)
Defendant or his Advocate.

Form No. 15-B

ORDER V, RULE 10.—NOTICE OF APPEARANCE BY THIRD PARTY.
IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Ordinary Original Civil Jurisdiction.

C.S. No. of 19 .

BETWEEN

A.B. Plaintiffs

AND

C.D. Defendants.

T.P. Third Party.

Take notice that I have this day entered an appearance on the Original Side of the High Court of Judicature at Madras for T.P., the third party to the notice issued in this suit on the day of 19 , by the abovenamed defendant C.D., served on and that the address for the service of the said T.P. is (No. , Advocates' Chambers, High Court, Madras).

Dated this day of 19 .

(Signed)

Third Party, Advocate.

Form No. 16.

ORDER IX.—AFFIDAVIT OF DOCUMENTS.

(Heading as in Form No. 1.)

The abovenamed defendant, C.D., makes oath and says as follows:—

1. I have in my possession or power the documents relating to the matters in question in this suit set forth in the first and second parts of the first schedule hereto.

2. I object to produce the said documents set forth in the second part of the said first schedule hereto.

3. That *(here state upon what grounds the objection is made and verify the facts as far as may be)*.

4. I have had, but have not now, in my possession or power the documents relating to the matters in question in this suit set forth in the second schedule hereto.

5. The last mentioned documents were last in my possession or power on *(state when)*.

6. That *(here state what has become of the last mentioned documents and in whose possession they now are)*.

7. According to the best of my knowledge, information, and belief, I have not now, and never had in my possession, custody or power, or in the possession, custody or power of my advocates or agents, advocate or agent, or in the possession, custody or power of any other person or persons on my behalf any deed, book of accounts, voucher, receipt, letter, memorandum, paper or writing or any copy of, or extract from, any such document or any other document whatsoever relating to the matters in question in the suit or any of them or wherein any entry has been made relative to such matters or any of them other than and except documents set forth in the said first and second schedules hereto.

(O. S.) HIGH COURT,

ORIGINAL SIDE, 1956

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Form No. 16-A.

ORDER XIV, RULE 3.—ORDER ON APPLICATION.
(OR ORIGINAL PETITION).

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Ordinary Original Civil Jurisdiction.

day, the day of 19 .

THE HON. MR. JUSTICE (OR THE MASTER OR REGISTRAR),

Application No. of 19 .

C.S. No. of 19 .

(or *Original Petition No.* of 19).

BETWEEN

Plaintiff
(*Applicant*) *Petitioner.*

AND

Defendant
(*Respondent*).

Upon hearing Mr. and upon
reading the Application (or Original Petition) filed on the day
of 19 , and the affidavit of solemnly affirmed
on the day of and filed on the day
of 19 .

It is ordered that

And this Court doth make no order as to the costs of this application.

OR

(Where the fixed costs of the application are made costs in this cause).

And that the costs of this application (petition) be costs in the cause.

OR

(Where the taxed costs of the application are made costs in the cause.)

That the taxed costs of this application be costs in this cause.

By the Court,

Assistant Registrar or Bench Clerk.

Seal.

Form No. 17.

Deleted.

Form No. 18.

ORDER XV, RULE 9.—CERTIFICATE TO BE ENDORSED ON AN EXHIBIT TO AN AFFIDAVIT.

(Short cause-title.)

This is the exhibit marked "A" referred to in the affidavit of A.B. sworn (or affirmed) before me this _____ day of _____

(Signed) C.D.,
Commissioner.

Form No. 19.

ORDER XVI, RULE 1.

SUBPOENA FORMS.

Ordinary Original Civil Jurisdiction.

No. _____ of 19 _____

BETWEEN

Plaintiff

AND

Defendant.

To

The Registrar.

Please issue subpoenas to the undermentioned witnesses.

In Form No.	{	<input checked="" type="checkbox"/> 20 Subpoena to attend and give evidence <input checked="" type="checkbox"/> 21 Subpoena to attend and give evidence and produce documents. <input checked="" type="checkbox"/> 22 Subpoena to produce documents.	} filed here-with.
-------------	---	--	--------------------

Witnesses:—

Name.	Address.	Occupation.
(1)		
(2)		
(3)		

Documents:—

Dated this _____ day of _____ 19 _____

Advocates for Plaintiff
Defendant.
Address

Form No. 20.

ORDER XVI, RULE 2.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Ordinary Original Civil Jurisdiction.

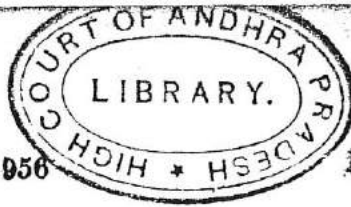
No. _____ of 19 _____

BETWEEN

Plaintiff

AND

Defendant.



ORIGINAL SIDE, 1956

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To

(1)	(Batta Rs.)
(2)	{ "	}
(3)	{ "	}

It is hereby commanded that you appear personally in our said High Court on _____ day the _____ day of _____ 19____ at 10-45 o'clock in the forenoon to give evidence on behalf of the _____ at the final hearing of this suit,

in the abovementioned suit and you are not to depart thence until you have been examined and the Court has risen, or unless you have obtained the leave of the Court.

You are to receive the amount of allowance set opposite to your name and to grant your signature for the same.

If you are to be detained beyond the day aforesaid a similar sum will be tendered to you for each day's attendance beyond the day specified.

Witness, THE HON'BLE _____ Chief Justice at Madras aforesaid, the _____ day of _____ in the year One thousand nine hundred and _____

Advocate for
Second Assistant Registrar.

Hours of attendance at the office of the Registrar in the High Court Buildings from 10-45 a.m. till 4 p.m., Sundays and holidays excepted.

(If the subpoena is issued "for the final hearing of the suit" it shall be the duty of the party issuing the same or his Advocate to give to the witness reasonable notice of the date, day and hour when the witness is required to be in attendance.)

This summons was taken out by Mr. _____ Plaintiff

Advocate for the _____ whose address is No. _____, Madras.
Defendant

Form No. 21.

ORDER XVI, RULE 2.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Ordinary Original Civil Jurisdiction.

No. _____ of 19 ____.

BETWEEN

Plaintiff

AND

Defendant.

To

(1)	(Batta Rs.)
(2)	{ "	}
(3)	{ "	}

It is hereby commanded that you appear personally in our said High Court on _____ day the _____ day of _____ 19____ at 10-45 o'clock in the forenoon to give evidence on behalf of the _____ at the final hearing of this suit

in the abovementioned suit and to produce the document specified below and you are not to depart thence until you have been examined and have produced the said document and the Court has risen, or unless you have obtained the leave of the Court.

You are to receive the amount of allowance set opposite to your name and to grant your signature for the same.

If you are to be detained beyond the day aforesaid a similar sum will be tendered to you for each day's attendance beyond the day specified.

RULES OF THE HIGH COURT, MADRAS

Witness, THE HON'BLE
said, the day of
nine hundred and

Chief Justice at Madras aforesaid
in the year one thousand

Advocate for (S)
(S)
Assistant Registrar.

Hours of attendance at the office of the Registrar in the High Court Buildings, Madras, from 10-45 a.m. till 4 p.m., Sundays and holidays excepted.

If the subpoena is issued "for the final hearing of the suit" it shall be the duty of the party issuing the same or his advocate to give to the witness reasonable notice of the date, day and hour when the witness is required to be in attendance.

This summons was taken out by Mr.

Advocate for the Plaintiff whose address is No. , Madras.
Defendant

Form No. 22.

ORDER XVI, RULE 2.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Ordinary Original Civil Jurisdiction.

No. of 19 .

BETWEEN

AND

Plaintiff

Defendant.

To

(1) (Batta Rs.)
(2) (")
(3) (")

It is hereby commanded at the instance of the the abovementioned suit that you produce or cause to be produced before our said High Court on day the day of 19 at 10-45 o'clock in the forenoon

the document following, that is to say, at the final hearing of this suit and you are not to depart thence until you have produced the document and the Court has risen, or unless you have obtained the leave of the Court.

You are to receive the amount of allowance set opposite to your name and to grant your signature for the same.

If you are to be detained beyond the day aforesaid a similar sum will be tendered to you for each day's attendance beyond the day specified.

Witness, THE HON'BLE
said, the day of
hundred and

Chief Justice at Madras aforesaid
in the year One thousand nine

Advocate for

Registrar.

Hours of attendance at the office of the Registrar in the High Court Buildings, Madras, from 10-45 a.m., till 4 p.m., Sundays and holidays excepted.

If the subpoena is issued "for the final hearing of the suit" it shall be the duty of the party issuing the same or his Advocate to give to the witness reasonable notice of the date, day and hour when the witness is required to be in attendance.

NOTICE — You shall be deemed to have complied with this summons, if you cause the documents mentioned above to be produced in this Court on the date of hearing of this suit.

This summons was taken out by Mr.

Advocate for the Plaintiff whose address is No. , Madras.
Defendant

Form No. 23.

ORDER XVI, RULE 2.—LETTERS OF REQUEST TO THE PRESIDING JUDGE OF ANOTHER COURT FOR PRODUCTION OF RECORDS.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Ordinary Original Civil Jurisdiction.

No. of 19

BETWEEN

Plaintiff

AND

Defendant.

To

Whereas upon the application of the abovenamed Plaintiff it has been made to appear to this Court that a perusal of the undermentioned papers, now in your custody, is of material importance in the above Suit now before this Court and it is found that the production of the original document is necessary for the purpose of justice. You are hereby requested to cause the said papers to be produced in this Court, on or before the day of 19

to transmit the said papers to this Court.

Dated this day of 19

(Enter description of papers.)

(Signed)

Second Assistant Registrar.

Advocate for

Hours of attendance at the office of the Registrar in the High Court Buildings, Madras, from 10-45 a.m. till 4 p.m., Sundays and holidays excepted.

This summons was taken out by Mr. , Advocate for the Plaintiff whose address is No. , Madras.

Form No. 23-A.

ORDER XVI, RULE 2.—SUMMONS FOR THE PRODUCTION OF PUBLIC RECORDS AND OTHER DOCUMENTS IN THE POSSESSION OF THE PUBLIC SERVANT OTHER THAN A COURT.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Ordinary Original Civil Jurisdiction.

No. of 19

BETWEEN

Plaintiff

AND

Defendant.

To

Whereas upon the application of the abovenamed Plaintiff it has been made to appear to this Court that a perusal of the undermentioned papers, now in your custody, is of material importance in the above Suit now

before this Court and that the production of the original documents is necessary for the purpose of justice, or that the said applicant cannot obtain a duly authenticated copy of the same without unreasonable delay or expense, you are hereby requested to cause the said papers to be produced to transmit the said papers to this Court or to forward to this Court a duly authenticated copy of the said document on or before the

day of 19 .
Dated this day of 19 .

(Enter description of papers.)

(Signed)

Second Assistant Registrar.

Advocate for

Hours of attendance at the office of the Registrar in the High Court Buildings, Madras, from 10-45 a.m. till 4 p.m., Sundays and holidays excepted.

This summons was taken out by Mr. , Advocate
for the Plaintiff whose address is No. , Madras.
Defendant

Form No. 24.

DECREE UNDER ORDER VII.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Ordinary Original Civil Jurisdiction.

Under Order VII of the Original Side Rules, 19 .

day the day of 195 .

BETWEEN

Plaintiff

AND

Defendant.

Upon reading the plaint filed herein and the summons issued herein, together with the Sheriff's return of service of the same and the affidavit of service solemnly affirmed on the day of 19 and filed on the day of 19 and the said Defendant not having obtained leave to defend the suit:

It is ordered and decreed as follows:—

(1) That the said Defendant do pay to the Plaintiff the sum of Rupees with interest thereon at the rate of six per cent per annum from this day to the date of payment, and

(2) That the said Defendant do also pay to the Plaintiff the sum of Rupees for costs of this suit with interest thereon at the rate of six per cent per annum from this day till the date of payment.

Witness the Honourable the Chief Justice at Madras aforesaid this day of 19 .

Registrar.

Form No. 25.

ORDER XVII, RULE 8.—ENDORSEMENT ON DOCUMENTS ADMITTED IN EVIDENCE.

Suit No. of 19 .

Ramanuja and others v. Appasami and another.

19 Exhibit A produced by the plaintiff (or the witness on the day of
and marked for (or admitted by the defendant).

(Signed)

Bench Clerk.

Form No. 25-A.

ORDER XII, RULE 3.—GENERAL SUMMONS FOR DIRECTIONS.

(Heading as in Form No. 1.)

Let all parties concerned attend before the Judge on the day
of at o'clock in the noon, on the hearing of an
application on the part of to show cause
why an order for directions should not be made in this suit as follows:—

Particulars (That the deliver within days
particulars of and that in default all further proceedings
in this suit be stayed until such particulars are delivered (or that the
defendant be precluded from giving evidence in support thereof at the
hearing of the suit) and that the have
days to deliver his after delivery of such particulars.

Admissions.

Discovery ... (That the file an affidavit of documents in ten
days.)

Interrogatories. (For leave to interrogate, the answers to be filed within
ten days.)

Inspection of documents.

Inspection of property.

Commissions.

Examination of witnesses.

Any other interlocutory matter or thing.

Dated this day of 19 .

Registrar or Bench Clerk.

Form No. 25-B.

ORDER XII, RULE 3.—ORDER ON GENERAL SUMMONS.

(Heading as in Form No. 1.)

Upon hearing the Advocates on both sides and upon reading the affidavit
of filed herein the following directions are hereby
given:—

Particulars Defendant in a week to give particulars of
Admissions That the Plaintiff is
Discovery Defendant in a week to produce

Interrogatories	Plaintiff may interrogate as to only: interrogatories to be initialled by me
Inspections of documents	Plaintiff undertakes to produce the of the hearing.
Inspection of property	None.
Commissions	Do.
Examination of witnesses	To be examined on commission or otherwise as the case may be.

Registrar.

Form No. 26.

ORDER XVIII, RULE 15.—FORM OF DECREE FOR PERPETUAL INJUNCTION.
IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Ordinary Original Civil Jurisdiction.

day the day of 19

PRESENT:

The Honourable Mr. Justice

C.S. No. of 19

(Cause-title.)

Prayer: Suit for a perpetual injunction restraining the defendant from (here enter Act or Acts).

This suit coming on for hearing this day before this Court in the presence of Mr. , Advocate for the plaintiff and Mr. , Advocate for the defendant, upon reading the pleadings filed herein and hearing the evidence adduced, IT IS ORDERED AND DECREED as follows:—

(1) That the defendant herein be and is hereby restrained by a perpetual injunction from (here specify the Act or Acts); and

(2) That the defendant do pay the plaintiff herein the costs of this suit when taxed and noted in the margin hereof together with interest thereon at six per cent per annum from the date of taxation till the date of payment.

Witness the Honourable Mr. aforesaid, this day of

19 , Chief Justice at Madras

Assistant Registrar.

Form No. 27.

ORDER XXI, RULES 2 AND 3.—PETITION FOR APPOINTMENT OF A GUARDIAN.
IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Original Petition No. of 19

In the matter of T.V.N., a minor

1. T.M.N. }
(and) } (Petitioners)

Petition under the Guardian and Wards Act, 1890.

The abovenamed petitioners state as follows:—

1. T.M.N., the first petitioner, is a *land-owner*, and resides at _____ and is the *elder brother* of the abovenamed minor. T.R.N., the second petitioner, is a *dealer in grain* and resides at _____, and is the *paternal uncle* of the said minor. The address for service of the petitioners is _____ *(Insert names, descriptions and residences of the respondents, if any, and also their relationship to the minor.)*

2. The abovenamed T.V.N. is a *minor* of the age of _____ and upwards, having been born on or about the _____ day of _____ and is a *male*, by religion a *Hindu*, of the *Saivite* sect, and *ordinarily* resides at _____ and is in the custody of _____

3. *(Where the minor is a female).* The said minor was married on the _____ day of _____ to T.K.N., a *land-owner*, who is now of the _____ age of _____ and upwards, and resides at _____ or *(the said minor is unmarried).*

4. The minor is absolutely entitled under the will of his maternal uncle A.B., deceased *(or, as sole surviving son of his father C.D., deceased or as the case may be)*, to the movable and immovable properties set out in the schedule hereto, which are approximately of the values set out in column 3 to the said schedule, and are in the possession of *first petitioner* *(or, are respectively in the possession of the several persons whose names and residences are set out opposite to the several items in column 4 of the said schedule).* *(Or where the minor is not absolutely entitled.)* The minor is entitled, as one of the two surviving sons of his father C.D., deceased, jointly with the *first petitioner*, and subject to the right of his mother *Thoyeammal* to maintenance and residence *(proceed as above and state the interest or share of the minor, as thus:—The minor is entitled to an equal undivided moiety of the said properties).* The approximate total value of the said properties *(or, of the minor's interest in the said properties)* is Rs. _____; and after deducting the amount of the said incumbrances, the approximate net value is Rs. _____.

5. The only relations of the minor now living are:—(1) the first petitioner, his *elder brother*, (2) the second petitioner, his *paternal uncle*, (3) *Thoyeammal*, his *mother*, residing at _____ and (4) E.F., his *sister*, the wife of G.H., residing at _____

6. L.M., the father of the minor, died on or about the _____ day of _____ *(or, is a person of unsound mind, and incapable of managing his own affairs, or as the case may be).*

7. No guardian of the person or of the property of the minor has been appointed by any person, and no application has at any time been made to this or to any other Court with respect to the guardianship of the person or property of the minor. *[Or P.Q., late of (residence and description)* was, by the will of the said L.M. appointed guardian of the person and property of the minor and died on or about the _____ day of _____, an application was on the _____ day of _____ made to the High Court by original petition No. _____ of _____ for the appointment of a guardian of the person and property of the said minor; and by an order, dated the _____ day of _____ R.S., late of *(residence and description)* was appointed accordingly. The said R.S. died on or about the _____ day of _____. No other application has been made to this or to any other Court with respect to the guardianship of the person or property of the said minor.]

[Or, R.S., brother of the minor, who died on or about the _____ day of _____ by his will, dated the _____ day of _____ purported to appoint T.V. of (residence and description) guardian of the person and property of the minor, but by the _____ law to which the minor is subject, such appointment is invalid and of no effect.]

8. X.Y., the person proposed as guardian, is a *land-owner*. He is the nearest male relation of the minor, is married, and has three children, and resides with his family at _____. He is in good circumstances, having an income of about Rs. _____ a year and of good character and reputation, and of good business habits, and is a fit and proper person to be appointed guardian of the person and property of the said minor. *(Or, where a person is to be declared to be the guardian.—X.Y. is under*

the law, to which the minor is subject, the guardian of the person and property of the minor. He is (state the relationship to the minor, and the qualifications of the proposed guardian, as above).

9. Items Nos. 2 and 4 of the schedule hereto are in a bad state of repair, and unless they are at once repaired, will seriously deteriorate in value, and it is to the interest of the minor that the sum of Rs. should be at once expended for this purpose. It is proposed to raise the sum by a mortgage of items 2, 3, 4 and 5 of the said schedule on interest at the rate of Rs. per cent per annum.

(Or, the mortgagees of items Nos. 2 and 3 of the schedule hereto threaten to take proceedings to realize their security; and in such case it is apprehended that the property will not realize its full value. It is proposed to concur with the mortgagees in selling the property and to invest any balance after paying off the mortgage moneys in Government securities) Or, the income of the said property which amounts to the sum of Rs. per annum or thereabouts, is not sufficient to provide for the maintenance of the said minor, and his education at the Presidency College, Madras; and it is proposed to sell items Nos. 2 and 3 of the said schedule for this purpose (or state any other grounds on which the application is made).

10. Your petitioners, therefore, pray—

(a) That the said X.Y., or some other fit and proper person may be appointed (or declared to be) the guardian of the abovenamed infant, T.V.N.

(b) That the security to be given by the said guardian may be fixed at the sum of Rs. and that P.Q. and R.S. may be accepted as his sureties.

(c) That the sum of Rs. a month may be fixed for the maintenance and education of the minor (where any person is entitled to maintenance out of the property of the minor and the sum of Rs. a month may be fixed for the maintenance of the said Thoyeammal).

(d) That the sum of Rs. a month may be allowed to the said guardian as his remuneration, in respect of the collection of the rents of the immovable property of the minor.

(e) That the said guardian may be at liberty out of the income of the said minor to expend the sum of Rs. in his thread-wearing ceremony.

(f) That the said guardian may be at liberty to invest any balance of the net income of the minor, after payment of the said sums and the costs of this application in

(g) That the guardian may be at liberty to raise the said sum of Rs. by a mortgage of items Nos. 2 and 3 of the schedule hereto upon interest at the rate of Rs. per cent per annum, and to apply the said sum for the purposes mentioned in paragraph 9 hereof.

(h) That the costs of your petitioners of this application may be paid by the said guardian (or if the petitioners are to be appointed guardians, retained by them) out of the income of the property of the said minor.

(i) For such other relief as to this Court may seem fit.

11. We declare that the facts above stated are true to our knowledge except as to matters stated to be on information and belief and as to those matters we believe them to be true.

Dated the day of

SCHEDULE.

Serial No.	Description of property.	Approximate value.	Persons in possession of the property.

(Signed)

Form No. 27-A.

ORDER XXI, RULE 6.—DECLARATION OF WILLINGNESS TO ACT BY A PROPOSED GUARDIAN.

I, the undersigned A, B., of (*residence and description*), do hereby consent to accept the office of guardian of the person and property of the abovenamed infant, C.D., in case this Court shall think fit to appoint me to that office.

Signed by the said A.B., in the presence
of E.F. (*residence and description*)
G.H. (*residence and description*)

(Signed) A.B.

Form No. 28.

ORDER XXI, RULE 7.—NOTICE OF APPLICATION TO APPOINT A GUARDIAN.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Original Petition No. of 19 .

In the matter of Tanjore Venkatasami Nayudu, a minor.

1. T. Masilamani Nayudu
and
2. T. Ramasami Nayudu

Petitioners.

To (1) A.B., of (*residence and description*), (2) C.D., of (*residence and description*) and to all whom it may concern.

Take notice that, on the day of , E.F., of (*residence and description*) presented an application to this Court praying that he [or, G.H., of (*residence and description*)] may be appointed or declared to be the guardian of the person (and property) of the abovenamed minor, and for other relief, and the day of has been fixed for the hearing of the application; and that, if you desire to oppose the said application, or to apply for the appointment of any person other than the said E.F., (or G.H.) as guardian of the person or property of the said minor you must appear on the said day of in this Court, in person or by a duly authorized advocate and be prepared to adduce any documentary and oral evidence upon which you rely, and that, in default of your appearance, the said application may be heard and determined in your absence. Any relation or friend of the said minor may appear and be heard upon the said application, and may inspect and obtain a copy of the petition; and it shall not be necessary to present any petition for this purpose.

Given under my hand and the seal of this Court, this day of
19 .

L.S.

(Signed)
Registrar.

FORM No. 29.

FINAL ORDER APPOINTING A GUARDIAN OF PERSONS AND PROPERTY.

(Cause-title.)

Upon the application of A.B., and upon hearing, etc., and the Court having approved of C.D. of (*residence and description*), as a proper person to be appointed guardian of the person and property of E.F., the minor, and the said C.D., having given security, by entering into a bond with his sureties, dated the _____ day of _____ which has been approved by the Registrar, and filed in Court, it is ordered as follows:—

1. That the said C.D. be appointed guardian of the person and property of the said minor during his minority, or until further orders of Court.
2. That the sum of Rs. _____ be allowed for the maintenance and education of the minor, as from the _____ day of _____ during his minority or until further order and be retained by the guardian out of the income of the minor's property.
3. That the sum of Rs. _____ be allowed to the said A.B., for his costs of this petition, and be paid to him by the guardian out of the said income.
4. That the said C.D. do, on or before the _____ day of _____ in each year, bring into Court his yearly accounts as such guardian, the first of such yearly accounts to be filed on the _____ day of _____ together with a statement of the immovable property belonging to the said minor, the money and other movable property which he has received on behalf of the minor up to the said _____ day of _____ and the debts due on that date to or from the minor.
5. That the said guardian do pay into Court (or invest) any available balance that shall be shown or found by the Court to be due from him on any such yearly account (in the name of the minor in one or more promissory notes of the Government of India, and do deposit the same in Court) to the credit of this matter.
6. State any restriction or extension of the powers of the guardian as thus.—The said guardian shall not, without the leave of the Court, sell, lease or incumber any of the movable or immovable property of the minor.— Or, the guardian shall be at liberty to grant leases of the immovable property of the minor, for any term not exceeding five years, but so that any such lease shall not, without the leave of the Court, be granted in consideration of a premium and shall be at rack rent. Or if any particular property is to be dealt with. That notwithstanding the restriction upon alienation contained in the said will the said C.D. shall be at liberty to sell (continue as in Form No. 30 or 31).

FORM No. 29-A.

ORDER APPOINTING A GUARDIAN OF THE PERSON.

(Cause-title.)

Upon the application of A.B. and upon hearing, etc., and the Court having approved of C.D. of (*residence and occupation*) as a proper person to be appointed guardian of the person of the abovenamed E.F., the minor, it is ordered as follows:—

1. That the said C.D. be appointed guardian of the person of the said minor during his minority, or until further orders of Court.
2. That the sum of Rs. _____ a month be allowed for the maintenance and education of the minor from the _____ day of _____ during his minority, and be paid by G.H. of (*name and description of the person in possession of the property of the minor*) to the said C.D., his guardian, during his minority, or until further order, the first of such monthly payments to be made on the _____ day of _____
3. That the said G.H., out of the income of the property of the minor, do pay to the said A.B., the sum of Rs. _____ and be at liberty to retain the sum of Rs. _____ for their respective costs of this petition.

Form No. 29-B.

ORDER DECLARING A PERSON TO BE GUARDIAN.

(Cause-title.)

Upon the application of, etc.

It is declared that, under the *Hindu law*, to which the abovenamed A.B., minor, is subject, C.D. of (*residence and description*) is the guardian of the person of the said minor and it is ordered as follows:—

1. } Insert paragraphs 2 and 3 of Form No. 29-A.
2. }

Form No. 29-C.

ORDER XXI.—GUARDIAN BOND (OWN).

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Ordinary Original Civil Jurisdiction.

(Cause-title.)

1. KNOW ALL MEN BY THESE PRESENTS that I, am bound unto Sri the Registrar of the High Court of Judicature at Madras in the sum of Rs. (in words) of good and lawful money to be paid unto the said Sri the Registrar of the said High Court for the time-being or his successor-in-office or assigns for which payment to be well and truly made. I do hereby bind myself for the whole, my and each and every one of my heirs executors, administrators and legal representatives firmly by these presents.

Dated at Madras this day of 19 .

2. Whereas by an order of Court made herein and dated the day of 19 , the Petitioner herein, was appointed the guardian of the person and property of the minor/minors abovenamed during his/their minority or until the further order of this Court and whereas the said was in respect of his appointment as such guardian directed to furnish security in his own bond to the satisfaction of the Registrar of this Court for duly accounting for what he may receive in respect of the property of the minor/minors abovenamed, and for otherwise complying with the orders of Court that may be passed herein from time to time.

3. AND WHEREAS has offered immovable property more fully described in the schedule hereunder as security for the purpose aforesaid and whereas the Registrar has accepted the same subject to a charge being created over the said property.

4. NOW THE CONDITION OF THE ABOVE BOND IS SUCH that if the said the guardian appointed herein, duly discharges his duty of guardianship files his yearly account as such guardian, the first of such yearly accounts to be filed on or before together with a statement of the immovable property belonging to the minor/minors, of the money and other movable property which he has received on behalf of the minor/minors up to the date of delivering the statement and the debts due on that date to and from the said minor/minors and gets the same passed by a proper officer of this Court and pays into Court to the credit of the matter any available balance that shall be shown or found by the Court to be due from him on any such yearly account and desists from mortgaging or charging or transferring by sale, gift, exchange or otherwise any part of the immovable property of the minor/minors abovenamed or leasing any property of the minor/minors above named for a term exceeding five years or for any term extending more than one year beyond the date on which the said minor/minors will cease to be a minor/minors, and otherwise duly complies with all the terms of the said order, dated and such other orders of Court as shall from time

to time be made herein, then the above bond shall be void and of no effect; otherwise it shall remain in full force and virtue.

Signed, sealed and delivered by the abovenamed
bounden in the presence of

Assistant Registrar and Commissioner.

CHARGE OVER PROPERTY.

KNOW ALL MEN BY THESE PRESENTS that I/we firmly by these presents and I/we do hereby create a charge over the property set out in the schedule hereto in favour of the Registrar of this Court for the due payment of the said sum of Rs. (in words).

Paragraphs 2 to 4 as in the guardian's own bond.

5. The said doth hereby declare that he has good title to the property mentioned hereunder and doth further covenant and undertake to make good any loss or damage that may be occasioned by reason of either defect-in-title or otherwise.

6. The said doth hereby declare that there are no encumbrances on the property mentioned hereunder other than the charge hereby created in favour of the Registrar of this Court for the due payment of the said sum of Rs. (in words).

7. The said doth hereby undertake not to alienate the said property either by way of sale, mortgage, gift, etc., without the specific sanction of this Court.

SCHEDULE.

Signed, sealed and delivered by the abovenamed
bounden in the presence of

Assistant Registrar and Commissioner.

Form No. 30.

INTERIM ORDER FOR SALE UNDER SECTION 29 OF THE GUARDIAN AND
WARDS ACT, 1890.

(Cause-title.)

Upon the application of A.B., of (*residence and description*) the guardian of the person and property of the abovenamed minor C.D., and upon hearing, etc., and it appearing to this Court that a sale of the immovable property of the minor hereunder mentioned is necessary (*or is for his advantage*) by reason (*state the necessity or advantage shortly*). It is ordered as follows:—

1. That the said A.B. shall be at liberty to sell by public auction, and with the sanction of this Court, the immovable property of the said minor specified in the schedule hereto, at a price not less than Rs.

2. The said A.B. shall, on or before the day of , bring into Court a copy of the proclamation of sale, and shall submit the name of the proposed auctioneer for approval by this Court. And the further hearing of this application is adjourned to, etc.

SCHEDULE.

Form No. 31.

ORDER FOR SALE OR MORTGAGE FOR PURPOSE OF A PARTICULAR CONTRACT.

(Commence as Form No. 30 and continue.)

It is ordered that the said A.B. shall be at liberty to sell or mortgage the immovable property of the said abovenamed minor specified in the schedule hereto to C.D., of etc., at the price of Rs. (or for the sum of Rs. with interest at the rate of); the said sum to be paid into Court, and a deed of assignment (or mortgage) submitted for approval by the Registrar on or before the day of

(Conclude as in Form No. 30.)

Form No. 32.

ORDER XXIII, RULE 1.—PLAINT IN A SUIT FOR DISSOLUTION OF PARTNERSHIP OR FOR AN ACCOUNT OF PARTNERSHIP DEALINGS.

(Cause-title.)

The abovenamed plaintiff states as follows:—

1. (Set out the occupation and residence of the plaintiff and also his address for service.)

2. (Set out the occupation and residence of each of the defendants.)

3. The plaintiff and the said C.D., the first defendant, and the said E.F., the second defendant, etc., have since the day of been carrying on business of as partners at under articles of partnership in writing, dated the day of and signed by them respectively (or) under a verbal agreement between them made on the day of

4. Under the partnership agreement the plaintiff and the said defendants are entitled to the profits and are liable for the losses of the said business in the following proportions:—to the plaintiff, *six-sixteenths*; to the first defendant, *seven-sixteenths*; and to the second defendant, *three-sixteenths*.

5. The said L.M., the third defendant, and the said N.O., the fourth defendant, are not partners in the said business, but entitled, as remuneration for their services therein, to the following shares in the net profits thereof:—to the third defendant from the day of *one-sixteenth* and to the fourth defendant from the day of *one-sixteenth*.

6. In accordance with the arrangement in the preceding paragraph mentioned, the plaintiff and the first and second defendants are entitled to profits as follows:—From the said day of to the plaintiff, *six-sixteenths*; to the first defendant, *six-sixteenths*; to the second defendant, *three-sixteenths*; and from the day of to the plaintiff, *five-sixteenths*; to the first defendant, *six-sixteenths* and to the second defendant, *three-sixteenths*.

7. Accounts were last settled between the partners on the day of (or no settlement of accounts has been made between the partners since the commencement of the partnership).

8. Disputes have arisen between the plaintiff and the first and second defendants, as such partners as aforesaid, whereby it has become impossible to carry on the said business in partnership with advantage to the partners.

9. The plaintiff desires to have the said partnership dissolved, and is ready and willing to bear his share of the debts and liabilities of the firm according to the terms of the partnership agreement (or by the terms of the partnership agreement, the same is determinable at six months' notice and was determined by a notice in writing given on the day of by the plaintiff to the first and second defendants).

(Or, 8. The first defendant has refused and still refuses to concur in taking and settling the accounts of the partnership notwithstanding that no such account has been taken or settled since the day of

9. The plaintiff desires to have the said partnership wound up and is ready, etc.)

10. The plaintiff prays:—

(a) That the said partnership may be dissolved as and from this day (or, be declared to have been dissolved on the day of

(b) That the accounts of the partnership business may be taken by the Court (without a dissolution of the partnership) as from the day of

(c) That the assets may be realized and that each party may be ordered to pay into Court any balance due from him upon such partnership account, and that the debts and liabilities of the said partnership may be discharged, and that the costs of the suit may be paid out of the partnership assets and that any balance remaining of such assets, after such payment and discharge and the payment of the said costs may be divided between the plaintiff and defendants, according to the terms of the said articles (or deed or agreement) and arrangement or that, if the said assets shall prove insufficient, the plaintiff and the first and second defendants may be ordered to contribute in such proportions as shall be just to a fund to be raised for the payment and discharge of such debts, liabilities and costs.

(d) For the appointment of a receiver.

(e) For an injunction to restrain the first defendant from retaining, receiving, disposing of, or otherwise dealing with, the property and effects of the partnership.

(f) For such other relief as the Court shall think fit.

11. I declare that the facts above stated are true to my knowledge except as to matters stated to be on information and belief and as to those matters I believe them to be true.

(Signed)

Plaintiff.

(Signed)

Advocate for plaintiff.

Form No. 33.

ORDER XXIII—ORDER AT FIRST HEARING, WHEN IT APPEARS THAT THE PLAINTIFF HAS NEGLECTED TO MAKE, OR HAS BEEN REFUSED, INSPECTION OF THE PARTNERSHIP ACCOUNTS, OR WHEN THE PLAINTIFF MAKES FORMAL ALLEGATIONS OF FRAUD.

(Cause, title.)

This suit coming on this day for settlement of issues in the presence of, etc., and it appearing that the plaintiff has not had inspection of the partnership accounts (though the defendant has been willing to afford the same or through the wilful default of the defendant or as the case may be), it is ordered as follows:—

1. That the defendant do forthwith produce at (insert place of inspection) (or, bring into Court) the books of account and all other papers in his possession or power relating to the business of in the plaintiff mentioned, and that the plaintiff be at liberty, at all reasonable times, to inspect the same, and take copies and extracts therefrom.

2. That the plaintiff do, on or before the day of file in Court a written statement setting forth his objections, if any, to

the said accounts (if fraud is alleged by the plaintiff,—specifying any items of transactions which he alleges to have been fraudulently omitted or included therein by the defendant, or any other acts of fraud alleged by him with dates and full particulars thereof).

