

AHMEDABAD CITY CIVIL COURT RULES, 1961

In exercise of the powers under Art.227 of the Constitution of India and S.122 of the Code of Civil Procedure, 1908 and all other powers then enabling and with the previous approval of the Governor and the Government of Gujarat, the Honourable the Chief Justice and Judges of the High Court are pleased to make the following Rules for the Ahmedabad City Civil Court:

1 CHAPTER I

11 These Rules shall be called the Ahmedabad City Civil Court Rules, 1961.

22 These Rules shall come into force from the 4th day of November, 1961.

Procedure and Practice.

3 Advocates and Pleaders to have precedence inter se according to seniority Advocates of the High Court of Gujarat, Pleaders entitled to appear, plead and act In the former District Court of Ahmedabad and pleaders holding Sanads In respect of district constituted by local limits of the jurisdiction of the Ahmedabad City Civil Court, shall be entitled to appear, plead and act in the conduct of all suits and other proceedings. The Advocate shall have precedence as between themselves according to seniority upon the roll but the Advocate General and after him the Government pleader shall have precedence over all other Advocates. The pleaders shall take precedence after the Advocates and inter se will take precedence according to the seniority at the Bar.

4 Shall not appear and plead for parties on both sides No Advocate or pleader shall appear and plead for parties on both sides of the record in a suit or matter, even if the interest of such parties is the same.

5 Transfer of brief An advocate or Pleader may transfer his brief in a case to another Advocate or Pleader when he is prevented or is likely to be prevented for any reason from attending to the same.

6 Reference to "Advocate" to Include reference to "Pleader".- Reference to an "Advocate" in these Rules shall unless the context otherwise requires include reference to a "Pleader".

CHAPTER 2 The Officers their Office hours and general duties Office Rules.

7723 [(1) The Court (except on Sundays, holidays and Saturdays) will work from 11.00 a.m. to 5.15 p.m. with a recess from 2.00 p.m. to 2.45 p.m.

(2) The Offices of the Court (except on Sundays, Holidays and 2nd and 4th Saturdays of each calendar month) will be open daily from 10.45 a.m. to 5.45 p.m. but no work unless of an urgent nature will be received after 3.45 p.m. (The Offices will remain closed on 2nd and 4th Saturdays of each calendar month and on the remaining Saturdays working hours shall be the same as prescribed above.)).

(3) The principal Judge may, with the previous permission of the High Court, alter the hours prescribed in sub-rules (1) and (2) above, but so as not to reduce the total number of hours in the week.

(4) The Court may be closed by the Principal Judge, for the ordinary annual vacation of six weeks after previous publication in the Government Gazette, at least a month before the date of the commencement of the vacation, but the period should be so fixed as to fall between the 15th of March and 30th June of each year.

(5) Instead of the vacation of six weeks referred to in sub-rule (4) above, the Principal Judge may, with the previous permission of the High Court, close the Court for five weeks between the 15th March and 30th June and for the remaining one week in October/November which may be prefixed or suffixed to the Diwali Holidays.]

8Receipt of documents by OfficersThe Officers of the Court shall not receive any pleading, petition, affidavit or like document, on the file (except original exhibited) unless the same shall be fairly and legibly transcribed on durable paper, fool-size and all office copies shall be transcribed in like manner.

9Separate books for each year to be keptThe several Officers of the Court shall keep for every year separate books for their respective offices for the several business belonging thereto.

10Keeping of recordsEach officer shall safely keep all records and monuments, and shall class them in regular order so that recourse may be speedily had thereto.

11No Officer to be receiver or guardian without previous sanctionNo Officer of the Court shall accept the office of receiver or guardian of the property of a minor in any suit or matter without the previous sanction of the Principal Judge.

12No Advocate, Pleader or Officer of Court to be a surety or bailNo Advocate, Pleader or Officer of the Court shall be surety in any cause or matter in the Court nor shall any such person as aforesaid be bail for any, prisoner committed for trial at the Sessions Court or admitted for trial at the Sessions Court or admitted to bail by that Court.

13Provision for performance of the Registrar's duties during his absenceIn the temporary absence of the Registrar one of his Assistant or some other (qualified) Officer may be authorised by the Principal Judge to perform the duties usually performed by

the Registrar.

14General list of suitsAll suits shall be entered in the Registrar's Office in a list called the Registrar of suits. In such list shall be entered the number and, the class, of suits, the date of filing, the names of the Plaintiff and the Defendant, their respective Advocates or Pleaders, if any, the day fixed for the hearing and the date of disposal.

15Prospective list of suitsEvery fortnight, or sooner if necessary a list shall be made out of suits ripe for hearing. Such list shall be called the Prospective list of suits, and shall be put up near the Registrar's Office. Provided that. after giving notice to the opposite party, any party to the suit-may apply to the Registrar when the suit is ripe for hearing to put it on the Prospective List.

16Working of Prospective ListFrom the Prospective List shall be taken in their suits required for hearing for each of the Courts.

17Summary suitsSummary suits under Order XXXVII of the Civil Procedure Code shall be placed on the board for hearing before the Judge taking chamber business on application of the Plaintiff or his Advocate, but not earlier than fourteen days after service of the summons.

18List of Long CausesSuits in which written statements are called for but not filed will be set down for hearing and final disposal as undefended, 14 days after the expiry of the time allowed for filing the written statement, but not before the date of hearing specified in the writ of summons. Defended suits (either fixed or postponed), will be proceeded within their order on the list of Defendant long causes, but for good cause shown, the hearing of a suit may be expedited on application to the Judge nominated to hear Interlocutory Applications.

19Transfer of Suit abated to Stayed List AWhen an order is made referring a suit to arbitration, such suit shall be transferred from the Prospective List of causes to a separate list called "Stayed List "A". Such suit shall be restored to the Prospective List of causes after the award is filed.

20Transfer to Stayed List B of suits where no postponement date fixed and commission issuedSuits In which orders for commissions for examination of witnesses are made and no definite date for postponement therein is fixed, shall be considered as stayed suits, and shall be entered in the Stayed List B. Such suits after the return of the Commission may. by direction of the Registrar, be restored to the Prospective List.

21Transfer to Stayed List B of suits where Interim stay IssuedA suit In which an interim stay of proceedings has been granted, shall be removed from the General List into the stayed List B, and shall be restored to the General List on the order discharging the Interim stay.

22Office copy of Records and searchEvery Officer in charge of records shall, at the request of any party to a suit or proceeding, or of his Advocate or Pleader, grant copies, or allow search of all proceedings, depositions and documents filed in the suit or proceedings to which he is a party, or such parts thereof as may require, on payment of the proper fees and charges, except in execution matters when it shall be in the discretion of such Officer to refuse such copies or allow search subject to the order of the Judge in Chambers:

Provided that no fee shall be charged where the Inspection sought is by a party or his Advocate in a pending proceedings.

23Furnishing copy of photographs to the other sideWhen photographs are filed in Court, as exhibits to pleadings or when photographs are disclosed and relied on, the party seeking to use them is bound, on request, to furnish a sufficient number of copies of such photographs to the other side on payment of a due proportion of the photographers charges properly incurred.

CHAPTER 3Exercise of Jurisdiction.

24Commercial causesCommercial causes and proceedings in chambers herein shall be heard before such Judge as the Principal Judge shall, from time to time. appoint.

25Setting down of short causesSuits which are accepted as short causes will be set down for hearing on Wednesdays in priority to other matters. A Judge hearing short causes shall have power to dispose of the same as provided in the following rule and can accordingly transfer to the long cause list any short cause he does not think fit to try as a short cause, forthwith or at some other date.

Explanation.-Short Causes shall mean suits of simple character such as suits for maintenance, suits under S.9 of the Specific Relief Act, 1963. Suits instituted under Rule 63 and R.103 of Order XXI of the Code of Civil Procedure, 1908and Suits under S.47 of the PRESIDENCY SMALL CAUSE COURTS ACT, 1882

26Transfer of Short cause to long cause listShort causes in which a written statement of defence is filed shall ordinarily be transferred to the long cause list unless the Judge before whom the cause is set down is of opinion that the defence is put in for the purpose only of gaining time, in which case, the same may be heard forthwith or may be put down for hearing as a short cause on such day as the Judge shall direct.

27MotionsMotions for interlocutory or interim reliefs, or orders including motions necessary for the progress of a suit which are required to be heard by a Judge shall ordinarily be heard on Mondays by the Judge nominated for the purpose by the Principal Judge but if urgent, they may be heard on any other day.

28 Short notice of motions for interlocutory or interim reliefs etc. Applications for leave to serve short notice of motion shall be made to the Judge nominated to hear applications for inter-locutory or interim reliefs or orders. Such applications may be made in Court or in Chambers.

CHAPTER 4 Chamber business.

29 Chamber work Chamber work will ordinarily and so far as Time allows be disposed of on Thursdays.

30 Disposal of Chamber work In Commercial Causes The Judge who shall have been appointed to hear Commercial Causes shall sit in Chambers on such days as may be necessary to dispose of Chamber matters therein.

31 Matter before Judge in Chambers may be referred to Court and Vice Versa The Court in its discretion may at any time direct any matter to be referred to or disposed of by a Judge sitting in Chambers, and a Judge sitting in Chambers may at any time, if he thinks fit, direct any application made to him in Chambers to be made In Court or transfer any matter to the Court at any stage thereof.

32 Judge's Summons (i) The mode of proceeding in Chambers on any application when notice is required to be given shall, unless otherwise ordered or provided by the rules of the Court, be by summons. The application together with the affidavit in support, if any, with sufficient number of copies thereof for service on other parties, shall In the first instance be presented in the office for being registered.

(ii) The summons shall be in form No. 7, with such variations as the circumstances may require. The office shall cause the summons together with the copy of the application and affidavit, to be served on the opposite party.

33 Length of Service Unless otherwise ordered, such summons shall be served four clear days before the turn thereof, exclusive of 4 [2nd and 4th Saturday of every month. Sundays and Holidays. The notice may be made returnable in a shorter time by

leave of the Judge, which shall be mentioned In It.

34 Procedure for Chamber Summonses applicable to Notices of Motions or applications The procedure prescribed in rule 30, Rule 31 and Rule 32 shall, unless otherwise provided in the Rules, apply mutatis mutandis to a Notice of Motion or application to be heard in Court.

35 Chamber work The following matters may be disposed of by a Judge in Chambers:-

- (a) Admission and rejection of plaints.
- (b) Summary suits under Order XXXVII, Code of Civil Procedure,

in which leave to defend has not been obtained.

(c) Orders concerning substituted service of summons, etc.

(d) Applications for extension of time under the Code of Civil Procedure. Order XXVII, rule 7, and generally all applications for further time not otherwise provided for.

(e) Applications for arrest before judgment and for attachment before judgment.

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

(g) Orders concerning the production and Inspection of documents.

(h) Attachment of property of an absconding witness.

(i) Applications to amend the plaint or subsequent proceedings or to strike out any matter therein.

(j) Applications for further and better statement or particulars under Order VI. rule 5.

(k) Applications for commissions to examine witnesses under the Code of Civil Procedure. Order XXVI, rule 1.

(l) All proceedings in execution referred by the Registrar.

(m) Applications for leave under Order XXI, rule 50, sub-rule (2).

(n) Applications for leave to issue execution under Order XXX, rule 9.

(o) All proceedings on the returns of writs or notices Issued before or after judgment requiring cause to be shown in chambers.

(p) Applications for confirming sales in execution or under a decree.