3 That the plaintiff do pay to the defendant the sum of Rs. for his costs of this hearing.

And the hearing of this suit for the settlement of issues is adjourned to the day of

Form No. 84.

ORDER XXIII.—INTERIM DECREE IN A SUIT FOR DISSOLUTION OF PARTNERSHIP.

(Cause-title.)

This suit coming on this day for final disposal in the presence of, etc., it is declared as follows:—

1. A partnership existed between the plaintiff and the first and second defendants in the business of in the plaint mentioned as from the day of to the day of and they were interested in the assets and profits and liable for the losses of the same in the proportion of one-sixth to the plaintiff, two-sixths to the first defendant and the remaining three-sixths to the second defendant.

2. The accounts of partnership have been regularly and properly kept, and were last settled between the parties hereto on the day of and the same and all previous settlements of accounts ought not to be disturbed.

3. The property specified in the schedule hereto was and is the separate property of the plaintiff, and is to be treated as part of his capital in the said business.

4. The plaintiff is entitled to have the said partnership dissolved as and from the day of and it is decreed as follows:—

5. That the said partnership do stand dissolved as and from the said day of and that such dissolution be advertised in, etc.

6. That the following accounts be taken:—

(1) An account of the credits, property and effects now belonging to the partnership;
 (2) An account of the debts and liabilities of the partnership;
 (3) An account of the dealings and transactions between the said partners from the said day of (The date of the last settlement of accounts, if any, or the commencement of the partnership.)

(Insert any necessary directions as to the manner of taking the account, for example, and in taking such accounts interest at the rate of Rs. per cent per annum shall be allowed on the capital contributed and advances made by the several parties hereto.)

7. For the purpose of taking the said accounts the first defendant shall, on or before the day of file in Court his account of the several matters in the last preceding paragraph mentioned, verified by the affidavit of himself or some duly qualified person; and the plaintiff and the second defendant shall, on or before the day of file in Court statements of their objections thereto; and all parties shall be entitled to inspect all books of account and papers of the partnership and the said statements of account and objections.

8. [If it is intended to distribute assets among the partners, this clause and clause 9 will be confined to specified assets. G.H. of (address and description) is (upon giving security in the bond of himself and two

sureties, to be approved by the Registrar, in the sum of Rs.)
 appointed receiver to realize and collect the debts, assets and effects of
 the said partnership, with power to bring and defend suits in his own
 name, and to grant receipts, and generally to act as the owner thereof
 might act. (*The next clause will not be inserted when it is intended to
 distribute assets among partners, and the firm is solvent.*) He shall also
 have power to manage and carry on the said partnership business and to
 sell the said business and the stock-in-trade and good-will thereof as a
 going concern, either by private sale or by public auction and any of the
 parties to this suit shall be at liberty to bid for and purchase the same.]

9. The plaintiff and defendants shall forthwith deliver to the said receiver all the stock-in-trade and effects of the said partnership, and all securities, books and papers in their hands relating to the said effects and the said partnership.

10. The receiver shall out of the first moneys to be received by him pay the debts due from the said business, and shall be entitled to retain in his hands the sum of Rs. 100 for current expenses, but subject thereto, shall pay his net receipts, so soon as the same come to his hands, into Court to the credit of this suit. He shall once in every six months file his accounts and vouchers in Court; the first account to be filed on the
 day of _____ and to be passed on the
 day of _____

He shall be entitled to a commission at the rate
 of Rs. _____ per cent on the net amounts collected by him (or
 to the sum of Rs. _____ per month, as the case may be) as his
 remuneration (or he shall act without remuneration),

And the further consideration of this suit is adjourned to

Form No. 35.

ORDER XXIII.—INTERIM DECREE IN A SUIT FOR DISSOLUTION OF PARTNERSHIP TO WHICH PERSONS ENTITLED TO A SHARE OF NET PROFITS ARE MADE PARTIES.

(Cause-title.)

This suit coming on this day, etc., it is declared as follow:—

1. A partnership existed between the plaintiff and the 1st and 2nd defendants in the business of _____ in the plaint mentioned, as and from the _____ day of _____ to the _____ day of _____

2. The 3rd and 4th defendants were not partners in the said business, but were entitled as remuneration for their services to a share in the net profits thereof, in the proportion of *one-sixteenth* to the 3rd defendant from the _____ day of _____ and *two-sixteenths* to the 4th defendant from the _____ day of _____ to the said _____ day of _____

3. The plaintiff and the 1st and 2nd defendants were interested in the assets and profits of the said partnership from the _____ day of _____ in the proportion of *six-sixteenths* to the plaintiff, *six-sixteenths* to the 1st defendant, and the remaining *three-sixteenths* to the 2nd defendant and from the day of _____ to the said _____ day of _____ in the proportion of *five-sixteenths* to the plaintiff, *five-sixteenths* to the 1st defendant, and the remaining *three-sixteenths* to the 2nd defendant.

4. The plaintiff and the 1st and 2nd defendants were liable for the losses in the proportion of *six-sixteenths* to the plaintiff, *six-sixteenths* to the 1st defendant and the remaining *four-sixteenths* to the 2nd defendant.

Proceed as in paragraphs 2 to 10 of Form No. 34 but to the accounts directed by paragraph 6 add:—

(4) An account of the moneys due to, and withdrawn by, the 3rd and 4th defendants in respect of their shares in the net profits of the said business from the _____ day of _____ and the _____ day of _____ respectively.)

Form No. 36.

ORDER XXIII.—DECLARATIONS AS TO PARTNERSHIP ACCOUNTS.

The books of the partnership contain sums paid by the 1st defendant on account of X charity, which are not chargeable to the firm, and the same, commencing with the sum of Rs. paid to S. on the day of must be disallowed accordingly.

2. The purchase of 100 bales of piece-goods for Rs. made by the 1st defendant on the day of was on his own behalf, and is not chargeable to the firm, and in taking the partnership accounts, all items relating to the said transaction must be excluded accordingly.

3. The business of *dealer in grain* carried on by the 1st defendant at was carried on by means of the capital of the partnership, and the assets thereof and all transactions relating thereto must be included in taking the accounts hereby directed.

4. Except as hereinbefore mentioned the accounts of the partnership have been regularly and properly kept, and correctly represent all the dealings and transactions thereof. Accounts were last settled between the parties hereto on the day of and the same and all previous accounts ought not to be disturbed.

Form No. 37.

ORDER XXIII.—INTERIM DECREE APPOINTING A COMMISSIONER TO VOUCH ACCOUNTS.

(Proceed as in Form No. 34, but in place of paragraph 7, insert as follows):

7. E.F. of (address and description) is appointed commissioner to audit the books and papers of the partnership, and to vouch the several items of account, as in the preceding paragraph mentioned, and shall on or before the day of file in Court his proceedings and the statement of account and balance sheet prepared by him.

8. All parties shall be at liberty to file in Court on or before the day of a statement of their objections to the said statement of account and balance sheet, and at any time to inspect any of the said books, statements or balance sheet.

9. The question of the remuneration of the said commissioner is reserved until the consideration of his report.

10. On or before the day of the plaintiff shall pay into Court the sum of Rs. for the expenses of the said commissioner, and the further sum of Rs. to abide the order of the Court as to the said remuneration and

11. The several parties hereto shall forthwith deliver to the commissioner all books and papers relating to the partnership in their possession or power respectively, and such books and papers as are now in Court shall also be delivered out to him.

(Or, if a receiver has been appointed and paragraph 9 of Form No. 34 is inserted.—

11. The receiver hereby appointed shall, whenever required by the commissioner, produce before him all books and papers of the partnership in his hands, and all books and papers of the partnership now in Court shall be delivered out to the said commissioner.)

Form No. 38.

ORDER XXIII.—INTERIM DECREE APPOINTING A COMMISSIONER TO TAKE ACCOUNTS.

(Proceed as in Form No. 37 but in place of paragraph 7 insert as follows):

7. E.F. of (address and description) is appointed commissioner to take the accounts directed by the preceding paragraph, in accordance with the declaration hereinbefore contained, and for this purpose shall have power

to call for and examine such books and documents and examine such witnesses as he may think fit, and shall, on or before the day of return to this Court his proceedings and report, and shall state what in his opinion are proper and just allowances, and what disbursements are attributable to the partnership and what is due from any party to any party.

8. All parties shall be at liberty to file in Court on or before the day of a statement of their objections to the said report, and at any time to inspect the said report and any statement of objections, and any books or papers of the partnership.

9. }
10. } *Insert paragraphs 9, 10 and 11 as in Form No. 37.*
11. }

Form No. 39.

ORDER XXIII.—PARTNERSHIP—ORDER UPON THE TAKING OF ACCOUNTS BY THE COURT, WHEN ASSETS ARE TO BE DISTRIBUTED AMONG THE PARTNERS.

(Cause-title.)

This suit coming on this day for consideration of the statement of account and balance sheet filed by the 1st defendant, and the statement of objections thereto filed by the plaintiff and the 2nd and 3rd defendants it is ordered that objections Nos. be allowed and remainder thereof be disallowed. And it is declared accordingly as follows:—

1. The assets of the said partnership consist of the particulars specified in Schedule I hereto, which are respectively of the amounts or values in columns 3 and 4 and in the possession of the several persons in column 2 thereof mentioned and are of the total estimated value of Rs.

2. The debts and liabilities of the said partnership consist of the particulars specified in Schedule II hereto, and amount to Rs.

3. The sum of Rs. is due to the plaintiff for advances made by him to the firm together with Rs. for interest thereon to this day at Rs. per cent per annum, making together the sum of Rs.

4. The costs of the several parties to this suit are payable out of the assets of the partnership, and the amounts thereof respectively are set forth in Schedule III hereto.

5. After providing for the payment of the amounts in paragraphs 2, 3 and 4 hereof mentioned the estimated net profits of the firm are Rs.

6. The said profits are divisible among the parties hereto as follow.—to L.M., the 3rd defendant, Rs. and to N.O., the 4th defendant, Rs., as remuneration for their services; and the balance is divisible between the partners, namely, to A.B., the plaintiff, Rs. to C.D., the 1st defendant, Rs. and to E.F., the 2nd defendant Rs.

7. On the separate accounts of the several parties hereto (including therein the assets of the partnership in their hands respectively) there are due to the firm or to the several parties the following balances respectively.—to the firm by the 1st defendant the sum of Rs. ; from the firm, to the plaintiff, the sum of Rs. ; to the 2nd defendant, the sum of Rs. ; to the third defendant the sum of Rs. ; and to the fourth defendant the sum of Rs.

8. And the parties hereto by their advocates consenting that, in place of a sale of the assets of the partnership, the same shall be divided between the partners, and that, after payment of the said balances, they shall respectively retain the several assets now in their hands in satisfaction of their several shares. It is ordered that the 1st defendant do forthwith, out of the said sum of Rs. due from him as aforesaid in the first place discharge the liabilities in Schedule II mentioned; secondly, do pay to the plaintiff, the said sum of Rs. in paragraph 3 hereof mentioned, thirdly, do pay the sum in paragraph 4 and in Schedule III

hereto mentioned; fourthly to pay to L.M. the said sum of Rs. and to N.O., the said sum of Rs. , and to 2nd defendant the said sum of Rs. , and do file in Court vouchers for all payments made by him (or if a receiver is appointed, proceed as in Form No. 41).

SCHEDULE I.

(Set out assets of the Firm as in Schedule I to Form No. 74.)

SCHEDULE II.

(Set out debts and liabilities of the firm as in Schedule II to Form No. 74.)

SCHEDULE III.

(Set out costs of the several parties which are payable out of the assets of the firm, as in Schedule VI, Form No. 74.)

Form No. 39-A.

ORDER XL, RULE 2.—PROHIBITORY ORDER AND GARNISHEE NOTICE.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Ordinary Original Civil Jurisdiction.

C.S. No. of 19 .

BETWEEN

AND

Defendant.

Upon reading the execution application of plaintiff filed on the day of 19 , and the affidavit of day of 19 , and the solemnly affirmed on the day of 19 , and filed on the day of 19 , and it appearing that the defendant has failed to satisfy the decree made herein on the day of 19 , directing him to pay to the plaintiff the sum of Rupees IT IS ORDERED that the defendant herein be and he is hereby prohibited and restrained until the further order of this Court from receiving or recovering from (the garnishees) the debt or property set out in the schedule hereto, and that the said garnishees be and they are hereby prohibited and restrained until the further order of this Court from paying or delivering the said debt or property to any person whomsoever, and that the said garnishees, their advocates or agents do attend the Master in Chambers on the day of 19 , at 10-45 o'clock in the forenoon to show cause why the said moneys should not be brought into Court and applied in satisfaction of the said decree.

Dated this day of 19

SCHEDULE.

Form No. 40.

ORDER XXIII.—FINAL DECREE SUBSEQUENT TO THE ORDER IN FORM NO. 39.

(Cause-title.)

This suit coming on for further consideration in the presence of, etc., and it appearing that the payments directed by the order herein, dated the day of have been duly made by the 1st defendant: It is by consent decreed that the plaintiff and the 1st and 2nd defendants do respectively retain the assets of the said partnership in their hands in full satisfaction of their several shares and interests of and in the said partnership and do execute and make all such transfers, endorsements, and delivery of such assets, and any securities therefor as may be necessary to carry out this decree (any particular transfer or endorsement required should be specified).

Form No. 41.

ORDER XXIII.—ORDER CONFIRMING COMMISSIONER'S REPORT, UPON TAKING ACCOUNTS WHEN THE FIRM IS SOLVENT, AND ASSETS ARE TO BE DISTRIBUTED AMONG PARTNERS, AND A RECEIVER HAS BEEN APPOINTED.

(Cause-title.)

This suit coming on this day on further consideration, upon reading the report, dated the _____ day of _____ of the commissioner appointed by the interim decree herein, dated the _____ day of _____, and the objection of the plaintiff thereto and upon hearing, etc.

And the parties by their Advocates applying that, in place of a sale of partnership assets, the same may be distributed among the several partners. It is ordered that the said report be confirmed and the objections of the plaintiff thereto be disallowed. And it is declared that there is due to the partnership by the 1st defendant the sum of Rs. _____ and from the partnership, to the plaintiff the sum of Rs. _____; to the 2nd defendant, the sum of Rs. _____ and to the 3rd defendant, the sum of Rs. _____ as appears from the several accounts in the Schedule I hereto set out under the respective names of the said parties. And it is ordered as follows:—

1. That the 1st defendant do forthwith pay into Court the said sum of Rs. _____

2. That, out of the sum of Rs. _____ now in Court, the sum of Rs. _____ to be paid out of Court to E.F., the receiver herein, and that the said receiver do apply the same, and the sum of Rs. _____ now in his hands, in discharge of the debts and liabilities set out in Part I of Schedule III of the said report.

3. Upon payment in by the 1st defendant as aforesaid, the several sums in column 4 of Schedule II hereto shall be paid out of Court to the several persons and for the several purposes in columns 2 and 3, thereof respectively mentioned.

And the further consideration of this suit is adjourned to, etc.

SCHEDULE I.

ACCOUNTS.

Account of A.B., Plaintiff.

Dr.

Cr.

Serial number.	Items.	Amount	Items.	Amount.
		RS. A. P.		RS. A. P.
1	By assets in his possession as per Schedule I of commissioner's report.	}	By capital	
2	By payment disallowed as per Schedule VII, items 1 and 2 of commissioner's report.		By advances	
3	Drawn on account of profits.		By interest thereon.	
	Balance ..		By 113 shares of estimated net profits.	
	Total ..		Total ..	

(Set out accounts of other parties.)

SCHEDULE II.

PAYMENTS.

* If the amount in Court, mentioned in paragraph 2 of the order is insufficient to pay debts and liabilities, the first item will be "I.A., E.F.", receiver for payment of balance of debts and liabilities of the partnership, and there will be a direction inserted in the order for payment thereof in priority to the other payments.

Serial number.	Names of payees.	Purpose for which payment is made.	Amount.
			RS. A. P
1	G.H. of etc, ..	Remuneration as commissioner.	
2	L.M. (non-partner) ..	Balance as per Schedule I ..	
3	N.O. (non-partner) ..	Do. ..	
4	A.B., Plaintiff ..	Do. ..	
		Total ..	

Form No. 42.

ORDER XXIII.—FINAL DECREE AFTER ORDER IN FORM No. 40.
(Cause-title.)

This suit coming on this day, etc. And it appearing that the debts and liabilities of the partnership have been duly paid and discharged by E.F., the receiver herein who has duly passed his accounts before this Court, and that nothing now remains due from him. It is ordered and decreed as follows:—

1. That the receiver be discharged, and the bond, dated the day of entered into by him, and P. and Q., his sureties, be cancelled.

2. That the costs of all parties to this suit be paid out of the assets of the partnership (or as the case may be).

3. That the sum of Rs. now in the Court be paid out of Court to the several persons whose names and descriptions are set out in the schedule hereto, for the purpose, and in the proportions specified in columns 3 and 4 of the said schedule.

4. That the several partners do retain the assets of the partnership now in their possession in full satisfaction of their respective shares and interest of and in the said partnership, and do respectively execute make and do all such transfers, endorsements and things, as may be necessary to complete the title of the several partners thereto.

* If any particular transfer or endorsements is required, it should be specified here.

SCHEDULE

Serial number.	Names and description of payees.	Purpose for which payment is made.	Amount.		
			RS.	A.	P.
1	R., Plaintiff's Advocate ..	Costs of plaintiff ..			
2	S., 1st defendant's Advocate.	Costs of 1st defendant.			
3	T., 2nd defendant's Advocate.	Costs of 2nd defendant.			
4	U., 3rd defendant's Advocate.	Costs of 3rd defendant.			
5	A.B., Plaintiff	Balance 1/3rd share of profits.			
6	C.D., 1st defendant ..	Do. ..			
7	L.M., 2nd defendant ..	Balance, e.c.			
8	N.O., 3rd defendant ..	Do.			
		Total ..			

Form No. 43.

ORDER XXIII.—ORDER CONFIRMING REPORT OF COMMISSIONER WHEN THE ASSETS, OR PART OF THEM ARE TO BE REALISED, OR WHEN THE FIRM IS INSOLVENT.

(Cause-title.)

This suit coming on this day on further consideration, upon reading the report, dated the day of of the commissioner appointed by the interim decree herein, dated the day of and the objections of the plaintiff thereto, and upon hearing, etc. It is ordered as follows:—

(1) That (items 1 and 2 of the said objections be allowed and that subject thereto) the said report be confirmed.

(2) If the moneys in Court, or with the receiver, are not sufficient to pay liabilities, and adjust accounts between the parties. That the plaintiff do forthwith pay into Court the sum of Rs. and the 1st defendant do forthwith pay into Court the sum of Rs. , being the total amount of the sums due to the partnership by them respectively as in Schedule I (if there has been a loss to be contributed by the several partners, Schedule V) of the said report (as varied as aforesaid) and

(3) That the plaintiff and the 1st defendant do forthwith deliver to E.F., the receiver herein, possession of the several effects of the partnership now in the possession of them respectively, as shown by Schedule I of the report (or if particular items only are to be sold, and the remainder distributed, possession, of items Nos. now in the hands of the plaintiff and items Nos. now in the hands of the 1st defendant as appears in Schedule I of the report).

(4) This clause will be inserted if the assets, or some of them, are not to be divided among the partners. That the receiver do forthwith sell (out of Court) by public auction, or by private contract, the properties set out in Schedule I of the said report (except items Nos.) and do collect and realize the outstandings therein mentioned (except items Nos.).

(5) That out of the moneys now in Court and the moneys to be paid in as aforesaid the sum of Rs. be paid out of Court to E.F., the receiver, and that he do apply the same and the sum of Rs. now in

his hands (and the net sale proceeds and collections in the preceding paragraphs mentioned) first, in discharge of the debts and liabilities set out in Part I of Schedule II of the said report, secondly, in payment of the sums set out in Part II of the said Schedule II, and lastly, in payment to G.H., the commissioner, of the sum of Rs. for his remuneration, and do pay the balance, if any, in his hands into Court.

And the further hearing of this suit is adjourned to, etc.

Form No. 44.

ORDER XXIII.—FINAL DECREE—DISTRIBUTION OF ASSETS AFTER PAYMENT OF DEBTS AND LIABILITIES AMONG SEVERAL PARTNERS WHO HOLD THE SAME IN VARIOUS PROPORTIONS.

(Proceed as in Form No. 42 and continue.)

And the parties hereto by their Advocates applying that, in place of a sale of the assets of the partnership, the same may be distributed among the partners as hereinafter directed. It is declared that the amounts due from the partnership to the several parties are as set forth in the several accounts placed under their respective names in Schedule I hereto, namely, to the plaintiff Rs. ; to the 1st defendant, Rs. ; to the 2nd defendant, Rs. and to the 3rd defendant, Rs. ; and that the remaining assets of the partnership consist of the sum of Rs. now in Court, and the particulars set out in Schedule II hereto. And it is decreed as follows:—

(1) *(Insert paragraph 1 of Form No. 42.)*

(2) *(Insert directions as to costs: see paragraph 2 of Form No. 42.)*

(3) That, with the consent of the several parties hereto, the partnership assets be distributed among the several partners at the values and in the manner set forth in Schedule II hereto, and that they do accept the properties set out under their respective names in full satisfaction of their respective shares and interest of and in the said partnership.

(4) That the several persons mentioned in column 4 of Schedule II do respectively transfer and deliver to the several persons under whose names the descriptions of the several properties are set out in Parts I to IV of the said schedule, possession of the said properties, or if the same form part of their own share, do retain the same in their possession.

(5) That the sum of Rs. now in Court be paid to the several persons in column 1 of Schedule III hereto, for the purposes and in the proportions specified in columns 3 and 4 of the said Schedule.

SCHEDULE I.

ACCOUNTS.

Account of A.B., Plaintiff.

Dr.

Cr.

Serial number.	Item.	Amount.	Item.	Amount.
		RS. A. P.		RS. A. P.
	By profits withdrawn.		By Capital ..	
			By 1/3rd share of net profits after payment of costs, etc. ..	
	Total ..		Total ..	

(Set out accounts of other parties.)

RULES OF THE HIGH COURT, MADRAS

SCHEDULE II.

ASSETS.

Accounts of A.B., Plaintiff.

Serial number.	Description of property.	Estimated value.			Person in possession.
		RS.	A.	P.	
1	..	..	..	..	A.B.
2	..	..	..	..	C.D.
3	..	..	..	..	L.M.
	Balance ..				
	Total as per Schedule I.				

(Set out shares of other partners.)

SCHEDULE III.

PAYMENTS.

Serial number.	Name and description of payee.	Purpose of payment.	Amount.		
			RS.	A.	P.
1	R., Plaintiff's Advocate.	Costs of suit			
2	Plaintiff	Expense of commissions paid into Court on the day of ..			
3	Do.	Balance for equality of partition as per Schedule II ..			

Form No. 45.

ORDER XXIII, RULE 12.—INJUNCTION AND APPOINTMENT OF RECEIVER.
(Cause-title.)

Upon reading the petition of the plaintiff, dated the day of praying that the first defendant may be restrained from dealing with the assets of the firm, and for the appointment of a receiver, and upon hearing, etc. (and it appearing that the first defendant has made default in complying with the terms of the order herein, dated the day of). It is ordered as follows:—

1. That C.D., the first defendant, be restrained by injunction from selling, disposing of, or intermeddling with, any part of the stock-in-trade, properties and effects belonging to the plaintiff, and the first and second defendants, as partners in the business of in the plaint mentioned, and from receiving, negotiating, retaining or otherwise dealing with any money, securities or property of the said partnership, and from doing or causing to be done any act in the name or on the credit of the said partnership, until the further order of this Court.

2. Appoint a receiver, as in paragraphs 8, 9 and 10 of Form No. 34.

Form No. 46.

ORDER XXIV.—PARTITION SUIT—PLAINT.

(Cause-title.)

PLAINT.



The abovenamed plaintiffs state as follows:—

1. A.B., the first plaintiff, is a landowner and resides at C.D., the second plaintiff, is a and resides at

The address of the plaintiffs for service of all notice and process is

2 E.G., the first defendant, is a and resides at G.H., the second defendant, i.e., (an infant of about years and resides with L.M., a landowner at and is sued as the legal representative of X.Y., landowner, deceased).

3. The plaintiff and defendants are members of an undivided Hindu family whereof the common ancestor was Z., who died on or about the day of and are related in manner set forth in Schedule I hereto (or, if the parties are few in number, set out their relationship as thus:— The first defendant is the father of the plaintiffs and X.Y., the father of the second defendant and the third defendant is the only son of the fourth defendant is the widow of O.P., another son of who died on the day of without leaving issue).

The parties hereto are the only persons interested in the joint property of the said family.

4. The said family is possessed of the joint property, whereof the particulars are set forth in Schedule II hereto, of the total value of Rs. or thereabouts. The several items of the said property are in the possession of the respective persons, whose names are set out in column 3, and are subject to the incumbrances and outgoing set out in column 4, and are of the approximate net values, after allowing for the said incumbrances and outgoing, set out in column 5, of the said schedule. The property specified in Part III of the said schedule is devoted to charitable and religious purposes and is not available for division.

5. The liabilities other than the said incumbrances are so far as they are known to the plaintiffs, set out in Schedule III hereto, and amount in the aggregate to the sum of Rs. (or, if there are no liabilities, except the said incumbrances, there are no liabilities of the said family, now outstanding).

6. E.G., the first defendant, is the manager of the said family and has since the day of carried on the business of a dealer in grain at on behalf, and for the benefit, of the said family; and is liable to account for the profits thereof from the day of when accounts were last settled and agreed.

7. The several parties hereto are respectively entitled to the following shares of the said property and allowances thereout:—

- (1) The plaintiffs, one-third each;
- (2) The first defendant, one-third;
- (3) The second defendant, one-sixth;
- (4) The third defendant, one-sixth;
- (5) The fourth defendant, an allowance of Rs. a month;
- (6) The fifth defendant, an allowance of Rs. a month.

8. The fourth and fifth defendants are also entitled to residence; and it is proposed to allot item No. of Schedule II to them for their joint lives, and the life of the survivor of them, and to secure the due payment of the said allowances by the other parties, hereto by a charge on item No. of the said schedule.

9. The plaintiffs, therefore, pray—

- (a) That an account may be taken of what the joint property of the said family now consists;
- (b) That an account may be taken of the profits of the business in paragraph 6 hereof mentioned, from the said day of
- (c) That an account may be taken of the liabilities of the said family;

(d) That items Nos. of Schedule II may be sold, and the sale-proceeds applied in discharge of the incumbrances thereon, and the liabilities of the said family;

(e) That a scheme may be settled for the due management of the property of the family devoted to charitable and religious purposes;

(f) That, after providing for the interests of the fourth and fifth defendants therein, the liabilities of the family (and the costs of this suit), the residue of the property of the said family may be divided among the other parties hereto, in the shares specified in paragraph 7 hereof;

(g) For the appointment of a receiver and manager of the said business in paragraph 6 hereof;

(h) For an injunction to restrain the first defendant from selling, charging or otherwise disposing of, the family property (and from carrying on or intermeddling with the said business, or selling, charging or otherwise disposing of the assets thereof);

(i) That a commissioner may be appointed to divide the immovable property of the family by metes and bounds;

(j) That the costs of all parties to this suit may be paid out of the property of the family (or that the *first defendant* may be ordered to pay the costs of this suit);

(k) For such other relief as to this Court may seem fit.

We declare that the facts above stated are true to our knowledge except as to matters stated to be on information and belief and as to those matters we believe them to be true.

(Signed)

(Signed) A.B.,

Advocate for plaintiff.

SCHEDULE I.

(Set out Genealogical Table.)

SCHEDULE II.

Serial number.	Description of property.	Persons in possession thereof.	Incumbrances, charges and outgoings.	Net value.
(1)	(2)	(3)	(4)	(5)
PART I.—Movable property.				
			Total ..	RS. A. P. _____
PART II.—Immovable property.				
			Total ..	_____
PART III.—Charitable and religious property.				
			Total ..	_____
			Grand Total ..	_____

SCHEDULE III.—LIABILITIES.

Serial number.	Names of creditors.	Security, if any.	Amount.
			RS. A. P.
		Total ..	

(Signed) L.M.,
Advocate for plaintiffs.

(Signed)
Plaintiffs.

List of documents filed with the plaint.

(Enter list as in Form No. II.)

(Signed) L.M.,
Advocate for plaintiffs.

(Signed)
Plaintiffs.

Form No. 47.

ORDER XXIV, RULE 3.—DECREE FOR PARTITION WHEN THE PROPERTY IS IN HAND AND DIVISION BY METES AND BOUNDS IS NOT REQUIRED.

(Cause-title and claim.)

The suit coming on this day for final disposal in the presence of, etc. It is declared as follows:—

1. The plaintiff is entitled to partition of the property of the undivided Hindu family in the plaint mentioned, consisting of the particulars specified in column 2 of the schedule hereto, which are of the values, and in the possession of the several persons whose names are set opposite thereto respectively in columns 3 and 4 of the said schedule.

2. The plaintiff is entitled to one equal third share, the first defendant to another equal third share, and second and third defendants each to one equal sixth share, of the said property, and they shall respectively receive and retain in satisfaction thereof the several properties set under their names in Parts I to IV of the said schedule.

3. The fourth defendant is entitled during her life to maintenance at the rate of Rs. per month, and to reside in the two rooms of the house being item No. 1 in the said schedule, situate (describe the position of the rooms so as to identify them), and to the use of the verandahs attached thereto and of the room in the said house from time to time set apart for purposes of cooking.

And it is decreed as follows:—

4. The several persons mentioned in column 4 of the said schedule shall forthwith respectively (pay and) transfer and deliver to the several persons under whose names (the several sums and) the descriptions of the several properties are set out in Parts I to IV of the said schedule (the said sums and the) possession of the said properties, or if the same form part of their respective shares, shall retain the same in their possession.

5. The plaintiff and the first, second and third defendants shall pay to the fourth defendant during her life the sum of Rs. per month in the shares in paragraph 2 hereof mentioned, the first payment to be

made on the day of and the subsequent payments on the day of each month. The said payments shall be a charge upon the immovable property being items in the said schedule. If default shall be made in any payment for thirty days, then the fourth defendant shall be at liberty to apply to this Court for the sale of the property in this paragraph mentioned or any part thereof.

6. The first defendant (or other person in possession of the house) shall forthwith deliver to the fourth defendant possession of the rooms and verandahs hereinbefore assigned to her for her residence, and permit her to use, occupy and enjoy the same during her life.

And this Court doth not think fit to make any order as to the costs of this suit.

SCHEDULE.

Number of item.	Description of property.	Value.	Party now in possession.
(1)	(2)	(3)	(4)

RS. A. P.

PART I.—Share of A.B., the plaintiff.

1	House and land situate at		Plaintiffs.
2	Promissory note of L.M., dated		2nd defendant.
3	Cash		1st defendant.
	Total ..		

PART II.—Shares of C.D., 1st defendant.

PART III.—Share of E.F., 2nd defendant.

PART IV.—Share of G.H., 3rd defendant.

(Signed)

Form No. 43.

ORDER XXIV.—DECREE FOR PARTITION WHEN THE PARTIES ARE DIRECTED TO PAY SUMS FOR EQUALITY OF PARTITION, AND COSTS ARE PAYABLE OUT OF THE FAMILY PROPERTY.

(Cause-title and claim.)

This suit coming on this day, etc. It is declared as follows:—

2. } Insert declarations as in Form No. 47 and continue.
3. }

4. That the sum of Rs. _____ is payable to E.F., the second defendant, for equality of partition in the division of the family property in manner hereinafter mentioned (or if there is not money in Court to provide for payment of this sum). The sums payable to E.F., the second defendant, by the several parties for equality of partition, are as follows:—(by A.B., the sum of Rs. _____ and by C.D., the sum of Rs. _____).

5. The costs of the several parties to this suit are payable out of the family property, and are as follows:—Of A.B., the plaintiff, the sum of Rs. _____; of C.D., the first defendant, the sum of Rs. _____; and of E.F., the second defendant, the sum of Rs. _____, making in all the sum of Rs. _____.

6. That the sum of Rs. _____ now in Court to the credit of this suit, be paid out of Court. to the several persons and for the purposes mentioned in Schedule I hereto (or if there are no moneys in Court, or the some are not sufficient for the purpose)—that C.D., the first defendant, do out of the sum of Rs. _____, being moneys of the said family in his hands, pay to A.B., the plaintiff, the sum of Rs. _____ and to E.F., the second defendant, the sum of Rs. _____ and do retain the sum of Rs. _____, in respect of their several costs of this suit, and do apply the sum of Rs. _____, being the balance of the said moneys, as mentioned in Schedule II hereto (or if there is no cash available for this purpose, the costs may be distributed among the parties according to their shares as thus):—That, on or before the _____ day of _____ C.D., the first defendant, do pay into Court, the sum of Rs. _____ being his one-half share of the total amount of the said costs and E.F., the second defendant, do pay into Court the sum of Rs. _____ being his one-fourth share less the said sum of Rs. _____ due to him as aforesaid and that the said sums when paid in as aforesaid be paid out of Court to A.B., the plaintiff.

(If the moneys in Court are not sufficient to provide for equality of partition) that A.B., the plaintiff, do pay to E.F., the second defendant, the sum of Rs. _____ and that C.D., the first defendant do pay to E.F., the second defendant, the sum of Rs. _____ for equality of partition; and that the said sums shall bear interest at the rate of Rs. _____ per cent. per annum from this day until payment.

Proceed as in Form No. 47 omitting the clause as to cost of suit.

Payment out of Court.

Serial No.	Payees.	Purpose for which payment is made.	Amount.
1	A. B., the plaintiff ..	Costs.	RS. A. P.
2	C. D., 1st defendant ..	Do.	
3	E. F., 2nd do. ..	Do.	
4	E. F., 2nd do. ..	The equality of partition.	
5	A. B., the plaintiff ..	1 share of balance.	
6	C. D., 1st defendant ..	1/2 do. do.	
7	E. F., 2nd do. ..	1/4 do. do.	
Total ..			

SCHEDULE I.

PROPERTY OF THE FAMILY WITH DETAIL.

SCHEDULE II.

PROPERTY ASSIGNED TO THE SEVERAL PARTIES.

(Set out as in the schedule to Form No. 47.)

Form No. 49.

ORDER XXIV.—ORDER DIRECTING AN ACCOUNT.

(Cause-title.)

This suit coming on this day, etc. It is declared as follows:—

(1) *(Insert declarations as to the members of the family entitled to shares in, or allowances out of, the family property, as in Form No. 47.)*

(2) The business of a dealer in grain, carried on by the first defendant at _____, was carried on by him on behalf and for the benefit of the said family, and the assets and profits thereof form part of the joint property of the said family

And it is ordered as follows:—

(3) That the following accounts be taken by the Court (or, by the Commissioner hereinafter appointed), namely:—

(a) An account of the assets, profits and liabilities of the said business from the day of _____;

(b) An account of the property, credit and effects of the said family;

(c) An account of the debts and liabilities of the said family now outstanding;

(d) An account of the several amounts due for principal and interest in respect of the incumbrances on the immovable property of the said family;

(4) *(Insert directions as to the taking of the accounts, as in Form Nos. 31, 37 or 38.)*

And the further consideration of this suit is adjourned to the day of _____

Form No. 50.

INTERIM DECREE IN PARTITION SUIT, ORDER FOR SALE, APPOINTMENT OF RECEIVER AND COMMISSIONER.

(Cause-title.)

Claim for an account of the property of an undivided Hindu family, and the determination of the shares and interest of the several members thereof; for the partition of the said property; and for costs of suit.

This suit coming on this day for hearing in the presence of, etc., and the plaintiff and the first and second defendants, who are collectively entitled to more than one moiety of the family property, by their *advocates* requesting a sale of the property in Part II of Schedule II hereto, and a distribution of the proceeds instead of a division of the said property between the persons interested, and it appearing to this Court that such sale and distribution is for the benefit of all the shareholders (and that the incumbrancers mentioned in column 3 of the said schedule consent to such sale free from their respective charges and incumbrances), or and the said parties applying that such sale may be made free from the incumbrances and charges specified in column 3 of Part II of Schedule II hereto, and it appearing to this Court that due notice of this application has been served on all persons interested, and that it is for the benefit of all persons interested in the said property that such sale should be made free of the charges and incumbrances thereon, and that the same should be provided for as hereinafter directed: it is declared as follows:—

1. The several members of the undivided Hindu family in the plaintiff mentioned entitled to share in the property thereof and the shares to which they are respectively entitled; and the several persons entitled to maintenance and residence, and the monthly payments to which they are entitled in respect of maintenance, are as set forth in columns 2 and 3 of Schedule I hereto.

2. The properties of the said family available for division consist, first, of the immovable properties specified in Schedule II hereto, which are subject to the incumbrances, charges, and outgoings set out in column 3, and are of the net values, after deducting the amounts, of the respective incumbrances, set out in column 4 of the said schedule; and secondly, of the movable property specified in Schedule III hereto whereof column 3 sets out the securities for the same, and column 4 the persons having possession of the same respectively.

3 The property of the said family set apart for charitable and religious purposes and not available for division consists of the particulars specified in Schedule IV hereto.

And it is ordered as follows:—

4. The immovable property specified in Part II of Schedule II hereto shall be sold by _____ on the _____ day of _____ free from (or, subject to) the incumbrances in the said schedule mentioned; and the plaintiff shall have the conduct of such sale, and shall on or before the _____ day of _____ bring into Court a proclamation of sale for approval and the sum of Rs. _____ for the estimated expenses of such sale.

5. Any of the persons interested in the said property shall be at liberty to bid at such sale, and become the purchasers of the said property, or any part thereof (if the sale-proceeds are not required for discharge of incumbrances or other liabilities,—without payments of any deposit in respect thereof, and the purchase money of any portion so purchased by any of the parties shall be set off against their respective shares).

6. The net sale moneys shall be paid into Court by the auctioneer, so soon as the same are received by him, to the credit of this suit to an account entitled "Sale account," and shall be applied first (if the sale is made free from incumbrances), in discharge of the said several incumbrances; secondly, in making equal the shares of the property divided between the parties, if necessary, and the balance shall be divided among the shareholders according to their several shares and interests.

7. E.F. of (address and description) is, upon his giving security for the sum of Rs. _____ by the bond of himself and two sureties to be approved by the registrar, hereby appointed receiver to collect the outstandings due to the said family specified in Part II of Schedule III hereto, with power to bring and defend suits in his own name, and grant receipts, and generally to act as the owner thereof might act. The said receiver shall be entitled to retain in his hands the sum of Rs. 100 for current expenses, and subject thereto shall pay the net moneys, so soon as the same are received by him, into Court to the credit of this suit to an account entitled "Receiver's account," and shall once in every six months file his accounts and vouchers in Court, the first account to be filed on the _____ day of _____. The receiver shall be entitled, as his remuneration, to a commission of Rs. _____ per cent on the net amounts collected by him.

8. G.H. of (address and description) is hereby appointed commissioner to make partition by metes and bounds of the immovable property specified in Part I of Schedule II hereto, among the parties, and according to the shares in Schedule I mentioned, to award any sums to be paid for the purpose of equalizing the value of the shares, and to determine what house or rooms shall be reserved for the residence of the second and third defendants, and in what manner the maintenance hereby allowed to them shall be secured. The commissioner shall file his report in Court on or before the _____ day of _____ and the question of his remuneration is reserved until his report shall have been considered by the Court. The plaintiff shall, on or before the _____ day of _____, pay into Court the sum of Rs. X on account of the remuneration of the commissioner, to abide the further order of the Court and the further sum of Rs. Y for the expenses of the commissioner. The said sum of Rs. Y shall be paid out of Court to the said G.H., on his receipt, and shall be accounted for by him, on making his said report. Any objections of the parties to the report shall be made upon affidavit stating the facts relied on, and shall be filed in Court on or before the _____ day of _____.

9. The plaintiff shall on or before the _____ day of _____ bring into Court a scheme for the future management of the property specified in Schedule IV hereto, and the conduct of the said charities.

10 All parties shall be at liberty to inspect the said report and scheme when filed in Court.

And the further consideration of this suit is adjourned to, etc.

SCHEDULE I.

Serial number.	Person interested in the family property.	Shares or allowances to which they are entitled.
(1)	(2)	(3)
1	Plaintiff	One-third share.
2	1st defendant	Do.
3	2nd do.	Allowance of Rs. 10 per month.
4	....	....
5	....	....

SCHEDULE II.

IMMOVABLE PROPERTY OF THE FAMILY.

Serial number.	Description of property.	Incumbrances and outgoings.	Net value.
(1)	(2)	(3)	(4)

PART I.

RS. A. P.

PART II.

SCHEDULE III.

MOVABLE PROPERTY.

Serial number. (1)	Description of property. (2)	Securities therefor (3)	Persons in possession (4)
PART I.			
PART II.—Outstandings.			

SCHEDULE IV.

CHARITABLE PROPERTY.

Serial number. (1)	Description of property. (2)	Incumbrances or outgoings. (3)	Purposes to which the property is devoted. (4)

Form No. 51.

PARTITION SUIT—FINAL DECREE AFTER TAKING AN ACCOUNT.

(Cause-title and claim.)

This suit coming on this day, etc. It is ordered as follows:—

1. That the objection Nos. _____ of the plaintiff's statement of objections to the report of Mr. _____, the Commissioner appointed herein to take the accounts directed by the order herein, dated the day of _____, be allowed and that the objections of the first defendant to the said report be disallowed and that the said report, as varied as aforesaid, be confirmed.

2. (Insert order upon the report of the Commissioner appointed to divide the immovable property as in paragraph 1.)

3. (Insert discharge of the receiver, as in Form No. 42.)

And it is declared as follows:—

4. That the property of the said family available for division consists of the sum of Rs. _____ and Rs. _____ now in Court to the credit of this suit, and of the particulars set out in Schedule II hereto, and that the property devoted to charitable purposes and not available for division consists of the particulars set out in Schedule III hereto.

5. If costs are allowed out of the family property, insert declaration as in paragraph 5 of Form No. 48.

And it is decreed as follows:—

6. That the said sums of Rs. _____ and Rs. _____ now in

Court to the credit of this suit, to the accounts entitled respectively "Sale account" and "Receiver's account" be dealt with as directed in Schedule I hereto.

7. That the several properties in Schedule II hereto mentioned be assigned to, and they are hereby vested in, the several parties under whose names the said properties are respectively set out absolutely, for and in full satisfaction of their respective shares and interests in the joint property of the said family.

8. *(Insert clause providing for maintenance and residence of the persons entitled thereto as in Form No. 52 or paragraphs 5 and 6 of Form No. 47.)*

9. That the several properties in Schedule III hereto mentioned be vested in A.B., the plaintiff, and C.D., first defendant, as trustees for the charitable purposes in column 3 of the said schedule mentioned, and that the said properties shall be managed and the said charities conducted in manner following:—

(1) *(Set out the scheme approved by the Court in consecutive numbered paragraphs.)*

SCHEDULE I.

PAYMENT OUT OF COURT.

(Set out the payments directed as in Schedule I of Form No 48.)

SCHEDULE II.

(Set out the properties assigned to the several parties as in Schedule to Form No. 47.)

SCHEDULE III.

(Set out the properties devoted to charitable purposes as in Schedule IV of Form No. 50.)

Form No. 52.

PARTITION DECREE: CLAUSES FOR SECURING PAYMENT OF ALLOWANCE FOR MAINTENANCE.

1. C.D., the fourth defendant, shall in place and in full satisfaction of all claims to maintenance and residence enjoy and receive during her life the rents and profits of the immovable property specified in Part V of the schedule hereto and the plaintiff (or other party in possession thereof) shall forthwith deliver possession of the said property to her. Subject to the interest of the fourth defendant therein, the said property shall belong to the plaintiff and the first, second and third defendants, in the shares in paragraph 2 hereof mentioned, and after her death, they or any of them, or the representatives of any of them, may apply to this Court for the sale or division thereof accordingly; or

2. The first defendant shall, out of the family moneys in his hands, in Part V of the schedule hereto set forth, purchase in the names of himself, and Promissory Notes of the Government of India sufficient (after deduction of income-tax) to realize the sum of Rs. per annum, and the said first defendant and shall pay the interest thereon to the fourth defendant during her life, in place and in full satisfaction of all claims to maintenance and residence and subject thereto shall hold the said promissory notes and the interest thereon upon trust for plaintiff and first, second and third defendants and their representatives, absolutely, in the shares in paragraph 2 hereof mentioned. The balance of the said moneys shall be divided among the said persons in the said shares, and the first defendant shall retain his share and pay the other shares to the plaintiff and the second and third defendants, respectively.

Form No. 53.

ORDER XXIV, RULE 10.—NOTICE TO INCUMBRANCERS UNDER SECTION 57 OF THE TRANSFER OF PROPERTY ACT, 1882.

(Cause-title.)

To

A.B.,
(Address and description.)

Take notice, that, on the _____ day of _____ 'C.D.' the abovenamed plaintiff presented an application to this Court in the above suit, that the immovable property specified hereunder may be sold free from the incumbrancers hereunder mentioned, in which you are alleged to be interested: and the _____ day of _____ has been appointed for the hearing thereof, when you are at liberty to appear, in person or by advocate, and to be heard with respect thereto, and that you are not required to present any petition or application for this purpose. And also take notice that in default of your appearance, the said application may be heard and determined in your absence and that the same is supported by the affidavits of P and Q filed in this Court, on the _____ day of _____

The address for service of the said C.D. is

SCHEDULE.

Serial No.	Description of property.	Description of incumbrance.

(Signed) L.M.,
Advocate for C.D., for plaintiff.

(Signed) G.H.,
Registrar.

Form No. 54.

ORDER XXIV, RULE 13.—FORM OF INDEMNITY BOND.

This deed made this _____ day of _____ between A B of (address and description) of the first part; CD of (address and description) of the second part; and E.F. of (address and description) of the third part;

Whereas in a suit now pending in this High Court numbered as _____ wherein the said AB is plaintiff and the said CD and EF are defendants, the several immovable properties specified in the schedule hereto have been assigned to the several persons under whose names the same are respectively set out, subject nevertheless to the several encumbrances (charges and outgoings) set out in the third column of the said schedule, as part of their respective shares in the joint property of the undivided Hindu family whereof the parties are members;

And whereas by an order made in the said suit and dated the _____ day of _____ It is ordered that the parties hereto should execute the indemnity in respect of the said encumbrances (charges and outgoings) hereinafter contained;

Now this deed witnesseth that each of the parties hereto doth hereby agree with the other parties hereto jointly and severally that he will duly pay and discharge the several encumbrances (charges and outgoings) set out under his name in the said schedule, and will keep the other parties hereto and each of them their and each of their estates and assigns indemnified against the said encumbrances (charges and outgoings) and all costs, charges and expenses in respect thereof;

In witness whereof the said parties hereto have hereunto set their hands this _____ day of _____

SCHEDULE.

Serial number.	Description of property.	Encumbrances to which the same are respectively subject.
----------------	--------------------------	--

PART I.—(Share of AB, the plaintiff).

- | | | |
|-------------------------------------|-----------|---|
| 1 (Insert description of property). | Rs. _____ | being part of a sum of Rs. _____ due under a mortgage, dated the _____ day of _____ made between AB, of the one part and M (address and description of the other part) together with interest thereon at the rate of _____ per cent per annum from the _____ day of _____ |
|-------------------------------------|-----------|---|

PART II.—(Share of CD, the 1st defendant).

- | | | |
|-------------------------------------|-----------|---|
| 1 (Insert description of property). | Rs. _____ | being the remaining part of the said sum of Rs. _____ mentioned in item 1 hereof together with interest thereon as aforesaid. |
|-------------------------------------|-----------|---|

PART III.—(Share of EF, 2nd defendant.)

- | | |
|-------------------------------------|---|
| 1 (Insert description of property). | The monthly allowance of Rs. _____ per month in the said suit assigned to GH, etc., in respect of her maintenance and right of residence and charged on items hereof. |
|-------------------------------------|---|

Witness to the signature of A.B.

(Sd. P.Q.) Address and description.

(Sd.) A.B.

Witness to the signature of C.D. and E.F.

(Sd. R.S.) Address and description.

(Sd.) C.D. and E.F.

Form No. 55.

ORDER XXV, RULE 4.—APPLICATION FOR PROBATE OF A WILL
IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Testamentary and Intestate Jurisdiction.

(Original Petition No. _____ of _____ 19 _____.)

In the matter of the will of A.B., of (description) deceased.

- 1 C.D. and
- 2 E.F.

Petitioners

BETWEEN—

1. C.D. and
2. E.F.

} Petitioners

1. G.H. and
2. J.K.

} Respondents.

The abovenamed petitioner states as follows:—

1. C.D., the petitioner, is a landowner and resides at
The address of the petitioner for service of all notices and process
is

2. E.F., the respondent, is

3. The abovenamed A.B. died on the day of at
where he was then residing possessed of property within the State of
Madras (and also within the State of).

4. The writing hereunto annexed, now shown to the petitioner and
marked with letter A, is the last will and testament of the said A.B., and
was duly executed by him at on the day of
in the presence of the witnesses whose names appear at the foot thereof.

5. That the petitioner is the executor (or one of the executors) named
in (according to the tenor thereof) the said will.

6. The amount of the assets which are likely to come into the petitioner's
hands does not exceed in the aggregate the sum of Rs. and the
net amount of the said assets, after deducting all items which the petitioner
is by way allowed to deduct is of the value of Rs. .

8. That no application has been made to any District Court or Delegate
or to any other High Court for the probate of any will of the said deceased
or letters of administration with or without the will annexed of his property
and credits.

9. That the petitioner hereby undertakes to duly administer the
property and credits of the said A.B. deceased and in any way concerning
his will by paying first his debts and then the legacies therein bequeathed
so far as the assets will extend and to make a full and true inventory thereof
and exhibit the same in this Court within six months from the date of grant
of probate to the petitioner, and also to render to this Court a true account
of the said property and credits within one year from the said date.

10. Your petitioner, therefore, prays:

(a) That he may be allowed to prove the will in common form, and
that probate thereof, to have effect throughout the whole of Union of India
(or limited to the State of Madras), may be granted to him.

I, C.D., the petitioner abovenamed, do solemnly declare that what is
stated in paragraph is true to my own knowledge, and that what
is stated in the remaining paragraphs is true to the best of my information
and belief, and I believe the same to be true.

Solemnly declared at
by the aforesaid this day of

I, J.K., of (residence and description) one of the witnesses of the said
will and testament of A.B., the testator mentioned in the petition, declare
that I was present together with at the house of
and we did then and there see the said deceased set and subscribe his name
at the foot of the said will now shown to me and marked A and declare and
publish the same as and for his last will and testament, and that thereupon,
I and the said did at the request of the said deceased
and in his presence and in the presence of each other, all being present at
the same time, set and subscribe our respective names and signatures at the
foot of the said will as witnesses thereof.

Before me.

Commissioner.

Note.—If testator makes a mark or signs in a language other than the
Will is written in, the affidavit should state whether the Will was read over
and explained to him, and if there are any scorings, alterations or insertions,
it should be stated whether they existed at the time of the execution of
the Will.

* Paragraph 7 was omitted by notification, dated 3rd May 1928.

Form No. 56.

ORDER XXV, RULE 4 (c).—AFFIDAVIT OF THE ATTESTING WITNESS.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Testamentary and Intestate Jurisdiction.

(Cause-title as in Form No.).

I, , make oath (solemnly affirm) and say as follows:—

1. That I knew and was well acquainted with the deceased above-named.

2. That on the day of I was present together with at the house of and we did then and there see the said deceased set and subscribe his name at foot of the testamentary paper in the language and character hereunto annexed and marked with the letter and declare and publish the same as and for his last will and testament.

3. That thereupon I this deponent and the said did at the request of the said deceased and in his presence and in the presence of each other all being present at the same time set and subscribe our respective names and signatures at the foot of the testamentary paper as witnesses thereto.

4. That the name and signature subscribed at the foot of the testamentary paper as of the party executing the same is in the proper handwriting of the said deceased and the name, signature and additions " " also subscribed and written at the foot of the said testamentary paper as of the parties attesting execution of the same are in the proper and respective handwritings of the said and of me this deponent respectively.

5. That at the time the said deceased so subscribed his name and signature to the said will as aforesaid was of sound and disposing mind, memory and understanding and to the best of my belief made and published the same of his free will and pleasure.

Solemnly affirmed (or sworn) at aforesaid this day of

Before me.

Commissioner.

Form No. 57.

ORDER XXV, RULE 4 (d).—NOTICE OF APPLICATION FOR PROBATE OR LETTERS OF ADMINISTRATION.

(Cause-title.)

To

The Collector of Madras.

Notice is hereby given that application has been made to the High Court of Judicature at Madras for a grant of probate of the Will (and a codicil thereto) dated respectively the day of (and the day of) or Letters of Administration of the property and credits or Letters of Administration with the Will, dated the day of annexed, of the property and credits of A.B. of (address and description), who died on the day of at , to C.D., of (address and description), one of the executors named in the said Will or the brother and one of the next of kin of the said deceased or as the case may be,* and that the day of has been appointed for the hearing of the said application, and, that if you decide to oppose it, you must file a caveat in the said Court*

* In the notice to the Collector of Madras omit this portion.

The gross value of the estate in the Madras State has been sworn at Rs. _____ and the net value thereof in the

Rs. _____
Madras State at Rs. _____

Dated this _____ day of _____ 19 _____

(Signed) E.F.,
Advocate to the said O.D.

(Sd.) G.H.,
Registrar.

Form No. 58.

ORDER XXV, RULE 5.—PETITION FOR LETTERS OF ADMINISTRATION.
IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Testamentary and Intestate Jurisdiction.

Original Petition No. _____ of _____

In the matter of the goods of A.B. of (description) intestate, deceased.

1. C.D.
2. E.F. } Petitioners

OR

BETWEEN—

1. C. D.
2. E.F. } Petitioners

AND

1. G.H.
2. J.K. } Respondents.

Petition of C.D., under the Indian Succession Act, 1925: The above-named petitioner states as follows:—

1. C.D. the petitioner is (description and occupation) and resides at (address).

2. The address for service of petitioner for service of all notices and process is _____

3. That the said deceased left him surviving the following relations, namely:—

- 1. C D., your petitioner.
- 2. G.H. of (residence and description), his son.
- 3. J.K., the wife of L.M., of etc., his daughter and left no other relations.

4. That the deceased A.B. died intestate and that due and diligent search has been made for a will but none has been found, and your petitioner claims administration of his property estate, effects and credits as his

5. That the petitioner as (state relationship) of the deceased claims to be entitled to a share of his estate.

6. The amount of the assets which are likely to come to the petitioner's hands does not exceed in the aggregate the sum of Rs. and the net amount of the said assets, after deducting all items which the petitioner is by law allowed to deduct, is only of the value of Rs.

7. The petitioner hereby undertakes to duly administer the property and credits of the said A.B. deceased and to make a full and true inventory thereof and exhibit the same in this Court within six months from the grant of Letters of Administration to him and also to render to this Court a true account of the said property and credits within one year from the said date.

8. No application has been made to any District Court or Delegate or to any other High Court for letters of administration to his property and credits.

9. Your petitioner, therefore, prays:

(a) That letters of administration to the property and credits of the deceased to have effect throughout the whole of the Union of India (or limited to the State of Madras) may be granted to him.

I, , the petitioner above named do solemnly declare that what is stated in paragraphs is true to my own knowledge and that what is stated in the remaining paragraphs is true to the best of my information and belief and I believe the same to be true.

Form No. 58-A.

(Cause-title as in Form No. 58.)

1. That the petitioner is the of the said minor and the said minor lives with and under the care and protection of your petitioner.

2. That in order to protect the property left by the deceased and in the interests of the said minor your petitioner is desirous of applying to this Court for letters of administration and with that view to make a proper petition to this Court.

3. That your petitioner has no interest in the estate of deceased directly or indirectly adverse to the minor except so far as her maintenance is concerned.

4. Your petitioner prays that she as the of the said deceased and the mother of the said minor may be appointed guardian for the purpose of applying for letters of administration to the property and credits of the said deceased for the use and benefit of the said minor and limited to the period of his minority.

Declaration, etc.

Form No. 59.

ORDER XXV, RULE 5.—PETITION FOR LETTERS OF ADMINISTRATION WITH THE WILL ANNEXED.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Testamentary and Intestate Jurisdiction.

Petition of C.D. for the grant of Letters of Administration, with will annexed, to the property and credits of A.B., deceased.

The petition of C.D. showeth as follows:—

1. That the abovenamed A.B. died on the day of

2 That the said deceased at the time of death left property in Madras (and in the State of).

3. That the writing hereto annexed and marked _____ is his last will and testament.

4. That the said will was duly executed at _____ on the _____ day of _____

5. That by the said will the deceased appointed _____ the sole executor thereof (or no executor as the case may be), but he has since died, to wit, on the _____ day of _____ without having proved the said will, and that the petitioner is the _____ of the deceased.

6. The amount of assets which is likely to come to the petitioner's hands does not exceed in the aggregate the sum of Rs. _____ and the net amount of the said assets, after deducting all items which the petitioner is by law allowed to deduct is only of the value of Rs. _____

7. That the petitioner hereby undertakes to duly administer the property and credits of the said A.B. deceased in any way concerning his will by paying first his debts and then the legacies therein bequeathed so far as the assets will extend; and to make a full and true inventory thereof and exhibit the same in this Court within six months from the date of the grant of Letters of Administration with the will annexed to the petitioner, and also to render to this Court a true account of the said property and credits within one year from the said date.

8. That the deceased left _____ surviving him as his next-of-kin according to (*state the law*) residing at _____

9. That no application has been made to any District Court or Delegate or to any other High Court for probate of any will of the said deceased or Letters of Administration with or without the will annexed to his property and credits.

The petitioner prays that Letters of Administration with the will annexed may be granted to him as the _____ of the said deceased having effect throughout the Madras State (or throughout the whole of Union of India).

I, _____, the petitioner above named do declare that what is stated in paragraphs _____ is true to my own knowledge, and that what is stated in the remaining paragraphs is true to the best of my information and belief and I believe the same to be true.

Form No 59-A.

ORDER XXV, RULE 10.—CITATION TO BRING IN AN ALLEGED WILL.
IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Original Testamentary Jurisdiction.

Original Petition No. _____ of 19 _____

In the matter of the will of A.B., deceased.

(Cause-title.)

To

A.B. (Name, address, description).

WHEREAS _____ has applied to the High Court at Madras for a grant of probate (or Letters of Administration with will dated the _____ day of _____ 19 _____ annexed) of the property and credits of _____ and whereas it appears by the affidavit of _____ filed on _____ that a certain original paper or citation will and purporting to be testamentary, to wit, the last will issued on and testament of the deceased is now in your possession, or under your control.

Now it is hereby commanded that on or before the _____ day of _____ you do bring into and leave in the Registrar's Office on the Original Side

of our said Court or do send by registered post insured for not less than Rs. 1,000 to the said Registrar the aforesaid will now in your possession or within your power or under your control, and take notice that if you are unable to produce the same you are required to file in Court before the said day an affidavit of the cause of your inability so to bring in and deposit in Court the said will or declaration.

Witness the Honourable
aforesaid the day of
Hundred and

the Chief Justice at Madras
in the year One Thousand Nine

Registrar.

Hours of attendance of the Office of the Registrar in the High Court Buildings from 10-45 a.m. till 4 p.m.

This citation was taken out by Mr.
whose address for service is No.

Advocate for

, Madras.

On the day of

this citation was served by me.

Bailiff.

Form No. 60.

ORDER XXV, RULE 6—APPLICATION FOR SUCCESSION CERTIFICATE.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Testamentary and Intestate Succession.

Petition for succession certificate in respect of certain securities/debts belonging to the deceased A.B. under Part X of the Indian Succession Act.

C.D. Petitioner.

The abovenamed petitioner states as follows:—

1. The abovenamed deceased A.B. died at in or about the day of
2. The said deceased ordinarily resided and left property specified in the schedule hereto within the jurisdiction of this Court.
3. The deceased died intestate and that due and diligent search has been made for a will but none has been found

OR

The said deceased died leaving a will, dated and executed at a copy of which is hereto annexed and marked Exhibit A.

4. The said deceased at the time of his death left him surviving as his only next of kin residing at, etc.
5. The petitioner as the of the deceased claims to be entitled to a share of the estate.

OR

(State how he claims the property of the deceased.)

6. There is no impediment under section 370 of the Indian Succession Act, 1925. or under any other provisions of this Act or any other enactment to the grant of the certificate or the validity thereof if it were granted.

7. That the petitioner has truly set forth in Schedule No. 1 hereto the securities or debts in respect of which the certificate is applied for. The succession certificate is required for the purpose of (State purpose). The said assets in respect of which the succession certificate is required are of the value of Rs.

8. No application has been made to any District Court or Delegate or to any High Court for Probate of any will of the said deceased or for Letters of Administration with or without the will annexed to his properties and credits.

9. No application for a succession certificate in respect of any debt or security belonging to the estate of the said deceased has been made to any District Court or Delegate or to any High Court.

10. It is not intended to serve notice of this petition on any person (or notice of this petition may be served on _____ and notice to other persons may be dispensed with).

The petitioner therefore prays that a succession certificate may be granted to the petitioner with power to collect the debts and to receive the interest and dividends on and negotiate and transfer the securities specified in the schedule hereto.

SCHEDULE.

(Insert form in Schedule VIII of the Indian Succession Act, 1925.)

(Sd.) G.H.,

Advocate for the petitioner.

(Sd.) C.D.

I, _____ the petitioner above named do solemnly declare that what is stated in paragraphs _____ is true to my knowledge and that what is stated in paragraphs _____ is true to the best of my information and belief and I believe them to be true.

(Sd.) C.D.

Form No. 61.

ORDER XXV—GRANT OF PROBATE.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

BE IT KNOWN that on the _____ day of _____ One thousand nine hundred and _____ the last Will and Testament _____ copy whereof _____ hereunto annexed proved and registered in the said Court and administration of the property and credits of the said deceased and in anywise concerning his said Will, _____ was granted by this Court limited to the State of Madras to _____ the Executor _____ in the said Will named _____ having undertaken to administer the same and within six months from the date hereof to make a true inventory of the said property and credits, and to exhibit the same in this Court, and also within a year from the said date to render a true account of the estate of the said deceased, showing the assets that may have come to _____ hands, and the manner in which they have been applied or disposed of; and that the said assets have been declared not to exceed Rs. _____ as specified in the schedule hereto.

Given under the seal of the said Court at Madras aforesaid the _____ day of _____ in the year One thousand nine hundred and _____

Assistant Registrar, Original Side.

Form No. 62.

ORDER XXV—GRANT OF LETTERS OF ADMINISTRATION.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

BE IT KNOWN that on the _____ day of _____ One thousand nine hundred and _____ Letters of Administration limited to the State of Madras of the property and credits of _____ were granted by this Court, limited to the State of Madras, to _____ he _____ having undertaken to administer the same and within six months from the date hereof to make a true inventory of the said property and credits, and to exhibit the same in this Court and also within a year from the said date to render a true account of the estate of the said deceased showing the assets that may have come to _____ hands and the manner in which they have been applied or disposed of; and that the said assets have been declared not to exceed Rs. _____ as specified in the schedule hereto.

Given under the seal of the said Court at Madras aforesaid the _____ day of _____ in the year One thousand nine hundred and _____

Assistant Registrar, Original Side.

Form No. 83.

ORDER XXV, RULE 24—FORM OF BOND.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Testamentary Petition No. of 19

In the matter of

deceased,

KNOW ALL MEN by these Presents that We are jointly and severally bound unto THE HONOURABLE , THE CHIEF JUSTICE of the High Court of Judicature at Madras for the time being or his successors in office, in the sum of Rupees to be paid to the said his successors in office or assigns. For which payments to be made we bind ourselves and each of us, in the whole our and each of our heirs, executors, and administrators jointly and severally, by these presents.

Dated this day of

NOW THE CONDITION of the above written bond is such, that if the said shall within six months from the grant to him of letters of administration of the property and credits of late of deceased, or such further time as the said Court may appoint, exhibit in the said Court an inventory containing a full and true estimate of all the property in possession and all the credits, and also all the debts owing by any person, to which the said is entitled as administrator, and shall within one year from the said grant, or such further time, as the said Court may appoint, exhibit an account of the estate of the deceased, showing the assets which have come to his hands, and the manner in which they have been applied or disposed of and shall well and truly administer the said property, credits, and estate, according to law, and all the rest and residue of the said property, credits and estate, which shall be found remaining upon the said administration account, shall deliver and pay unto such person or persons as shall be lawfully entitled thereto. Then the above bond shall be void and of no effect, otherwise it shall remain in full force.

Severally signed, sealed and delivered by the above bounden in the presence of Assistant Registrar and Commissioner.

Form No. 63-A.

ORDER XXV, RULE 24—FORM OF BOND WHEN CHARGE IS CREATED BY THE SURETY.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Testamentary and Intestate Jurisdiction.

Original Petition No. of 19

In the matter of

deceased.

Petitioner.

KNOW ALL MEN BY THESE PRESENTS that I, (enter the name and address of the petitioner) the petitioner herein, and (enter the name and address of the surety) hereinafter called the surety are jointly and severally bound unto the Honourable Mr. the Chief Justice of the High Court of Judicature at Madras, in the sum of Rs. (in words) only, of good and lawful money to be paid unto the Honourable Mr. the Chief Justice of the said High Court for the time being, his successors in office or assigns, for which payment to be well and truly made, I (name of the petitioner) bind myself for the whole, my and each and every one of my heirs, executors and administrators and (name of the surety) the surety herein, do hereby bind myself for the whole, my and each and every one of my heirs, executors and administrators unto the said Honourable Mr. the Chief Justice of the said High Court for the time being, his successors in office or assigns, firmly by these presents. I (name of the surety) the surety herein, create a charge in favour of the Chief Justice of the High Court of Judicature at Madras,

over my interest in the (description of the property given) more particularly described in the schedule hereunder, over which I have an interest. I have full power to create this charge over my interest in the said property in favour of the Chief Justice of the said High Court for the payment of Rs. (in words) only.

Dated at Madras this day of 19 .

WHEREAS by an order of this Court made herein and dated the day of 19 (enter the text of the order) AND WHEREAS the Second Assistant Registrar by his order, dated the day of 19 (enter the order of the Second Assistant Registrar);

NOW THE CONDITION OF THE ABOVE WRITTEN BOND IS such that if the above bounden (name of the grantee) shall within six months from the grant to him/her of the Letters of Administration with the will annexed of the property and credits of (name of the testator), deceased, or such further time as the said court may appoint, exhibit in the said court an inventory containing a full and true estimate of all the property in possession and all the credits and also all the debts owing by any person to which the said (name of the petitioner) is entitled as administrator/administratrix and shall within one year from the said grant or such further time as the said court may appoint, exhibit an account of the estate of the said deceased, showing the assets which have come to his/her hands and the manner in which they have been applied or disposed of, and shall well and truly administer the said property, credits and estate which shall be found remaining upon the said administration account, shall deliver and pay unto such person or persons as shall be lawfully entitled thereto and shall if necessary have the accounts passed by a proper officer of this court and duly comply with all the orders that may be passed from time to time, then the above written bond shall be void and of no effect; otherwise it shall remain in full force and virtue.

I (name of the surety), the "surety" herein, do hereby declare that I have full title to the interest in the property mentioned hereunder and further covenant and undertake to make good any loss or damage that may be occasioned by any defect in title or otherwise, that there is no encumbrance existing on the said property, otherwise than the charge hereby created in favour of the Chief Justice of the said High Court for the due payment of the said sum of Rs. (in words) only. I also further undertake not to alienate my interest in the said property by way of gift, mortgage or otherwise without the specific sanction of this Court.

SCHEDULE.

Severally signed, sealed and delivered by the above bounden in the presence of

Second Assistant Registrar and Commissioner.

Advocate for the Petitioner.

Form No. 64.

ORDER XXV—AFFIDAVIT OF JUSTIFICATION.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Original Testamentary Jurisdiction.

Petition No. of 19 .

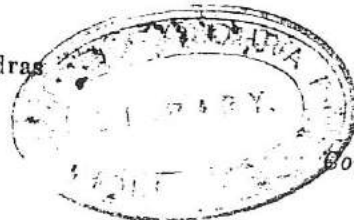
In the matter of the goods, chattels and credits of
make oath

I, _____ solemnly, sincerely and truly affirm and say that I am really and truly worth the sum of Rupees _____ of good and lawful money of the Union of India over and above what is sufficient to pay and discharge all my just debts, and over and above all sums for which I am now surety.

Sworn to

Solemnly affirmed at my Chambers
in the High Court House at Madras
this day of 19 .

Before me



Commissioner.

Form No. 65.

ORDER XXV RULE 24.—FORM OF BOND.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Original Testamentary Jurisdiction.

Petition No. _____ of 19 _____

*In the matter of**deceased*

KNOW ALL MEN by these presents that I, (or We), and We, Society, Limited, carrying on business in Madras at _____ through _____ (and hereinafter called the Society) are jointly and severally bound unto the Honourable _____ the Chief Justice of the High Court of Judicature at Madras, in the sum of rupees _____ of good and lawful money to be paid to the said Honourable _____ or the Chief Justice of the said High Court for the time being, or his _____ or assigns, for which payment to be made. $\frac{1}{we}$ do

hereby bind $\frac{myself}{ourselves}$ and each and every of us binds himself for the whole, $\frac{my}{our}$ and each and every of $\frac{my}{our}$ heirs, executors and administrators, and We, _____ the Society for ourselves and our successors, do bind and oblige ourselves, for the whole, unto the said Honourable _____ the Chief Justice of the said High Court, his successors in office or assigns firmly by these presents.

Sealed with our seals, dated the _____ day _____ in the year One thousand nine hundred and _____

Now THE CONDITION of the above written obligation is such, that if the above bounden _____ shall, within six months from the grant to $\frac{him}{them}$ of letters of administration of the property and credits of _____ late of _____ deceased, or such further time as the said Court may appoint, exhibit in the said Court an inventory containing a full and true estimate of all the property in possession and all the debts owing by any person, to which the said _____ is entitled as administrator, and shall, within one year from the said grant, or such further time as the said Court may appoint, exhibit an account of the estate of the said deceased, showing the assets which have come to $\frac{his}{their}$ hands and the manner in which they have been applied or disposed of, and shall well and truly administer the said property, credits and estate, according to law and all the rest and residue of the said property, credits and estate, which shall be found remaining upon the said administration account, shall deliver and pay unto such person or persons as shall be lawfully entitled thereto, THEN the bond shall be void and of no effect, otherwise it shall remain in full force.