(q) Applications for stay of execution under the Code of Civil Procedure. Order XXI, rule 26 (1) and (2).

(r) All questions under Code of Civil Procedure, section 47.

(s) Applications for statements of names and disclosure of partners, addresses and residence under Order XXX, rule 1 and Rule 2.

(t) Applications for leave to sue or defend in forma pauperis.

(u) Applications for orders of reference to arbitration unless the suit is on one of the boards for the day.

(v) Applications relating to the conduct or frame of suits previous

to the hearing unless the suit is on one of the boards for the day.

(w) Applications in all matters arising under the Indian Arbitration Act and generally in the matter of any Act, unless otherwise, provided in the Act itself or by the rules thereunder or by these rules.

(x) Applications for the admission of a next friend of an infant and for the appointment of new next friends and guardians ad item.

(y) Applications by receivers, guardians and others relating to the management and disposal of property.

(z) Applications for discharge from custody, subsistence money not being paid.

(aa) Such other matters as are not expressly required to be disposed of in Court, and which the Judge thinks fit to be heard in Chambers and such other applications as are herein directed to be made in Chambers.

36 Affidavits on Chamber Summonses.—Unless otherwise directed by the Judge, affidavits in reply to the Chamber Summonses shall be filed not later than 1 p.m. on the penultimate working day preceding the date fixed for hearing. Not more than one affidavit in rejoinder shall be filed without the leave of the Judge and such affidavit shall be confined strictly to matters of reply. The affidavit in rejoinder shall be filed not later than 4.15 p.m. on the working day preceding the day named for the hearing. If such working day is a 5[2nd or 4th Saturday of the month], affidavits in reply shall be filed, not later than 11.30 a.m. and the affidavit in rejoinder not later 1.30 p.m. of such day.

CHAPTER 5 Institution of the Suit.

37 How plaint is to be written etc.—(1) The plaint and the documents to be annexed thereto shall be legibly written, typed or printed in the English Language or the Gujarati language on durable foolscap paper or other paper similar to it in size and quality and with an inner margin of about an inch and a quarter wide. The following documents shall be annexed to the Plaint, viz. (1) Appearance or Vakalatnama. (2) List of documents upon which the plaintiff relies, and (3) Documents or copies of documents on which the plaintiff sues. The plaint and the document annexed to it, if any, shall be stitched together book-wise in the following order: (1) Plaint, (2) Appearance or Vakalatnama, (3) List of documents upon which the plaintiff relies and (4) Documents or copies of documents on which the plaintiff sues. Dates and sums occurring in the plaint shall be expressed in figures and the latter in

rupees and paise. When Indian dates are given the corresponding English dates shall always be added. The plaint shall be divided into paragraphs numbers consecutively. It shall contain the particulars required by Order VII. R.1 of the Code of Civil Procedure, 1908. Every alteration, interlineations and erasures in the

plaint shall be marked and authenticated by the initials of the officer of the Court before whom it is declared:

Provided that where the plaintiff has not annexed the original documents on which he sues with the plaint, he shall produce the same for the inspection of the Court when the plaint is represented if the same are in his possession or power.

(2) The plaint shall be verified on solemn affirmation or oath before an Officer of the Court if within the local jurisdiction and

elsewhere In India before the Officer empowered under S.139 of the Code of Civil Procedure, 1908. The verification shall be in Form No.

1.

6(3) The plaintiff shall furnish, alongwith the plaint, in long cause suits, a copy thereof legibly written, typed or printed on durable fool scap ledger paper in an envelope for the purpose of drawing the decree. If necessary, in future.]

38Official title only of Advocate General to appear In suit by or against himWhen the Advocate-General Is a party to a suit In his official capacity he shall be named and described in the pleadings by his official title only. Before the name of any person shall be used in any suit as relator, such person shall sign a written authority to the Advocate for that purpose, and such authority shall be filed in the Registrar's office.

39Appearance and particulars of claimThe plaint shall be accompanied, where the plaintiff acts by Advocate, with a Vakalatnama (Form No. 2) and in case of debt there shall be annexed to, and filed with, the plaint particulars of the plaintiffs claim.

40Plaint shall be accompanied by Docket(i) The plaint shall be presented in the office of the Registrar to such person on the establishment of the City Civil Court as may be authorised in that behalf by the Registrar. It will be accompanied by a Docket which shall contain the short title, the names and addresses of the plaintiffs and the advocate presenting the plaint, the amount of court-fee paid on the plaint, and the date of presentation and such other particulars as may be prescribed under these Rules.

(ii) Verification of Docket sheet.-The person receiving the plaint shall verily the date of presentation and the statements on the Docket Sheet as to the amount of Court-fee paid and shall countersign the same in token on their correctness. As soon as the plaint is presented, it shall be entered in the Lodging Register on the date of presentation and the plaint shall be marked with the serial number in the Lodging Register for purpose of identification.

(iii) Stating names and addresses of plaintiff and his advocate on the Docket.-The addresses of the Plaintiff and his advocate stated on the Docket shall for all purpose be considered as their registered addresses. All correspondence despatched to those addresses shall be deemed to have been received by them when despatched by or through the office.

41Examination of plaint(i) When the plaint is presented, the office shall examine the plaint in order to see whether all the requirements of the Rules or the law have been complied with and In particular, whether proper court-fee stamp has been paid.

(ii) If the plaint does not conform with the requirements of the Rules or the law. the plaintiff or the advocate shall be informed to complete the requirements, and if he does not remove the office objections within fourteen days, from the date he is so Informed, the plaint shall be placed before the Registrar for orders.

(iii) The Registrar may grant time not exceeding one month in Short Causes and two months In other Causes, for the removal of the office objections. If the office objections are not removed within the time extended by the Registrar, the plaint shall be placed before the Court for such orders as the Court may think fit.

(iv) The Court may, on the regular application filed in that behalf, excuse the delay In removing the office objections or grant such further time as It may deem fit on such terms and conditions as It may deem proper.

42Compliance of office objections(1) When the plaintiff or his Advocate does not agree with the office as to the amount of Court-fee payable on the Plaint, the question of proper Court-fee shall be decided by the Registrar. If the decision of the Registrar is not accepted by the plaintiff or his Advocate, the plaint shall be placed before the Principal Judge or such Judge as he may nominate for assessment of the Court-fee payable.

(ii) The deficit Court-fee required to be paid according to the decision of the Registrar or the Judge shall be paid within such time as may be fixed by the Registrar or the Principal Judge or the Judge nominated by him as the case may be, falling which the matter shall be placed before the Court for orders regarding rejection of the Plaint.

43Register of SuitsWhen all the office objections have been removed and the deficit Court-fees paid, the plaint shall be admitted, and on admission, shall be entered in the Register of suits. The suit shall be numbered in accordance with the serial number of the entry in the Register and an endorsement thereof shall be made on the plaint.

44Endorsement on admissionWhen a plaint is admitted the words "Admitted this day" shall be endorsed thereon and signed or initialed by the Registrar, the words 'written statement' being added when such statement is required.

45Hearing of other applicationsAn application which affects the state of the daily board of a particular Judge shall ordinarily be heard by that Judge.

46Copy of plaint to be furnished to defendantAny defendant, or his Advocate, applying to the plaintiff, or his Advocate, for a copy of the plaint with the annexures. shall be furnished with the same, but where several of the defendants are represented by the

same Advocate, it shall be sufficient to supply one copy of the
plaint and annexures to such Advocate:

Provided that if the application is made after the passing of a
decree in a suit, such copies need only be furnished to the defendant
or his Advocate on payment of the copying charges:

Provided also that If the application is made by a defendant on
whom a copy of the plaint has been served or his Advocate, such
copies need only be furnished to the defendant or his Advocate on
payment of the copying charges.

47Party engaging more than one Advocate to furnish
name and address of advocate with whom correspondence
should be carried onWhen a party engages more than one
Advocate in suit or matter, he shall intimate to the Registrar the
name and address of the Advocate with whom all correspondence
should be carried on and give similar intimation to all other parties
in the suit or matter.

CHAPTER 6Writ of Summons.

48Process fee etc.--(i) Within fifteen days from the date of
admission of the plaint, the plaintiff or his advocate shall pay the
prescribed process fees for service of the writ of summons upon
defendant and alongwith such fees, he shall file as many copies of
the plaint as there are defendants, for service along with the Writ
of Summons:

Provided that the Registrar may, having regard to the number
of defendants or to the length of the plaint or any other sufficient
reasons, order that instead of copies of the plaint, concise statements
of the plaint may be served along with the Writs of Summons.

(ii) The requisite number of the concise statements of the plaint
shall be supplied within the time prescribed for the payment of
process fees.

(iii) The process fees shall be paid in accordance with the Rules
made by the High Court from time to time under S.32 of the Bombay Court
Fees Act, 1959.

49Summons for final disposalIn every suit the summons
to a defendant to appear and answer shall be for final disposal and
shall be in one of the Forms Nos. 3, 4 and 5 with such variations
as the circumstances of the case may require.

50Name and address of the Advocate to be stated in every
processThe name and address of the Advocate appearing for a
party shall be stated in every writ of summons, witness summons,
notice motion, chamber summons, notice or warrant, and every
process of the Court issued at his Instance or taken out by him.

51Examination of Summons by office.--The Office shall
prepare the writ of summons. In conformity with the rules and put
up the summons before the Officer empowered to sign them for
signature and cause the seal of the Court to be affixed thereon.

52Sealing of summons, rule etc..-The seal of the Court shall not be put to any writ of summons, warrant, rule, order or other mandatory process unless the same be signed with the name of the Officer whose duty it is to prepare and make out of the same, and unless the name of the party or his Advocate be subscriber thereunto together with the day of the month and year when the same shall issue from such office.

53Returnable date of summonsUnless otherwise ordered every writ of summons shall be made returnable as follows:-

(1) If the defendant or all the defendants reside within the local limits of the Court-

(a) in short causes, four weeks from the date of admission of the Plaintiff:

(b) in long causes, eight weeks from the date of the admission of the plaintiff.

(2) In all other cases within such time as may be considered sufficient for the transmission, service and return of the summons.

54Hearing of suit not to be until certain days after service of summonsUnless otherwise ordered, no suit for final disposal shall be heard:-

(a) Until after ten clear days in case of short causes and four weeks in case of long causes, from the service of the writ of summons if the defendant or all the defendants, shall reside within the local limits of the Court:

(b) Until after fourteen clear days in case of short causes and four weeks in case of long causes from such service if, the defendant, or any of the defendants shall reside outside the local limits of the court, provided the defendant, or all the defendants, as the case may be, shall reside in India:

(c) in all other cases, within such time as the Registrar may fix having regard to the place where the writ of summons is to be served.

55(1) Action when notice returned unserved(1) When any writ of summons is returned unserved, the plaintiff or his advocate shall move the Registrar for the issue of amended summons or fresh summons, as the case may be, within one month from the date when it is returned unserved or within such further time not exceeding one month: as the Registrar may allow.

(2) The office shall, on due payment of the process fees within the time prescribed in sub-rule (1) above, issue a fresh or amended summons and cause it to be served.

56Undertaking by Advocate(i) A writ of summons need not be served on a defendant personally, if he has appeared and if his Advocate undertakes In writing to accept service.

(ii) When an Advocate has filed his appearance for a party in a suit or matter, he shall accept service, on behalf of his client, of all processes issued, in the suit or matter until he is discharged.