Severally signed, sealed and delivered by _____ the above bounden in the presence of the Assistant Registrar and Commissioner.

Form No. 66.

Notice of application for Letters of Administration—Vide Form No. 57.

Form No. 67.

ORDER XXV, RULE 46 — INVENTORY TO BE FILED BY AN EXECUTOR OR ADMINISTRATOR.

(Cause-title.)

Inventory of the property and credits of the abovenamed A.B., deceased. I, C.D., of etc., solemnly affirm and declare (or make oath and say), as follows:—

(1) On the _____ day of _____ probate of the will (or letters of administration of the property and credits) of the abovenamed A.B., deceased, was (or were) granted to me by this Court.

(2) The inventory hereunder set forth contains a full and true estimate of all the property in the possession of, and all the credits of, and all the debts owing by any person to the said deceased to which I am entitled as such executor (or, administrator) as aforesaid.

INVENTORY.

Serial No.	Description of property.	Person now in possession thereof.	Incumbrances.	Net amount of value.
	<i>Movable property.</i>			RS. A. P.
1	Cash			
2	Currency Notes			
3	Furniture, household goods, wearing apparel			
4	Jewellery, bullion, precious stones.			
5	Stock-in-trade, good-will of business, share of partnership			
6	Government Securities			
7	Shares, stock or debentures, or other securities of public companies			
8	Moneys received on a policy of insurance on the life of the deceased in the company, dated No. _____			
9	Moneys secured on the following property			
10	Moneys secured on the following immovable property			
11	Other credits of the deceased			
	<i>Immovable property.</i>			
12	Land			
13	Houses			
14	Other immovable property			
15	Movable and immovable property not falling under any of the above heads.			

(3) I have not received, nor am I entitled to, as such executor (or, administrator) as aforesaid, any property, credits or effects other than those above set forth.

Solemnly affirmed (or, sworn) by the _____ day of _____ at _____

said C.D. this

(Signed) C.D.

Before me.

(Signed) E.F.

DESCRIPTION.

HIGH COURT, MADRAS

No. 68.

ORDER SECTIONS 360 AND 367 OF ACT XXXIX
OF 1925.

Notice.

deceased.
persons claiming debts or liabilities
of deceased who
on the day of 19
the letters of administration (with copy
of his estate) having effect throughout
the day of
are hereby required to send in their
at the office of his advocates within one
month of the expiration of which time the
assets to the persons entitled thereto
which he shall then have notice.

19

No. 69.

(Succession Act).

No. 70.

NOTICE OF FILING OF CAVEAT.

(In re-title.)

of E.F. of
caveat against the grant of probate (or
above matter.

(Signed) _____,
Registrar.

Form No. 68.

ORDER XXV, RULE 50.—NOTICE UNDER SECTIONS 360 AND 367 OF ACT XXXIX OF 1925.

Notice.

Notice is hereby given that all persons claiming debts or liabilities affecting the estate of the abovenamed deceased who died at _____ on or about the _____ day of _____ 19 _____ and the probate of whose will [or the letters of administration (with copy of the said will annexed) of whose estate] having effect throughout

Union of India State of Madras was (or were) granted on the _____ day of _____ 19 _____ to _____ of Madras, are hereby required to send in their claims to the said _____ Executor Administrator at the office of his advocates within one calendar month from the date hereof at the expiration of which time the said _____ Executor Administrator will hand over the assets to the persons entitled thereto having regard only to the claims of which he shall then have notice.

Dated the _____ day of _____ '19 .
 _____ Executor's
 _____ Administrator's Advocate, Address.

Form No. 69.

(Caveat)—(Vide Succession Act).

Form No. 70.

ORDER XXV, RULE 51.—NOTICE OF FILING OF CAVEAT.

(Cause-title.)

To A.B. (the petitioner)
 And C.D. his Advocate.
 At (address for service).

Take notice that on the _____ day of _____ E.F. of
 (address and description) lodged a caveat against the grant of probate (or
 letters of administration) in the above matter.

Form No. 70-A.

ORDER XXV—CITATION.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

*Testamentary and Intestate Jurisdiction.**Original Petition No. of 19**Testamentary Original Suit No. of 19**In the matter of the Last Will and Testament of (deceased).*

BETWEEN

Petitioner (plaintiff)

AND

Caveator (defendant).

To

(Address and name of the defendant.)

WHEREAS the plaintiff-petitioner abovenamed has applied to this Hon'ble Court for grant of Probate/Letters of Administration with will annexed of the property and credits of (deceased), WHEREAS by your filing a caveat the same has been numbered as a suit in which the petitioner is the plaintiff and you are the defendant, WHEREAS the said suit is now pending in our said Court you are hereby summoned to appear in our said Court on the day of 19 at 10-45 a.m. in the forenoon in person or by Advocate to answer the plaintiff's claim in respect of the said grant of Probate and to bring with you any document in support of your defence and also take notice that if you intend to defend the suit you must file in Court a written statement stating the grounds of your defence not less than fourteen days before the said day of 19 .

Witness the HONOURABLE Mr. ,
aforesaid, this day of ,
and fifty

CHIEF JUSTICE at Madras
One thousand nine hundred

*Advocate for plaintiff.**Bench Clerk, Original Side.*

Hours of attendance at the office of the Registrar, High Court, from 10-45 a.m. to 4 p.m.

This shall be served within twenty-one days from the date hereof.

This citation was taken out by Mr. , Advocate for plaintiff, whose address for service is at

On the day of 19 this citation was served by me.

Bailiff.

Form No. 70-B.

ORDER XXV.—CITATION TO THE EXECUTOR.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

*Testamentary and Intestate Jurisdiction.**Original Petition No. of 19**Petitioner.*

To

(Name and address of the Executor.)

WHEREAS it appears by the petition of filed on that died on at having made and duly executed his Last Will and Testament, dated and thereon appointed

as executors and WHEREAS it further appears from the said petition that you have declined to join in the Petition for the issue of Probate.

Now it is hereby commanded that within seven days after service hereof on you you do cause an appearance to be entered for you in the above and either accept or refuse the executorship under the said will or show cause why probate with the said will annexed should not be granted to the said and TAKE NOTICE that in default of your so appearing and accepting or renouncing the executorship under the said will, the Court will proceed to grant the Probate with the said will annexed for the estate of your absence notwithstanding.

Witness the Honourable Mr. _____, Chief Justice at Madras
aforesaid this _____ day of _____ 19____.

Advocate for the plaintiff.

Bench Clerk, Original Side.

Hours of attendance at the Office of the Registrar, High Court, Madras, from 10-45 a.m. to 4 p.m.

This citation was taken out by Mr. _____, Advocate for the
Petitioner, whose address for service is at No. _____.

On the _____ day of _____ 19____ this citation was served
by me.

Bailiff.

Form No. 71

ORDER XXV, RULE 62.—CITATION TO BRING IN PROBATE.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Original Testamentary Jurisdiction.

To (Name, description and address);

Whereas it appears by an affidavit of _____ (*the defendant*)
filed in our said Court that probate of the alleged last will (with a codicil or
codicils thereto) of _____ deceased was on the _____ day of _____
granted to you by our said Court, and that the
said deceased died a bachelor without, etc. (*as the case may be*), and that the
said _____ is one of the brothers and next of kin of the
said deceased or interested under a former will of the deceased bearing
date, etc. (*as the case may be*), and that the said probate ought to be
called in and revoked; and whereas the above suit, in which you are made
plaintiff and the said _____ defendant, is now pending in our
said Court;

Now, it is hereby commanded that on the _____ day of _____
you do bring into and leave in the Registrar's Office on the Original Side
of our said Court the aforesaid Probate and do proceed in our said Court
to prove the said alleged Will (with the codicil or codicils thereto) in solemn
form of law (*or* establish the validity of the said Probate); and take notice
that _____ o'clock in the forenoon of the said day is fixed for the
first hearing of the said suit, at which time the said
(*the defendant*) will appear to answer you, either in person or by his
advocate duly instructed and able to answer all material questions, and that
you are required to give the said defendant reasonable notice to bring or
send on the said day any document which you may desire to have produced.

Witness, etc.

Seal.

Registrar.

Form No. 72.

ORDER XXV, RULE 62.—CITATION TO BRING IN LETTERS OF ADMINISTRATION.

(Heading as in Form No. 64.)

To (Name, description and address):

Whereas it appears by an affidavit of (the defendant) filed in our said Court that Letters of Administration of the property and credits of deceased, were granted to you by our said Court as the brother and next of kin of the said deceased on the suggestion that the said had died intestate; and that it has since been discovered that the said made and duly executed his last Will, dated whereof he appointed executor (or as the case may be), and that the said Letters of Administration ought to be called in and revoked.

Now it is hereby commanded that on the day of you do bring into and leave in the Registrar's Office on the Original Side of our said Court, the said Letters of Administration, and do proceed to establish the validity of the grant to you of the said Letters of Administration. And take notice that o'clock in the forenoon of the said day is fixed for the first hearing of the said suit, at which time the said (the defendant) will appear and answer you, either in person or by his advocate duly instructed and able to answer all material questions, and that you are required to give the said defendant reasonable notice to bring or send on the said day any document which you may desire to have produced.

Witness, etc.

Seal.

Registrar.

Form No. 73.

ORDER XXVII, RULE 5.—SUMMONS IN MATRIMONIAL SUIT. IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Ordinary Original Matrimonial Jurisdiction.

O.M.S. No. of 19 .

In the matter of the Indian Divorce Act of 1869.

Petitioner.

AND

Respondent. Co-Respondent.

To

WHEREAS on the day of 195 the abovenamed Petitioner has instituted a suit against the Respondent for dissolution of marriage by filing a petition copy whereof accompanies the copy of the summons, you are hereby summoned to appear in this Court on the day of 19 at (10-45) o'clock in the forenoon in person or by advocate duly instructed and able to answer all material questions relating to the suit or who shall be accompanied by some other person able to answer all such questions in the abovenamed suit and that in default of your appearance on the day beforementioned the issues will be settled and the suit heard and determined in your absence and you will bring with you or send by your advocate any document which the petitioner desires to inspect and any document on which you intend to rely in support of your defence.

Petition presented on

Petition filed on

Summons issued on

You are directed to file a written statement in Court on the _____ day of _____ in the date of _____ you are required to appear.

Witness my hand and seal at Madras _____ day of _____ in the year _____

Second Assistant Registrar

N.B. This order is to be served within _____ date of _____ the time for the service order of _____

Show that your witnesses will not appear and you cannot be issued to compel attendance and production of documents that you have a right to produce to the Court at any time deposited with the Court for the necessary fees and subsistence.

This order is taken out by Mr. _____ address _____ No. _____, Advocate

Form No. 74.

ORDER OF THE COURT.—REPORT OF COMMISSIONER OF PARTNERSHIP ACCOUNTS (Cause-title.)

Report of the Commissioner, appointed dated the _____ day of _____

1. In compliance of the said decree, I have prepared the said report, and the papers and documents therein mentioned, and the proceedings is annexed thereto. The names of the witnesses examined before me.

2. The assets and effects of the said partnership are set out in Schedule I hereto, and the liabilities and effects still outstanding of the said partnership are mentioned in the said Schedule II hereto respectively in the total value of the sum of Rs. _____ mentioned therein are irrecoverable or valueless and are not included in the assets of the partnership.

3. The liabilities of the said partnership are set out in Schedule III hereto and amount to the sum of Rs. _____ advanced to the firm by the several partners.

4. The amounts of the advances made to the partners are set out in Schedule IV hereto.

5. After deducting from the total estimated assets of the partnership the amounts due from the partners to advances and costs of Rs. _____ for the estimated costs of the partnership, there remain the sum of Rs. _____ net profit of the partnership.

6. The shares of the several partners in the net profit on account of profits, are set out in Schedule V hereto.

You are required to file a written statement with the Registrar of this Court on or before the _____ day of _____ 195____, i.e., three days before the day on which you are required to appear.

Witness, THE HON'BLE _____, Chief Justice at
Madras, the _____ day of _____ in the year One thousand nine
hundred and _____

Second Assistant Registrar (or Bench Clerk).

N.B.—This summons is to be served within 14 days before the aforesaid date of hearing unless the time for the service thereof be extended by an order of the Court.

Should you apprehend your witnesses will not attend of their own accord you can have summons issued to compel attendance of any witness and the production of any document that you have a right to call on the witness to produce on applying to the Court at any time before the trial on your depositing their necessary fees and subsistence money.

This summons was taken out by Mr. _____, advocate, whose address for service is No. _____, Advocates' Chambers.

Form No. 74.

ORDER XXXII, RULE 8.—REPORT OF COMMISSIONER APPOINTED TO TAKE THE PARTNERSHIP ACCOUNTS.

(Cause-title.)

Report of E.F., the Commissioner, appointed by the decree herein, dated the _____ day of _____.

1. In pursuance of the said decree, I have examined the books and papers of the partnership therein mentioned, and taken the account thereby directed. A copy of my proceedings is annexed hereto, and appendix I thereto sets out the names of the witnesses examined, and appendix II the documents proved, before me.

2. The credits, property and effects of the said partnership consist of the particulars specified in Schedule I hereto, whereof Part I sets out assets in hand, and Part II assets still outstanding. I estimate the value of the several particulars mentioned in the said schedule at the several amounts set opposite thereto respectively in the third column, and the total value thereof at the sum of Rs. _____. The particulars mentioned in Schedule II are irrecoverable or valueless and I have therefore not included them in the assets of the partnership.

3. The debts and liabilities of the said partnership are specified in Schedule III hereto and amount to the sum of Rs. _____. and including advances made to the firm by the several partners amount to Rs. _____.

4. The particulars of the advances made to the firm by the several partners are set forth in Schedule IV hereto.

5. After deducting from the total estimated value of the assets of the partnership the total amounts due from the firm to third parties, the sums due to the partners to advances and capital, and the sum of Rs. _____ for the estimated costs of this suit, as specified in Schedule VI hereto, there remain the sum of Rs. _____, the estimated profits of the partnership.



respectively for capital advances, and profits and the balances due to or by them respectively, are set forth in Schedule V hereto, under their respective names.

(Or, if there has been a loss.—5. The debts and liabilities of the partnership together with the estimated costs of this suit, as shown in Schedule VI hereto, exceed the estimated value of the assets by the sum of Rs. _____ which must be debited to the several partners in the following sums to the plaintiff, Rs. _____, to the first defendant, Rs. _____ and to the second defendant the sum of Rs. _____)
(6. The separate accounts of the several partners, showing the balance due from them respectively, are set forth in Schedule V hereto, under their respective names.)

7. In taking the said accounts I have disallowed the payments and items specified in Schedule VII hereto, for the reasons set out in column 4 thereof and the same are repayable to the partnership by the several persons mentioned in column 2, and are included in Part II of Schedule I as outstanding of the firm.

SCHEDULE I.

ASSETS.

Serial number.	Description.	Amount.			Estimated value.		
		RS.	A.	P.	RS.	A.	P.
<i>PART I.—In hand.</i>							
1	Cash with Plaintiff	1,500	0	0			
2	Cash with Defendant No. 1						
3	Cash with Receiver						
4	Cash in Court						
5	Stock in hands of Plaintiff .. .. .	....			1,200	0	0
	Total ..						
<i>PART II.—Outstanding.</i>							
6	Pro-note of X. Y.	1,000	0	0			
7	Goods consigned to L. M. .. .. .	....			1,000	0	0
8	Payment disallowed to Plaintiff as per Schedule VII, items 1 and 4.						
	Total ..						

SCHEDULE II.

IRRECOVERABLE ASSETS.

Serial number.	Description of property.	Amount.		
		RS.	A.	P.

RULES OF THE HIGH COURT, MADRAS

SCHEDULE III.
DEBTS AND LIABILITIES.

Serial number.	Description.	Amount.
PART I.— <i>To third parties.</i>		
1	To P.Q. for rent	RS. A. P. 120 0 0
PART II.— <i>To partners.</i>		
2	To A.P. Plaintiff, for advance to the firm as per Schedule IV.	
	Total ..	

SCHEDULE IV.
ACCOUNTS OF PARTNERS' ADVANCES
Plaintiff's account.

Dr.			Cr.		
Date.	Items.		Date.	Items.	
	Amount drawn, with interest from to per annum.	RS. A. P.		Advance ..	RS. A. P.
	Balance ..			Interest from to.	
	Total ..			Total ..	

First defendant's accounts.
(Set out account as above.)

SCHEDULE V.
ACCOUNTS OF THE SEVERAL PARTIES.
Plaintiff's account.

Dr.			Cr.		
		RS. A. P.			RS. A. P.
1	Drawn on account of profits.		1	By capital ..	
2	By balance ..		2	By $\frac{1}{3}$ share of profits.	
	Total ..			Total ..	

(Set out accounts of other partners, and persons entitled to share profits, showing whether there is a balance due to or from each of them. If there be a loss the share of loss will appear on the debit side, instead of the share of profits on the credit side.)

SCHEDULE VI.

ESTIMATE OF THE COSTS OF SUIT.

				RS.	A.	P.
(1)	Costs of plaintiff .. .. .	..	..	..	..	..
(2)	Costs of First defendant .. .. .	..	..	..	..	..
(3)	Costs of Second defendant .. .. .	..	..	..	..	..
(4)	Costs of Third defendant .. .. .	..	..	..	..	..
(5)	Costs of Fourth defendant .. .. .	..	..	..	..	..
(6)	Remuneration of Commissioner at Rs.	..	..	per	..	..
	day of hours .. .. .	..	..	..	..	..
				Total ..		

SCHEDULE VII.

Amounts disallowed.

Serial number.	Party chargeable.	Description of item and reference to partnership books.	Reasons for disallowance.	Amount.
				RS. A. P.
1	Plaintiff ..	1st July 98. Ledger No. 1 p. for charity.	This is not authorized by the partnership agreement or the usage of the partners.	
2	1st defendant.	1st August 99 Ledger No. 41 p.	This is on account of 1st defendant's private residence.	
3	2nd defendant.	....	..
4	Plaintiff ..	To X. Y. for rent ..	..
				Total ..

Dated the _____ day of _____ 19 .

(Signed) E.F.,
Commissioner.

Form No. 75.

ORDER XXXII, RULE 22.—ORDER FOR COMMISSION TO EXAMINE WITNESSES,
IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Ordinary Original Civil Jurisdiction.

No. _____ of 19 .

The Hon. Mr. Justice _____ (or, Before the Master)
Between:—
A. B. — Plaintiff.
and
C. D. Defendant.

Upon the application of Mr. _____
 for the _____ and upon reading the Master's summons issued
 herein and dated the _____ day of _____ 19 _____; and also the affidavit of
 solemnly affirmed to on the _____ day of _____ and filed on the
 day of _____ 19 _____;

It is ordered that a commission do issue out of and under the seal of this Court
 directed to _____ requesting him on the part and behalf of the _____
 to take the examination, cross-examination and re-examination on interrogatories
 or *viva voce* of the persons mentioned in the schedule hereto. _____ and
 to receive all documents produced and mark them as exhibits, and to make return
 of the said commission on or before the _____ day of _____ 19 _____.

AND IT IS FURTHER ORDERED, that the parties hereto be at liberty to
 appear before the said Commissioner either in person or by their agent or advo-
 cates, and that should they not so appear the said Commissioner may proceed
ex parte and that the costs of, and incidental to, this application, and the order
 made thereon and of examining the said witnesses and of taking office copies of
 his or their depositions do abide the event of this suit, and that the issuing of the
 said commission be a stay of proceedings in the meantime.

Dated this _____ day of _____ 19 _____.

SCHEDULE.

Name.	Description.	Residence.

Form No. 76.

ORDER XXXII, RULE 22.—FORM OF COMMISSION.

(Heading as in Form No. 75.)

To

Whereas the evidence of the persons mentioned in the schedule hereto is
 required by the _____ in the above suit; you are requested to take the
 examination, cross-examination and re-examination on interrogatories or *viva*
voce of such witnesses _____ you are hereby appointed a Commissioner for the
 purpose, and you are further requested to make return of such commission on or
 before the _____ day of _____ 19 _____.

Witness, THE HONOURABLE _____ *Chief Justice*, at Madras the
 day of _____ in the year one thousand nine hundred and _____

SCHEDULE.

Name.	Description.	Residence.

Form No. 77.

ORDER XXXIII, RULE 1.—TAKING OF SECURITY.

(Cause-title.)

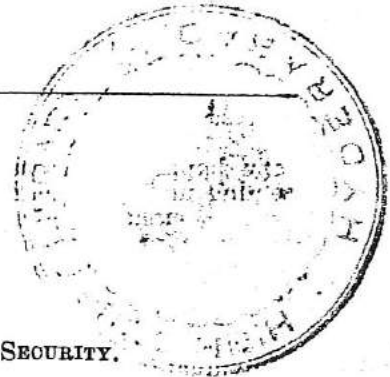
Let all parties concerned attend before the Assistant Registrar, Original Side, at his chambers in the High Court Buildings, Madras, to proceed with the taking of security in pursuance of the order made herein on the _____ day of _____ 19____ and to examine into the sufficiency as sureties of the persons hereunder mentioned.

Dated this _____ day of _____ 19____ .

L. S.

Registrar.

Name.	Address.	Description of property of surety.



Form No. 78.

ORDER XXXIV, RULE 2.—TAKING OF SECURITY.

(Cause-title.)

Let all parties concerned attend before the Assistant Registrar (Original Side) at his Chambers in the High Court Buildings, Madras, to proceed with the taking of security in pursuance of the order made herein on the _____ day of _____ 19____, and to examine the sufficiency of the property hereunder mentioned.

Dated this _____ day of _____ 19____ .

Description of property.

Form No. 79.

ORDER XXXIV, RULE 3.—BOND TO BE GIVEN BY A PERSON APPOINTED TO THE PANEL OF RECEIVERS.

KNOW ALL MEN BY THESE PRESENTS that I/we _____ son of _____ and son of _____ are held jointly and severally bound unto the Registrar, High Court, Madras, in the sum of Rs. 5,000 to be paid to the said Registrar his successors or assigns for which payment well and truly to be made, I/we bind myself/ourselves, my/our heirs, executors, administrators and representatives jointly and severally and each one of us binds himself, his heirs, executors, administrators and representatives jointly and severally firmly by these presents and I/we do as security for the said payment mortgage unto the said Registrar the immovable property set forth and described in the schedule hereto of which I/we, or AB of us is/are possessed to which I am/we are—AB of us is solely entitled, and which is hereby declared to be free from any mortgage and other encumbrance save the one created by these presents.

Sealed with our seals this day of 19 .
 WHEREAS the above bounden was on the day of appointed to the panel of Receivers under Order XXXIV of the Original Side Rules, High Court, Madras, and whereas by virtue of such appointment he may from time to time be appointed by the High Court as Receiver, Trustee, Manager or Guardian of an estate or estates or as Commissioner to deal with any property, or as liquidator of any Company and whereas by virtue of such appointment or appointments, the said has or will have amongst other duties the care, charge, oversight of and responsibility for the immovable property vested in him and also the care, charge and oversight of and responsibility for the safe and proper storing and keeping in the place appointed for the custody thereof respectively of all moneys and other movable properties received by him or entrusted to him;

NOW THEREFORE the condition of the above bounden bond is such that if the said shall while he shall hold or execute the said office or offices to which he may be appointed as aforesaid, always duly perform and fulfil all and every the duties thereof and perform and observe all and every the rules of the High Court and the orders of Court that may be passed from time to time in respect of the estate or estates or properties of which he may be in charge, by virtue of his appointment to the said office or offices and further if the said do and shall indemnify and save harmless the individual estates and companies coming under his management by virtue of such appointment or appointments as aforesaid and against all loss or damage which during the time the said has held and executed the said office or offices may happen to or be sustained by the individual estates and companies coming under the management of the said as receiver, trustee, manager, guardian, commissioner or liquidator, as the case may be, by, from or through the neglect, failure, misconduct, misappropriation, disobedience, omission or insolvency of the said and if the said shall at all times indemnify the individual estates and companies coming under his management as aforesaid from and against all claims, demands and actions which may be made against the individual estates and companies coming under his management and all losses, expenses and damages which may be sustained or incurred by the individual estates and companies coming under his management by reason of any of his acts or defaults during the time he shall hold or execute the office or offices aforesaid. Then the above written bond shall be void but otherwise it shall remain in full force and virtue.

Signed and sealed and delivered by the abovenamed in the presence of
Schedule of property.

Form No. 80.

ORDER XXXIV, RULE 4.—ORDER APPOINTING RECEIVER.

(Cause-title.)

It is ordered that A.B. be, and he is hereby appointed the receiver of the movable property, and of the rents, issues and profits of the immovable property, belonging to the estate of in the pleadings in the suit named, with power to get in and collect the outstanding debts and claims due to the estate of the said and with all the powers provided for in Order XL, Rule (1) (d) 2, of the Code of Civil Procedure, except that he shall not, without leave of the Court, (1) grant leases for a term exceeding three years, or (2) bring suits in a District Court or a Subordinate Judge's Court except suits for rent, or (3) institute an appeal in any Court (except from a decree in a rent suit) where the value of the appeal is over Rs. 1,000 or (4) expend on the repairs of any property in any period of two years more than half of the net annual rental of the property to be repaired such rental being calculated at the amount at which the property to be repaired would be let when in a fair state of repair. And it is further ordered that the parties / defendants

and all persons claiming under them do deliver up quiet possession of the said property, movable, and immovable of the said together with all leases, agreements for lease, account books, papers, memoranda and writings relating thereto, to the said receiver. And it is further ordered that the said receiver do take possession of the said property, movable and immovable, and collect the rents, issues and profits of the said immovable property, and that the tenants and occupiers do attorn and pay their rents in arrear and growing rents to the said receiver. And it is further ordered that the said receiver shall have power to bring and defend suits in his own name, and shall also have power to use the name of the plaintiffs and defendants who are to be indemnified out of the estate and effects of the said . And it is further ordered that the receipt or receipts of the said receiver shall be a sufficient discharge for all such sum or sums of money or property as shall be paid or delivered to him, as such receiver as aforesaid.

And it is further ordered that the said receiver do out of the first money to be received by him pay the debts due from the said and shall be entitled to retain in his hands the sum of Rs. 100 for current expenses, but subject thereto, shall pay his net receipts, so soon as the same come to his hands, into Court to the credit of this suit. He shall once in every six months file his accounts and vouchers in Court, the first account commencing from the date of appointment and brought down to the end of six months, to be filed within ten days, be filed on the day of

and to be passed before the Official Referee or other officer of this Court on the day of . He shall be entitled, on his passing his accounts to draw, from the moneys in Court to the credit of the suit or matter a commission at the rate of 5 per cent on the net amount collected by him as his remuneration (or to the sum of Rs. per month, or as the case may be), as his remuneration, (or, he shall act without any remuneration).

And it is further ordered (*where an additional office establishment is sanctioned*) that the said receiver shall be allowed to charge to the estate in addition to his own office establishment, the following further establishment:—

* * * * *

And the further consideration of this suit is adjourned to the day of

Form No. 80-A.

ORDER XXXIV.—RECEIVER'S OWN BOND.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Ordinary Original Civil Jurisdiction.

C.S. No. of

Application No. of

(Cause-title.)

1. KNOW ALL MEN BY THESE PRESENTS THAT I am bound unto Sri , the Registrar of the High Court of Judicature at Madras in the sum of Rs. (Rs.) of good and lawful money to be paid unto the said Sri the Registrar of the said High Court for the time-being or his successors-in-office or assigns for which payment to be well and truly made, I do hereby bind myself in the whole, my and each and every one of my heirs, executors, administrators and legal representatives firmly by these presents.

Dated at Madras, day of 19 .

2. WHEREAS by order made herein and dated the day of of 19 in Application No. of 19 in C.S. No. of 19 on the file of the High Court, Madras, Mr. was appointed as the Receiver of rents, issues and profits of the immovable property, viz., with power to get in and collect the outstanding debts and claims due in respect of the said property and with

all the powers provided for in Order XL of the Code of Civil Procedure, to take possession of the said immovable property and to pay out of the first moneys to be received by him the Municipal and other public charges due in respect of the said property, to bring and defend suits in his own name and to use the name of the plaintiff and defendant, and to retain in his hands, a sum of Rs. 100 for current expenses, but subject thereto, to pay the net receipts so soon as the same come into his hands into Court to the credit of this suit.

3. AND WHEREAS by the said order the said was in respect of his appointment as such receiver directed to furnish security in his own bond in favour of the Registrar of this Court for a sum of Rs. (Rs.) on or before the day of 19 . AND WHEREAS by order, dated the day of 19 in Application No. of 19 , the time for furnishing such security was extended till the day of 19 .

4. NOW THE CONDITION OF THE ABOVE BOND is such that if the said Receiver duly takes possession of, collects and accounts for the rents, issues and profits of the said immovable property and all other sums of money which he may receive as such receiver and files his account and vouchers in court once in every six months, the first of such accounts brought up to 19 and being filed on or before the day of thereafter, gets the same passed by the proper officer of this court and pays the amount due on such half-yearly accounts, into court to the credit of this suit and otherwise duly complies with all the terms of the said order, dated , and such other orders of court as from time to time be made herein, then the above bond shall be void and of no effect; otherwise it shall remain in full force and virtue.

Signed, sealed and delivered by the abovenamed bounden in the presence of.

Second Assistant Registrar
and
Commissioner.

Form No. 80-B.

CHARGE OVER PROPERTY.

1. Same as in Receiver's own bond.

And I/we do hereby create a charge over the property more fully described in the schedule hereunder in favour of the Registrar of this Court for the due payment of the said sum of Rs. (in words). (To be added at the end of the first paragraph).

2 to 4. Same as above.

5. Same as in the guardian bond creating charge over property.

SCHEDULE.

Signed, sealed and delivered by the abovenamed bounden in the presence of.

Assistant Registrar
and
Commissioner.

Form No. 81

ORDER XXXIV, RULE 4.—RECEIVER'S STATEMENT OF ACCOUNT TO BE FILED UNDER RULE 4, ORDER XXXIV.

(Cause-title.)

- 1 Name and address of the Receiver.
- 2 Number of the account.
- 3 Period for which the account relates:

From
To



ORIGINAL SIDE, 1956

203

Serial number.	Date.	Of whom received or to whom paid.	Nature of the receipt or disbursement.	Amount received.	Amount disbursed.
(1)	(2)	(3)	(4)	(5)	(6)
			Opening balance	_____	_____
Total Rs.				_____	_____

[N.B.—In column (4), full particulars should be given of the nature of the receipt or disbursement, e.g., where the receipts are rents derived from property and the disbursements are taxes paid, the property in respect of which and the period for which the rent is received or the tax is paid should be mentioned in column (4). Where the collections are rents from property, a disbursement of the arrears due from each tenant as on the last date of the account should be filed.]

At the end of the account there should be an abstract in the following form:—

Abstract of the account.

Opening balance	...	...	...	...	Rs.
Collections during the period (including monies drawn from Court, if any)	...	...	...	...	Rs.
Total Rs.					_____
Disbursements	...	...	...	Rs.	
Payments into Court	...	...	...	Rs.	
_____					Rs.
Closing balance	...	...	...	...	Rs.
(In case there is a Bank Account)					
Balance at Bank	...	...	...	...	Rs.
Cash on hand	...	...	...	...	Rs.

Form No. 82.

ORDER XXXIV, RULE 4.—AFFIDAVIT VERIFYING RECEIVER'S ACCOUNT.
(Cause-title.)

I, _____ of _____ the _____ Receiver appointed in the above matter make oath (do solemnly affirm) and say as follows:—

That (the accounts hereunto annexed and marked "A" contain a full and true account of my receipts and payments in the above matter) from the day of _____ 10 to the day of _____ 19 inclusive (and that I have not nor has any other person by my order or for my use during such period, received or paid any moneys on account of the said matter (other than and except the items mentioned and specified in the said account).

(Sworn or solemnly affirmed).

NOTE.—In the case of no receipts and payments the words within brackets should be omitted.

RULES OF THE HIGH COURT, MADRAS

Form No. 88.

ORDER XXXVI, RULE 1.—NOTICE OF APPEAL TO RESPONDENT.
IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Appeal No. _____ of 19 ____ .

Appellant.
Respondent.

To

Respondent.

Take notice that the abovenamed appellant has preferred to this Court an appeal (a copy of the memorandum whereof is hereto annexed) from the judgment of the _____ in suit No. _____ of 19 ____, wherein you were _____

If you intend to defend the appeal you must enter your appearance in person or by advocate by filing a notice to that effect with the Registrar in Form No 83 (a) appended to the Rules of the High Court, within 14 days from the date of the service of this notice upon you. In default of appearance being entered, the appeal will proceed and be heard and decided *ex parte* in your absence and without further notice.

(Signed) _____

Form No. 83 (a).

ORDER XXXVI.—MEMORANDUM OF APPEARANCE TO AN APPEAL.
IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Appeal No. _____ of 19 ____ .

Appellant.
Respondent.

(Name of the respondent) _____ the respondent abovenamed enters his appearance and intends to defend this appeal.

Dated this _____ day of _____

(Signed)

(by the party or advocate)

To the Registrar, High Court, Madras.

Form No. 84.

ORDER XXXVII, RULE 2.—PLAINT IN A SUIT BY MORTGAGEE FOR PERSONAL DECREE AND SALE.

(Cause-title.)

Plaint.

A.B., the abovenamed plaintiff, states as follows:—

1. } Proceed as in paragraphs 1 and 2 of Form No. 5
2. }

3. By way of security for moneys advanced to, and owing by, the defendant to the plaintiff an instrument of mortgage was executed by the defendant in the plaintiff's favour on the _____ day of _____, mortgaging certain property situated within the jurisdiction of this Court and described in the schedule hereto annexed.

4. The plaintiff has caused a search to be made in the register of assurances of the sub-district in which the said property is situated and is not aware of any incumbrances on the said property, other than those herein mentioned, or of any person possessing an interest in the said property, other than those who are made parties to this suit.

5. There is now due from the defendant to the plaintiff on the said mortgage the sum of Rs. _____ (here enter aggregate amount of principal and interest), of which Rs. _____ is principal and Rs. _____ interest.

6. The plaintiff prays:—

(a) that the Court will order the defendant to pay to him the said sum of Rs. _____ with such further interest as may accrue between the filing of the plaint and the date of payment, and also the costs of this suit, on some date to be named by the Court, and in default that the said property may be sold, and the proceeds (after defraying thereout the expenses of the sale) applied in and towards the payment of the amount of the said principal, interest and costs;

(b) that, if such proceeds shall not be sufficient for the payment in full of such amount, the defendant may be ordered to pay to the plaintiff the amount of the deficiency with interest thereon at the rate of six per cent per annum until realization; and

(c) that for that purpose all proper directions may be given and accounts taken by the Court.

Enter verification as in Form No. 5 .

SCHEDULE.

Serial number.	Description of the mortgaged property.	Incumbrances.		
		Date.	Short description.	Owner.

(Signed) E. F.

Advocate of Plaintiff.

(Signed) A.B.,

Plaintiff.

Form No. 85.

ORDER XXXVII, RULE 2.—PLAINT IN A SUIT UPON A MORTGAGE OF ANCESTRAL PROPERTY OR OF THE PROPERTY OF AN UNDIVIDED HINDU FAMILY.

(Cause-title.)

Plaint.