57Number of Writs for such servicesWhere an advocate undertakes in writing to accept service on behalf of one or more defendants or defendant in the action, it shall be sufficient to take out and serve only one writ of summons on the said Advocate on behalf of his client or clients.

58Service of summons and NoticeUnless otherwise ordered by the Court or Judge, or unless otherwise prescribed in these rules, all writs of summons witnesses, notice of motion and other processes shall be served through the Court Bailiffs.

59Notice of written statement in summons when called forWhen a written statement shall be called for from a defendant In the first instance, notice to that effect shall be given in the margin of the writ of summons calling on the defendant within four weeks from the service thereof (unless the Judge shall otherwise orders) to file his written statement and serve a copy thereof on the plaintiff or his Advocate.

60Judgment for want of written statementApplication for Judgment for want of written statement shall be made by motion on notice to the opposite party but no such motion shall be made before the date. on which the summons Is returnable. On the hearing of such application, if the opposite party does not appear or appears but does not file the written statement and further time to file the written statement is not granted to him by the Court, the suit shall be set down on the daily board for passing judgment for want of written statement on such date as the Court may think fit. This rule shall not apply to commercial causes which shall be governed by rule 14.

Appearance of Defendant.

61Appearance of defendant or VakalatnamaThe defendant shall, on or before the day fixed In the writ of summons for the filing of his written statement. If such be called for, or otherwise before the date fixed for his appearance, file with the Registrar an appearance or Vakalatnama. In the event of the defendant not filing such appearance or his advocate not filing a Vakalatnama, the suit will be set down as undefended. Should the defended then appear and desire to defend, the suit shall be subject to transfer to the defended list, or to postponement, with cost not exceeding Rs. 30 to be paid by such defendant to the plaintiff.

62In default of written statement defendant may appear with the consent of the JudgeIf in a suit where there are more defendants than one, any defendant shall have failed to file his written statement If such be called for, within the time fixed in the margin of the writ of summons, or any time extended by order and the suit has not been set down as undefended as against him, such defendant shall not be allowed to appear and defend at the trial

except with the consent of the Judge upon such terms as to the filing of his written statement, giving discovery, and the payment of costs of adjournment, as a condition precedent to leave to defend, or otherwise, as the Judge may order, or upon such other terms, if any, as the Judge in his discretion may think proper.

63Proof of service of summonsUnless the Court shall otherwise order the service of a summons to appear and answer shall be proved by the appearance or Vakalatnama having been filed, or when no appearance or Vakalatnama has been filed by evidence showing that the summons was served in the manner provided by the Code of Civil Procedure. Such proof shall ordinarily be by the affidavit of the bailiff and (as to such matters as the bailiff cannot speak to of his own knowledge) of the person who attended the bailiff for the purpose of identification at the time of service, or of such other person or persons as can speak to the identity of the person served or to other matters necessary to be proved in respect of the service.

64When service through another courtWhen the summons has been served through another court, the service may be proved by deposition or affidavit of person who has effected the service or the certified copy of the statement made by him before the court through which the service was effected.

65Substituted serviceApplications for substituted service of a summons to appear and answer shall be made in Chambers. The application must be supported by an affidavit, or in the case of service through another court, by the deposition of the officer who attempted to make the service, and of such other person as may have accompanied him—for the purpose of pointing out the party to be served, stating when, where and how much service was attempted to be made.

Written statement and set off.

66Rules as to plaints to apply to written statementRules 37 & 40 as to plaints shall mutatis mutandis, apply to written statements, the words plaint and plaintiff therein being read for the purpose of this rule as though they were written statement and defendant.

67Written statement of plaintiffWhere a written statement is called for from the plaintiff, the Judge shall direct when it is to be filed and when to be served upon the defendant.

68Documents relied upon to be referred to in scheduleEach written statement shall, by way of list or schedule, refer to any documents not then filed, by which it is intended to be supported.

69Court or Judge may disallow set offThe Court or a Judge may on the application of the plaintiff, at any stage of the proceedings in a suit if in the opinion of the Court or Judge a set-off

cannot be conveniently disposed of in the pending action or ought not to be allowed, refuse permission to the defendant to avail himself thereof, and require him to file a separate suit in respect thereof.

70Payment with denial liabilityIn an action for damages, the defendant may at any time after he has filed his appearance, pay into court a sum of money to satisfaction of the plaintiffs claim with a denial of liability.

71Form of notice of such paymentNotice of such payment shall be given to the plaintiff. The notice shall be In form No. 11 with such variations as the circumstances may require.

72Mode for withdrawing money paid with denial of liabilityAfter the money is paid into court under the above rule, the plaintiff may, within seven days of the receipt of the notice of payment in to Court, take out a Chamber Summons for payment of the said money to him in satisfaction of his claim and the Judge may at the hearing of the summons make such orders as to payment of the money as he may think fit.

"Counter Claim".

73Counter-claim by defendantA defendant in a suit. in addition to his right of pleading a set-off under Order VIII, R.6 of the Code of Civil Procedure, 1908: may set up by way of counter claim against the claim of the plaintiff any right or claim in respect of a cause of action accruing to the defendant either before or after the filing of the suit but before the defendant has delivered his defence and before the time limited for delivering his defence has expired: whether such counterclaim sounds in damages or not. and such 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 counterclaim and the plaintiff (if so advised) shall be at liberty to file a written statement in answer to the counter-claim of the defendant, within four weeks after service upon him or his pleader of a copy of the defendant's counter- claim: and the court, or Judge may on the application of the plaintiff before trial, in the opinion of the court or Judge such counterclaim cannot be disposed of in the pending suit or ought not to be allowed, refuse permission to the defendant to avail himself thereof and require him to file a separate suit in respect thereof.

74Counter-claimWhere any defendant seeks to rely upon any grounds as supporting a right of counter claim, he shall in his written statement: state specifically that he does so by way of counter-claim.

75Time of counter-claimWhere defendant by a written statement sets up any counterclaim which raises questions between himself and the plaintiff along with any other persons, he shall add to the title of his written statement a further title similar to the title in a plaint, setting forth the names of all the persons whom if such counter-claim were to be enforced by cross-suit would be defendants to such cross-suit, and shall deliver copies of

his written statement to such of them as are parties to the suit within the period within which he is required to deliver it to the plaintiff.

76 Claim against persons not party Where any such person as in the last preceding rule mentioned is not a party to the suit, he shall be summoned to appear by being served with a copy of the written statement and such service shall be regulated by the same rules as are herein or under the Civil Procedure Code contained with respect to the service of a writ of summons.

77 Appearance of third party Any person not a defendant to the suit, who is served with a written statement and counterclaim As aforesaid, must appear thereto as if he had been served with a writ of summons to appear in a suit.

78 Reply to counter-claim Any person named in a written statement as a party to a counterclaim thereby made deliver a reply within the time, within which he might deliver a written statement if it were a plaint, the appearance or Vakalatnama having been filed, or when no appearance or Vakalatnama has been filed, by evidence showing that the summons was served in the manner provided by the Code of Civil Procedure, such proof shall ordinarily be by the affidavit of the bailiff and (as to such matters as the bailiff cannot speak to of his own knowledge) of the person who attended the bailiff for the purpose of identification at the time of service, or of such other person or persons as can speak to the identity of persons served or to other matters necessary to be proved in respect of the service.

79 Exclusion of counter claim Where a defendant sets up a counter claim, if the plaintiff or any other person named in manner aforesaid as party to such counter claim contends that the claim thereby raised ought not to be disposed of by way of counter claim but in an independent suit. he may, at any time before reply to the court or a Judge for an order that such counter-claim may be excluded, and the court or a Judge may, on the-hearing of such application make such order as shall be just.

80 Discontinuance of suit If in any case in which the defendant sets up a counterclaim the suit of the plaintiff is stayed, discontinued or dismissed, the counterclaim may nevertheless be proceeded with.

81 Defendant to counter claim in default If the defendant to the counterclaim makes default in putting in a reply to the counterclaim, the defendant in the suit who is the plaintiff to the counterclaim may, in such cases, get the suit set down on motion for judgment on the counterclaim and such judgment shall be given as the court shall consider him to be entitled.

82 Judgment for balance Where in any suit a set-off or counterclaim is established as a defence against the plaintiffs claim, the court or a 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 reliefs as he may be entitled to upon the merits of the case.

"Third Party Procedure".

83Third Party notice-filling form and service of notice-Effect of notice(1) Where in a suit a defendant claims as against any person not a party already to the suit (hereinafter called the third party)-

(a) that he is entitled to contribute or indemnity, or

(b) that he is entitled to any relief or remedy relating to or connected with the original subject matter of the suit and substantially the same as some relief or remedy claimed by the plaintiff, or

(c) that any question or issue relating to or connected with the said subject matter is substantially the same as some question or issue arising between the plaintiff and the defendant and should properly be determined not only as between the plaintiff and the defendant but as between the plaintiff and the defendant and the third party or between any or either of them,

he may by leave of the court or a Judge, issue a notice (Form No. 12) (hereinafter called the third party notice) to that effect, sealed with the seal of the Court. Such notice shall be filed with the Registrar and a copy thereof served on such person according to the rules relating to the service of writs of summonses.

(2) The notice shall state the nature and grounds of the claim or the nature and extent of any relief or remedy claimed or the nature of the question or issue sought to be determined, and shall, unless otherwise ordered by the court or a Judge, be served on the third party within the time limited for filing the written statement of defence and therewith shall be served a copy of the plaint.

(3) The third party shall, as from the time of the service upon him of the notice be a party to the suit with the same rights in respect of his defence against any claim made against him and otherwise as if he had been duly sued in the ordinary way by the defendant.

84Appearance of third party-Default ofIf a person not a party to the suit who is served as mentioned in Rule 83 (hereinafter called the third party) desires to dispute the plaintiff's claim in the suit as against the defendant on whose behalf the notice has been given, or, his own liability to the defendant, the third party must enter an appearance or file a Vakalatnama' in the suit. within ten days from the service of the notice. In default of his so doing, he shall be deemed to admit the validity of the decree obtained against such defendant whether obtained by consent or otherwise, and his own liability to contribute or indemnify, as the case may be, to the extent claimed in third party notice:

Provided always that a person so served and failing to appear within the said period often days may apply to the court or a Judge for leave to appear, and such leave may be given upon such terms, If any, as the Court or Judge shall think fit.

85Default In appearance of third party-Decree on trial
Where a third party makes default in entering an appearance or filing a Vakalatnama' In the suit in case the suit Is tried and results in favour of the plaintiff, the Judge who tries the suit may, at or after the trial, pass such decree as the nature of the case may require for the defendant giving the notice against the third party:

Provided that execution thereof be not issued without' leave of the Judge until after satisfaction by such defendant of the decree against him. And if the suit is finally decided in the Plaintiff favour,
otherwise than by the trial, the court or a Judge may, on application by motion, as the case may be. pass such decree as the nature of the case may require, for the defendant giving the notice against the third party at any time after satisfaction by the defendant of the amount recovered by the Plaintiff against him.