1. }
2. } Proceed as in paragraphs 1, 2 and 3 of Form No. 84.
3. }

4. (In the case of a mortgage of ancestral property by the Hindu father or sons).—The defendant A is the father of the defendant B, and he was previously to the execution of the said mortgage indebted to the plaintiff in the amount, for which the said mortgage was given as security. (Or, in the case of a mortgage by the manager of an undivided Hindu family.) The defendant A is the manager of the Hindu family consisting of himself and the defendants B, C and D, and as such manager he executed the said mortgage in respect of moneys advanced to him for the purposes of the family.

5. } Proceed as in paragraphs 4 and 5 of Form No. 84.
6. }

7. The plaintiff prays:—

(a) that the Court will order the defendants to pay (continue as in Form No. 84);

(b) that if such proceeds shall not be sufficient for payment in full of the said amount the defendants may be ordered, the defendant A, personally and the defendants A and B, out of the ancestral property belonging to them (as in the case of a mortgage by the manager of an undivided Hindu family), the defendants A, B and C out of the property of the said Hindu family, to pay to the plaintiff. (Continue as in Form No. 84.)

Form No. 86.

ORDER XXXVII, RULE 2.—PLAINT IN A SUIT FOR REDEMPTION OF MORTGAGE.

(Cause-title.)

Plaint.

A.B., the abovenamed plaintiff states as follows:—

1. } Proceed as in paragraphs 1 and 2 of Form No. 5.
2. }

3. By way of security for moneys advanced to, and owing by, the plaintiff to the defendant an instrument of mortgage was executed by the plaintiff in the defendant's favour on the _____ day of _____ mortgaging certain property situated within the jurisdiction of this Court and described in the schedule hereto annexed.

4. The plaintiff has caused a search to be made in the register of assurances of the sub-district in which the said property is situated and is not aware of any incumbrances on the said property other than those herein mentioned or of any person possessing an interest in the said property other than those who are made parties to this suit.

5. There is now due from the plaintiff to the defendant on the said mortgage the sum of Rs. _____ of which Rs. _____ is principal and Rs. _____ is interest.

6. The plaintiff is ready and willing to pay such sum as may be found due on the footing of the said mortgage.

7. The plaintiff prays:—

(1) that an account may be taken of the amount due to the defendant for principal, interest and costs;

(2) that upon payment of the same by the plaintiff, the defendant be directed to (a) deliver to the plaintiff the mortgage instrument and all the documents in his possession or power relating to the property, (b) deliver possession of the said property to the plaintiff, and (in case the

property exceeds Rs. 100 in value (c) to execute and register an acknowledgment in writing to the effect that the interest created by the mortgage has been extinguished.

(Enter verification as in Form No. 5.)

SCHEDULE.

(See Form No. 84.)

Form No. 87.

ORDER XXXVII, RULE 2.—PLAINT OF SECOND MORTGAGEE SEEKING TO REDEEM THE PRIOR MORTGAGEE.

1. }
2. }
3. } Proceed as in Form No. 84.
4. }
5. }

6. The plaintiff admits that the mortgage in favour of the 1st defendant dated the day of has priority over his interest in the said property.

7. The plaintiff prays:—

(a) that an account may be taken of the amount due to the 1st defendant under his mortgage, dated the day of for principal and interest.

(b) that the plaintiff may be at liberty by a day to be fixed by the Court, to pay the said amount and the costs of the 1st defendant of this suit into Court, and that thereupon the said 1st defendant may be ordered to bring into Court the said mortgage instrument and all documents in his possession or power relating to the property, and an acknowledgment in writing that the interest created by the said mortgage has been extinguished;

(c) that the 2nd defendant (*the mortgagor*) may be ordered to pay to the plaintiff the said sums so paid into Court and the sum of Rs. (*the amount due under plaintiff's mortgage*) with such further interest as may accrue, on the principal sum so paid into Court from the said day so fixed for payment and on the said principal sum of Rs. from the filing of the plaint until payment and also the costs of this suit on some day to be fixed by the Court and in default (*Continue as in Form No. 84*).



Form No. 88.

ORDER XXXVII, RULE 3.—DECREE IN A SUIT BY A FIRST MORTGAGEE AGAINST A SUBSEQUENT MORTGAGEE AND MORTGAGOR.

(Formal parts as in Form No. 91.)

It is declared that the several amounts due on the day of are due to the plaintiff Rs. for the principal and Rs. for interest, making in all the sum of Rs. X and to C.D. the 1st defendant (*the subsequent mortgagee*), Rs. for principal and Rs. for interest making in all the sum of Rs. ; and it is further declared that there is due to the plaintiff the sum of Rs. A and to the 1st defendant the sum of Rs. B for their respective costs of this suit.

(Insert declarations as to the liability of the mortgagor for the said mortgage sums, see Form No. 96) and it is further declared that the plaintiff is entitled to payment of the amount due to him in priority to the first defendant (or if there are several subsequent mortgagees) that the several parties hereto are entitled to payment of the sums due to them respectively in the following order:—First, the plaintiff, secondly, the first defendant, thirdly, the second defendant, etc., and it is decreed as follows:—

(1) The said first defendant and the said second defendant shall be at liberty on or before the said day of to pay into Court the said sums of Rs. X and Rs. A.

(2) If payment shall be made as aforesaid the plaintiff shall bring into Court all documents in his possession or power relating to the mortgaged premises in the plaint mentioned and also an acknowledgment signed by him of the receipt of the said sums and that all interest in the said premises created by the said mortgage has been extinguished; and thereupon he shall be at liberty to apply for payment over to him of the said sums (if the plaintiff, the first mortgagee, is in possession) and shall put the defendant who made the payment in possession of the said property.

(3) In default of payment in as aforesaid the said premises or a sufficient part thereof shall be sold and the net sale-proceeds shall be paid into Court and applied first in payment of the amount due to the plaintiff together with such further interest and costs as may be allowed by the Court, secondly in payment to the first defendant of the amount due to him together with such further interest and costs as may be allowed by the Court and the balance, if any, shall be paid to the second defendant.

And the further consideration of the suit is adjourned to, etc.

Form No. 89.

ORDER XXXVII, RULE 4.—INTERIM DECREE FOR AN ACCOUNT IN A REDEMPTION SUIT.

Claim for an account of the amount due on a mortgage, dated the day of and made between , and to redeem the property comprised therein.

(Where an account claimed against a mortgagee in possession insert account claimed, for example—for an account of the rents and profits of the said property received by the defendant, or which without wilful default might have been so received, and to redeem, etc.).

This suit coming on this day, etc.

And it appearing that the defendant has been in possession of the mortgaged property since the day of and has made certain improvements therein: It is ordered that the following accounts be taken, that is to say:—

1. An account of what is due to the defendant for principal and interest under the said mortgage.
2. An account of the rents and profits of the mortgaged property in the plaint mentioned received by the defendant, or by any other person by his order or for his use, or which without the wilful default of the defendant might have been so received.
3. An account of all sums paid by the defendant for kist and other public charges in respect of the said property.
4. An account of all sums paid by the defendant for the due management of the property, and the collection of the rents and profits thereof.
5. An account of all sums properly laid out by the defendant in necessary repairs and lasting improvements on the said property.
6. An account of the sums paid by the defendant for premiums on the policy of insurance, dated day of and interest thereon at the rate of Rs. per cent per annum.

7. An account of all sums properly paid by the defendant, in connection with suit No. _____ on the file of the Court of _____ for the support of the plaintiff's title to the said property.

8. An account of the deterioration value of the mortgaged property since the _____ day of _____ caused by the wilful neglect of the defendant in not repairing the same. (*Or state shortly any other act of waste.*)

9. (*Where tender has been duly made to mortgagee in possession, limit the ordinary accounts to date of tender and add.*) An account of the gross amount of rents and profits of the said property received since the _____ day of _____ (*date of tender*) by the defendant or by any other person by his order or for his use, or which without his wilful default might have been so received.

10. (*Where annual rests are ordered, add.*) And in taking the said accounts annual rests shall be made of the clear balance, and interest computed on such respective balances at Rs. _____ per cent per annum and in making such annual rests, except the first, the interest on each preceding balance shall be included in the balance then stated, so as to charge the defendant with compound interest thereon. But if the amount spent in any year by the defendant in respect of the matters mentioned in paragraphs 3, 4, 5, 6 and 7 exceed the net balance of rents and profits received by him, after deducting the interest due under the said mortgage, then interest shall be allowed to him at the rate aforesaid on such excess.

11. And it is ordered that the defendant do, on or before the _____ day of _____ file in Court, and deliver to the plaintiff a copy of his account of the matters abovementioned, and, that the plaintiff do, on or before the _____ day of _____ file in Court, and deliver to the defendant a copy of his objections, if any, to such account and of any items of surcharge (or, and it is ordered that the defendant do, on or before the _____ day of _____ file in Court his account of the matters abovementioned, and that the plaintiff shall be at liberty to inspect the same, and do, on or before the _____ day of _____ file in Court a statement of his objections, if any, to such account and of any items of surcharge, and that the defendants shall be at liberty to inspect such statement).

And it is decreed as follows:—

12. The plaintiff shall be at liberty within _____ months from the date on which the Court shall declare the amount (if any) due under the said mortgage, to pay the said amount and the costs of this suit into Court, and thereupon the defendant shall bring into Court all documents in his possession or power relating to the mortgaged property together with an acknowledgment in writing signed by him of the receipt of the said sums and that all claims to and interest in the mortgaged property of himself and of all persons claiming under him and under whom he claims, have been extinguished.

(a) In the event of payment in as aforesaid, the said sums shall be delivered to the defendant, who shall, at the request of the plaintiffs, concur in duly registering the said acknowledgment in the office of the Registrar of Assurances of _____ (*If the mortgagee is in possession, and the defendant shall deliver to the plaintiff possession of the mortgaged property.*)

(b) If the plaintiff shall make default in payment as aforesaid, then the defendant may apply for the sale of the mortgaged property, and the same or a sufficient part thereof shall be sold accordingly.

13. But, if it shall appear on taking the said accounts, that there is nothing due to the defendant, then the defendant shall deliver to the plaintiff the documents, and the acknowledgment abovementioned and possession of the mortgaged property and shall pay to the plaintiff any sum which shall be found due from the defendant in excess of the amount due to him.

And the further consideration of this suit is adjourned to the _____ day of _____

Form No. 90.

ORDER XXXVII, RULE 4.—REDEMPTION SUIT—ORDER UPON ACCOUNTS AND OBJECTIONS.

(Cause-title.)

This suit coming on this day on consideration of the account directed by the decree herein dated the day of .
It is declared as follows:—

1. The amount due to the defendant under the mortgage in the plaint mentioned is Rs. for principal, and Rs. for interest to the day of ; and on the day of (*date fixed for redemption*) there will be due the further sum of Rs. for interest at the rate of per cent per annum making in all the sum of Rs. .

2. The balance of the rents and profits of the said property chargeable to the defendant together with interest at the said rate to the said day of (*date fixed for redemption*) is Rs. .

3. The amount due to the plaintiff in respect of deterioration caused to the mortgaged property by the defendant is Rs. and Rs. interest thereon at the rate of per cent per annum from the day of to the said day of (*the date fixed for redemption*), making in all the sum of Rs. .

4. The amount due to the defendant on the said day of after setting off the said sums chargeable against him, is Rs. together with Rs. the costs of this suit, and the said day is hereby limited for payment by the plaintiff to the defendant of the said amount and costs.

And the further consideration of the suit is adjourned to the day of .

Form No. 91.

ORDER XXXVII, RULE 8.—DECREE IN A SUIT BY A SECOND MORTGAGEE AGAINST THE FIRST MORTGAGEE AND THE MORTGAGOR.

(Cause-title.)

Claim under a mortgage of immovable (*or* movable property), dated the day of for Rs. principal and Rs. interest thereon to the day of and further interest at Rs. per cent, per annum; for sale in default of payment; for a decree against the defendant personally for any deficiency on such sale and for costs.

This suit coming on this day for final disposal in the presence of Mr. , advocate for the plaintiff and Mr. , advocate for the defendant; it is declared that the several amounts due on the day of are, to the plaintiff Rs. , for principal, and Rs. for interest, making in all the sum of Rs. ; and to C.D. the first defendant (*the first mortgagee*) Rs. for principal and Rs. for interest making in all the sum of Rs. and it is further declared that there is due to the plaintiff the sum of

Rs. (a) and to the said first defendant the sum of Rs. (b)
for their respective costs of this suit.

(1) *(Where defendants are legal representatives of a deceased mortgagor):—*

And it is further declared that A.B., the first defendant is personally liable for the said amount to the extent only of the property of E.F., deceased, come to their hands as his legal representatives.

(2) *(Where defendants are Hindu father and sons):—*

And it is further declared that A.B., the second defendant, is personally liable for the said amount and that X.Y., and E.F., the second and third defendants, are liable only to the extent of the ancestral property belonging to them and the said A.B.

(3) *(Where defendants are the managers and members of an undivided Hindu family):—*

And it is further declared that A.B., the second defendant, is personally liable for the said amount and that X.Y. and E.F., the third and fourth defendants, are liable only to the extent of the property of the undivided Hindu family consisting of them and the said A.B.

(4) *(Where under the mortgage the mortgagor is not personally liable):—*

And it is further declared that, under the terms of the said mortgage, A.B., the defendant, is not personally liable for the repayment of the said amount.

(5) *(Where the personal remedy is barred by limitation):—*

And it is further declared that the remedy of the plaintiff against A.B., the defendant, personally, is barred by limitation, and that he is entitled only to repayment out of the mortgaged property.

And it is further declared that the plaintiff is entitled to payment of the amount due to him after the first defendant who has priority (or, if there are several subsequent mortgages, that the several parties hereto are entitled to payment of the sums due to them respectively in the following orders:—first, the first defendant, secondly, plaintiff, thirdly the second defendant, etc.)

And it is decreed as follows:—

1. On or before the _____ day of _____ the plaintiff shall be at liberty to pay into Court the said sums of Rs. _____ and Rs. _____ (insert the amount due to the first mortgagee for principal and interest and for costs); and the second defendant (the mortgagor) shall be at liberty to pay into Court the said sum of Rs. _____ (insert the amounts due to the first mortgagee, and to the plaintiff, for principal, interest and costs).

2. If default is made in payment of the said sums of Rs. _____ and Rs. _____ (insert amounts due to the first mortgagee) the first defendant shall be at liberty to apply for the sale of the mortgaged property; but if such payment is made, the first defendant shall bring into Court all documents in his possession or power relating to the mortgaged premises in the plaint mentioned, and also an acknowledgment signed by him of the receipt of the said sums and that all interest in the premises created by the said mortgage has been extinguished, and thereupon he shall be at liberty to apply for payment out to him of the said sums (if the mortgagee is in possession) and shall put the plaintiffs or the first defendant who made the payment into possession of the said property.

3. If the plaintiff does, and the second defendant does not, make the said respective payments, then the mortgaged property or a sufficient part thereof, shall be sold and the net sale-proceeds shall be paid into Court and applied in payment to the plaintiff of the said sums in the first paragraph mentioned together with such subsequent interest and costs as may be allowed by the Court and the balance, if any, shall be paid to the second defendant.

And the further consideration of this suit is adjourned to.

Form No. 92.

ORDER XXXVII, RULE 8.—DECREE IN A SUIT BY SUB-MORTGAGEE AGAINST THE ORIGINAL MORTGAGEE AND THE MORTGAGOR.

(Cause-title.)

This suit coming on this day, etc.

It is declared as follows:—

1. There is now due to the first defendant (*the original mortgagee*) under his mortgage the sum of Rs. for principal and Rs. for interest and on the day of there will be due the further sum of Rs. for interest at the rate of Rs. per cent per annum, making in all the sum of Rs. X and for his costs of the suit the sum of Rs. Y.

2. There is now due to the plaintiff under his derivative mortgage the sum of Rs. for principal and Rs. for interest and on the day of there will be due the further sum of Rs. for interest at the rate of Rs. per cent per annum making in all the sum of Rs. Z and for his costs of the suit the sum of of Rs. A.

3. *Insert declarations as to liability of the defendants as in Form No. 96.*

And it is decreed as follows:—

4. The second defendant (the mortgagor) shall be at liberty on or before the said day of to pay into Court the said sum of Rs. X, Rs. Y and Rs. A (*the costs of the plaintiff*) and the first defendant shall be at liberty on or before the same day to pay into Court the said sums of Rs. Z and Rs. A (*the amounts due to the plaintiff*).

5. In the event of payment by the second defendant as aforesaid the plaintiff and the first defendant shall each bring into Court all documents in his possession or power relating to the mortgaged premises and also an acknowledgment, etc., and thereupon the plaintiff shall be at liberty to apply for payment out to him of the said sums of Rs. Z and Rs. A and the first defendant for payment of the balance.

6. In default of payment in by the first and second defendants as aforesaid the property or a sufficient part thereof shall be sold and the net sale-proceeds shall be paid into Court and applied first in payment to the plaintiff of the said sums of Rs. Z and Rs. A and such further interest and costs as may be allowed by the Court (but so that the aggregate amount of principal and interest shall not exceed the amount of principal and interest due to the first defendant), secondly, in payment to the first defendant of the excess of the said sums of Rs. X and Rs. Y and such further interest and costs as may be allowed by the Court over the aggregate amount paid to the plaintiff, and the balance, if any, shall be paid to the second defendant.

7. In the event of payment by the first defendant and in default of payment by the second defendant as aforesaid the plaintiff shall bring into Court all documents (*continue as in paragraph 5 but in place of the last sentence insert*), and the first defendant shall be at liberty to apply for the sale of the said property, and thereupon the same or a sufficient part thereof shall be sold and the net sale-proceeds shall be applied in payment of the said sums of Rs. X and Rs. Y and such further interest and costs as aforesaid and the balance shall be paid to the second defendant.

And the further consideration, etc.

Form No. 93.

ORDER XXXVII, RULE 8.—DECREE IN A SUIT BY SUB-MORTGAGEE WHERE THE AMOUNT DUE ON THE DERIVATIVE MORTGAGE EXCEEDS THE AMOUNT DUE ON THE ORIGINAL MORTGAGE AND THE FORMER CONTAINS A COVENANT TO PAY THE MORTGAGE MONEYS.

(Commence as in Form No. 92 to the end of paragraphs 1 and 2.)

3. The amount due to the plaintiff for principal and interest exceeds that due to the first defendant (*the original mortgagee*) for principal, interest and costs of suit by the sum of Rs. B.

4. *Insert declarations as to liability of the defendants* and it is decreed as follows.

5. *Insert paragraphs 4 and 5 as in Form No. 92 down to and including the words "payment out to him of the said sums" and continue so paid into Court.*

6. In default of payment in by the first and second defendants as aforesaid, the property or a sufficient part thereof shall be sold and the net sale-proceeds shall be paid into Court and applied in payment to the plaintiff of the said sums of Rs. _____, Rs. _____, and Rs. _____ (*insert the sums due to the first defendant for principal, interest and costs and to the plaintiff for costs*), and such further interest and costs as may be allowed by the Court and the balance, if any, shall be paid to the second defendant.

7. In default of payment by the first defendant as aforesaid the plaintiff shall be at liberty to apply for a decree against him for the said sum of Rs. B and further interest thereon, and if the net sale-proceeds in the preceding paragraph shall not be sufficient to pay to the plaintiff the several sums therein mentioned for a decree against the first and second defendants for the amount of such deficiency.

And the further consideration, etc.

Form No. 94.

ORDER XXXVII, RULE 8.—DEGREE IN A SUIT BY A SECOND MORTGAGEE AGAINST THE FIRST MORTGAGEE AND THE MORTGAGOR WHEN THE FIRST MORTGAGEE CONSENTS TO A SALE FREE FROM HIS MORTGAGE.

(*Formal parts as in Form No. 88.*)

And C.D., the first defendant (*the first mortgagee*) by his advocate consenting that if the second defendant (*the mortgagor*) shall make default in payment into Court as hereinafter mentioned, the mortgaged property shall be sold free from his mortgage, dated the _____ day of _____ on condition that he shall have the same interest in the sale-proceeds as in the mortgaged property (*insert declarations as to the amounts due to the plaintiff and first defendant respectively, for principal, interest and costs; and as to the liability of the mortgagor, and the priorities of the mortgagees as in Form No. 88.*)

And it is decreed as follows:—

1. The said second defendant shall be at liberty on or before the day of _____ to pay into Court said sums (*insert the amounts due to plaintiff and first defendant for principal, interest and costs*).

2. On payment aforesaid, the plaintiff and the first defendant shall each bring into Court all documents in his possession or power relating to the mortgaged property in the plaint mentioned, and also an acknowledgment signed by him of the receipt of the amount due to him, and that all claims to and interest in the mortgaged property of himself, and of all persons claiming under him and under whom he claims have been extinguished; and thereupon they shall be at liberty to apply for payment out of the amounts due to them respectively.

3. In default of payment in as aforesaid, the said premises or a sufficient part thereof, shall be sold, and the net sale-proceeds shall be paid into Court and applied first in payment of the amount due to the first defendant, together with such further interest and costs as may be allowed by the Court; secondly, in payment to the plaintiff of the amount due to him, together with such further interest and costs as may be allowed by the Court and the balance, if any, shall be paid to the second defendant.

And the further consideration of this suit is adjourned to _____

Form No. 95.

ORDER XXXVII, RULE 8.—DECREE IN SUIT FOR SALE.
(Cause-title.)*(Formal parts as in Form No. 91.)*

It is declared that there is now due on the said mortgage the sum of Rs. X for principal and the sum of Rs. Y for interest, and that, on the day of there will be due the further sum of Rs. Z for interest at the said rate making in all the sum of Rs. X, Y & Z. And it is further declared that the defendant is personally liable for the said amount. And it is ordered as follows:—

1. The defendant shall be at liberty on or before the said day of to pay into Court the said sum of Rs. (X, Y & Z) and the further sum of Rs. for the costs of this suit.

2. On payment as aforesaid the plaintiff shall bring into Court *(continue as in paragraph 2 of Form No. 91).*

3. In default of payment in as aforesaid, the said premises, or a sufficient part thereof shall be sold, and the net sale-proceeds shall be paid into Court and applied in payment of the said sums, together with such subsequent interests and costs as may be allowed by the Court, and the balance, if any, shall be paid to the defendant.

Form No. 96.

ORDER XXXVII, RULE 8.—DECLARATION TO BE INSERTED WHERE THE DEFENDANTS OR SOME OF THEM ARE NOT PERSONALLY LIABLE FOR THE MORTGAGE MONEYS.

1. *Where defendants are legal representatives of deceased mortgagor—*
And it is further declared that A.B. and C.D., the defendants herein, are liable for the said amount to the extent only of the property of E.F., deceased come to their hands as his legal representatives.

2. *Where defendants are Hindu father and sons—*
And is further declared that A.B. the first defendant, is personally liable for the said amount and that C.D. and E.F., the second and third defendants, are liable only to the extent of the ancestral property belonging to them and the said A.B.

3. *Where the defendants are the manager and members of an undivided Hindu family—*

And it is further declared that A.B., the first defendant, is personally liable for the said amount and that C.D. and E.F., the second and third defendants, are liable only to the extent of the property of the undivided Hindu family consisting of them and the said A.B.

4. *Where under the mortgage the mortgagor is not personally liable—*
And it is further declared that under the terms of the said mortgage, C.D., the defendant, is not personally liable for the repayment of the said amount.

5. *Where the personal remedy is barred by limitation—*
And it is further declared that the remedy of the plaintiff against C.D., the defendant, personally, is barred by limitation and that he is entitled only to repayment out of the mortgaged property.

Form No. 97.

ORDER XXXVII, RULE 8.—DECREE IN A REDEMPTION SUIT BY THE MORTGAGOR AGAINST A SINGLE MORTGAGEE.

(Cause-title.)

(Formal parts in Form No. 89.)

This suit coming on this day, etc. It is declared that the plaintiff is entitled to redeem the said mortgage, and that the amount due to C.D., the defendant (*the mortgagee*), on the _____ day of _____ (*date fixed for redemption*) is Rs. (X) for principal and Rs. (Y) for interest at the rate of Rs. (contract-rate) per cent per annum, making in all the sum of Rs. (X and Y) and the sum of Rs. (Z) for his costs of this suit.

And it is decreed as follows:—

1. The plaintiff shall be at liberty, on or before the said _____ day of _____ to pay into Court the said sums of Rs. (XY) and Rs. (Z) and thereupon the defendant shall bring into Court all documents in his possession or power relating to the mortgaged property together with an acknowledgment in writing signed by him of the receipt of the said sums and that all claims and interest to and in the mortgaged property of himself and of all persons claiming under him and under whom he claims, have been extinguished.

2. In the event of payment in as aforesaid, the said sum shall be delivered to the defendant, who shall, at the request of the plaintiff, concur in duly registering the said acknowledgment in the Office of the Registrar of Assurances of _____ (*if the mortgagee is in possession*, and the defendant shall deliver to the plaintiff possession of the mortgaged property).

3. If the plaintiff shall make default in payment as aforesaid then the defendant may supply for the sale of the mortgaged property and the same or a sufficient part thereof shall be sold accordingly.

And the further consideration of the suit is adjourned to be heard on the _____ day of _____



Form No. 98.

ORDER XXXVII, RULE 8.—DECREE IN A REDEMPTION SUIT BY THE MORTGAGOR WHO HAS MADE TENDER OF THE MORTGAGE AMOUNT.

Claim for an account of the amount on the _____ day of _____ (*date of tender*), due on a mortgage, dated the _____ day of _____ and made between *parties* (*for a declaration*) that the amount then due was duly tendered to the defendant by the plaintiff to redeem the property comprised in the said mortgage; and for costs of suit.

This suit coming on this day, etc.

It is declared that on the _____ day of _____ the plaintiff duly tendered to the defendant the sum of Rs. (X), being the amount then due to him for principal and interest under the said mortgage and that the defendant is not entitled to any further interest and that the plaintiff is entitled to the sum of Rs. (A) for his costs of the suit.

And it is decreed as follows:—

1. That the plaintiff shall be at liberty on or before _____ day of _____ to pay into Court the sum of Rs. (Y), (being the balance due under the said mortgage) after deducting the said sum of Rs. (A), and thereupon (*continue as in Form No. 97, paragraphs 1, 2 and 3*).

Form No. 99.

ORDER XXXVII, RULE 8.—ORDER EXTENDING TIME FOR REDEMPTION.

(Cause-title.)

This suit coming on this day on further consideration in the presence of, etc., and the advocate for the plaintiff applying that the time by the decree herein, dated the day of fixed for payment of the mortgage moneys be postponed to the day of

It is ordered that the plaintiff do pay to the defendant the sum of Rs. for his costs of this hearing and that, upon the plaintiff paying to the defendant, before the day of the said sum of Rs. the sum of Rs. being the costs by the said decree herein, directed to be paid and the sum of Rs. for further interest on the principal sum at the rate of Rs. per cent per annum from this day to the day of making in all the sum of Rs. the time for redeeming the mortgaged property be extended to the said day of (*the extended date*) and that the further hearing of this suit be adjourned to the day of . But in default of payment of the said sum of Rs. by the time aforesaid, then it is ordered that this application be refused and that the further hearing of this suit be adjourned to the day of .

Form No. 100.

ORDER XXXVII, RULE 8.—REDEMPTION SUIT—ORDER FOR SALE ON DEFAULT OF PAYMENT UPON THE APPLICATION OF THE MORTGAGEE.

(Cause-title.)

This suit coming on this day, etc. and it appearing that the plaintiff has made default in payment of the amount mentioned in the decree herein, dated the day of and the defendant by his advocate applying for sale of the mortgaged property. It is ordered that the mortgaged property (*or* the portion of the mortgaged property specified in the schedule hereto) be sold, and that the defendant do, on or before the day of , bring into Court the proclamations of sale, the affidavit and certificate prescribed by Order XXXVIII, rule 3, and a sum sufficient for the expenses of the sale.

And the further hearing, etc.

Form No. 101.

ORDER XXXVII, RULE 19.—DECREE IN A FORCLOSURE SUIT.

(Cause-title.)

Claim under a mortgage of immovable property, dated the day of for Rs. principal, and Rs. interest thereon, the day of and further interest of Rs. per cent per annum, for foreclosure or sale in default of payment and for costs.

This suit coming on this day for final disposal in the presence of, etc. It is declared that there is now due on the said mortgage the sum of Rs. (X) for principal, and the sum of Rs. (Y) for interest, and that on the day of there will be due the further sum of Rs. (Z)

for interest at the said rate, making in all the sum of Rs. (X & Y & Z). And it is ordered as follows:—

1. The defendant shall be at liberty on or before the said day of to pay into Court the said sum of Rs. (X & Y & Z) and the sum of Rs. (A) for the costs of the suit.

2. On payment as aforesaid the plaintiff shall bring into Court all documents in his possession or power relating to the mortgaged property in the plaint mentioned, and shall reconvey to the defendant the said property and free and clear of and from all incumbrances due by him, or any person claiming under him (*if the plaintiff derives his claim from the original mortgagee, add, or by those under whom he claims*) (*if the plaintiff is in possession, add, and shall deliver to the defendant possession of the said property*).

3. In default of payment as aforesaid, by the time aforesaid, the defendant shall thenceforth stand absolutely debarred and foreclosed of and from all right to redeem the said mortgaged property.

And the further consideration of this suit is adjourned to be heard on the day of

Form No. 102.

ORDER XXXVII, RULE 8.—SUIT FOR FORECLOSURE—SEVERAL MORTGAGES—
DECREE GIVING ONE PERIOD TO REDEM.

(Cause-title.)

(*Insert declarations as to the amounts due to the several mortgagees for principal and interest on the day fixed for redemption, and their several priorities.*)

And it is ordered as follows:—

1. That upon the defendants, or any of them paying to the plaintiff on or before the day of the said sum of Rs. (*the amount due to the plaintiff for principal and interest on the day fixed for redemption*), and the sum of Rs. for his costs of his suit, the plaintiff do bring into Court all documents in his possession or power relating to the mortgaged property in the plaint mentioned and do reconvey the said mortgaged property free and clear of all encumbrances made by him, or by any person claiming under him (or under whom he claims) to the defendants or such of them as shall redeem the mortgaged property, as he or they shall direct, such conveyance to be settled by the Master or Registrar in case the parties differ.

2. In default of defendants or any of them paying to the plaintiff the said sums by the time aforesaid (*insert names of the defendants*) the 1st, 2nd, 3rd, etc., defendants shall thenceforth stand absolutely debarred and foreclosed of and from all interest in, and all right to redeem, the mortgaged property.

And the further consideration, etc.

Form No. 103.

ORDER XXXVII, RULE 8.—SUIT FOR FORECLOSURE—DECREE IN SUIT BY FIRST MORTGAGEE AGAINST SECOND MORTGAGEE AND THE MORTGAGOR—SUCCESSIVE PERIODS FOR REDEMPTION.

(Cause-title.)

Claim under a mortgage of immovable property, dated the day of for Rs. principal and Rs. interest thereon to the day of and further interest at Rs. per cent per annum, for foreclosure or sale in default of payment and for costs.

This suit coming on this day for final disposal in the presence of, etc.

It is declared that the several amounts due on the _____ day of _____ are, to the plaintiff Rs. _____ for principal and Rs. _____ for interest making in all the sum of Rs. X, and to C.D. the 1st defendant (*the second mortgagor*) is Rs. _____ for principal and Rs. _____ for interest, making in all the sum of Rs. _____; and it is further declared that there is due to the plaintiff the sum of Rs. _____ and to the 1st defendant the sum of Rs. _____ for their respective costs of this suit; and it is further declared that the 2nd defendant (*the mortgagor*) is personally liable for the aforesaid amounts; and it is further declared that the plaintiff is entitled to payment of the amount due to him in priority to the 1st defendant (*or if there are several subsequent mortgagees*) that the several parties thereto are entitled to payment of the sums due to them respectively in the following order—first, the plaintiff, secondly, the 1st defendant, thirdly, the 2nd defendant, etc.

And it is decreed as follows:—

1. C.D., the first defendant (*the second mortgagee*) shall be at liberty on or before the _____ day of _____ to pay into Court the sum of Rs. (X) (*the amount found to be due to the plaintiff for principal and interest to the said date*) and the sum of Rs. (A) for his costs of this suit.

2. On payment as aforesaid the plaintiff shall bring into Court all documents in his possession or power relating to the mortgaged property in the plaint mentioned, and shall reconvey to the first defendant the said property clear of and from all incumbrances due by him, or any person claiming under him (*if the plaintiff derives his claim from the original mortgagee, add or by those under whom he claims*) (*if the plaintiff is in possession add, and shall deliver to the first defendant possession of the said property*).

3. In default of payment as aforesaid by the time aforesaid the first defendant shall from thenceforth stand absolutely debarred and foreclosed of and from all right to redeem the mortgaged property.

4. And, in case of such foreclosure, E.F., the second defendant (*the mortgagor*) shall be at liberty on or before the _____ day of _____ to pay into Court the said sum of Rs. (X) and sum of Rs. (Z) being further interest on the principal sum of Rs. _____ to the said day making together the sum of Rs. (X & Z) and the sum of Rs. _____ the costs of the plaintiff.

5. On payment by the second defendant as aforesaid the plaintiff shall bring into Court all documents in his possession or power relating to the mortgaged property in the plaint mentioned, and shall reconvey to the second defendant, the said property free and clear of and from all incumbrances due by him, or any person claiming under him (*if the plaintiff derives his claim from the original mortgagee, add, or by those under whom he claims*) (*if the plaintiff is in possession, add, and shall deliver to the second defendant possession of the said property*).

6. In default of payment as aforesaid, by the time aforesaid, the second defendant shall from thenceforth stand absolutely debarred and foreclosed of and from all right to redeem the said mortgaged property.

7. But, in case C.D., the first defendant, shall redeem the said mortgaged property, then E.F., the second defendant shall be at liberty on or before the _____ day of _____ to pay into Court the said sums of Rs. (X) and Rs. (A), the said sum of Rs. (Y) (*the amount declared to be due to the second mortgagee, for principal and interest*) making in all the sum of Rs. (X & A & Y) and also the sum of Rs. (B) being interest on the said aggregate amount at rate of Rs. _____ per cent per annum from the said _____ day of _____ (*the date to which interest was calculated on the principal amounts due to the plaintiff and the second mortgagee*), to the said _____ day of _____ (*the date fixed for redemption by the mortgagor*) and also the sum of Rs. (C) for the cost of the first defendant of this suit.

8. On payment as aforesaid by the second defendant the first defendant shall bring into Court all documents in his possession or power relating to the mortgaged property in the plaint mentioned and, shall reconvey to the second defendant, the said property free and clear of and from

all incumbrances due by him, or any person claiming under him (if the first defendant derives his claim from the original mortgagee, add, or by those under whom he claims) (if the first defendant is in possession, add, and shall deliver to the second defendant possession of the said property).

9. In default of payment as aforesaid, by the time aforesaid, the second defendant shall from thenceforth stand absolutely debarred and foreclosed of and from all right to redeem the said mortgaged property.

And the further consideration, etc.

Form No. 104.

ORDER XXXVII, RULE 8.—DECREE ABSOLUTE FOR FORECLOSURE.

(Cause-title.)

This suit coming on this day on further consideration in the presence of, etc., and it appearing that the defendant has not paid into Court the sum of Rs. (X & Y & Z) in the decree herein, dated the day of mentioned and that the whole thereof still remains due, it is decreed as follows:—

1. That C.D., the defendant, and all persons claiming through or under him do from henceforth stand absolutely debarred and foreclosed of all right to redeem the mortgaged property in the schedule hereto set forth: (if the defendant is in possession), and to forthwith deliver to A.B., the plaintiff, possession of the said property.