86Appearance of third party-Appiation for directionsIf

a third party enters an appearance or files a 'Vakalatnama' the defendant giving notice may after serving notice of the Intended application upon the Plaintiff the third party and other defendant, apply to the court or a Judge for directions, and the court or a Judge may (a) where the liability of the third party to the defendant giving the notice is established on the hearing of the application, pass such decree as the nature of the case may require In favour of the defendant giving the notice against the third party, or (b) If satisfied that there Is a question or Issue proper to be tried as between the plaintiff and the defendant and the third party or between any or either of them as to the liability of the defendant the plaintiff or as to the liability of the third party to make the contribution or indemnity claimed, in whole or in part or as to any other reliefer remedy claimed in the notice by the defendant or that a question or Issue stated in the notice should be determined not only as between the plaintiff, and the defendant but as between the plaintiff, the defendant and the third party or any or either of them, order such question or issue to betried in such manner, before, at or after the trial of the suit, as the Court or Judge may direct, or (c) dismiss the application. (Form No. 13).

87Directions, what may be givenThe Court or Judge upon the hearing of the application mentioned in rule 86, may, if it shall appear desirable to do so, give the third party liberty to defend the suit, either alone or jointly with the original defendant upon such terms as may be just, or to appear at the trial and take such part therein as may be just, and generally may other such proceedings to be taken, pleadings or documents to be delivered, or amend-ments to be made, and give such directions as to the Court or Judge shall appear proper for having the question and the rights and liabilities of the parties most conveniently determined and enforced, and as to the mode and extent in or to which the third party shall be bound to made liable by the decree in the suit.

88CostsThe Court or a Judge may decide all questions of costs as between a third party and the other parties to the suit, and may order any one or more to pay the costs of any other, or others, to give such direction as to costs as the justice of the case may require.

89Remedy of a person served with a third party notice(1)

Where a person served with a third party notice by defendant makes a claim as against any person not already a party to the suit such claim as is defined in rule 83, he may by leave of the Court or a Judge issue a third party notice to that effect, and the preceding rules as to third party procedure shall be applied mutatis mutandis to every notice so issued and the expression "third party notice" and "third party" in these rules shall apply to and include other notices so issued and every person served with such notice respectively.

(2) Where a person served with a notice under this rule by a third party in turn makes such a claim as is defined in Rule 83 against another person not a party to the suit. the procedure prescribed by the preceding rules shall be followed as regards such further person and any other further person or persons so served and so on successively.

90Defendant claiming against Co-defendantWhere a defendant claims against another defendant (a) that he is entitled to a contribution or indemnity or (b) that he is entitled to any relief or remedy relating or connected with the original subject matter of the suit and substantially the same as some relief or remedy claimed by the plaintiff or (c) that any question or issue relating to or connected with the subject matter is substantially the same as some question or issue arising between the plaintiff and the defendant making the claim and should properly be determined not only as between the plaintiff and the defendant making the claim but as between the plaintiff and the defendant and another defendant or between any or either of them, the defendant making the claim may without leave of the court or a Judge issue and serve on such other defendant a notice making such claim or specifying such question or issue, and the same procedure shall be adopted for the determination of such questions between the defendants as would be issued and taken against such other defendant, if such last mentioned defendant were a third party: but nothing herein contained shall prejudice the rights of the plaintiff against any defendant in suit.

CHAPTER 7Matters arising pending suit.

91Further written statement by leave may be filedWhere a ground of defence arises after the defendant has filed his written statement, the defendant may within eight days after such ground of defence has arisen, or at any subsequent time, by leave of the Court or a Judge, file a further written statement setting forth the same, and in such case, shall forthwith serve a copy thereof upon the plaintiff or his Advocate.

92Plaintiffs confession of such defence and procedure thereonWhenever any defendant in his written statement, or any further written statement, raises any grounds of defence which have arisen after the commencement of the suit, the plaintiff may file a confession of such defence in Form No. 14, and, if such defence is an answer to the whole suit, may thereupon apply to the Judge in Chambers and obtain a decree for his costs upto the time of filing such written statement or further written statement as the case may be, with leave to withdraw his suit, unless the Judge shall, either before or after the filing of such confession, otherwise order.

93Ex-parte amendmentsAmendments In pleadings, which are made only for the purpose of rectifying some clerical error or In names, dates or sums may be made on an order In Chambers, without notice.

94Amendments how to be madeIf in any amendments the new matter does not exceed in any one place three folios, the record containing the original documents shall be amended by an Interlineation, or if the amendment by omitting some original matter, the same shall be struck out of the record. In all other cases a new document shall be engrossed and annexed to the original. The amendment or revision shall be made or indicated in red ink and subsequent amendments or variations shall be made or indicated in different coloured ink.

Discovery and Inspection.

95Agent may make affidavit of documents when none of the parties reside In AhmedabadWhere the transactions which form the subject-matter of a suit have been carried on wholly or principally in the City of Ahmedabad, and any of the parties are not residing in the City of Ahmedabad at the time, an affidavit of documents is required to be filed, such affidavit may be made by the agent in the City of Ahmedabad of such absent party on his behalf. For the purposes of this rule, a resident partner In the City of Ahmedabad shall be the agent of his non-resident partners.

96Procedure where the affidavit is required to be made by the absent partyIf in the case provided for by the last preceding rule, any party desires to have such affidavit made by all or any of the absent personally he shall be at liberty to apply on summons for an order to that effect to the Judge in Chambers, setting forth the grounds for making such order, and the Judge, after hearing the opposite party may, if he thinks it right and just, make such order.

97Summons for directions(1) In all suits, other than summary suits and short causes, the plaintiff shall take out within 21 days from the time when the pleadings are closed or deemed to be closed a summons for directions returnable in not less than 15 days. The summons shall be in Form No. 84 with such variations as the circumstances may require and shall be addressed to and

served upon all parties to the suit. At the hearing of the summons the Judge shall give such directions with respect to pleadings, interrogatories, particulars, admission of documents facts examination of witness, discovery, inspection and production of documents, fixing a date for setting issues and for trial of any Issues as preliminary Issues, fixing a date for hearing of the suits and such other matters as he may think expedient.

The Judge may adjourn the hearing of the summons for directions from time to time.

(2) The pleadings shall be deemed to be closed when the written statement is filed. Where there are several defendants in a suit and some only have filed the written statement, the pleadings shall be deemed to be closed when the time of filing the written statement of the other defendants has expired.

(3) If the plaintiff does not take out a summons for directions in accordance with sub-rule (1), the defendant may do so or apply for an order to dismiss the suit.

(4) Upon an application by a defendant to dismiss the suit under sub-rule (3) the court, or a Judge may either dismiss the suit on such terms as may be just or deal with the application as if it were a summons for directions.

(5) In the case of a suit which is proceeding only as respects a counterclaim, reference in this rule to the plaintiff and defendant shall be construed respectively as reference to the party making the counter-claim and the defendant to the counter-claim.

98No affidavit shall be made or used on the hearing of the said summons except by special leave of the Judge.

99Duty to make all interlocutory Applications summons directionsAny party to whom the Summons for directions is addressed shall, so far as practicable, apply at the hearing of the summons for any order or directions which he may desire as to any matter capable of being dealt with on an interlocutory chamber application in the suit and shall not less than 7 days before the hearing of the summons, serve on the other parties a notice in writing specifying those orders and directions in so far as they differ from the orders and directions asked for by the summons.

(2) If the hearing of the summons for directions is adjourned and any party to the proceedings desires to apply at the resumed hearing for any order or directions not asked for by the summons or in any notice given under sub-rule (1) he shall not less than 4 days before the resumed hearing of the summons, serve on the other parties a notice in writing specifying those orders and directions in so far as they differ from the orders and directions asked for by the summons or in any such notice as aforesaid.

100Subsequent applicationAny application subsequent to the original summons for any directions as to any matter by any

party shall be made under the summons on two clear days' notice to the other party stating the grounds of the application.

If the Judge is of opinion that such application could properly have been made, on the original summons, he may direct that the party applying shall in any event pay the costs of such application

101 Summons directions. Summary suits and short causes Rule 97, Rule 98, Rule 99 and Rule 100 shall apply to summary suits

and short causes which have been transferred to the list of long causes, when all necessary directions which could be given on a

summons for directions have not been given at the time of the order transferring these suits to the list of long causes, unless the court at the time of such transfer has otherwise ordered.

102 Certain rules not to apply to suit transferred or proposed to be transferred to the Commercial List Rule 97. Rule 98, Rule 99 and Rule 100 shall not apply to suits in which an application for

transfer to the commercial list is pending or which have been ordered to be transferred to the commercial list.

103 Summons for Directions In Transferred Suits Summons for directions shall be taken out in all the suits transferred to the City Civil Court except in suits which are part heard.

104 Notice for an order for Interrogatories No application for an order for interrogatories shall be heard without giving previous notice of the same to the other side.

105 Service of the order of discovery The party seeking discovery shall serve a copy of the order for discovery with his Interrogatories upon the order side and the time for answering or making discovery shall in all cases commence from the date of service of the interrogatories, and the order for discovery.

CHAPTER 8 Adjournment.

106 Postponement may be granted by Registrar Save as otherwise provided in this Chapter the Registrar may postpone the hearing of a suit, If the writ of summons has not been served, and the defendant or defendants has or have not appeared on the written application of the plaintiff or his Advocate or if the plaintiff

and the defendants or such of them as have been served or appeared, consent thereto in writing or on the plaintiff undertaking to give notice of such postponement when the consent of the defendant or such of them as have been served or appeared, cannot for good and sufficient cause be obtained, to the day named in the said application or consent, or as near thereto as the state of business will allow.

107 Postponement of new long cause Before the original date fixed in the summons is reached, a new long cause suit can

be postponed by Purshis in the Registrars Office under Rule 106 or by a Judge's order in Chambers, in cases not coming under that rule.

108How suit on prospective list may be postponedIf in any suit or matter on the prospective list the parties are desirous of obtaining a postponement of the hearing, application for that purpose should be made as provided by Rule 106.

109Transfer of short cause to long cause list by Registrar
The Registrar may, upon written application of the parties, transfer a suit from the list of short causes to the list of long causes.

110Postponement of suits In dally boardA suit, when in the daily board, shall not be postponed by Judge's order for that day unless it be in the board of the Judge making the order. If such suit be upon that day postponed in Court it shall be on such terms as to costs as the Judge may direct.

111Adjournment In short causesNo adjournment shall be granted by the Registrar on a Purshis in a short cause which has been pending for more than twelve months but the Purshis shall be submitted for directions to the Judge on whose board the suit appears.

112Postponement in peremptorily adjourned suitsNo postponement shall be granted by the Registrar in any suit which has been peremptorily adjourned to any particular date by the Court but the Purshis setting out the grounds for further adjournment shall be. submitted to the Judge who granted the peremptory date or in his absence to the Chamber Judge.

Witnesses.

113Witness summons when. Issued(i) Notwithstanding anything contained in rule 58, witness Summons to be served within the local limits of the jurisdiction of the court, may be taken out for service by an Advocate on payment of half the prescribed process fees.

(ii) When service is effected under sub-rule (i) above, the Advocate shall cause to be filed, with the return of the summons, the affidavit of service of the person effecting the service.

114How many names In one summonsThe names of all witnesses (not exceeding six) required by one party to attend at the trial of a cause may be inserted in one summons.

115Order necessary for summons to witness out side local limitsNo summons to give evidence or produce documents, shall be issued by the Registrar to compel the attendance, as witness, of any person resident, and at the time residing, beyond the local limits of the Court, unless by order of the Court or a Judge.

116 Order necessary for production of a public document
No summons or letters of request for the production of a public document shall be Issued by the Registrar without an express order in that behalf made by the Court or a Judge.