2. That C.D., the defendant, do pay to A.B., the plaintiff, the sum of Rs. (A), the costs in the said decree mentioned, and also the sum of Rs. (B), for his costs subsequent thereto, making in all the sum of Rs. (A & B) together with interest thereon at the rate of Rs. per cent, per annum from this day until realization.

SCHEDULE.

(Set out description of mortgaged property as in the plaint.)

Form No. 105.

ORDER XXXVII, RULE 8.—FINAL DECREE IN A FORECLOSURE SUIT OR SUIT FOR REDEMPTION UPON PAYMENT BY THE DEFENDANT.

(Cause-title.)

This suit coming on this day on further consideration in the presence of, etc., and it appearing that on the day of the defendant paid into Court the sum of Rs. (X & Y & Z), and the sum of Rs. (A) for the costs of this suit, in the decree herein, dated the day mentioned, and that the plaintiff on the day of executed a deed of reconveyance of the mortgaged property in the plaint mentioned in favour of the defendant, and has brought into Court all documents in his possession or power relating to the said property.

It is ordered as follows:—

1. That the said sums of Rs. (X & Y & Z) and Rs. (A) be paid out of Court to the plaintiff.

2. That the said deed and documents be delivered out of Court to the defendant, and that the plaintiff do, when so requested, concur in registering the said deed in the office of the Registrar of Assurances of the district of ; (if the plaintiff is in possession, add, and do forthwith deliver possession of the said property, in the schedule hereto set forth, to the defendant).

3. That C.D., the defendant, do pay to A.B., the plaintiff, the sum of Rs. for his costs of the said reconveyance and for this suit subsequent to the said interim decree with interest thereon at the rate of Rs. per cent per annum from this day until realization.

SCHEDULE.

(If the mortgagee is in possession, insert description of the mortgaged property as in the plaint.)

Form No. 106.

ORDER XXXVII, RULE 8.—SUIT FOR FORECLOSURE—ORDER FOR SALE ON APPLICATION OF THE DEFENDANT.

(Cause-title and claim.)

This suit coming on this day for final disposal in the presence of, etc., and the Advocate for the defendant applying that the mortgaged property may be sold, and it appearing to this Court that a sale of the said property is for the benefit of all parties to this suit. It is declared that there is now due on the said mortgage the sum of Rs. (X) for principal, and the sum of Rs. (Y) for interest and that on the day of there will be due the further sum of Rs. (Z) for interest at the said rate making in all the sum of Rs. (X & Y & Z); and it is further declared that the defendant is personally liable for the said amount.

And it is ordered as follows:—

1. That the defendant do, on or before the day of , pay into Court the sum of Rs. being the amount of interest now due on the principal sum secured by the said mortgage; the sum of Rs. for the expenses of the sale of the said property and the costs of the plaintiff in respect thereof; and also the sum of Rs. for the costs of the plaintiff of the suit.

2. That, on payment as aforesaid, the said property be sold, and that the plaintiff do have the conduct of the said sale, and do, on or before the day of bring into Court the proclamation, affidavits and certificate, etc., prescribed by Order XXXVIII, Rule 4.

3. That the net proceeds of the said sale be applied in payment to the plaintiff of the said sums of Rs. (*the principal sum declared to be due to the plaintiff*), and subsequent interest thereon at the rate aforesaid, and the subsequent costs of the plaintiff of this suit, so far as the same will extend.

4. If the said sale-proceeds shall not be sufficient to pay the said sum, and costs in full, the plaintiff shall be at liberty to apply for a decree for the balance.

5. If the defendant shall make default in payment of the sums in the first paragraph hereof mentioned, then he shall be at liberty, on or before the day of to pay into Court the said sum of Rs. (X & Y & Z) and the sum of Rs. (A) for the costs of this suit.

6. On payment as aforesaid, the plaintiff shall bring into Court all documents in his possession or power relating to the mortgaged property in the plaint mentioned, and shall reconvey to the defendant the said property free and clear of and from all incumbrances due by him or any person claiming under him (*if the plaintiff derives his claim from the original mortgagee, add, or by those under whom he claims*) (*if the plaintiff is in possession, add, and shall deliver to the defendant possession of the said property*).

7. In default of payment as aforesaid, the defendant shall henceforth stand absolutely debarred and foreclosed of and from all right to redeem the said mortgaged property.

And the further consideration, etc.

Form No. 107.

ORDER XXXVII, RULE 8.—ENGLISH MORTGAGE OR MORTGAGE BY CONDITIONAL SALE, INTERIM DECREE IN A SUIT FOR REDEMPTION.

(Cause-title and claim.)

This suit coming on this day, etc.

1. (Insert declaration of the amount due as in Form No. 97.)

And it is decreed as follows:—

2. The plaintiff shall be at liberty on or before the _____ day of _____ to pay into Court the said sums of Rs. _____ and Rs. _____ and thereupon the defendant shall bring into Court all documents in his possession or power relating to the mortgaged property, and shall reconvey the said property to the plaintiff free from the said mortgage, and from all incumbrances created by the defendant, or any person claiming under him, or under whom he claims (if the mortgagee is in possession and shall put the plaintiff into possession of the said property).

3. In the event of payment in as aforesaid and upon the defendant's complying with the provisions of the last preceding paragraph, the said sums shall be paid out of Court to the defendant who shall, at the request of the plaintiff, concur in duly registering the said reconveyance in the office of the Registrar of Assurances of _____

4. If the plaintiff makes default in payment as aforesaid, the defendant shall be at liberty to apply that the plaintiff may be foreclosed (where the mortgage is not by conditional sale) or that the property, or a sufficient part, thereof may be sold.

And the further consideration of this suit is adjourned to the day of _____

Form No. 108.

ORDER XXXVII, RULE 11.—NOTICE OF PAYMENT INTO COURT.

(Cause-title.)

In the matter of a mortgage, dated the _____ day of _____ and in the matter of the Transfer of Property Act, 1882.

To C.D. of (Residence and description).

Take notice that on the _____ day of _____ A.B. (address and description), under the circumstances set forth in his petition and filed in the matter on the _____ day of _____ paid into Court to the credit of the above matter, to the account of C.D. of, etc., the sum of Rs. _____ consisting of the several items specified in the schedule, hereto, in accordance with the provisions of S. 83 (or 102) of the said Act; and that you are named in the said petition as the person entitled to the said moneys, as the mortgagee under the said mortgage deed (or as the case may be).

And also take notice that, upon bringing into Court the said mortgage deed and all documents in your possession or power relating to the property comprised therein, and upon executing and registering a proper reconveyance of the said property (or acknowledgment of discharge of the said mortgage) (and delivering up possession of the said property to the said A.B.), you are at liberty to apply by original petition, and upon notice to the said A.B., for payment out to you of the said moneys.

The address for service of the said A.B., is _____

SCHEDULE.

(Set out particulars as given in the Lodgment Schedule.)

(Signed) _____
Registrar.

L.S.

Form No. 108-A.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

ORIGINAL SIDE.

Lodgment Schedule.

Suit _____ No. of 19 .
Original petition

Plaintiff
Defendant.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

ORIGINAL SIDE.

Lodgment Schedule.

Suit _____ No. of 19 .
Original petition

Plaintiff.
Defendant.

Date of order.	Amount.	Party on whose account or other particulars to show why payment is made.	Remarks.
	RS. A. P.		

Date of order.	Amount.	Party on whose account or other particulars to show why payment is made.	Remarks.
	RS. A. P.		

Date

Received

Advocate for Plaintiff.
Defendant.

Receiver or Commissioner.

Registrar.

Date

Received.

Advocate for Plaintiff.
Defendant.

Receiver or Commissioner.

Assistant Accountant.

[N.B.—This is only a temporary receipt. Receipts signed by the Registrar only will be valid.]

Form No. 108-B.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

ORDINARY ORIGINAL CIVIL JURISDICTION.

Civil Suit No. _____ of 19 .

Defendant.

AND

Respondent.

I hereby certify that there is now standing to the credit of the above suit the amount as detailed hereunder:—

Amount.	Party to whose account the amount stands.	Attachments, if any.	Remarks.

Dated, this _____ day of _____ 19 _____

First Assistant Registrar,
Original Side.



Form No. 109.

ORDER XXXVII, RULE 13.—ORIGINAL PETITION FOR PAYMENT OUT OF COURT TO THE MORTGAGEE.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Original Petition No. _____ of _____

In the matter of a mortgage, dated the _____ day of _____ and in the matter of Transfer of Property Act, 1882.

BETWEEN

C.D. Petitioner

AND

A.B. Respondent.

Petition under section 83 of the said Act.

The abovenamed petitioner states as follows:—

1. C.D., the petitioner, is a land-owner and resides at (E.F., the 2nd petitioner, is a dealer in grain and resides at, etc.).

The address for service of the petitioner (or petitioners) for all notices and process is

2. A. B., the respondent, is a land-owner and resides at X.Y., the 2nd respondent, is an infant of about _____ years and resides with T. M. P., a land-owner at _____ and is added as the legal representative of M. V. P (and owner deceased).

3. On the _____ day of _____ a notice entitled in the matter of the said mortgage and Act was served upon your petitioner who was thereby informed that the sum of Rs. _____ had been paid into Court to the credit of the said matter to the account of C.D. of etc.

4. Your petitioner has read petition of A.B. of etc., filed in the said matter on the _____ day of _____ and the three exhibits therein referred to and admits the statements therein contained.

5. The amount due on the said mortgage on the _____ day of _____ is Rs. _____ for principal, and Rs. _____ for interest making in all the sum of Rs. _____

6. I am the same person as C.D. named in the said mortgage (or if not the original mortgagee show how the applicant derives his title to the mortgage money) and am solely and absolutely entitled to all moneys due thereunder.

7. I am willing to accept the said sum of Rs. _____ deposited in Court in full discharge of all moneys due under the said mortgage and my costs of this application and the re-conveyance of the mortgage property.

8. I have brought into Court the said mortgage deed and the documents specified in the schedule hereto, which are all the documents in my possession or power relating to the mortgaged property (*if any documents delivered to the mortgagee are not brought into Court, the same should be accounted for*).

9. On the _____ day of _____ I delivered possession of the mortgaged property to the said A.B.

10. Your petitioner, therefore, prays—

(a) That an order may be made for payment out of Court to him of the said sum of Rs. _____

(b) For such other relief as to this Court may seem fit.

11. I declare that the facts above stated are true to my knowledge except as to matters stated to be on information and belief and as to those matters I believe them to be true.

(Signed) C.D. _____,

(Signed) _____,

Advocate of the petitioner.

Form No. 110.

ORDER XXXVII, RULE 13.—NOTICE OF PETITION BY MORTGAGEE FOR PAYMENT OUT OF COURT.

(Cause-title.)

To A.B. of (*address and description*).

Take notice that on the _____ day of _____ C.D. of etc., presented a petition to the above Court for payment out to him of the sum of Rs. _____ on the _____ day of _____ deposited by you in Court to the credit of the above matter to the account of the said C.D. and that the _____ day of _____ is appointed for the hearing of the said application, and that, if you do not attend on the said day in person or by advocate, an order may be passed in your absence.

And also take notice that the address for service of the said C. D. is _____

(Signed) E.F.,

Advocate of the said C.D.

Form No. 111.

ORDER XXXVII.—ORDER UPON PAYMENT BY THE DEFENDANT.

(Cause-title)

Upon reading the application of the plaintiff presented on the _____ day of _____ and upon hearing Mr. _____, advocate for the plaintiff, and the defendant (not appearing by advocate or in person though served with notice of this application) (or this suit coming on this day for further consideration in the presence of, etc). And it appearing that on the _____ day of _____ the defendant paid into Court, the sum of Rs. X, Y & Z in pursuance of the decree herein, dated the _____ day of _____ and that on the _____ day of _____ the plaintiff brought into Court, the documents of title relating to the mortgaged property in his possession or power and the acknowledgment in writing in the said decree mentioned. It is ordered and decreed as follows:—

1. That the sum of Rs. X, Y & Z be paid out of Court to the plaintiff.

2. That the said documents and acknowledgment be delivered to the defendant, and that the plaintiff do, when so requested, concur in duly registering the same in the office of the Registrar of Assurances of

3. (When the mortgagee is in possession.) That the plaintiff do forthwith deliver to the defendant possession of the mortgaged property in the schedule hereto described.

4. That satisfaction be entered up for the full amount of the said decree.

SCHEDULE.

(When mortgagee is in possession. Insert description of property as in the plaint.)

Form No. 112.

ORDER XXXVII.—ORDER FOR SALE IF DEFENDANT HAS MADE DEFAULT IN PAYMENT.

(Cause-title)

This suit coming on this day on further consideration in the presence of Mr. , advocate for the plaintiff, and the defendant (not appearing in person or by advocate) and it appearing that the defendant has made default in payment of the amount mentioned in the decree herein, dated the day of . It is ordered that the mortgaged property (or the portion of the mortgaged property specified in the schedule hereto) be sold, and that the plaintiff do, on or before the day of bring into Court, the affidavits and certificate prescribed by order XXXVIII, rule 3 of the Rules of the High Court, 1956, and a sum sufficient for the expenses of the sale.

And the further heading of this suit is adjourned to the day of 19 .

Form No. 113.

ORDER XXXVII.—ORDER CONFIRMING SALE.

(Cause-title.)

This suit coming on this day on further consideration in the presence of, etc., upon reading the report of the sale directed by the order herein, dated the day of , and it appearing that there is now in Court to the credit of this suit the sum of Rs. . It is ordered as follows:—

1. That the sale of the several lots specified in the schedule hereto, to the respective persons and at the respective prices in the third and fourth columns of the same schedule mentioned, be confirmed and that the certificates of sale be issued to the said persons accordingly.

2 That copies of the said several certificates be sent to the Registrar of Assurances of

3. That the further sum of Rs. XX, being interest at the rate of Rs. per cent per annum on the principal amount of the decree herein, dated the day of from the date of thereof to this day, and the sum of Rs. (YY), for costs subsequent to the said decree, be allowed to the plaintiff.

4. That the sum of Rs. (X, Y & Z), the amount of principal, interest and costs due under the said decree, and the said sums of Rs. (XX) and Rs. (YY), making in all the sum of Rs. be paid out of Court to the plaintiff, and that satisfaction in full of the said decree be entered up.

5. That the sum of Rs. being the balance of the said sum of Rs. now in Court be paid to the defendant.

SCHEDULE.

Number of lot.	Description of the property.	Name of purchaser.	Sale price.

Form No. 114.

ORDER XXXVII.—ORDER CONFIRMING SALE, WHEN THE SALE PROCEEDS ARE NOT SUFFICIENT TO SATISFY THE DECREE.

(Cause-title.)

This suit coming on this day on further consideration in the presence of, etc., and it appearing that there is now in Court to the credit of this suit the sum of Rs. which is not sufficient to discharge the amount due to the plaintiff in full, and the plaintiff by his advocate applying for a decree against the defendant, personally, for the deficiency, it is ordered as follows:—

1. }
2. } *Insert paragraphs 1, 2 and 3 of Form No. 113.*
3. }

4. That the sum of Rs. be paid out of Court to A.B. the plaintiff, and that satisfaction of the said decree be entered up for the said sum.

5. That C.D. the defendant herein, do pay to A.B. the plaintiff, the sum of Rs. (being the balance of the aggregate amount of principal, interest and costs, due under the said decree, and further interest and costs hereby decreed) together with interest thereon at the rate of Rs. per cent, per annum from this day until realization.

E. Or, if any defendant be not personally liable. That C.D. and E.F., the defendants herein, do out of the property and credits of E.F., deceased, come to their hands as his legal representatives, pay (*continue as in paragraph 5*).

Or, that C.D., the first defendant, do personally, and the said C.D., E.F. and G.H., the second and third defendants, do out of the property of the undivided family, whereof they are members, in their possession, pay (*continue as in paragraph 5 above*).

Or, in the case of a mortgage by a Hindu father.—That C.D., the first defendant, do personally and the said C.D., E.F. and G.H., the second and third defendants, do out of the ancestral property belonging to them, pay (*continue as in paragraph 5*).

SCHEDULE.

(As in Form 113.)

Form No. 115.

ORDER XXXVIII, RULE 3.—PROCLAMATION OF SALE OF MOVABLE PROPERTY.
IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Ordinary Original Civil Jurisdiction.

Suit No. of 19 .

Execution Application No. of 19 .

BETWEEN

1. A.B. and }
2. C.D. } Plaintiffs

AND

1. E.F. and }
2. G.H. } Defendants.

Proclamation of Sale.

WHEREAS by a decree made on the day of and dated the day of the abovenamed defendants were ordered to pay to the abovenamed plaintiffs the sum of Rs. and Rs. for costs of suit, making in all the sum of Rs. together with interest thereon at the rate of Rs. per cent per annum from the said day until realization, and by an order for sale, dated the day of the movable property described in the schedule hereto was ordered to be attached by court and sold by the Sheriff of Madras, (Official Referee [or (auctioneers)], in satisfaction of the said decree and whereas on the day of (date fixed for sale) there will be due thereunder, the sum of Rs. for principal and interest thereon together with interest;

Notice is hereby given that the said property will be sold by public auction by at (place of sale) on day of 195 . The interest of the abovenamed defendants in the said property, and the claims and liabilities attaching thereto are, so far as can be ascertained, set out in the said schedule.

Conditions of Sale.

1. The property is sold under the conditions prescribed by the Code.
2. The decree-holders are (or are not) at liberty to bid.
3. The amount to be advanced at each bidding shall be stated by the auctioneer, Official Referee, or the Sheriff before the sale is commenced.
4. In the event of any dispute arising as to any bidding the lot shall at once be put up again to auction.
5. (The sale is subject to a reserved bidding for each lot, which has been fixed by the Registrar.)
6. Each purchaser shall pay the price of the lot purchased by him to the auctioneer, Official Referee/the Sheriff, immediately the same is knocked down to him.
7. No objections shall be taken by any purchaser that the property, or the interest of the defendants therein, has been incorrectly described or misstated in this proclamation or on the ground of any defect herein.

SCHEDULE.

Number of lot.	Description of property.	Interest of the judgment-debtor.	Incumbrances or claims.

Form No. 116.

ORDER XXXVIII, RULE 3.—PROCLAMATION OF SALE OF IMMOVABLE PROPERTY.

(Cause-title.)

Proclamation of Sale.

Whereas by a decree made in the above suit, and dated the day of the abovenamed defendants were ordered to pay to the abovenamed plaintiffs the sum of Rs. and Rs. for costs of suit, making in all the sum of Rs. together with interest on the said sum at the rate of Rs. per cent per annum from the said day until realization, and by an order for sale, dated the day of the immovable property described in the schedule hereto was ordered to be attached and sold in satisfaction of the said decree. And whereas on the day of (date fixed for sale) there will be due thereunder the sum of Rs. for principal and interest. And whereas by an order made in the above suit, and dated the day of it was directed that the sale of the said property (or of lot No.) should be made subject to the rights of X.Y. of (address and description) who claims under a mortgage, dated the day of executed in favour of the said X.Y. by S.T., to secure the repayment of a sum of Rs. X, with interest thereon at the rate of Rs. Y per cent per annum, and registered, etc., to be entitled to repayment of a sum of Rs. with interest thereon from the day of

19 .
And whereas it is represented by the decree-holder that he caused search to be made in the office of the Registrar of Assurances of from the day of to the day of and that the documents specified in the sixth column of the schedule hereto were found to have been registered in respect of the several lots opposite to which the same are set, and that the said lots are severally subject to the payments and claims set opposite thereto respectively in the fifth column of the same schedule and to the leases and agreements specified in the seventh column. It is hereby notified that the Sheriff of Madras (Official Referee) or A.B. Auctioneers will sell the said property by public auction at (insert place of sale) on day at (or at the several lots) subject to the conditions of sale hereunder in the lots and at the times in the same schedule specified. Copies of this proclamation may be had gratis of A.B. of (residence and description) and at the Office of the Official Referee, the Sheriff or the auctioneers during office hours.

Conditions of Sale.

1. The conditions prescribed by the Code shall apply to this sale.
2. The highest bidder (for each lot) shall be the purchaser and if any dispute arises as to any bidding, the lot shall be put up again. [There will be a reserve price for each lot, and] the decree-holder shall (or shall not) be at liberty to bid. No person shall advance a less sum at each bidding than shall be named by the auctioneer on putting up the lot, and no bidding shall be retracted.
3. Each purchaser shall, immediately after the sale to him, pay to the auctioneer, Official Referee/the Sheriff or other person conducting the sale, 25 per cent of his purchase money and sign the agreement below and shall pay the residue of the purchase money direct into Court before 3 p.m. on or before the fifteenth day after the sale to him.
4. The property (or lot No.) is sold subject to the mortgage dated the day of 195 above referred to and to all claims and rights of the said X.Y. thereunder.
5. The property is believed, and shall be taken, to be correctly described as to quantity and otherwise, and any omission or misstatement in this proclamation shall not annul the sale, or be a ground for any compensation on either side.
6. Such of the documents of title in the possession of the decree-holder judgment-debtor (or now in Court), as relate exclusively to any lot will be delivered to the purchaser of such lot. All other documents which relate

exclusively to the property sold will be delivered to the purchaser of lot No. or such other person as the Court may determine.

7. The certificate of the Registrar of Assurances of the result of the above search, Extract of the Corporation tax assessment register and quit rent extract, copy of the decree under which the property is sold (and copies of the leases and agreements referred to in column 7 of the schedule hereto) may be inspected at the office of the Official Referee/Sheriff of Madras or auctioneers during office hours and whether the purchaser shall have inspected the same or not, he shall be considered, by bidding at the sale to have waived all objections appearing on the face thereof.

8. The further hearing of the above suit is adjourned to the day of when the sale will come before the Master for confirmation. On such day any purchaser may make any objection to the sale of which he shall have given not less than five days' previous notice in writing to the parties to the suit. Any objection not so made shall be considered as waived and if no objection be so made, the title shall be considered as accepted and the sale as valid in all respects and in this respect time shall be deemed of the essence of the contract.

9. The purchaser shall, after the sale has been confirmed by the Court, file in Court a draft certificate of sale in Form No. 116A for approval of the Registrar. And after approval of the draft certificate, the same should be engrossed on non-judicial stamp paper of the requisite value as prescribed by the Indian Stamp Act, 1899, as amended by Madras Act VI of 1922 and Act XVI of 1943, with a carbon copy of the same on white thick paper for forwarding the same to the Registrar of Assurances for registration.

10. If any purchaser fails to comply with any of these conditions, his deposit may, if the Court thinks fit, after defraying the expenses of sale, be forfeited to Government and the lot or lots sold to him shall be resold, and such purchaser shall be liable for the deficiency (if any) on such resale together with all expenses attending the same.

SCHEDULE.

(1) Day and hour of sale.	(2) Number of lot.	(3) Description of property.	(4) Interest of the judgment-debtor.	Revenue or rent assessed on land; local taxes and rates payable thereon.		Documents found registered.		(7) Remarks.
				(5) Annual amount.	Amount now due.	(6) Date and reference to register.	Short description of the document.	
		N.B.— Insert village, boundaries, area, survey or Municipal number.		RS. A. P.	RS. A. P.	16th April 1899.	Mortgage for Rs. 1,000, interest at Rs. 12 per cent per annum.	This mortgage is the subject-matter of the above suit. Lot No. 2 is subject to a lease for years in favour of A. B. at the rent of Rs. a year from the day of .

Memorandum of Agreement.

It is hereby agreed that, at the sale by auction this day of the property above described, A.B. of (address and description) was the highest bidder for and has become the purchaser of lot for the sum of Rs. upon the terms above mentioned, and that he has paid to the auctioneer the sum of Rs. as a deposit; and annas in respect of the stamp impressed hereon.

Dated the day of
 Given under my hand this day of
 (Signed) G.H.,
 Sheriff of Madras, Official Referee, Auctioneer.

Form No. 116-A.

ORDER XXXVIII, RULE II.—CERTIFICATE OF SALE.
 IN THE HIGH COURT OF JUDICATURE AT MADRAS.
Ordinary Original Civil Jurisdiction.
 (Cause-title.)

This is to certify that at a sale by public auction held on the day of 19 by the Official Referee/Sheriff of Madras A.B., the Auctioneers appointed herein by an order of Court, dated the day of 19 in Application No. of 19 / of the property more particularly described in the schedule below, in pursuance of the Preliminary Decree and the order for sale, dated the day of 19 and the day of 19, respectively, XY, son of , aged years, employed or doing business, etc., residing at was declared the purchaser thereof for a sum of Rs. (in words) and that the said sale was duly confirmed and this certificate of sale was directed to be issued by the order of Court, dated * in Application No. of 19, in the above suit.

Given under my hand and the seal of this Court this * day of * 19 .*

Certificate of sale issued on the day of 19 .

Registrar, Original Side.

N.B.—* The date of confirmation of sale should be put here.

Form No. 117.

ORDER XXXIX, RULE 2.—APPLICATION FOR TRANSMISSION OF A DECREE OR ORDER UNDER SECTION 39 OF THE CODE.

(Cause-title.)

Application No.

Application of A.B., the abovenamed plaintiff.

The abovenamed plaintiff states as follows:—

(Set out the particulars required by Order XXI, Rule 11 (2) of the Code (c), (d), (e), (f), (i) inclusive in numbered paragraphs.)

6. The defendant is a resident of within the local limits of the Court of the District Munsif of and has immovable property situate therein. He has no property movable or immovable within the

local limits of the jurisdiction of this Court (or the property of the said defendant within the local limits of the jurisdiction of this Court consists only of

and is not sufficient to satisfy the said decree).

The plaintiff prays that the said decree may be transmitted (through the District Court of _____) to the Court of the District Munsif of _____ for execution.

I, A.B., the abovenamed plaintiff, declare that the facts stated above are true to my knowledge, except as to matters stated to be on information and belief and as to these matters I believe them to be true.

(Signed) L.M.,
Advocate for the Plaintiff.

(Signed) A.B.,
Plaintiff.

Form No. 113.

ORDER XXXIX.—APPLICATION FOR EXECUTION OF A DECREE OR ORDER FOR PAYMENT OF MONEY.

(Cause-title.)

Application of A.B., abovenamed plaintiff, in execution.

1. Date of decree (or order)	...	...	...	...	...	Rs. A. P.
2. Date of last order in execution against the judgment-debtor, or on appeal, if any	...	...	...	...	...
3. Amount decreed	...	...	...	...	...
4. Interest thereon at the day of _____	per cent per annum from _____ to this day	...	...	...	...
5. Costs, if any	...	...	...	...	...
6. Interest thereon at from the day of _____	per cent per annum to this day	...	...	...	...
Total						...

7. Amount to which the decree has been satisfied or adjusted	...	...	...	...	...
8. Interest thereon at the day of _____	per cent per annum from _____ to this day	...	...	...	...
Total						...

9. Interest thereon at _____ per cent per annum from _____

10. Name and present address of person against whom execution is now sought G.H.

11. I, A.B., plaintiff above named, hereby declare that the facts herein stated are true to my knowledge, and apply that—

(1) A warrant may be issued for the arrest of the person named in paragraph 10; or

(2) A warrant may be issued for the attachment and sale of the movable property in the possession of the person named in paragraph 10 at the address therein stated, of which property, I declare that the said _____ is sole and absolute owner; or

(3) An order may be made prohibiting X.Y. of (address and description) from giving to the said G.H. or otherwise parting with the possession of the property described in the schedule hereto, of which the said G.H. is the sole owner, subject to a lien of the said X.Y. for Rs. _____, or

(4) A warrant may be issued for the attachment and sale of the immovable property described in the schedule hereto; and that

(5) A notice may issue to the person named in paragraph 10 at the address therein stated, to appear before this Court on the day of _____ and show cause why the said decree should not be executed against him (as the legal representative of *E.F.*, the defendant above named, who died on the _____ day of _____ in respect of the abovementioned property, being assets of the said deceased in the hands of the said *E.F.*, or as the case may be).

Dated the _____ day of _____ 19 _____

SCHEDULE.

Serial number.	Description of property.	Interest of judgment-debtor.	Incumbrances.

(Signed) *A.B.*,
Plaintiff.

(Signed) *L.M.*,
Advocate for the Plaintiff.

Form No. 119.

ORDER XXXIX.—APPLICATION FOR EXECUTION OF DECREE OR ORDER OTHER THAN FOR PAYMENT OF MONEY.

(Cause-title.)

Application of *A.B.*, the plaintiff abovenamed, in execution.

RS. A. P.

- 1. Date of decree (or order)
 - 2. Date of last order in execution against the judgment-debtor, or on appeal, if any
 - 3. Relief granted to applicant
 - 4. Extent to which the said decree (or order) has been satisfied or adjusted
 - 5. Costs awarded
 - 6. Interest thereon at _____ day of _____ } per cent per annum from _____ to this day
- Total

7. Name and present address of person against whom execution is now sought.

8. I, *A.B.*, the plaintiff abovenamed, hereby declare that the facts herein stated are true to my knowledge, and apply that—

(Where a sale is directed.)

(1) The immovable property in the schedule hereto specified may be sold and that Messrs. C.D. & Co., be appointed, commissioners to sell the same as auctioneers, at a commission on the net sale proceeds of 2½ per cent; or

(Where delivery is directed.)

(2) A warrant may be issued for putting the applicant in possession of the immovable property in the schedule hereto set forth or

(3) A warrant may be issued for delivery of the immovable property in the schedule hereto set forth by affixing a copy of the decree or order, dated the _____ day of _____ (or copy of the certificate of the sale of the said property, dated the _____ day of _____) to the outer door of the house hereunder mentioned (or as the case may be) and by proclaiming to the occupants thereof by beat of drum the effect of the said decree or order (or that the interest of the said C.D. in the said property has been transferred to the said A.B.); and that

(4) Notice may issue (continue as in Form No. 118).

Dated this _____ day of _____ 19 _____

SCHEDULE.

(Signed) A.B.,
Plaintiff.

(Signed) I.M.,
Advocate for the Plaintiff.

Form No. 120.

ORDER XXXIX, RULE 23.—NOTICE UNDER ORDER XXI, RULE 34 OF THE CODE.

(Cause-title.)

To

Residence and description.

Take notice that on the _____ day of _____ the abovenamed plaintiff presented an application to this Court that the Court may execute on your behalf a deed of assignment whereof a draft is hereunto annexed, of the immovable property specified hereunder, and that the _____ day of _____ is appointed for the hearing of the said application; and that you are at liberty to appear on the said day, in person or by advocate and to state any objection thereto of which you should give not less than two days' notice in writing to the plaintiff or his advocate.

And also take notice that the address for service of the plaintiff, is, etc. Description of property.

(Set out description as contained in the draft deed of assignment.)

(Signed) _____,
Registrar.

L.S.

Form No. 121.

ORDER XXXIX, RULE 24.—CONCLUDING PORTION OF A DEED EXECUTED BY
THE MASTER.

In witness whereof C.D., the Master of the High Court, Madras on behalf of the abovenamed A.B., and in pursuance of the decree, dated the _____ day of _____ and made in a suit in the said Court, numbered _____ of _____ wherein the abovenamed E.F. was plaintiff and the said A.B. was defendant, set his hand and the seal of the said Court, this _____ day of _____

(Signed) A.B.,
By C.D.,
Master.

L.S.

Form No. 122.

ORDER XXXIX, RULE 24.—ENDORSEMENT OF A NEGOTIABLE INSTRUMENT
BY THE REGISTRAR.

(Cause-title.)

Pay E.F. or order.

(Signed) A.B.
By C.D.,
Master of the said Court.

L.S.

Form No. 123.

ORDER XXXIX, RULE 27.—PROHIBITORY ORDER, WHERE THE PROPERTY
CONSISTS OF MONEY OR OF A SECURITY IN THE HANDS OF A COURT OF JUSTICE
OR OF A PUBLIC OFFICER.

(Cause title.)

To

Sir,

The plaintiff having applied under Order XXI, rule 52 of the Code of Civil Procedure, for an attachment of certain money (or property) now in your hands (here state how the money or property is supposed to be in the hands of the person addressed, on what account, &c.) I request that you will hold the said money (or property) and any interest or dividend becoming payable thereon until the _____ day of _____ subject to the further order of this Court (if the notice be addressed to a public office continue) and that, if you have no notice of any claim to, or interest in the said money (or property), other than that of the abovenamed C.D., you will bring the same into this Court, to the credit of the above suit; or, if you have any objection to so doing, that you will inform me of the ground, thereof.

Dated this _____ day of _____

19 _____

Yours faithfully,
(Signed) _____,
Registrar.

L.S.

Form No. 124.

ORDER XXXIX, RULE 32.—ORDER OF ATTACHMENT OF A DECREE,
WHEN BOTH DECREES ARE IN THE HIGH COURT.

(Cause-title.)

It is ordered that A.B., the plaintiff, shall be at liberty at any time before the _____ day of _____ to apply to this Court for execution of the decree of this Court, dated the _____ day of _____ and made in Suit No. _____ of wherein C.D., the abovesamed defendant, was plaintiff, and E.F. was defendant, and that any moneys realized in execution shall be applied in satisfaction of the decree made in this suit and dated the _____ day of _____

Form No. 125.

ORDER XXXIX, RULE 33.—ATTACHMENT OF A DECREE OF ANOTHER COURT.

(Cause-title.)

To _____
Judge of the Court of _____

Sir,
The plaintiff having applied under Order XXI, Rule 53 of the Code of Civil Procedure, for the attachment of a decree of your Court, dated the _____ day of _____ and made in Original Suit No. _____ of _____ wherein the abovesamed C.D. was plaintiff and E.F. was defendant, I request that you will stay the execution of the said decree until this notice is cancelled or until execution of the said decree is applied for by the holder of the decree now sought to be executed or by his judgment-debtor.

Dated the _____ day of _____ 19 _____

Yours faithfully,
(S.g.eu)

Registrar.

L.S.

Form No. 126.

ORDER XXXIX, RULE 33.—NOTICE TRANSMITTING DECREE FOR EXECUTION AND CANCELLING STAY OF ATTACHMENT (WHERE THE ATTACHED DECREE IS A DECREE OTHER THAN A MONEY DECREE).

(Cause-title.)

To _____
Judge of the Court of _____

Sir,
The plaintiff having applied under sections 38, 39, 41 of the Code of Civil Procedure and Order XXXIX, Rule 33, of the rules of the High Court, 19 _____, for the transmission of the decree in the above suit, dated the _____ day of _____ to your Court, for execution, and being desirous of applying to your Court, for execution, the decree of your Court, dated the _____ day of _____ and made in Original Suit No. _____ of _____ I enclose herewith the documents noted below, and hereby cancel the notice, dated the _____ day of _____ requesting you to abstain from executing

the said decree, so far as regards any application by the abovenamed plaintiff.

Dated this day of 19 .
 Yours faithfully,
 (Signed)
 Registrar.

Form No. 126-A.

ORDER XXXIX, RULE 38.—APPLICATION FOR ISSUE OF A WARRANT OF SALE OF ATTACHED IMMOVABLE PROPERTY.

(Cause-title.)

Execution Application No. of
 Application No. of

A.B., the abovenamed plaintiff, applies, under Order XXI, Rule 66 of the Code of Civil Procedure and Order XXXIX, Rule 38 of the rules of the High Court, 19 , as follows:—

1. That the immovable property described in the schedule to the above execution petition, and attached by the Sheriff of Madras on the day of may be sold at (*insert place of sale*), by public auction on the day of and that an order may be passed for the issue of a warrant of sale.

2. That the proclamation of sale herewith filed may be settled and approved.

3. That summons may issue to C.D., the defendant, to bring into Court the documents in his possession or power relating to the said immovable property.

Form No. 127.

ORDER XLIII, RULE 1.—CAUSE TITLE.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Ordinary Original Civil Jurisdiction.

In the matter of the Arbitration Act and in the matter of an Arbitration Agreement, dated

BETWEEN

A.B.

Petitioner (Plaintiff)

AND

C.D.

Respondent (Defendant).

or

In the matter of suit

of 19 (*Title of the suit*).

Petition under section
 Arbitration Rules.

of the Act and under rule of the

Form No. 127-A.

ORDER XLIII, RULE 4 (1).—NOTICE.

(Cause-title as in Form No. 1.)

Take notice that the Award of the Arbitrator appointed in the matter of the above Arbitration Agreement Suit has been filed on and that the Court will proceed to pronounce judgement on such Award on the day of 19 .

Dated this day of 19 .
 Registrar.

Form No. 127-B.

ORDER XLIII, RULE 5.—SPECIAL CASE (ORIGINAL PETITION.)
(Cause-title as in Form No. 127.)

The following special case is stated for the opinion of the Court :—
(State the facts concisely in numbered paragraphs.)

The question of law for the opinion of the Court are—

- Firstly whether
- Secondly whether

X
Y

Dated this day of 19 .

Arbitrators.

Umpire.

(Here enter verification.)

Form No. 127-C.

ORDER XLIII, RULE 5.—NOTICE.
(Cause-title as in Form No. 127.)

Take notice that the Arbitrators/Umpire have/has stated for the opinion of the Court a special case, copy whereof is hereto annexed, and that the Court will proceed to pronounce its opinion thereon on the day of 19 .

Dated this day of 19 .

Registrar.

Form No. 127-D.

ORDER XLIII, RULE 8.—NOTICE.
(Cause-title as in Form No. 127.)

To

C.D.,

The defendant abovenamed.

Whereas the plaintiff abovenamed has on the day of 19 made an application which has been numbered and registered as suit No. of 19 for an order that the arbitration agreement, dated the day of 19 and entered into between the plaintiff and you the defendant be filed, you are hereby required under subsection (3) of section 20 of the Arbitration Act, 1940, being served with this notice, to appear before the Court on the day of 19 at 10-45 o'clock in the forenoon to show cause why the said agreement should not be filed.

Dated this day of 19 .

Registrar.

APPENDIX III.

REPEALS.

The Rules of the High Court, Madras, Original Side, 1927.

APPENDIX IV.

SECURITIES IN WHICH TRUST MONEYS, MONEYS TO PROVIDE FOR LEGACIES,
AND MONEYS BELONGING TO WARDS, MAY BE INVESTED.

(a) Promissory notes, debentures, stock or other securities of any Local Government or of the Government of India.

(b) bonds, debentures and annuities charged on the revenues of India;

(c) stock or debentures of, or shares in Railway or other companies the interest whereon is guaranteed by the Government of India;

(d) debentures or other securities for money issued by or on behalf of any municipal or local body, under the authority of any Act of a legislature established in India;

(e) first mortgage of immoveable property situate in India provided that the property is not a leasehold for a term of years, and that the value of the property exceeds by one-third, or if consisting of buildings, exceeds by one-half the mortgage money; and

(f) deposit in a Government Savings Bank.

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THE HIGH COURT FEES RULES, 1956.
IN THE HIGH COURT OF JUDICATURE AT
MADRAS.

ORDER I.

PRELIMINARY.

The following orders and rules may be cited as the High Court Fees Rules, 1956, and shall come into operation on the 1st day of January 1957 and shall also apply to proceedings then pending or thereafter commenced.

ORDER II.

COURT FEES.

1. (1) The fees in all suits and proceedings instituted on or after the 19th day of May 1955 and all proceedings by way of appeal or otherwise arising therefrom shall be levied by the Registrar, the Sheriff and the Reserve Bank of India, as the case may be, according to the provisions of the Madras Court Fees and Suits Valuation Act XIV of 1955 and the rules framed thereunder and according to the scale of fees set out in Appendix II hereto upon the several documents, matters and transactions specified as chargeable thereon. The fees chargeable to Government shall be charged by the Reserve Bank of India and credited to Government.

(2) The items set out in Appendix III hereto (items 17, 18 and 19 of Appendix II of the High Court Fees Rules, 1933), shall not be charged by the Registrar in suits and proceedings instituted on or after the 3rd day of July 1950.

(3) The items set out in Appendix III-A hereto (items 1 to 5, 15, 44 to 46, 46A, 62 to 69 and 74 of Appendix II of the High Court Fees Rules, 1933) shall not be charged by the Registrar, and the Sheriff in respect of all suits and proceedings and appeals arising therefrom instituted on or after the 26th day of June 1950 and before the 19th day of May 1955. To such documents, the Registrar shall apply as far as may be, the law in force before the 19th day of May 1955, relating to Court Fees as regards the scale of fees, the manner of levy of such fees, the refund of such fees and in every other respect in the manner and to the extent that it is applicable to similar documents filed in original proceedings in a District Court and in appeals from decrees and orders of a District Court.

2. If an application for leave to prosecute or defend proceedings, *in forma pauperis* is granted, no fee shall be levied unless the Court otherwise orders in respect of any proceeding by or on behalf of, the pauper, except the fees chargeable upon the said application and any proceedings incidental thereto.

3. The Registrar shall not, under item 37 of Appendix II charge any commission upon moneys or securities paid or brought into Court by the Official Trustee; and shall not charge any fee, except the said commission, when the total amount in Court to the credit of a suit, or matter does not exceed Rs. 400 or in respect of payments made to suitors periodically.

4. A separate fee shall be chargeable for each person to whom summons or notice is issued.

If a summons citation or notice issued to a member of a firm on behalf of the firm or to several-minor defendants or respondents represented by a single guardian, a single summons citation or notice shall be issued and only one fee shall be chargeable therefor.

A summons *ad testificandum*, or *duces tecum* shall not contain the names of more than three witnesses.

5. (1) The fee chargeable for interpreting a document shall be calculated according to the number of folios of the original document.

(2) The fee chargeable for translating a document shall be calculated according to the number of pages of the original document, reckoning 24 lines to a page.

(3) In every case where a fee is charged according to the number of folios of a document, part of a folio shall be reckoned as one folio.

6. Unless otherwise ordered, all necessary expenses incurred in respect of the sale, partition or division of property by the Official Referee shall be paid by the party having the conduct of the proceedings in the first instance. In case of dispute the expenses shall be settled and determined by the Taxing Officer.

7. Before the proclamation of sale approved by the Registrar is issued to the party who applied for the sale, such party shall deposit with the Official Referee—

(a) a sum of Rs. 25 when the reserve price of the property to be sold is less than the sum of Rs. 5,000;

(b) a sum of Rs. 50, when the reserve price amounts to or exceeds Rs. 5,000 but is less than Rs. 10,000;

(c) a sum of Rs. 100, when the reserve price amounts to or exceeds Rs. 10,000, but is less than Rs. 20,000;

(d) a sum of Rs. 200 when the reserve price amounts to or exceeds Rs. 20,000.

Credit shall be given for the sums deposited as aforesaid when the commission payable in respect of such sale is collected.

Wherever a fresh proclamation becomes necessary owing to the sale having been adjourned for reasons not due to neglect or default of the party having applied for the sale, the deposit shall enure to the benefit of the subsequent sale.

8. If an officer of Court attends any person out of the Court house, out of office hours he may receive in cash and may retain the fees chargeable for his said attendance being items 25 to 27 of Appendix II hereto.

9. The fees chargeable by the Sheriff and mentioned in Appendix II hereto as items 41 to 45 shall be collected in Court-fee stamps.

10. In addition to the fees chargeable by the Sheriff in Appendix II hereto mentioned, he shall be entitled to all necessary expenses incurred by him, in or about the sale of any property, or for the transmission of documents by post, or otherwise or in the custody of any property attached by seizure, or on account of the custody and maintenance of any person arrested, over and above the amount deposited for subsistence money. In case of dispute the said expenses shall be settled and determined by the Taxing Officer.

ORDER III.

COSTS OF PARTICULAR PROCEEDINGS.

1. No costs of, or incidental to, a proceeding shall be allowed, unless the same are expressly awarded by an order, or decree.

2. Unless the Court otherwise directs, fixed costs shall be allowed in all proceedings in accordance with the scale set forth in Appendix IV.

When the costs of an interlocutory application or of an adjournment or of the day are awarded to a party, the Registrar shall, unless the Court otherwise orders, insert in the order a fixed sum according to the scale set forth in Appendix IV hereto, provided that, if the party appears in person, only the amount of Court-fees incurred by him shall be inserted.

3. If the costs of an interlocutory application or order are not paid within seven days from the date of the allocatur of the Taxing Officer, or when the same are ascertained without taxation, under the preceding rule, or otherwise, or within seven days from the date of the order awarding the same, the party to whom costs

are awarded may apply by summons or on the hearing of any application by the party in default, that all or any proceedings in the suit or matter may be stayed, or set aside, or that any subsequent step taken by the party ordered to pay such costs may be set aside for irregularity, and the Court thereupon may make such order as it thinks fit.

4. Upon the first application for execution of a decree or order, and in respect of all costs and expenses thereof, the Registrar shall insert in the warrant a direction to the Sheriff to levy in addition to the amount due under the decree or order a sum according to the scale in Appendix IV hereto: Provided that where execution is obtained otherwise than through the Sheriff, the costs thereof may be ordered to be taxed.

5. The Master or the Registrar may in his discretion allow the fixed costs of subsequent applications for execution.

ORDER IV.

TAXATION OF COSTS.

1. In all suits and proceedings other than interlocutory proceedings, unless the Court orders otherwise, costs shall be taxed on the basis of the fees laid down in Order V together with any amounts legitimately spent on Court-fees, stamps on powers or exhibits, Commissioner's fees, process fees, subsistence of witnesses, fees for expert witnesses and the like. Costs incurred on the preparation of the parties' case for presentation in Court shall be deemed to be covered by such fees and shall not be, separately taxed. (Note.—Costs of interlocutory proceedings have been provided for in Order III.)

2. The party to whom costs have been awarded (unless the party be the State, a public servant whose suit or defence has been undertaken by the Government, a local board or municipality or the Court of Wards) shall within one month from the date of the judgment or order or such further time as the Court may allow, file, together with the statement referred to in Rule 3, a certificate signed by the practitioner or practitioners showing the amount of fees actually received. No fee shall be allowed in taxation in excess of the amount certified.

3. The party shall within one month of the date of the judgment or order or such further time as the Court may allow file in Court a tabular statement showing the amount of costs claimed under each of the various heads indicated in Rule 1 above, and the total thereof.

4. A copy of the statement referred to in Rule 3 shall be served on the party against whom costs are awarded or his advocate or attorney and an affidavit of service shall be filed along with the statement.

5. Notice of the date on which the costs shall be taxed shall be affixed to the notice board of the High Court.

6. The statements filed under Rule 3 shall be checked by the Taxing Officer and the amount allowed shall be settled.

7. Any party or his advocate or attorney who is dissatisfied with the decision of the Taxing Officer may, within ten days of the decision, appeal by summons to the Judge.

8. Such appeal shall be heard and determined upon the evidence which shall have been brought in before the Taxing Officer and no further evidence shall be received upon the hearing thereof unless the Judge shall otherwise direct.

9. Where no appeal has been preferred within the time allowed in Rule 7, the costs settled by the Taxing Officer shall be embodied in the decree or order.

ORDER V.

PRACTITIONERS' FEES.

1. For the purpose of this order the word 'suit' shall not include summary proceedings under Order VII of the Original Side Rules.

2. (1) The fees to be allowed on the Original Side of the High Court in party and party taxation in all suits shall be as follows:—

(a) Where the suit is concluded prior to the date of the settlement of issues, or where issues are dispensed with, the date of the order dispensing with the issues or where in the proceedings in question issues are, by the rules not required, the date of the filing of the written statement of the party in question, then—

(1) if the amount or value of the claim does not exceed Rs. 5,000, $1\frac{3}{4}$ per cent;

(2) if the amount or value exceeds Rs. 5,000 and does not exceed Rs. 10,000, on Rs. 5,000 as above, and on the remainder, $1\frac{1}{4}$ per cent;

(3) if the amount or value exceeds Rs. 10,000 and does not exceed Rs. 20,000, on Rs. 10,000 as above, and on the remainder, $1\frac{1}{4}$ per cent;

(4) if the amount or value exceeds Rs. 20,000 and does not exceed Rs. 50,000, on Rs. 20,000 as above, and on the remainder, $\frac{1}{2}$ per cent;

(5) If the amount or value exceeds Rs. 50,000 and does not exceed Rs. 1,00,000, on Rs. 50,000 as above, and on the remainder, $\frac{3}{8}$ per cent;

(6) if the amount or value exceeds Rs. 1,00,000, on Rs. 1,00,000 as above, and on the remainder, $\frac{3}{16}$ per cent;

(b) In cases where the suit is decided *ex parte*, the defendant not entering appearance or having entered appearance not contesting, then—

(1) if the amount or value of the claim does not exceed Rs. 5,000, $3\frac{1}{2}$ per cent;

(2) if the amount or value exceeds Rs. 5,000 and does not exceed Rs. 10,000, on Rs. 5,000 as above, and on the remainder, $2\frac{1}{2}$ per cent;

(3) if the amount or value exceeds Rs. 10,000 and does not exceed Rs. 20,000, on Rs. 10,000 as above, and on the remainder, 2 per cent;

(4) if the amount or value exceeds Rs. 20,000 and does not exceed Rs. 50,000, on Rs. 20,000 as above, and on the remainder, 1 per cent;

(5) if the amount or value exceeds Rs. 50,000 and does not exceed Rs. 1,00,000, on Rs. 50,000 as above, and on the remainder, $\frac{3}{4}$ per cent;

(6) if the amount or value exceeds Rs. 1,00,000 on Rs. 1,00,000 as above, and on the remainder, $\frac{3}{8}$ per cent;

(c) In cases not falling under clause (a) or (b)—

(1) if the amount or value does not exceed Rs. 5,000, 7 per cent;

(2) if the amount or value exceeds Rs. 5,000 and does not exceed Rs. 10,000, on Rs. 5,000 as above, and on the remainder, 5 per cent;

(3) if the amount or value exceeds Rs. 10,000 and does not exceed Rs. 20,000, on Rs. 10,000 as above, and on the remainder, 4 per cent;

(4) if the amount or value exceeds Rs. 20,000 and does not exceed Rs. 50,000, on Rs. 20,000 as above, and on the remainder, 2 per cent;

(5) if the amount or value exceeds Rs. 50,000 and does not exceed Rs. 1,00,000, on Rs. 50,000 as above, and on the remainder, $1\frac{1}{2}$ per cent;

Provided that the scale of fees set out above shall be subject to the following minima and maxima :—

(1) In cases falling under clauses (a), (b) and (c) the minimum shall be Rs. 100.

(2) In cases falling under clause (a) the maximum shall be Rs. 500 and in clause (b) the maximum shall be Rs. 1,000.

(2) Unless the Court otherwise orders, in every suit an additional fee calculated at one-third of the fees allowable under sub-rule (1) shall be allowed to a junior practitioner on record: Provided that in any case where a junior fee is allowable under this rule, the Court shall have a discretion to fix that fee at half instead of one-third.

3. In cases which are referred to the Official Referee or to a Commissioner to take accounts or for other enquiry or when a Commissioner is appointed to examine witnesses, notwithstanding anything contained in Rule 17, the taxing officer may, if the Court award the costs of the reference, after taking into account the value of the work done before the Official Referee or Commissioner, allow to the practitioner so appearing, a further fee in addition to the *ad valorem* fee but not exceeding one-third thereof.

4. The fee to be allowed to a practitioner in appeals from judgments (decrees) of a Judge in the exercise of the Ordinary Original Jurisdiction of the Court in suits, shall be payable on the following scale :—

(a) when, at the time of hearing, the appeal is set down on the "Ready Board"—

(1) if the amount or the value of the claim does not exceed Rs. 5,000, 7 per cent;

(2) if the amount or the value exceeds Rs. 5,000 and does not exceed Rs. 10,000, on Rs. 5,000 as above, and on the remainder, 5 per cent;

(3) if the amount or the value exceeds Rs. 10,000 and does not exceed Rs. 50,000, on Rs. 20,000 as above, and on the remainder, 4 per cent;

(4) if the amount or the value exceeds Rs. 20,000 and does not exceed Rs. 50,000, on Rs. 20,000 as above, and on the remainder, 2 per cent;

(5) if the amount or the value exceeds Rs. 50,000 and does not exceed Rs. 1,00,000, on Rs. 50,000 as above, and on the remainder, $1\frac{1}{2}$ per cent;

(6) if the amount or the value exceeds Rs. 1,00,000, on Rs. 1,00,000 as above, and on the remainder, $\frac{3}{4}$ per cent;

(b) when, at the time of hearing, the appeal is not set down on the "Ready Board" but printing of the records has been



applied for and estimated print-charges have been paid by the party to whom costs are awarded—

(1) if the amount or value of the claim does not exceed Rs. 5,000, $3\frac{1}{2}$ per cent;

(2) if the amount or value exceeds Rs. 5,000 and does not exceed Rs. 10,000, on Rs. 5,000 as above, and on the remainder, $2\frac{1}{2}$ per cent;

(3) if the amount or value exceeds Rs. 10,000 and does not exceed Rs. 20,000, on Rs. 10,000 as above, and on the remainder, 2 per cent;

(4) if the amount or value exceeds Rs. 20,000 and does not exceed Rs. 50,000, on Rs. 20,000 as above, and on the remainder, $\frac{3}{4}$ per cent;

(5) if the amount or value exceeds Rs. 50,000 and does not exceed Rs. 1,00,000, on Rs. 50,000 as above, and on the remainder, $\frac{3}{4}$ per cent;

(c) in cases not falling under clause (a) or (b)—

(1) if the amount or value of the claim does not exceed Rs. 5,000, $1\frac{1}{4}$ per cent;

(2) if the amount or value exceeds Rs. 5,000 and does not exceed Rs. 20,000, on Rs. 5,000 as above, and on the remainder, $\frac{3}{4}$ per cent;

(3) if the amount or value exceeds Rs. 20,000 and does not exceed Rs. 1,00,000, on Rs. 20,000 as above, and on the remainder, $\frac{3}{8}$ per cent;

(4) if the amount or value exceeds Rs. 1,00,000, on Rs. 1,00,000 as above, and on the remainder, $\frac{3}{16}$ per cent:

Provided that in Original Side Appeals from decrees the fees payable shall be subject to the following minima—

(1) In cases falling under clause (a) Rs. 100.

(2) In cases falling under clause (b) Rs. 50.

(3) In cases falling under clause (c) Rs. 25.

5. In appeals from orders (amounting to judgments) of a Judge in exercise of the Ordinary Original Civil Jurisdiction of the Court and in other Miscellaneous cases, the fees to be allowed to a practitioner are payable on the following scale:—

(1) if the amount or value of the claim does not exceed Rs. 5,000, 2 per cent;

(2) if the amount or value exceeds Rs. 5,000 and does not exceed Rs. 10,000, on Rs. 5,000 as above, and on the remainder, 1 per cent;

(3) if the amount or value exceeds Rs. 10,000 and does not exceed Rs. 20,000, on Rs. 10,000 as above, and on the remainder, $\frac{3}{4}$ per cent.

(4) if the amount or value exceeds Rs. 20,000 and does not exceed Rs. 50,000, on Rs. 20,000 as above, and on the remainder, $\frac{1}{3}$ per cent;

(5) if the amount or value exceeds Rs. 50,000 and does not exceed Rs. 1,00,000, on Rs. 50,000 as above, and on the remainder, $\frac{1}{5}$ per cent;

(6) if the amount or value exceeds Rs. 1,00,000, on Rs. 1,00,000 as above, and on the remainder, $\frac{1}{16}$ per cent.

The minimum fee under this rule shall be Rs. 35.

6. Unless the Court otherwise orders, in cases capable of valuation for purposes of taxation other than those falling under Rule 20 below, the words "the amount or value of the claim" in Rules 2, 4 and 5 mean the value as set forth in the plaint, written statement containing a counter-claim, or memorandum of appeal, and where Court-fees are payable *ad valorem* the value on which such Court-fees are paid, and "appeal" includes a memorandum of cross-objections.

7. Where the valuation of the subject-matter of a suit as set forth in the plaint is disputed by the defendant, the Taxing Officer shall take the valuation as set forth in the plaint as a true value for purpose of taxation of costs, unless the value of the subject-matter of the suit has been determined by Court and in such case shall take such value.

8. Where the claim does not admit of valuation but is valued for purposes of jurisdiction, the fee for practitioners shall, unless the Court orders to the contrary, be calculated on such value.

9. In cases in which the subject-matter of the claim does not admit of valuation, the Taxing Officer shall fix a reasonable fee, regard being had to the time occupied in the preparation and hearing of the case and the nature of the questions raised therein, as also to the minimum fee prescribed.

10. In cases in which the Court directs that the plaintiff and the defendant do pay and receive proportionate costs, the whole costs incurred by each party, including court-fees, practitioners fees, printing and translation charges, if any, costs of printing papers, batta, etc., shall, unless the Court otherwise orders, be taxed by the Taxing Officer and after such taxation ordered to be paid and received in the proportion in which the parties have respectively failed or succeeded.

11. Unless the Court otherwise orders, where the Court directs costs on the amount decreed, the costs shall be taxed in the manner prescribed in the last preceding rule.

12. Fractions of a rupee in the amount or value of a claim are to be rejected in calculating the fee payable thereupon.

13. If several defendants or respondents, who have a joint or common interest, succeed upon a joint defence, or upon separate defences, substantially the same, not more than one fee shall be allowed, unless the Court otherwise orders. If only one fee be allowed, the fee shall be apportioned equally unless the Court otherwise directs.
14. If several defendants or respondents, who have separate interest, set up separate and distinct defences and succeed thereon, a fee for one practitioner for each of the defendants or respondents who shall appear by a separate practitioner may be allowed in respect of his separate interest. Such fee, if allowed, shall be calculated with reference to the value of the separate interest of such defendant or respondent, in the manner hereinbefore prescribed.
15. In suits for accounts, partnership actions, suits for partition, suits for administration, and generally in all suits where a preliminary decree is passed and an enquiry is directed to be held to enable a final decree to be passed, costs of the suit are to be taxed on the passing of the final decree unless the Court shall otherwise direct.
16. In cases of special difficulty or importance or where the amount of work involved is unusually great, the Court may, on the application of a party, direct that a higher fee than would ordinarily be admissible under these rules be allowed to a party.
17. Where the Court orders the costs of an interlocutory application to be taxed, the Taxing Officer shall fix a reasonable fee not in any case exceeding Rs. 100.
18. The fee allowed for prosecuting or defending a suit on the Original Side of the High Court or an appeal therefrom is intended to cover all proceedings up to final decree; but it shall not be deemed to include the fixed costs of interlocutory applications the costs of which have been ordered to be costs in the cause.
19. Where a suit or appeal is remitted for rehearing and disposal or for a finding on issues, a further fee not exceeding fifty per cent of the original fee may be allowed in respect of such proceedings by the Taxing Officer, who shall take into consideration the work involved.
20. In proceedings other than suits or interlocutory applications and other proceedings including original petitions, the Taxing Officer shall fix a reasonable fee, subject ordinarily to the minimum and maximum shown below:—

	Minimum.	Maximum.
	RS.	RS.
Judge's summons	35	100
Original Petitions, Originating Summons, Testamentary Suits and Matrimonial Suits,	50	250

But in cases of special difficulty or importance or where the amount of work is unusually great, the Court may allow a higher fee.

Taxation as between Advocate and Client.

21. Where dispute arises between a practitioner and his client as to the fees payable to the practitioner, either may apply to the Master for an order that the amount due might be taxed.

22. The Master may, on hearing the parties, or their advocates, either refer the applicant to a suit or direct the Taxing Officer to tax the bill.

Where the Master passes an order for taxing the bill, the Taxing Officer shall proceed to do so and the rules regulating the taxation of costs, between party and party are, as far as may be, applicable to taxation between a practitioner and his client.

23. The Taxing Officer shall not recognize any agreement that may be set up regarding the fees payable to a practitioner by his client unless the same has been recorded in writing.

24. In cases where the practitioner has not conducted the whole suit or proceeding or his services have otherwise become terminated, before the suit or proceeding is over, the practitioner shall not be entitled to the full *ad valorem* fee but only to such a portion thereof as the Taxing Officer considers reasonable, provided that if the Taxing Officer considers that the termination was without just cause, he may allow the full *ad valorem* fee.

It shall be regarded as a just cause for termination if the practitioner is not either in person or by deputy duly authorized in Court when the case is called on.

25. When a bill has been taxed in the manner aforesaid, the Master shall hear objections, if any, and determine the amount payable to the practitioner and make an order directing the client or his legal representative to pay the amount so determined. Such order may be executed under Order XXI, Civil Procedure Code, as a decree for money.

ORDER VI.

ALLOWANCES TO PARTIES IN RESPECT OF WITNESSES.

1. Subject to the following rules, there may be allowed to witnesses for their attendance at Court the respective sums set out in Appendix V hereto ;

Provided that the procedure to be adopted in the case of Government servants who are summoned as witnesses in their official capacity in suits in which Government is a party shall be in accordance with the amended rules contained in Order XVI, Schedule I of the Code of Civil Procedure, 1908.

2. Where a witness is a party to the suit or matter, he shall not be entitled to any allowances, except for travelling, unless he has been subpoenaed by another party to give evidence, or the Judge otherwise orders.

3. If a witness or party, summoned and cited as a witness by any other party, resides beyond the local limits of the jurisdiction of the Court, he may be allowed as travelling expenses, allowance for subsistence and other expenses, the sum which has been actually and reasonably paid by him, not exceeding the allowances and expenses set out below :—

Travelling allowances.			Allowances for subsistence and other expenses not exceeding per diem.
By rail.	By road.	By sea or canal.	
<i>Class of witnesses—First Class.</i>			
First-class fare.	Eight annas per mile.	Actual expenses of passage.	RS. 5 to 20
<i>Class of witnesses—Second Class.</i>			
Second-class fare.	Four annas per mile.	Actual expenses of passage.	3 to 15
<i>Class of witnesses—Third Class.</i>			
Intermediate or if there be no intermediate, third-class fare.	Two annas per mile.	Actual expenses of passage.	2 to 10
<i>Class of witnesses—Fourth Class.</i>			
Third-class fare.	Two annas per every ten miles or if witnesses are unable to walk, one anna per mile.	Actual expenses of passage.	1 to 3

4 If it appears to the Taxing Officer that costs have been reasonably and properly incurred, he may, in his discretion, allow costs of witnesses who have not been summoned but examined or who have been summoned but not examined.

5. In any suit or matter the Judge may order that any expert witness may be allowed for qualifying to give evidence, and for attending the trial or hearing, such sums as the Taxing Officer may think fit, not exceeding the maximum allowance given in Schedule II of Appendix V hereto.

APPENDIX I.

REPEALS.

1. High Court Fees Rules, 1933.
2. Standing Order 433 of the High Court dealing with remuneration of Shorthand writers.

APPENDIX II.

COURT FEES.

Serial number.	Description of document or proceeding.	Amount. RS. A.
<i>Fees to be levied by the Registrar of the High Court.</i>		
1	Special case under the Arbitration Act, 1940, or any other enactment.	100 0
2	Originating summons	20 0
3	Summons, citation or notice, to a defendant to a plaint, to a respondent to a petition, execution application or memorandum of appeal, and summons to a witness, each.	2 0
4	Application to the Registrar for the transmission of a summons, notice, or process for service, including postage, in respect of each summons, notice or process.	3 0
5	Judge's summons, Master's summons or Registrar's summons except as otherwise provided for	2 0
6	Amendment of any proceeding, per folio of amendment ..	0 6
7	Search of records, in respect of each suit, appeal or matter in which search is made, for every hour or part of an hour.	2 0
8	Application to the Registrar for the production by an Officer of the Court of any record or document, at the hearing of a suit, appeal or matter in the High Court, other than that in which the record or document is filed, or in any Court other than the High Court.	1 0
9	On filing a certificate or report of a Commissioner or Award of an Arbitrator.	5 0
10	Certificate of the Registrar	1 0
11	If the document certified by the Registrar exceeds two folios in length and the copy is handwritten or typewritten, per 175 words.	0 5
	Or if the document certified exceeds two folios in length and the copy is a photostat copy—	
	Per print of size not exceeding 9" x 6"	0 10
	Per print of size exceeding 9" x 6" but not exceeding 12" x 9".	1 4
	Per print of size exceeding 12" x 9" but not exceeding 18" x 12".	2 0
	Per print of size exceeding 18" x 12" but not exceeding 24" x 18".	4 0
	Per print of size exceeding 24" x 18" for size up to 24" x 18" as above and for each extra size of 18" x 12" or part thereof.	2 0

Serial number.	Description of document or proceeding.	Amount. RS. A.
12	Copy of a transcript of a shorthand note, if typewritten, per 175 words or part thereof. If the copy is a photostat copy, the same rate per print as under item 12.	0 5
13	For taking security or passing account, for the first hour or part of the first hour.	2 8
14	For every subsequent hour or part of a subsequent hour ..	5 0
15	Interpreting <i>viva voce</i> any document, proceeding, not exceeding eight folios.	1 0
16	And for every folio beyond eight folios	0 8
17	Translation of any document, including one copy of the translation, per page of 24 lines or part thereof.	1 12
18	Copy of will annexed to probate or Letters of Administration if handwritten or typewritten, per folio or part thereof. If the copy is a photostat copy per print of size up to 12" x 9" .. Per print of larger sizes, same rate as under item 12.	0 6 1 4
19	Entering and registering probate and will, per folio	0 6
20	Entering and registering Letters of Administration and bond, and will, if any, per folio.	0 6
21	For every exemplification, per folio	1 0
22	Execution application	5 0
23	Warrant of arrest or attachment, writ or process in execution, not otherwise provided for.	5 0
24	For every attendance by an Officer of Court, out of Court-house and within two miles thereof, in addition to all other fees chargeable.	10 0
25	Or, if the actual attendance on the party is for more than one hour, a further sum of.	10 0
26	And, for every mile beyond two miles from the High Court, a further fee of.	2 0
27	For every enquiry or on the taking of every account by the Official Referee for each day or part of a day. Provided that in cases where only directions are given or where only formal orders in the nature of directions are passed, no fee shall be chargeable.	20 0
28	On the sale of property conducted by the Official Referee, a commission at the rate of 2½ per cent on the net sale-proceeds, not exceeding Rs. 50,000 and at the rate of 1½ per cent, on balance.	
29	On the sale of property in partition suits by the Official Referee between the parties for the purpose of partition and for equalizing the shares, half the above rates.	
30	Official Referee's summons	2 0
<i>Proceedings under section 4 of the Powers of Attorney Act, 1882.</i>		
31	Depositing power of attorney and affidavits verifying the same ..	2 0
32	Certifying copy of any document to be a true copy	1 0
33	And, when the copy is prepared by the Registrar, for each folio after the first two folios.	0 6
34	Search of file of instruments deposited for each hour or part thereof.	2 0

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THE HIGH COURT FEES RULES, 1956

253

Serial number.	Description of document or proceeding.	Amount. RS. A.
<i>Commission payable to the Reserve Bank of India.</i>		
35	For collection by the Reserve Bank of India of interest on securities to the credit of Civil Courts Deposits of the Original Side of the High Court endorsed to it for such collection a commission of annas two on every Rs. 50 drawn and remitted, subject to a minimum charge of annas four : Provided that where such interest does not amount to Rs. 10, no commissions shall be payable.	
36	Upon all interest accruing on the securities with the Manager, Reserve Bank of India, for every Rs. 100.	2 8
37	Upon all moneys payable to the Manager, Reserve Bank of India, for investment with privity of the Registrar, of the High Court for every Rs. 100	1 0
38	For the auditing of the accounts of the Suitors' Fund annually, by the Examiner of the Local Fund Accounts, Madras, upon all moneys paid to the Reserve Bank of India, Madras, with the privity of the Registrar, High Court, decimal two per cent.	
39	For purchase and sale of securities : 1/8 per cent on the purchase price and sale price.	

Fees to be levied by the Sheriff.

40	In respect of sale by the Sheriff in execution of decrees, poundage on purchase money calculated at the rate of one anna in the rupee on the first Rs. 350, half an anna in the rupee on any additional sum up to Rs. 1,000, and quarter anna in the rupee on any additional sum above Rs. 1,000.	
41	For copies of all papers from the Sheriff's office, per folio ..	0 6
42	On every application for a search in the Sheriff's office	1 0
43	For the detention of any person in custody before commitment by order of the Court or a Judge, each day.	2 0
44	For keeping possession of movable or immovable property, the necessary expenses actually incurred in keeping such possession, the amount in cases of dispute to be settled by the Taxing Officer.	

APPENDIX III.

Serial number.	Description of document or proceeding.	Amount. RS. A.
1	On the first hearing of a Testamentary or Matrimonial suit ..	20 0
	On the first hearing of any other suit (Item 17 of Appendix II of the High Court Fees Rules, 1933.)	10 0
2	On the hearing or trial in Court of a suit, or matter, other than a motion on affidavit evidence only for the first day	10 0
	And on counter claim an additional	10 0
	For every day subsequent to the first. (Item 18 of Appendix II the High Court Fees Rules, 1933.)	20 0
3	Every document produced with or annexed to a plaint, petition (other than a testamentary petition), or written statement, or counter-claim, or exhibited to an affidavit to be used in Court (other than an affidavit of service) or marked as an exhibit at a hearing before the Court. (Item 19 of Appendix II of the High Court Fees Rules, 1933.)	2 0

* (Subject to a minimum of four annas in each case.)

APPENDIX III-A.