117 The payment and sale of expenses to witnesses Every person summoned to give evidence at the Court shall have tendered to him with the summons a reasonable sum for his travelling expenses, if any, for coming to Ahmedabad and for the first day's attendance at the rates prescribed in paragraphs 63 to 66 of the Civil Manual. Such Witness in Class I or Class II mentioned in paragraph 63 of Chapter VII of the Civil Manual shall, in addition, be entitled to tanga or taxi fare to and from their residence each day if their residence is at a distance exceeding one mile from the court house and If not provided with a conveyance by the party requiring his evidence and if coming for the purpose of attending the court only. Similarly each witness of Class III or Class IV shall under similar circumstances be entitled to bus fare to and from the court house to his residence.

CHAPTER 9 Affidavits

118 'Affidavit' to include plaint, etc..-The word affidavit' In this chapter shall include plaint, written statement, petition, and document required to be sworn, and the words 'Swear' and 'Sworn' shall include affirm and affirmed.

119 Title of affidavits Every affidavit shall be intituled in the suit or matter in which It Is sworn or declared; but in every case In which there are more than one plaintiff or defendant, It shall be sufficient to state the full name of the first plaintiff or defendant respectively, and that there are other plaintiffs or defendants as the case may be.

120 Before whom affidavit to be sworn Affidavits shall, if taken within the City of Ahmedabad, be taken before an officer of the Court, and If elsewhere in India, before the Officers indicated by S.139 of the Code of Civil Procedure, 1908.

121 Place of taking affidavits to be stated when taken outside court house Every officer of the Court shall express at the foot of the affidavit the place where he has taken any affidavit In the event of the same being taken elsewhere than In the Court house.

122 Form of affidavit Every affidavit shall be drawn up in the first person, and shall be divided into paragraphs and every paragraph shall be numbered consecutively, and as nearly as may be shall be confined to a distinct portion of the subject. Every affidavit shall be written bookwise. Every affidavit shall contain a statement as to whether the deponent has personal knowledge of any of the statements made therein or whether his statements are based on knowledge and/or belief.

123 Description and abode of deponent to be stated The occupation and nationality and the true place of abode of every

person making any affidavit, shall be inserted therein.

124Affidavit by two or more deponentsIn every affidavit made by two or more deponents, the names of the several persons making the affidavit shall be inserted in the Jurat, that Is memorandum at the foot of the affidavit stating when and before whom it was made, except that, is the affidavit of all the deponents is taken at one time by the same Officer, it shall be sufficient to state that it was sworn by both (or all) of the "above named" deponents.

125Filing of affidavitsNo affidavit shall be filed in the several offices of the Court unless properly endorsed, giving the names ofthe deponents the date on which it is sworn, and stating by whom. or on whose behalf it is filed.

126Scandalous mattersThe Court or a Judge may order to be struck out from any affidavit any matter which is scandalous and may order the cost of any application to strike out such matter to be paid by the party In default.

127Alterations In affidavitNo affidavit having In the Jurat (memorandum at the foot of the affidavit stating when and before whom it was made) or body thereof any Interlineations, alteration or erasure, shall, without leave of the Court or a Judge, be read, or made use of, in any matter depending In Court, unless the interlineation or alteration (other than by erasure) is authenticated by the Initials of the Officer taking the affidavit, and Is also Initialled

by the deponent and/or his Advocate or in the case of any erasure, unless the words, or figures appearing at the time of taking the affidavits to be written on the erasure, are rewritten and initialled in the margin of the affidavit by the Officer taking It and is also Initialled by the deponent and/or his Advocate.

128Affidavit by blind personsWhere an affidavit is sworn by any person, who appears to the Officer taking the affidavit to be blind, the officer shall certify at the foot of the affidavit that the affidavit was read or read and Interpreted (where necessary) In his presence to the deponent that the deponent that the deponent seemed perfectly to understand It, and that the deponent made his signature or mark In the presence of the Officer. No such affidavit shall be used In evidence In the absence of this certificate unless the Court or a Judge is otherwise satisfied that the affidavit was read over to, and appeared to be perfectly understood by the deponent.

129Use of defective affidavitsThe Court or Judge may receive any affidavit sworn for the purpose of being used in any suit or matter, notwithstanding any defect by mis-description of parties or otherwise in the title or jurat (memorandum at the foot of the affidavit stating when and before whom it was made), or any other Irregularity In the form thereof, and may direct a memorandum to be made on the document that It has been so received.

130Special time for filing affidavitsWhere a special time is limited for filing affidavits, no affidavit filed after that time shall be used unless by leave of the Court or a Judge.

131Every exhibit to be dated and InitialledEvery exhibit annexed to any affidavit shall be dated and initialled by the Officer before whom the affidavit is sworn.

132Officers to attend in rotation for affidavits outside Court house on requisition to the RegistrarWhere an affidavit is required to be taken outside the court house, a written requisition shall be made to the Registrar, stating where the Officer is required to attend, and for what purpose, and why he is so required. On receipt of such requisition the Registrar shall, unless he sees any reason to the contrary, require an Officer to attend. So far as possible the Registrar shall require the Officers to attend in rotation.

A fee of Rs. 5.00 shall be levied for each affidavit in such cases and conveyance to and from shall be arranged for or the charges thereof be paid by the parties.

CHAPTER 10Commercial Causes.

133What are commercial causesCommercial Causes include causes arising out of the ordinary transactions of merchants, bankers and traders, whether of a simple or complicated nature, amongst those relating to the construction of mercantile documents, export or import of merchandise, affreightment carriage of goods by land, insurance banking and mercantile agency and mercantile usages. Suits relating to the purchases and sales between merchants or traders on the one hand and manufacturer on the other hand in respect of goods which are normally purchased and sold by the manufacturers in the ordinary course of their business as manufacturers shall also be treated as commercial causes.

134Lodging of complaintsAll complaints intended to be filed as commercial causes shall be lodged in the ordinary way and the writ of summons In long cause Form No. 4 shall be served with the complaint on the defendant.

135List of Commercial CausesA separate list for summons In commercial causes shall be kept. A separate list shall also be kept for the entry of such causes for trial but no causes shall be entered in such list which has not been dealt with by the Judges charged for the time being by the Principal Judge with commercial business, upon application by either party for that purpose, or upon summons for directions or otherwise.

136Application for transfer to the commercial listThe application may be made by either party by ordinary summons or on summons for directions and may be made by the plaintiff before or after appearance of the defendant. If on such application an order is made before appearance, the defendant may, after appearance,

object but the only point open to him is that the cause is not a commercial cause.

137 Transfer of short causes and summary suits to commercial list (1) At the hearing of short cause, the Judge may instead of transferring the suit to the list of causes, transfer it to the list of commercial causes;

(2) At the hearing of a summons for judgment in a summary suit, the judge may, if he grants leave to the defendants to defend, transfer the suit to the list of commercial causes.

138 Interlocutory proceedings In making the order for transfer, the Judge may make such order as he thinks fit for the speedy determination of the suit. the avoidance of multiplicity of Interlocutory proceedings and the avoidance of expense and delay which might arise from commissions to take evidence or otherwise.

139. Form of order of transfer.—Such order shall be in Form No. 17 with such variations as circumstances may require.

140 Subsequent application Any application subsequent to the original summons on two clear days' notice to the other party, stating the grounds of the application.

141 Judgment for want of written statement or points of defence in commercial causes Application for judgment in a commercial cause for want of written statement or points of defence shall be made by motion on notice to the opposite party although the date on which the summons is returnable may not have expired. On the filing of an affidavit of service of the notice of motion, the suit shall be set down on the daily board for the

purpose of such application.

CHAPTER 11 Summary Suite.

142 Institution of summary suits upon bills of exchange, etc.—(1) All suits upon bills of exchange, hundis or promissory notes and all suits in which the plaintiff seeks only to recover a debt or liquidated demand in money payable by the defendant with or without interest, arising on contract express or implied, or an enactment where the sum sought to be recovered is fixed sum of money or in the nature of a debt other than a penalty, or on a guarantee, where the claim against the principal is in respect of a liquidated demand only may in case the plaintiff desires by proceed hereunder, be instituted by presenting a plaint which shall be instituted as a "Summary Suit" and which shall contain an averment that the plaintiff is suing under the Summary Procedure under Order XXXVII of the Code of Civil Procedure.

(2) The writ of summons in a suit instituted under sub-rule 1 above shall be in form No. 5. The Plaintiff shall together with the writ of summons serve on the defendant a copy of the plaint and exhibits thereto and the defendant may at any time within ten days of such service enter an appearance. The defendant may enter an

appearance either in person or by an Advocate. In either case an address for service shall be given In the memorandum of appearance, and unless other wise ordered, all summons notices or other judicial process required to be served on the defendant shall be deemed to have been duly served on him if left at his address for service. On the day of entering appearance, notice of the appearance shall be given to the plaintiffs Advocate (or If the plaintiff sues in person to the plaintiff himself) either by notice delivered at, or sent by prepaid letter directed to, the address of the plaintiffs Advocate or of the plaintiff as the case may be.

(3) In any suit under this Rule the defendant shall not defend the suit unless he enters an appearance and obtains leave from a Judge as hereinafter provided so to defend: and in default of his entering an appearance and of his obtaining such leave to defend, the allegations in the plaint shall be deemed to be admitted and the plaintiff shall be entitled to a decree for any sums not exceeding the sum mentioned in the summons together with interest at the rate specified (If any) to the date of the decree, and such amount not exceeding the amount of costs fixed in the ordinary way as may

be fixed by the Court as costs unless the plaintiff does not want the costs to be quantified in which case cost shall be taxed in the ordinary way, and such decree may be executed forthwith.

143Appearance of defendant(1) (a) In a suit filed under order 37 of the Code of Civil Procedure, if the defendant enters an appearance or files a Vakalatnama. the plaintiff shall on affidavit made by himself, or by any other person who can swear to the facts of his own personal knowledge verifying the cause of action, and the amount claimed, and stating that in his belief there is no defence to the action, apply by summons for judgment returnable not less than ten clear days from the date of service to the sitting Judge in Chamber for the amount claimed, together with interest (if any) and costs.

(b) The defendant, if he desires to defend the suit, may file an affidavit or declaration disclosing the grounds and facts on which he seeks leave to defend the suit. A copy of such affidavit or declaration shall be supplied by the defendant to the plaintiff or his advocate who may file an affidavit or declaration in rejoinder. The provisions of Rule 36 shall apply to any such affidavit, declaration or rejoinder.

(c) At the hearing of the summons for judgment, the Judge may after considering the affidavits and declaration (if any), if he is satisfied that the defendant has a good defence to the action on the merits, or has disclosed such facts as may be deemed sufficient to entitle him to defend, grant leave to defend for the whole or any part of the claim as he may deem fit, unconditionally or on such terms and conditions as to security or otherwise as the Judge may appear just.

(d) The Judge, If no affidavit or declaration as aforesaid has been filed by the defendant or, if he is satisfied that the defendant has not made out sufficient grounds or disclosed facts sufficient to entitle him to defend, may pass a decree for the plaintiff accordingly-

(2) Interlocutory proceeding .-On the summons for judgment all such directions may be given and orders made for the conduct of the suit as may appear necessary to the Judge hearing the same.

(3) Default in filing appearance.-If the defendant does not enter an appearance or file a Vakalatnama within ten days of the service upon him of the writ of summons and the plaint and exhibits thereto the plaintiff shall be at liberty to apply to put the suit down for hearing forthwith thereafter before the Sitting Judge in Chambers. In such applications the plaintiff shall state the date when the defendant was served and also state the fact of the affidavit of service of the writ of summons having been filed.

(4) When no decree applied for within six months.-If the plaintiff does not apply for a decree within six months after the filing of the plaint, the suit shall be set down In the daily cause board for dismissal t)efore the Sitting Judges in Chambers, one week before the day fixed for such dismissal. Upon the day fixed for such dismissal, the suit shall be called on before the Sitting Judge in Chambers and shall be dismissed if the plaintiff fails to appear, or appearing fails to satisfy the Judge that he has sufficient cause for not having proceeded with his suit.

144Judgment for part of claimIf on the summons for judgment it appears that the defence set up by the defendant applies only to a part of the plaintiffs claim, or that any part of his claim is admitted, plaintiff shall have judgment forthwith for such part of his claim as the defence does not apply to or as is admitted, subject to such terms, if any, as to suspending execution, or otherwise as the Judge may think fit.

145Where one defendant has good defence but not the otherIf it appears to the Judge that any defendant has a good defence to or ought to be permitted to defend the action, and that any other defendant has not such defence and ought not to be permitted to defend, the former may be permitted to defend, and the plaintiff shall be entitled to enter final judgment without prejudice to his right to proceed with his action the former.

146Form of summons for judgmentA summons for judgment shall be in Form No. 6 to the Forms annexed to these Rules.

147Default In completing securityIf the defendant does not complete his security (if any) or carry out such other directions as the Judge may have given within the time limited in the order, the plaintiff shall be at liberty to apply to put the suit down for hearing forthwith before the Sitting Judge in Chambers, as if no such order has been made.

148Setting down of summary suitsSummary suits in which leave to defend is granted shall, as far as possible, be set down for hearing before the Judge appointed from time to time by the Principal Judge for that purpose, on the day fixed for hearing thereof, unless they have been transferred to the Long Cause List.

7 148A Supersession of rules 2 and 3 of Order XXXVII The
Rules in this Chapter shall be in supersession of rules 2 and 3 of

Order XXXVII as amended by the High Court of Bombay under
section 122 of the Civil Procedure Code and Rules 4 to 7 of Order
XXXVII of the Code of Civil Procedure shall be applicable to Suits
under this Chapter.]

CHAPTER 12 Pauper Suits.

149 Contents of application, - (i) An application for permission
to sue as a pauper shall contain the particulars required in
regard to plaints in suits: a schedule of any movable or immovable
property belonging to the applicant with the estimated value there-
of, shall be annexed thereto and it shall be signed and verified in
the manner, prescribed for signing and verification of pleading in
Rule 36 of Chapter V. The application shall be presented to the
Registrar who shall, on satisfying himself that the provisions of
Order XXXVIII of the Civil Procedure Code have been complied with
and not otherwise, order it to be interpreted and declared gratis.

(ii) The provisions contained in the above Rule shall apply
mutatis mutandis to application to proceed with the suitor defend
the suit as Pauper.

150 Notice for Investigation On such petition being filed in
the Registrar's office, a notice for investigation of his pauperism
returnable in Court shall on application of the petitioner, be issued
to the opposite party and the Government Pleader. Such notice
shall be accompanied by a copy of the petition filed as per Rule 149.

151 Advocate may be assigned to pauper suitors When a
person is admitted to sue or defend as a pauper, the Registrar may,
if necessary, assign an Advocate to assist him. and Advocate so
assigned shall not be at a liberty to refuse his assistance, unless
he satisfies the Registrar that he has good reason for refusing.

152 Duty of Advocate In pauper matters It shall be the duty
of the Advocate who may be assigned to a person admitted to sue
or defend as a pauper, to take care that no notice is served,
summons issued, or petition presented without good cause, and to
report to the Court every six months the progress of the suit or
matter.

153 No fees to be taken from pauper Whilst a person sues
or defends as a pauper, no person shall take or agree to take, or
seek to obtain from him, any fee, profit or reward for the conduct
of his business in the Court and any person who takes, or agrees
to take or seeks to obtain any such fee, profit or reward, shall be
guilty of a contempt of Court:

Provided that, notwithstanding anything herein contained, the
Court or a Judge shall have power to award costs against the
adverse party or out of the property recovered in the suit and to
direct the payment thereof to the Advocate representing the

pauper.

154No compromise without leave of courtNo cause, suit or matter commenced or carried on by a pauper plaintiff or defendant shall be compromised on any account whatever without leave first had and obtained from the Judge in Chambers or the Court.

155Direction for payment of Court fee In every decree or OrderUnless otherwise ordered, in every suit In which a pauper party is concerned, a direction shall be inserted in every decree or order for payment to Government of the court fees which he would have had to pay had he not been permitted to sue or proceed with the suit or defend as a pauper.

156Memo of fees to Government Pleaderin every suit in which a pauper is concerned after the disposal thereof the Registrar shall send to the Government Pleader a memo of the Court fees due and payable by such pauper.

CHAPTER 13Land References.

157Registrar of Land ReferencesA register of Land Reference shall be kept in which shall be entered all references filed under the Land Acquisition Act, 1894.

158Collector to furnish postal address of partiesThe Collector as defined in section 3 (c) of the Land Acquisition Act, 1894, shall, along with every reference under section 18, supply to the Registrar the postal address of all persons on whom notices are required to be served under section 20 of the Land Acquisition Act and in the case of a reference under section 30 the postal address of all persons interested in the apportionment.

159Collector to file notice etc..-Along with every Reference. the Collector shall file notices in the appropriate form duly filed in and shall pay the Court-fees and postal charges payable for service of such notices.

160Registrar to Issue NoticesUpon a reference being filed, the Registrar shall forthwith issue notices in Form No. 82 if the reference is under section 18 and in Form No. 83 if the reference is under section 30.

161Notice to be sent by Registered postSuch notices shall be sent by registered post in the case of references under section 18 to all persons to whom notices are required to be sent under the provisions of section 20 of the Land Acquisition Act, and in the case of references under section 30 to all persons interested, at the addresses supplied by the Collector.

162Returnable date of Notice under sections 18 and 30 The returnable date given in a reference under section 18 for compensation with or without apportionment shall be three months from the date of the issue of notice and the returnable date in case of any reference relating to appointment only shall be one

month.

163Application for order under section 32 of the Land Acquisition ActAn application for an order under S.32 of the Land Acquisition Act, 1894, shall ordinarily be made in Chamber to the Judge who shall have been appointed to hear land references, but the Judge may adjourn the application Into Court if he thinks fit.

CHAPTER 14Testamentary and Intestate Matters.

164Will to Include CodicilThe word "Will" In this Chapter includes a "Codicil".

165Application for probateApplication for probate shall be made by petitioner with the Will annexed, accompanied, if the Will is not in English or Gujarati, by a translation thereof in English or Gujarati; such application shall be in Form No. 52 or as near thereto as the circumstances of the case may permit and shall be accompanied by

(a) A warrant signed by the petitioner unless the applicant appears in person.

(b) Executor's oath to be endorsed on the Will when possible. (Form 53).

(c) Affidavit of one of the attesting witnesses. If procurable (Form No.54) and

(d) Schedule of property of the deceased, (Form No. 55).

166Application for Letters of AdministrationApplication for letters of administration shall be made by petition in Form No. 56 or as near thereto as the circumstances of the case may permit, and shall be accompanied by the annexures (a) and (d) mentioned in the last preceding rule and the administrator's oath (Form No. 56).

167Application for letters of administration C.T.A.- Application for letters of administration with the Will annexed shall be made by petition in Form No. 58 or as near thereto as the circumstances of the case may permit and shall be accompanied by the annexures (a), (c) and (d) mentioned in rule 165 and administrator's oath. (Form No. 58).

168Application for succession certificateApplication for succession certificate shall be made by petition in Form No. 64 in the schedule or as near thereto as the circumstances of the case may permit and shall be accompanied by the annexure (a) mentioned in Rule 165 and a schedule of the property of the deceased in respect of which the succession certificate is asked for. It shall also be accompanied by a petitioner's undertaking as specified In Form No. 65 or as near thereto as the circumstances of the case will permit.

169Certificate of Registrar for duty paid In advanceEvery application for probate or for letters of administration with or without the Will annexed or for succession certificate shall be accompanied by the certificate of the Registrar that duty payable has been paid. unless the Judge hearing Testamentary Matters shall otherwise direct.

170Administration to creditorIn all applications by a creditor for letters of administration, it shall stated particularly how the debt arose.

171Verification of petitionThe petition for probate or letters of administration or succession certificate shall be subscribed by the petitioner and his Advocate (if any) and shall be verified by the petitioner in the manner prescribed for verification of plaints.

172Interlineations alterations, etc. in the Will should be sworn to by the attesting witnessWhen interlineations, alterations erasures or obliterations appear in the Will (unless duly executed as required by the Indian Succession Act or recited 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.

173In absence of attesting witness what other evidence must be producedIf no affidavit by any of the attesting witnesses is procurable, an affidavit shall be procured (if possible) from some other person (if any) who may have been present at the execution of the Will, but if no affidavit of any such person can be obtained, evidence on affidavit must be produced of that fact and of the hand writings of the deceased and attesting witnesses, and also of any circumstances which may raise a presumption in favour of due execution.

174Notice of application to whom to be givenThe Registrar shall give notice of all applications for probate or letters of administration to the Collector ofAhmedabad.

175Filling up of probates, etc..-All probates or letters of administration or succession certificates shall be drawn by the Court.

176Schedule of property to be annexed to grantA copy of the schedule of the property of the deceased accompanying an application for probate or Letters of Administration shall be annexed to the grant of probate or Letters of Administration.

177Production of deed. paper, etc., referred to In willIf 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. No deed paper,

memorandum,, or other document can form part of a Will unless it was in existence at the time when the Will was executed.

178Unsigned unattested willIn cases in which it is not necessary a Will should be signed by the testator or attested by witnesses to constitute a valid testamentary disposition of the testator's property, the testators intention that it should operate as his testamentary disposition must be clearly proved by affidavit.

179Attempted cancellation must be accounted forAny 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.

180Notice to next of kinIn all application for Probate, Letters of Administration and Succession Certificate, Notice of the application shall be given to all the heirs and next-of-kin of the deceased mentioned in the Petition except to those whose consent has been filed in the proceedings.

181Application by constituted attorneyAn application for Letters of Administration or administration with the Will annexed or Succession Certificate 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.

182Administration bondSubject to the provisions of rule
183-

(a) In all cases of Letters of Administration, save and except under Section 241, Indian Succession Act, 1925, the persons to whom the grant is made shall give a bond in Form No. 70 with one surety;

(b) In all cases of Succession Certificates, the person to whom the grant is made shall in cases covered by sub-sections (3) and (4) of section 373 of the Indian Succession Act, 1925, and may in all other cases, be required to give a bond in Form No. 72 with one surety.

The exception made above in respect of a grant under Section 241 shall not operate when the deceased was a Hindu/Mohammedan/Buddhist/Sikh or Jain, in which case the person to whom grant is made shall give a bond in Form No, 71 with one surety for such amount as the Court may think sufficient for the protection of the estate of the deceased.

183Surety to Justify in certain cases(a) In the following cases the surety to the bond shall justify for the whole amount of the estate-

(i) When the person to whom the grant is made has taken out Letters of Administration or Succession Certificate for the use and benefit of a lunatic or person of unsound

mind, unless he be a committee of the estate of such lunatic appointed by the Court and has given security.

(ii) When the person to whom the grant is made has taken out Letters of Administration or Succession Certificate for the use and benefit of a minor, unless he be a guardian of the property of such minor appointed by the Court and has given security.