Serial number.	Description of document or proceeding.	Amount.	
		RS.	A.
1	Plaint or special case under Order XXXVI of the Code of Civil Procedure—Where the value of the subject-matter of the suit does not exceed Rs. 2,500.	225	0
	And for every Rs. 1,000 or part thereof in excess of Rs. 2,500.		5 0
	NOTE.—The plaintiff shall contain a statement of the value of the subject-matter of the suit for purpose of calculating the court-fees payable thereon under this item. The plaintiff shall, in preparing the statement follow as far as possible, the provisions of section 7 of the Court Fees Act, 1870, as amended by Madras Act V of 1922. (Item 1 of Appendix II of the High Court Fees Rules, 1933.)		
2	If the plaintiff or agreement comprises a single cause of action or several causes of action when joined, cognizable by the Madras City Civil Court or the Madras Court of Small Causes, the same fee as would be leviable, were the plaintiff presented in the Madras City Civil Court or the Madras Court of Small Causes: Provided that the fee shall in no case be less than Rs. 225. (Item 2 of Appendix II of the High Court Fees Rules, 1933.)		
3	Written statement pleading a set-off as defined in Order VIII, Rule 6 of the Code of Civil Procedure, 1908. The same fee as would be leviable on a plaintiff for the amount of the set-off claimed. (Item 3 of Appendix II of the High Court Fees Rules, 1933.)		
4	Written statement containing a counter-claim. The same fee as would be leviable on a plaintiff for the amount of the counter-claim. (Item 4 of Appendix II of the High Court Fees Rules, 1933.)		
5	Reply to a counter-claim. (Item 5 of Appendix II of the High Court Fees Rules, 1933.)	10	0
6	Warrant of commission to examine witnesses, or other commission, including transmission to the Court, if any, to which the commission is issued. (Item 15 of Appendix II of the High Court Fees Rules, 1933.)	10	0
7	Memorandum of appeal from a final judgment:— When the value of the subject-matter of the appeal does not exceed Rs. 2,500.	225	0
	And for every Rs. 1,000 or part thereof in excess of Rs. 2,500. (Item 44 of Appendix II of the High Court Fees Rules, 1933.)		5 0
8	Memorandum of appeal from any other judgment or order (Item 45 of Appendix II of the High Court Fees Rules, 1933.)	100	0
9	Memorandum of objection; where the value of the subject-matter of the memorandum of objections does not exceed Rs. 2,500.	225	0
	And for every Rs. 1,000 or part thereof in excess of Rs. 2,500. (Item 46 of Appendix II of the High Court Fees Rules, 1933.)		5 0
10	Memorandum of objections filed in an appeal against any other judgment or order. (Item 46-A of Appendix II of the High Court Fees Rules, 1933.)	100	0
<i>Fees to be levied by the Sheriff.</i>			
11	On every citation or summons either to a party or a witness for each person to whom the citation or the summons is directed. (Item 62 of Appendix II of the High Court Fees Rules, 1933.)	3	0
12	On every notice for each person to whom the notice is directed. (Item 63 of Appendix II of the High Court Fees Rules, 1933.)	3	0
13	On every warrant of arrest. (Item 64 of Appendix II of the High Court Fees Rules, 1933.)	7	8
14	On every proclamation for attachment or process of sale. (Item 65 of Appendix II of the High Court Fees Rules, 1933.)	5	0
15	On every warrant of attachment of movable or immovable property according to the value of the suit if after or before judgment or the amount decreed in respect of which execution is sought, if the amount or value does not exceed Rs. 1,000.	12	0

Serial number.	Description of document or proceeding.	Amount.
		RS. A.
	Exceeds Rs. 1,000 but does not exceed Rs. 2,500	16 0
	Exceeds Rs. 2,500 but does not exceed Rs. 5,000	20 0
	Exceeds Rs. 5,000 but does not exceed Rs. 10,000	25 0
	Exceeds Rs. 10,000	35 0
	(Item 66 of Appendix II of the High Court Fees Rules, 1933.)	
16	On every warrant or order for delivery of possession of property, movable or immovable if no attachment has taken place, the fee for attachment of the property—	
	If attachment has taken place—	
	For movable property	2 0
	For immovable property when its consists of single parcel ..	5 0
	For the like where there are several parcels situated in different places, for each parcel.	3 0
	(Item 67 of Appendix II of the High Court Fees Rules, 1933.)	
17	On every warrant of sale of movable property	2 0
	(Item 68 of Appendix II of the High Court Fees Rules, 1933.)	
18	On every warrant of sale of immovable property	5 0
	(Item 69 of Appendix II of the High Court Fees Rules, 1933.)	
19	On every injunction or order not otherwise provided for	5 0
	(Item 74 of Appendix II of the High Court Fees Rules, 1933.)	

APPENDIX IV.

FIXED COSTS.

Serial number.	Description of application or proceeding.	Amount where the party appears	
		By advocate.	In person.
		RS.	RS.
	<i>Interlocutory Application.</i>		
1	When the party appears by an attorney or an advocate—		
	(1) Costs of the applicant	35	..
	(2) Costs of any other party	25	..
2	When the party appears instructed by an attorney, if the application is in Court—		
	(1) Costs of the applicant	60	..
	(2) Costs of any other party	30	..
	<i>Adjournment and Day Costs.</i>		
3	On an interlocutory application	30	..
4	On the trial of a suit, appeal or matter in Court	30	..
	<i>Costs of Execution Applications.</i>		
5	For arrest	50	21
6	For delivery of specific property	50	12
7	For attachment of any property	60	36
8	In addition to the costs allowable, under item 7 for attachment of the property, upon an application for—		
	(1) Sale of movable property	75	12
	(2) Sale of immovable property	150	16
	<i>Summary Suits.</i>		
9	(Vide Fees Rules regarding undefended suits).		

APPENDIX V.

Allowances to Witnesses.

SCHEDULE I.

ORDINARY WITNESSES.

	Per diem.	
	Mini- mum.	Maxi- mum.
	RS. A.	RS. A.
1 Merchants, bankers, professional men members of the covenanted civil service, European or Eurasian gentlemen.	5 0	20 0
2 Indian gentlemen of rank and position	3 0	15 0
3 Assistants in mercantile or banking houses	3 0	10 0
4 Indian gentlemen	3 0	5 0
5 Tradesmen, auctioneers, accountants, Indian bankers of dubashes, district munsifs, chief clerks, tahsildars, sarishtadars.	2 0	5 0
6 Clerks from public offices, or mercantile or banking houses.	1 0	3 0
7 Indian shop-keepers, merchants, money-lenders, contractors, village munsifs.	1 0	3 0
8 European or Eurasian pensioners, bailiffs, artisans, journeymen or labourers.	1 0	3 0
9 Indian pensioners, writers, clerks, bailiffs, gumastas, conicapillays, brokers, maistris, artisans, coolies, labourers, cultivators and like.	0 6	1 0
10 Females according to their station in life	0 6	10 0
11 To produce a document	1 0	1 0

SCHEDULE II.

EXPERT WITNESSES.

	If costs are taxed on	
	Lower scale.	Higher scale.
	RS.	RS.
12 For qualifying to give evidence	10 to 50	15 to 100
13 Attending Court on trial, per diem	10 to 20	15 to 30

225

RULES TO REGULATE PROCEEDINGS UNDER
ARTICLE 226 OF THE CONSTITUTION

By virtue of Article 225 of the Constitution of India and of all other powers hereunto enabling, the High Court makes the following rules to regulate proceedings under Article 226 of the Constitution :—

1. An application for a direction, order or writ, including a Writ of Habeas Corpus, Mandamus, Certiorari, Quo Warranto or Prohibition shall be by original petition to be entitled " Writ Petition No. of " and shall be filed in the office of the Registrar by the petitioner or his duly authorized advocate or attorney.
2. Every such petition shall set out the provision of law under which it is made, the name and description of the petitioner and the respondent, the nature of the relief sought and the grounds thereof. The petition shall be signed by the petitioner or his advocate or attorney and the facts relied on by the petitioner shall be verified by an affidavit, which shall be filed along with the petition.
3. Every petition shall, soon after it is numbered, be posted for orders of Court as to issue of notice to the respondents. The Court may, upon hearing the petitioner or his advocate, either direct notice to issue and pass such interim order as it may deem necessary, or reject the petition.
4. Petitions for a direction, order or writ in the nature of Habeas Corpus shall be posted before a Bench of two Judges. All other petitions shall be posted before a single Judge who may, if he thinks fit, refer any of them to a Bench of two Judges.
5. Subject to the directions of the Court, notice of every petition shall be served on all parties directly affected, and, for this purpose, the petitioner shall bring in as many authenticated copies of the petition and affidavit as there are parties to be served and the prescribed process fee.
6. At the hearing of the petition, any person who desires to be heard in opposition to the petition and appears to the Court to be a proper person to be heard, shall be heard, notwithstanding that he has not been served with notice, and subject to such conditions as to costs as the Court may deem fit to impose.
7. (1) In all proceedings to which these rules apply, the Court may make such order as to costs and security as it may consider just and necessary.
(2) Where costs are awarded to a party, such costs may include the court-fees paid on the petition and other documents under these rules, the costs of making copies of petition, affidavit, etc., which are furnished to the Court and which by these rules

are required to be served on the opposite party or parties and the advocate's fee allowed by Court. The Court hearing the petition shall fix the advocate's fee which shall be subject to a minimum of Rs. 50 and a maximum of Rs. 250.

8. (1) Every petition for a direction, order or writ shall be chargeable with a court-fee of Rs. 20 *, other than a petition for a direction, order or writ in the nature of a habeas corpus which shall be charged with a court-fee of Rs. 2.

(2) Every memorandum of Appeal filed under clause 15 of the Letters Patent from the judgment of one Judge on a petition for direction, order or writ to which these rules apply, shall be chargeable with the same court-fee as is charged under sub-rule (1) supra, on the petition from which the Appeal arises.

NOTE.—This sub-rule shall apply only to appeals arising from decisions on Writ Petitions filed before 19th May 1955.

9. The forms set out in the Appendix hereto shall be used, with suitable modifications wherever necessary.

APPENDIX—FORMS.

FORM OF PETITION.

Form No. 1.

IN THE HIGH COURT OF JUDICATURE AT MADRAS,
SPECIAL ORIGINAL JURISDICTION.

Writ Petition No. of 19 .

BETWEEN

AB Petitioner

AND

CD Respondent.

Petition under Article 226 of the Constitution of India.

The Petitioner above named states as follows—

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

(Signed)
Petitioner.

(Signed)

(Signed) Attorney/Advocate for petitioner.

* This fee is Rs. 25 under Article 11 (e) Schedule II of the Madras Court Fees and Suits Valuation Act, 1955.

Form No. 2.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

day, the day of one thousand nine hundred and

PRESENT:

THE HONOURABLE MR. JUSTICE

AND

THE HONOURABLE MR. JUSTICE

Writ Petition No. of 19

In the matter of
a detenu in the Central Jail at

Petitioner.

Petition under Section 491 of the Code of Criminal Procedure, 1898,
Article 226 of the Constitution of India

praying that in the circumstances stated therein and in the affidavit
filed therewith, the High Court will be pleased to issue directions in the
nature of a Habeas Corpus for production before the High Court, Madras,

writ of
the person of a detenu
in the Central Jail at to be dealt with according
to law and direct that he/they be set at liberty.

ORDER.

This petition coming on for orders/hearing, upon perusing the
petition and the affidavit filed in support thereof and other papers
material to this petition, and upon hearing the arguments of Mr.
, advocate for the petitioner, and of Mr.
for the Public Prosecutor on behalf of the State, IT IS ORDERED that
, now a detenu in the Central Jail at
under (specify Act), be released forthwith from custody,
unless he is liable to be detained in custody for some other cause.

Deputy Registrar, Appellate Side.

(True copy)

Sub-Assistant Registrar, Appellate Side.

To

- 1 The Superintendent, Central Jail (in duplicate).
- 2 The Chief Secretary to the Government of Madras, Public
(General-E) Department, Fort St. George, Madras (with cover-
ing letter).
- 3 The District Magistrate.

Dated

ORDER.

Writ Petition No. of 19

Directing the release from custody of
in the Central Jail at

a detenu

Form No. 3.*Order directing issue of a Writ of Habeas Corpus.*

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Writ Petition No. of 19 .

Date:

PRESENT.

THE HONOURABLE MR. JUSTICE

The

*Petitioner**Respondent.*

Petition under Article 226 of the Constitution of India praying that in the circumstances set out in the affidavit filed therewith, the Court may be pleased to issue a Writ of Habeas Corpus, etc.

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

*Deputy Registrar.***Form No. 4.***Writ of Habeas Corpus.*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

To

The Officer in charge of
The Superintendent of

Jail/Asylum.

You are hereby directed to produce the body of
now a prisoner in (name Jail)
now in custody in (Asylum)
now in your charge, under safe conduct before the High Court of
Judicature at Madras on (date) at (hour) in the
forenoon of the same day and unless the said shall then
and there be ordered by the said Court to be released, cause him to
be conveyed back under safe custody to the Jail/Asylum/custody.

Witness the Honourable Mr. , Chief Justice of the
High Court of Judicature at Madras, this day of
in the year one thousand nine hundred and

Deputy Registrar.

Form No. 5.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

WHEREAS this Court has granted a writ of Habeas Corpus directed to (or other person) having the custody of commanding him to have the body of before the said Court, at the High Court, Madras, immediately to undergo and receive all and singular such matters and things as the Court shall then and there consider of concerning him in this behalf:

Now, take notice, that you are hereby required to have the body of the said before the said Court on the day of 19 , at the hour of in the fore (or after) noon. And to make a return to the said writ. Or in default thereof, the said Court will then, or so soon after as counsel can be heard be moved for an attachment against you for your contempt in not obeying the said writ.

Dated the day of 19

Deputy Registrar, Appellate Side.

Form No. 6.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

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

PRESENT:

THE HONOURABLE MR. JUSTICE
and
THE HONOURABLE MR. JUSTICE

Writ Petition No. of 19

1. Petitioner
2. Respondents.

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

This petition coming on for orders, upon perusing the petition, the affidavit filed in support thereof and upon hearing the arguments of Mr. , advocate for petitioner, it is ordered as follows:—

(1) that a writ of certiorari nisi returnable do issue to the the records in calling for on the file of

(2) that a rule nisi do issue to the Respondent herein directing him to appear before this Court in person or by Advocate on 10-45 a.m. and to show cause why this application should not be complied with.

Dated 195 Assistant Registrar, Appellate Side.

Form No. 7.
ORDER.

Writ Petition No. of 195 .

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

Writ of Certiorari—Order Nisi (to produce and or to appear).

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

day, day of
One thousand nine hundred and fifty
Writ Petition No. of 195

BETWEEN

Petitioner

AND

Respondent.

Do

Respondent.

Upon motion this day made unto this Court by Mr. , Advocate for the Petitioner, the Court being of opinion that the records in together with the decision herein should be called for and perused, it is hereby commanded

(1) That you do send forthwith for our use in the High Court of Judicature at Madras all and singular the said records and orders with all things touching the same as fully and perfectly as they have been made by you and now remain in your custody or power together with this writ on or before the day of 195 , at 10-45 a.m.

(2) That you do appear before us personally or by Advocate on the day of 1951 at 10-45 a.m. and show cause why this petition should not be complied with and that we may cause further to be done.

WITNESS the Honourable Mr. Chief Justice of the High Court of Judicature at Madras this day of in the year One thousand nine hundred and

ty Assistant Registrar, Appellate Side.

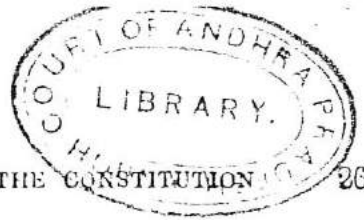
Return of the Writ of Certiorari: Order Nisi.

(To be endorsed on Writ to appear.)

The process of the Writ of Certiorari whereof mention is within made, was served on Respondent this day of One thousand nine hundred and fifty-one.

(Signed)

Writ and Rule Nisi.
Writ Petition No. of 195 .



Form No. 8.

RETURN OF THE WRIT OF CERTIORARI: ORDER NISI.

(To be endorsed on Writ to produce.)

The process of the Writ of Certiorari whereof mention is within made, with all things touching the same in the several papers hereto annexed as within commanded.

The answer of
the respondent herein

Dated the _____ day of _____ 19 .
(Signed)

Form No. 9.

Writ of Certiorari: Order absolute.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

The _____ day of _____ 19 .
Writ Petition No. _____ of 19 .

BETWEEN

Petitioner

AND

Respondent.

This petition coming on this _____ day of _____
further consideration in the presence of _____
and _____
the records in _____
the return _____ to the writ made by _____
hearing the arguments of _____
for _____

_____ 19 on _____
upon perusing _____
and comprised in _____
and upon _____

IT IS ORDERED as follows:—

- (1)
- (2)

WITNESS THE HONOURABLE MR. _____ CHIEF JUSTICE
OF THE HIGH COURT OF JUDICATURE AT MADRAS, THIS _____ DAY OF _____
IN THE YEAR ONE THOUSAND NINE HUNDRED AND _____
FIFTY-

Assistant Registrar, Appellate Side.

Form No. 10.

WRIT OF PROHIBITION.

Formal parts as in Form No. 1.

Whereas by a petition filed in this Court by the aforesaid petitioner, it has been brought to the notice of this Court that you, the Respondent aforesaid, have taken on your file . . . (here describe the proceeding), whereas, this Court is of opinion that you, the respondent aforesaid, have no jurisdiction to hear and determine the said . . . by reason that (state facts showing want of jurisdiction).

You are hereby prohibited from further proceeding with the said

Witness, etc.

Form No. 11.

ORDER ON PETITION FOR QUO WARRANTO.

Petition praying that in the circumstances stated in the affidavit filed therewith the High Court will be pleased to issue a writ of Quo Warranto directed to the Respondent above named, requiring him to show cause by what authority he claims to have, use, enjoy and perform the rights duties privileges of the office of

The petition coming on for orders/hearing this day, upon reading the petition, etc., upon hearing Mr. for the petitioner and the said Respondent appearing by Mr. and entering a disclaimer to the Quo Warranto, this Court doth order and direct that the said the Respondent herein do not intermeddle in any manner with the said office and this Court doth further order and declare that the said office of is vacant.

Form No. 12.

WRIT OF MANDAMUS.

To

WHEREAS by section of Act (state provision of law on which the Act required to be done is founded) you are required to . . . (specify the Act to be done) and whereas it has been represented to the Court that, contrary to the requirements of the Act, you failed, neglected and refused to . . . (state Act refused) in spite of demands made in that behalf,

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

Witness, etc.

RULES FOR THE DESTRUCTION OF RECORDS ON THE ORIGINAL SIDE, HIGH COURT, MADRAS.*

By virtue of the powers contained in section 3 of Act V of 1917 and with the approval of His Excellency the Governor in Council it is ordered that the following rules to regulate the destruction of records on the Original Side of High Court of Judicature at Madras, shall be used and observed in the said High Court of Judicature.

PRESERVATION AND DESTRUCTION OF RECORDS.

1. The following papers, books, registers and proceedings forming part of the records of Civil suits (including cases in the Matrimonial, Testamentary and Intestate, Admiralty, and Extraordinary Original Jurisdictions) and of petitions in the exercise of the jurisdiction with respect to the persons and estates of infants, idiots and lunatics, and generally in the matter of any Statute or Act, shall be preserved for the periods mentioned herein :—

Those in Part I shall be preserved permanently, those in Part II for 12 years and those in Part III for six years.

2. An index of the form prescribed in Appendix A hereto shall be put up with the record of every case on its institution in the Court, and each paper or document as it is filed in the record shall be entered in such index. The index paper itself need not be entered in the index. Column 4 of the index shall be filled in after the final disposal of the case in the Court, or in appeal if any, and the record shall then be divided into parts in accordance with the entries in that column. A separate index of the form prescribed in Appendix B hereto shall be put up for the exhibits filed in the case.

3. All records, papers, books and registers described in these rules shall be destroyed after the expiration of the periods respectively prescribed for their preservation.

4. The periods mentioned in these rules shall be calculated from the date of final decree or order which, in the event of an appeal, including an appeal to the Supreme Court, shall be that of the final decree or order in the appeal; and in the case of registers the periods shall be calculated from the date of the last entry in them.

5. Documents which have been produced by parties but have either not been tendered in evidence or having been tendered in evidence have been rejected, shall be kept apart from the record of the suit or other proceedings to which they belong and shall, if

not reclaimed by the party who produced them, be retained for a period of two years from the date of the final order in the suit or proceeding in which they were produced. At the expiration of that period, they shall be destroyed except such of them as are original wills or title-deeds of immovable property.

6. The processes issued to defendants or respondents in ex parte suits or proceedings shall not be destroyed till execution therein is complete. Execution must be taken to have reached completion on the date the decree is recorded as satisfied in full and when further proceedings are not taken on the expiry of twelve years from the date of the final order on the last application for execution.

7. In January of each year a notice shall be published in the *Fort St. George Gazette* and shall also be affixed to the Court's notice board, specifying the documents produced or filed by the parties which will be destroyed six months after the publication of such notice, and giving warning that, unless previously reclaimed by the parties duly entitled, destruction will, without fail, ensue. All documents reclaimed by parties duly entitled shall be returned to such parties under orders of the Registrar.

8. Where any document of which the destruction is ordered by these rules is, before it has been destroyed, made evidence in any other suit or proceeding, the rule governing destruction of records in the latter suit shall govern such document also.

9. A complete list of the records, books or papers selected for destruction shall be prepared and the date of destruction shall be entered at the head thereof. It shall be the duty of the record-keeper (or his assistant, if any) to certify the correctness of these lists. Before the unspecified papers referred to in the residuary provision in Part III hereof are destroyed, the recordkeeper shall state their nature to the Registrar and take his special orders thereon.

10. With the exception of *Fort St. George Gazette*, which may be sold as waste paper, all other records, books, and papers to be destroyed shall be burnt under the directions of the Assistant Registrar, and in the presence of the recordkeeper or other supervising official.

11. Unclaimed books and records deposited by suitors prior to the year 1920 (except those to be preserved permanently in accordance with these rules) and such books and records in cases prior to 1920 as have become illegible or useless from decay or from ravages of insects, shall be destroyed after the expiration of one year from the date of publication of these rules.

12. Documents produced by any officer of Government or sent for under Order XIII, Rule 10 of Schedule J of the Code of Civil Procedure, 1908, shall not be destroyed, but shall, if not previously reclaimed, be returned to the responsible officers on the expiry of the period prescribed for their retention.

13. No records or papers of the year 1857 or any earlier year shall be destroyed, as they may contain valuable material from an historical point of view. If their removal from the record-room is desired, the Registrar shall consult the Curator, Madras Record Office, giving information as to their nature and forwarding specimens of them. The records should not be sent to him unless called for. If he agrees to their destruction, they may be destroyed.

14. Whenever copper-plate deeds of grant or other documents of archaeological interest are found among records which should under these rules be destroyed, the Registrar shall communicate with the Government Epigraphist, who will decide whether the plates or documents should be destroyed, or be forwarded to the Government Museum.

15. The Registrar shall submit for the orders of a Judge the question of the destruction of any record, book or paper in regard to which there may be any doubt.

16. A Judge or the Registrar may direct the transfer of any record or paper from one part to another for which a longer period of retention or permanent retention is prescribed, in which case the fact shall be noted in the index and the record or paper dealt with as though it belonged from the commencement to the part to which it may be transferred.

Part I.

(a) Index, pleadings, issues, original petitions, title-deeds of immovable property and original wills whether admitted in evidence or not;

Judgment and
Decree.

{ (Original and Appellate) including the judgment and decree or order on remand or finding and also the judgment or order remitting an issue for a finding, and the finding thereon.

(b) Razinama or petition and terms of compromise and orders made thereon (if given effect to in the decree or order); also any order of Court sanctioning compromise in the case of minors or other persons under disability.

(c) Orders (including Appellate orders), other than those mentioned above and in Part III hereof, which are not of a merely routine or unimportant nature such as an order requiring a party to file affidavit of documents or to transmit summons for service to another Court.

(d) Award of arbitrators, report of Official Referee or Commissioners if referred to or given effect to in the decree or order; execution petitions and orders thereon, sale proclamation; sale certificate and order confirming sale.

(e) Share certificate and other documents evidencing title to property produced or filed in the case.

(f) Inventories and accounts filed in testamentary and intestate proceedings.

(g) Security bonds.

(h) Powers of attorney.

(i) Registers—

Suit and petition registers.

Probate and Letters of Administration registers.

Will books.

Minutes book.

Diary register and register of Receivers' accounts.

NOTE.—Rolls of attorneys shall be regarded as belonging to this part.

Part II.

Oral evidence including shorthand note and transcript thereon.

Applications (including affidavits, counter-affidavits and reply-affidavits filed therein) for Receiver

for attachment before judgment,

for temporary injunction,

for review of judgment,

for amendment of decrees,

for maintenance,

for precept under section 46 of the Code of Civil Procedure 1908,

for the examination of judgment-debtor under Order XXI, Rule 41 of the Code of Civil Procedure, 1908,

for concurrent and simultaneous execution,

for commissions; for reference to arbitrator; and

for contempt of Court.

Applications as to disposal of property of infants, lunatics, and idiots.

Applications under section 45 of the Specific Relief Act.

Applications to make decree *nisi* absolute.

Claim petitions.

Books of account and other books, papers and documents deposited into Court on the dissolution of companies under the Companies Act.

Books, papers and documents exhibited (other than those mentioned in Part I).

Return of documents register

"Fort St. George Gazette."

Part III.

Applications and orders made on such applications, in the following cases:—

- for leave to sue and defend,
- for leave to sue and defend as a pauper,
- for leave to search,
- for rejection of pleadings,
- for leave to sign and verify pleadings,
- for change of pleader,
- for appointment of guardian-ad-litem,
- for inspection,
- for discovery, particulars,
- for interrogatories,
- for amendment of pleadings,
- for striking out pleadings,
- for enlargement and abridgement of time,
- for extension of time,
- for excusing delay,
- for directions as to trial,
- for transmission of summons,
- for issue of subpoenas,
- for substituted service,
- for fresh summons,
- for adding parties,
- for bringing on record legal representatives, and
- for sale of property through Court and applications relating thereto, and

All applications in execution of decrees or orders, except execution applications, after full satisfaction of the decree has been entered up.

Vakalats.

Bills of costs and applications relating to taxation.

All applications relating merely to procedure (in the matter of any Act).

Typed papers given to the Court for use of the Judge, draft decrees and orders, summonses to parties, and subpoenas to witnesses.

Copy applications and correspondence.

All papers not already specified.

Registers—

(a) Registers maintained by the Posting—

Chamber Posting.

Decree, and Taxation sections; and as regards collection of court-fees, by Probate section.

(b) The following registers maintained by the *tappal clerk* :—

Decree, commission and summons transmission registers,

Tappal delivery book,

Tappal receipt book,

Stamp expenditure book, and

Stamp indent register.

(c) Issuing register in the record—

Circulation registers,

Copy application register, and

Copy complying register.

(d) Public suit register maintained at the diary for reference by advocates or parties—

Service of summons finding register;

Diary delivery book,

Allocatur delivery book,

Arrears of stamp due book,

O.S. Appeal book, and

Stationery distribution and casual leave registers.

(e) Books maintained by Interpreter's section—

Interpretation registers,

Translation register,

Register for receipt of documents for copying and

Tappal register.

(f) Stationery distribution register.

(g) Casual leave register and work statement registers.

APPENDIX A.

C.S. (O.P. OR APPLICATION) No. _____ OF 19 _____

Serial number of the paper.	Description of the paper and its date.	Date when the paper was filed in the case.	Number of the part of the record to which the paper appertains.	Remarks.

APPENDIX B.

C.S. (O.P. OR APPLICATION) No. OF 19 .

List of Exhibits filed.

Date of filing.	Mark of exhibit.	Description of exhibit.	Number of the part of the record to which the exhibit appertains.	By whom produced.	For whom produced.	Where returned.

[G.O. Ms. No. 2163, Law (General), dated 28th June 1935.]

RULES FOR ENROLMENT OF ATTORNEYS.

Whereas it is expedient to amend the rules relating to the admission of Attorneys in this Court, the High Court in the exercise of the authority conferred by clauses 9 and 10 of the Letters Patent (as amended) and all other powers hereunto enabling, has made the following rules, in supersession of all existing rules, for the qualification and admission of proper persons to be Attorneys of the High Court of Judicature at Madras and is pleased to direct that they shall come into force from and after the 1st day of June 1928.

1. Every candidate for admission as an Attorney of the High Court shall be required to satisfy the High Court—

(a) that he is an Attorney or Solicitor of His Majesty's Superior Courts of Law or Equity in England, Scotland or Ireland, and that as such his name is still borne on the rolls of those Courts; or

(b) that he is an Attorney of one of the High Courts of the Judicature in India established by Royal Charter, that has been duly admitted as such, and that his name is still borne on the rolls of that Court; or

(c) that he has taken the degree of Bachelor of Laws in one of the Indian Universities, that he has served as an articled clerk with an Attorney or Attorneys of any of the High Courts of Judicature in India established by Royal Charter for a period of two years subsequent to passing of the examination for such degree, and that he has also passed the Examination in the Law of Practice and Procedure, Civil and Criminal (known as the Apprentices' Examination) provided under the rules made by the Bar Council, Madras, regarding the qualification and admission of proper persons to be advocates of this Court; or

(d) that he has been articled to an Attorney or Attorneys of this High Court, under the rules hitherto in force, that his contract in writing has been filed in the High Court prior to 1st June 1928, that he has passed the First Examination in Arts or the Intermediate Examination in Arts of any one of the Indian Universities, that he has passed the Pleaders' Examination (First grade) hitherto in force or the Examination in Law, hereinafter referred to (Rule 11), held by the Bar Council, Madras, and that he has served the full period of five years as an articled clerk.

2. (a) An applicant under clause 1 (a) above shall produce satisfactory testimonials to his good character;

(b) An applicant under clause 1 (b) above shall produce satisfactory testimonials to his good character, and shall correctly

state in his application the period he had served under articles of clerkship to an Attorney or Attorneys and the Examinations in Law which he had passed previous to his admission as an Attorney.

(c) An applicant under clauses 1 (c) and (d) shall produce satisfactory testimonials to his good character one of which shall be from the Attorney or Attorneys with whom he has served under articles of clerkship.

3. The term of service required under Rule 1 (c) or (d) need not be all under one and the same contract, nor to one and the same Attorney but may be to different Attorneys, either by virtue of an assignment or assignments or by virtue of successive independent contracts upon the dissolution of the original or succeeding contract.

4. The Attorney or Attorneys with whom the articles required by rule 1 (c) or (d) shall be served shall, during the whole period of the service, be actually practising as such on his (or their) own behalf and not as clerk or clerks to another Attorney.

5. No Attorney shall, without special leave of the Court, be entitled to take any clerk until he shall have been himself in practice as an Attorney for at least three years, nor more than one clerk for service under these rules at one and the same time.

6. The contract in writing whereby a person shall engage as aforesaid to serve as clerk to an Attorney shall be filed with the Registrar, within one calendar month after the execution of the same, together with an affidavit by such Attorney that he has been himself duly admitted and has been practising for at least three years as an Attorney, and that such contract has been duly executed by himself and by the clerk therein mentioned. And in every such affidavit shall be specified the name of the Attorney and his place of business, the name of the clerk and his place of abode, together with the date on which the contract was actually executed.

7. In case articles of clerkship shall be assigned, the assignment shall be in writing and shall be like manner as aforesaid, be filed within one calendar month after the execution thereof, together with an affidavit by the Attorney to whom the assignment has been made, that he has been duly admitted and has been practising for at least three years, and that such assignment has been executed by all the necessary parties. And in every such affidavit shall be specified the name of the Attorney to whom the articles are assigned and his place of business, together with the date on which the assignment was actually executed.

8. If, by reason of death, or for any other good and sufficient reason, an assignment of the articles cannot be obtained, a fresh contract in writing for the remaining period of his term of service shall be entered into by the clerk with the Attorney under whom the service is to be continued, which shall be filed within the time, and with an affidavit similar to that prescribed by Rules 6 and 7.

9. In case the contract or assignment, together with the necessary affidavit, be not filed within the time specified, the same may be filed after the expiration thereof, but the service of the clerk shall be reckoned to have been commenced or renewed only from the date of the filing of such contract or assignment, unless the Court shall otherwise order.

10. No person who shall be articled to serve as a clerk to an Attorney for the purpose of being admitted as an Attorney shall, during the period of such service, hold any office or engage in any employment whatsoever, other than the employment of clerk to such Attorney and his partner or partners (if any) in the business, practice or employment of an Attorney; and every such person shall, during the whole period of service under articles, continue and be really and actually employed in the proper business, practice or employment of an Attorney.

11. The Examinations in Law referred to in Rule 1 (d) above shall be two in number.

The first examination shall be held in the following subjects to be divided between four question papers as indicated below :—

(1) Indian Penal Code .. .. .	.. .. .	} One paper (two-thirds of the questions to be on the Indian Penal Code and one-third on the Evidence Act).
(2) Evidence Act .. .. .	.. .. .
(3) Hindu Law .. .. .	.. .. .	One paper.
(4) Indian Contract Act .. .. .	.. .. .	} One paper (two-thirds on the Indian Contract Act and one-third on Torts).
(5) Law of Torts .. .. .	.. .. .
(6) Transfer of Property Act .. .. .	.. .. .	} One paper (two-thirds on the Transfer of Property Act and one-third on the Insolvency Act and Rules).
(7) Presidency Towns Insolvency Act and the Insolvency Rules (Madras).	.. .. .

No candidate shall be declared to have passed the examination unless he has obtained 33-1/3 per cent of the full marks for each paper and 40 per cent of the aggregate of the marks assigned to all the subjects of examination. The examination will be held by the Bar Council, Madras, with the assistance of examiners to be appointed by the Chairman of the Council. The examiners shall report the result of the examination to the Chairman, who shall after such moderation as may be made by him, notify the result. The fee payable for admission to the examination shall be Rs. 25 and the time for the payment of the fee and the holding of the examination shall be fixed and duly notified by the Chairman from time to time. No fee paid shall, in any circumstances, be refunded. This examination shall be confined only to articled clerks. They will submit their applications through the Registrar.

The second examination shall be the Examination in the Law of Practice and Procedure, Civil and Criminal (known as the Apprentices' Examination), referred to in rule 1 (c) above.

12. Every person, except an Attorney or Solicitor of His Majesty's Superior Courts of Law or Equity in England, Scotland or Ireland, intending to apply for admission as Attorney of the

Court shall give one month's notice of the intended application for admission by publication in the *Fort St. George Gazette*, and by annexing a copy of the same on the notice board at the Court-house.

13. No person, except an Attorney or Solicitor of His Majesty's Superior Courts of Law or Equity in England, Scotland or Ireland, shall be admitted to practise as an Attorney of this Court without proof that he has attained the age of twenty-one years.

14. Unless the Court shall otherwise order, no person who has been adjudicated an insolvent shall be admitted to any examination prescribed by these rules, or shall be admitted to practise as an Attorney of this Court.

15. Every person on being admitted and enrolled as an Attorney of this Court may, on payment of a fee of five rupees to be paid in Court-fee stamps, obtain a certificate of admission under the signature of the Registrar and the seal of the Court.

16. Any Attorney of this Court may, on the payment of a fee of five rupees, to be paid in Court-fee stamps, obtain a certificate under the signature of the Registrar and the seal of the Court, that his name is borne on the roll of the Attorneys of this Court, and if such be the case, that he is a practising Attorney of this Court.

17. The Registrar shall be the proper officer for receiving and filing all such affidavits and documents as are required to be produced and filed under these rules and shall have the custody and care of the rolls or books wherein persons are at present enrolled as Attorneys, and shall enrol the name of every person who shall hereafter be admitted an Attorney, with the date of his admission, in a roll or book to be kept by him for that purpose.

18. The Judge or Senior Judge of the Court for the time being exercising the Ordinary Original Civil Jurisdiction of this Court shall hear all applications, the hearing of which is not otherwise provided for, and shall exercise all the powers of the Court under these rules, unless the Chief Justice shall otherwise specially direct.

19. A petition in writing appealing from any order under the last preceding rule may be presented to the Chief Justice within one month from the date of such order. Such appeal shall be heard by any two or more Judges whom the Chief Justice shall appoint for that purpose.

20. Except as to all matters and things previously done in virtue thereof, all former rules for the admission of Attorneys are hereby repealed.

21. Nothing in these rules contained shall affect the power of the Chief Justice and Judges to admit or reject any candidate for the office of an Attorney of this Court.

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