(iii) When the person to whom the grant of Letters of Administration or Succession Certificate is made is entitled to a life interest.

(b) When the person to whom the grant of Letters of Administration or Succession Certificate is made is entitled to a portion only of the estate, the surety to the bond shall justify for the whole estate less the shares of the grantee and of such shares as shall consent in writing thereto.

(c) In all other cases the Surety may be a common Surety.

The Judge hearing the testamentary matters may, however, in a proper case and for reasons to be recorded in writing dispense with the justification of surety.

8[184Bank and Insurance Company as Sureties Besides any Nationalised Bank or Nationalised Insurance Company, any other Scheduled Bank approved by the Principal Judge may be accepted as a common and justifying surety and in such cases the bond shall be given only for the amount of the property for which the grant is made.]

185Attestation of bonds Administration bonds shall be attested by a Gazetted Officer of the Court, or if executed outside the Court house by such clerk or clerks as may be nominated by the Registrar for that purpose.

186Oath of executor or administrator with the Will annexed The oath of the executor in the case of probate or of the administrator in the case of letters of administration with the Will annexed whenever possible, shall be endorsed on the Will. When this is not possible such oath of the executor or of the administrator is to be subscribed and sworn or affirmed by him, as an affidavit and then filed in the Court. (Forms Nos. 53, 57, 59 and 61).

187Disclosure of all persons having prior right to the grant The petition for Letters of Administration or for Letters of Administration with the Will annexed shall disclose the names of all persons having a prior right to the grant and shall set forth, when the fact is such, that the party applying is the only next-of-kins of the deceased.

188Grant under section 254 of the Indian Succession Act Whenever under section 254 of the Indian Succession Act the Court appoints an administrator, a person other than the person who would have entitled to the grant, the fact shall be so stated in

the grant.

189Marking WillEvery Will, 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.

190RenunciationNo 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.

191Service of citationsCitations shall be served personally when possible. Personal service shall be effected by leaving a true copy of the citation with the party cited and showing him the original.

192Service by advertisementCitations which cannot be personally served as required by the last preceding rule shall be served by the insertion as an advertisement in such local newspapers as the Registrar may direct, of a notice in Form No. 66.

193Certificate under section 274 (1) (b) of the Indian Succession ActWith every certificate to be sent to a High Court under the provisions of section 274 (1) (b) of the Indian Succession Act, the Registrar shall send copy of the property and credits of the deceased as relates to the estate within the jurisdiction of such court.

194Application of extension of Succession Certificate
The Registrar may extend a Succession Certificate to any debt or security not originally specified therein. Application for such extension shall be by a petition with all accompaniments mentioned in Rule 168, stating the particulars of the debt or security: and on payment of duty payable in respect thereof and on the petitioner giving a further bond, if required, the certificate may be extended.

195Register of grants. etcThe party propounding the Will shall furnish to the office of the Registrar a copy of the Will if the same is in the English language or the Gujarati language or a copy of its translation in English language or the Gujarati language if the same is in a language other than English.

196Register of grantsThe record of all grants of Probates,

Letters of Administration and Succession Certificates shall be prepared in the Court and shall be kept in the Registers along with copies of the wills and their translations, if any.

197CaveatAny person intending to oppose the issuing of a grant of Probate or Letters of Administration, must either personally or by his Advocate file a caveat in the Court in Form No. 78. No caveat shall affect any grant made on the day on which the caveat is filed. Notice of the filing of the caveat shall be given by the Registrar to the petitioner or his Advocate.

198Affidavit supporting caveatWhere the caveat is filed

before the filing of the application for Probate or letters of Administration, the notice of application for Probate or Letters of Administration shall be given by the petitioner to the caveator within eight days of the date when the notice of the filing of the caveat is given to him or his Advocate by the Registrar under the preceding rule. A copy of the application for Probate or Letters of Administration shall be served on the caveator along with the notice.

199Affidavit supporting caveatIn every case in which a caveat is filed before the filing of the application for Probate or Letters of Administration, an affidavit in support of the caveat shall be filed within eight days of the service of the notice of the filing of the application for Probate or Letters of Administrations under the preceding rule and in other cases an affidavit in support of the caveat shall be filed within eight days of the filing of the caveat. notwithstanding the Court Vacations, such affidavit shall state the right and Interest of the caveator, and the grounds of the objections to the application. If such affidavit be not filed within such time the caveat shall not prevent the grant of Probate or Letters of Administration. No such affidavit shall be filed after the expiration of the said eight days without the order of the Judge. A copy of such affidavit shall be supplied by the caveator to the petitioner for Probate or Letters of Administration.

200Notice In probate suitIn 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 and only intends to cross-examine the witnesses produce 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.

201ProcedureUpon the affidavit in support of the caveat being filed petitioner for Probate or Letters of Administration shall be numbered as a suit in which the petitioner shall be plaintiff and the caveator shall be the defendant. The procedure in such suit shall, as nearly as may be, be according to the provisions of the Code of Civil Procedure and these Rules.

202Certified CopiesCertified copies of Wills and other documents furnished by the office shall be signed by the Registrar or one of his assistants and shall be sealed with the seal of the Court.

203Issue and return of processesAll processes and citation shall Issue from and be returnable to the office of the Registrar shall be prepared signed, and dated by him or one of his assistants and attested, subscribed sealed, executed and returned, in the same manner as processes of the Court.

204Notice by executor or administration to creditors

under section 360 and 367 of Act XXXIX of 1925 Where an executor or administrator has given notice to creditors and other in form contained in Form No. 81, such notice shall be deemed to satisfy the requirements of sections 360 and 367 of the Indian Succession Act, 1925.

205 Name etc. of petitioner and caveator in petition and caveat The name, true place of abode, description and occupation, If any, of the petitioner shall be given In the petition and of the caveat.

206 Application by parties In person, personal attendance Persons desirous of obtaining grants of Probates or Letters of Administration or Succession Certificates without the intervention of an Advocate must apply in person at the office and not by letter and all fees payable by such parties shall be paid in advance in Court-fee stamps.

207 Disposal of petitions for non-prosecution All Testamentary petitions in which grants or certificates are not issued owing to non-prosecution of the petitions for two years after the petitions have been filed, shall be treated as disposed of and no action shall be taken in such petitions unless a fresh petition is filed or an order obtained from the Judge in Chambers giving permission to the petitioner to proceed with the petition already filed.

CHAPTER 15 Proceedings at the Hearing of Suits and Upto and Including of Decree.

208 Suits to be set down for final disposal at first hearing When a suit is set down for final disposal at the first hearing, parties must then be prepared with their documents and witnesses. unless otherwise ordered.

209 Formal order for postponement unnecessary When the hearing of any sit Is ordered by the Court to be postponed, the officer In Court shall take a note of the order In Roznama and entry of the date fixed shall then be made In the Register of suits, and the Summons, If not already served, shall be amended accordingly.

210 Proceedings in another suit how put in evidence When any proceedings In a suit In the Court are necessary as evidence in another suit In the Court, they shall not be removed from the file of the former suit, unless the Judge shall otherwise direct.

211 The Judgment shall be dated and initialled by the Judge The Judgment shall be dated and initialled by the Judge in open Court at the time of pronouncing it and, when once initialled, shall not afterwards be altered or added to, save as provided by Section 152 of the Code of Civil Procedure or on review:-

Provided that Where the judgment is pronounced by dictation to a shorthand writer in open Court, the transcript of the judgment so pronounced shall after making such corrections therein as may

be necessary be initialled by the Judge and shall bear the date of its pronouncement, and when the judgment is once so initialled by the Judge It shall not afterwards be altered or added to save as provided by Section 152 of the Code of Civil Procedure or on review.

212Return of DocumentsDocuments not directed by the Judge who has heard a suit or proceeding to be retained will be returned by the Registrar on the expiration of the time for appealing (if no memorandum of appeal has been filed) unless cause to the contrary appear or they are of the nature specified In the second proviso to Order XIII, rule 9, of the Code of Civil Procedure.

213Application for return of Documents must be made within ten daysApplications by parties or their Advocates for the return of exhibits put in at the hearing shall be made within ten days after the time for appealing against the decree in the suit has expired.

214No decree unless suit on boardNo decree in a suit shall be passed unless the suit appears on the daily trial board.

215Contents of decree(1) A decree shall contain the number of the suit, the names and description of the parties, and particulars of the claim and shall state whether both sides appeared and how and whether evidence was taken, and shall specify clearly the relief granted or other determination of the suit but not Issue or findings thereon shall be Inserted unless by special directions of the Judge: nor shall there be any recitals other than such short ones as the Registrar thinks necessary.

(2) The decree shall bear date the day on which the judgment was pronounced, and it shall be engrossed in the office of the Registrar and be signed by him and sealed with the seal of the Court. The decree shall also state the date when the Registrar signs It.

216Extend of order for payment out of fundEvery decree or order for payment of money out of a fund subject to the order of the Court shall, for the purpose of such payment, be deemed to authorise the sale and subdivision of the securities belonging to the fund, or of a sufficient portion thereof.

217Decree for maintenanceIn a suit for maintenance, the Court may pass a decree ordering payment of the allowance out of the property charged and in such a case the Court may appoint, subject to such condition, if any, as It shall think fit, a receiver thereunder with directions. In case of default in payment of the maintenance to take possession of the property and sell the same, and out of the sale-proceeds to pay the allowance for maintenance.

218Draft decree or order to be submitted to JudgeIn cases of doubt or difficulty, the Registrar may submit the draft of the decree or order to the Judge who passed it.

219Setting down suit on board to speak to minutes,-Any party dis-satisfied with the decree order as drawn 'up by the

Registrar shall forthwith apply to the Registrar to set the matter down on board as early as possible to be spoken to on the minutes. The Registrar when speaking to the minutes seems indispensable, may at once set the matter down before the Court.

220 Variation in draft decree by Court When a variation is made by the Court In the draft settled by the Registrar such variation shall be embodied in the decree or order.

221 Errors how rectified after decree sealed After a decree or order has been sealed, any application to rectify an inaccuracy or clerical or arithmetical error, shall be made to the Judge who passed the decree or order, or In the event of his absence on leave, or retirement to any Judge, and he (the Judge) may (in his discretion) after notice to the parties, when he deems 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 1 14 and Order XLVII of the Code of Civil Procedure.

CHAPTER 16 Time

222 Computation of time In all cases in which any particular number of days not expressed to be clear days, is prescribed by the rules or practice of Court and not coming under any law relating to limitation, the same shall be reckoned exclusively of the first day, and inclusively of the last day unless the last day shall happen to fall on a Sunday or other day on which the offices are closed, in which case the time shall be reckoned exclusively of that day also, and any succeeding day or days on which the offices continue to be closed:

Provided that written statements due in vacations may be filed on the day the Court re-opens.

223 "Month" means calendar month Where by these rules or in any decree or order time for doing any act or taking any proceedings is limited by months, and where the word "month" occurs in any document which is part of legal procedure under these rules, such time shall be computed by calendar months, unless otherwise expressed.

224 The time for giving security for costs when not to be reckoned The day on which an order for security for costs Is served, and the time thenceforward until and including the day on which such security is given, shall not be reckoned In the computation of time allowed to plead, answer Interrogatories or take any other proceedings In the suit or matter.

225 Power of Court or Judge to enlarge or abridge time The Court or a Judge shall have power to enlarge or abridge the time appointed by these rules, or fixed by any order, for doing any act or taking any proceedings, 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 the expiration of the time appointed or allowed.

CHAPTER 17 Execution of Decrees and Orders

226 Application to be made to the Registrar All applications for the execution of decrees or orders shall be made by Advocates or by parties in person to the Registrar, and the transmission

of decrees and the issue of all the necessary warrants and notices and all amendments thereof shall be made by him.

227 Transmission of decree on affidavit Applications under section 39 of the Code of Civil Procedure to transmit a decree or order to another Court for execution shall be made on affidavit clearly stating the particulars mentioned in clauses (a) or (b) of that section and be accompanied by a certified copy of the decree or order, and the Registrar shall thereupon transmit such certified copy together with the other documents mentioned in Order XXI Rule 6 of the Code of Civil Procedure direct by registered post.

228 Transmission of decree or order when provisions of Order 21. Rule 22 apply When a copy of the decree or order of this Court is to be transmitted to another Court for execution and the provisions of Order 21. Rule 22 of the Code of Civil Procedure apply, the notice under Order 21, Rule 22 shall be issued by this Court and order obtained thereon; provided that where the judgment debtor resides or carries on business in the place to which the decree is to be transmitted and the provisions of Order 21, R. 22 apply then the copy of the decree or order may be transmitted to such Court without the notice under Order 21. Rule 22 being issued by this Court.

229 Certificate of non-satisfaction when provisions of O. 21, and R. 22 apply When a copy of the decree or order of this Court is transmitted to another Court for execution and the provisions of Order XXI, Rule 22 -of the Code of Civil Procedure apply and have been complied with, it shall be stated in the certificate of non-satisfaction that these provisions have been complied with.

230 Stay of execution on transmission When a decree or order is sent to another Court for execution, a stay of execution will be entered In the proceedings in this Court unless the Judge shall, on such terms as he thinks fit, otherwise direct.

231 Transmission of decree in two or more districts simultaneously. -When a person against whom execution is sought has property in two or more districts, the Registrar may, on being satisfied of the necessity, cause a copy of the decree or order obtained against such person to be transmitted for execution in some or all of such districts contemporaneously. In the certificate of non-satisfaction, to be sent therewith to the Court of each of such districts It shall be stated to what other Courts a copy of the decree or order 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 districts (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 furnished by this Court with information as to the result of the sale of the property in district A.

232When insufficient amount realised in first districtIf the amount realised in district A shall not be sufficient to satisfy the decree or order, 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.

233Also in second or succeeding districtsIf the amount realised in execution in district B shall not be sufficient to satisfy the balance payable under the decree or order, the proceedings indicated in the last preceding rule shall be followed, and so on as to each of the other districts successively.

234When sufficient amount realised in executionIf the amount realised in execution in district A or district B or any other district except the last, shall be sufficient to satisfy the decree or order a certificate that such is the case shall be sent to the Court of each district, in which property shall at the time be under attachment in execution of the decree or order.

235Procedure on receipt of decree more than 2 years old without compliance with O. XXI. Rule 22 of the Civil Procedure CodeWhen a copy of decree or order of another Court is transmitted to this Court for execution after the lapse of two years from the date thereof, or of the last order made on any application for execution, or after the death of the judgment-debtor, and there is nothing to show that notice has been given under Order XXI, Rule 22 of the Code, the Registrar may return the copy of the decree or order to the Court from which it was received, with a request that it may be certified whether notice has been given under that section. The Registrar shall also return the copy of the decree or order if the requirements of Order XXI, Rule 6 of the Code shall not have been fully complied with.

236Return of decree for non-prosecutionWhen a copy of a decree or order of another Court is transmitted to this Court for execution and the judgment creditor does not take any steps in this Court for a period of one year after the receipt of the decree or order, the Registrar shall return the copy of the decree or order to the Court from which it was received.

237Form of application for executionThe application for execution whether the provisions of Order XXI, Rule 22 of the Code of Civil Procedure apply or not, shall be in Form No. 6 in Appendix E to the Code of Civil Procedure and shall be on a sheet of durable paper, foolscap size. and shall, in addition to the particulars mentioned in Order XXI, Rule 11 (2) contain the following:-

(1) (By way of schedule)-The description of property and the interest of the judgment debtor therein as required by Order XX. Rule 13 of the Code of Civil Procedure.

(2) When land sought to be attached is not registered In the Collector's office an express statement to that effect shall be added after the description of the said property.

238 Copy of decree to accompany In all cases the application shall be accompanied by a duly certified copy of the decree or order, or by the original.

239 Non-prosecution of application for execution When a party does not proceed with the application for execution for a period of twelve months from the date of the filing of the application, the Registrar shall place the application before the Chamber Judge for dismissal for want of prosecution. The Chamber Judge may pass such orders thereon as he may think fit.

240 Registrar not to issue execution simultaneously against person and property The Registrar shall not issue execution at the same time against the person and property of the judgment-debtor but a judgment-creditor desiring to proceed against both at once, must apply specially to the Judge on affidavit and in case of such application being refused, shall not be allowed to include the costs thereof in his costs as against the debtor without the special order of the said Judge, but when execution of a warrant of the one kind has failed, the Registrar may at the request of the judgment creditor, forthwith issue a warrant of the other kind.

241 Notice under Order XXI. Rule 22 of the Code of Civil Procedure When the provisions of Order XXI. Rule 22 of the Code of Civil Procedure apply the Registrar shall issue the necessary notice on the application for execution. (Form No. 27).

242 Procedure on return of notice If no cause be shown on the returnable day of such notice or on such day as the hearing thereof may be postponed to. the officer of the Court will endorse thereon, "No cause shown" and obtain the Judge's signature to such endorsement, and on the said notice being filed with an affidavit of service thereof, the Registrar shall direct the necessary warrants to issue.

243 Procedure when cause allowed or disallowed In like manner if cause be shown and allowed or disallowed, the Officer of the Court will endorse on the said notice "Let no execution issue" or such other words as the case requires and obtain the Judge's signature to such endorsement.

244 Issue service and return of notice All notices under Order XXI. Rules 16, 37, 22, section 144, section 145, Order XXI, Rules 2, 34 (1) to (4) and section 73 of the Code of Civil Procedure shall be issued by the Registrar and be made returnable before the Judge, on a day to be therein mentioned and shall be served if the party upon whom the service is to be made is residing or carrying

on business-

- (a) Within the City of Ahmedabad At least four clear days.
- (b) At any other place within India At least fourteen days.
- (c) at a place outside India At least two months.

before such date unless the judge shall otherwise order. (Forms Nos. 26 to 31).

245Application for Receiver In execution of decreeAn application for the execution of a decree or order, by the appointment of a Receiver under Order XL, Rule I to realise or otherwise deal with property under attachment, shall be made to the Judge, and such receiver shall, unless otherwise ordered, be subject to the rules of this Court applicable to persons appointed receivers of property, the subject-matter of a suit.

246Costs of execution to be specified on warrant of arrest.
- Every warrant for the arrest of any person in execution of a decree or order shall specify the amount due and payable under the decree or order for principal, interest and costs of the execution.

247Also on warrant of attachment.-Every warrant for attachment of property shall be in Forms prescribed by the Code of Civil Procedure or such of them as may be appropriate.

248Payment Into Court when to be madePayment of money into Court in satisfaction of decree or order shall be made to the Registrar, if warrants in execution have not been issued and the Registrar shall enter satisfaction pro tanto upon the decree or order.

249Payment out of Court to be notifiedWhenever money payable under a decree or order is paid out of Court to the decree-holder (as provided by Order XXI, rule 2 of the Code of Civil Procedure) or to an Advocate out of Court on behalf of his client. the decree-holder or his Advocate as the case may be shall forthwith notify in writing such payment to the Registrar and request entry or satisfaction in whole or in part, as the case may be on the said decree or order and in the Registrar of Suits stating whether the satisfaction was obtained with or without execution.

250When fresh application necessaryWhen a warrant for sale is not taken out within a year from the date of the warrant of attachment, or when a warrant in execution of a decree or order has not been fully executed within a year from the date thereof, a fresh application must be made for such further execution as may be necessary but at the cost of the party seeking execution, unless the Registrar otherwise directs:

Provided that on such application the Registrar may, if he thinks fit direct an alias warrant to issue; and

Provided also that if no such fresh application is made to the Registrar, the Registrar after giving notice to the judgment-creditor and after hearing his objections if any, on the application of any party interested in the property subject to attachment make

an order that the attachment has ceased and on such order being made, the attachment shall be deemed to have been raised.

251Reference to Judge on refusal by RegistrarWhen the Registrar shall refuse an application for execution, the matter shall, at the request of the applicant, be referred to the Judge, and In all such cases, the Registrar shall certify the ground of his refusal, and they shall be brought to the notice of the Judge.

252Procedure on realisation by RegistrarWhen assets by sale or otherwise have been realised from the property of the judgment-debtor the Registrar shall certify to that effect and shall also at the request of the judgment-creditor, at whose instance the realisation was made, certify what persons have applied to the Court for execution of decrees for money against the same judgment-debtor or have been declared entitled to share in such assets together with the amount appearing in the Register of Suits to be payable under such decrees. (Form No. 38).

253Notice to all persons claiming to share to attend Judge In ChamberThe Registrar shall also issue notice calling upon all persons who claim to share in such assets to attend on the Sitting Judge in Chambers on the day therein named in support of their claims. Such notice (Form No. 32) shall be served upon the persons named in the certificate and a copy thereof shall be posted up in a conspicuous place in the court house.

254Procedure on such noticeUpon the day so named the Judge, upon proof of the due service of the said notice, will proceed to deal with such claims and make such order as he deems fit.

255On realisation of monthly pay, frequent certificates not to IssueWhen any portion of the pay or salary of a judgment-debtor is paid monthly in the Court in execution of a decree, it shall not be necessary for the Registrar to issue a further certificate and notice on each realisation but at such periods only as he may think fit.

256Procedure when judgment-creditor neglects to get certificateShould the judgment-creditor, at whose Instance the realisation was made, neglect or refuse to apply for the certificate or to serve the notice hereinbefore mentioned, any other person entitled to share In the assets shall be at liberty to apply for such certificate and serve such notice.

257When such Judgment-creditor alone entitled to payment.
-If the Registrar shall certify that no person has. before the realisation of the assets by the Court, applied to the Court for execution of a decree for money against the judgment-debtor, the judgment-creditor may at once apply to the Registrar for an order for payment to him of the amount realised or so much thereof as may be sufficient to satisfy his decree.

258Procedure In case of doubt or difficultyIn cases of

doubt or difficulty under this Chapter, the Registrar shall either obtain the fiat of the Judge in Chambers to the application, or refer the matter into Chambers for argument.

CHAPTER 18 Garnishee Orders

259 Procedure, when debt or any movable property not in possession of judgment-debtor attached.—The Registrar may, in the case of any debt (not secured by a negotiable instrument), any movable property not in the possession of the judgment-debtor, or any negotiable instrument, which has been attached under Order XXI, Rules 46, 51 or 52 of the Code of Civil Procedure, upon the application of the attaching creditor, issue a notice to any person (hereinafter called the garnishee) liable to pay such debt or to deliver or account for such movable property, or liable on such negotiable instrument to such judgment-debtor, calling upon him to appear before the Judge sitting in Chambers and show cause why he should not pay or deliver into Court the debt due from or the property deliverable by him to such judgment-debtor, or so much thereof as may be sufficient to satisfy the decree and the cost of execution (Form No. 35). If at the hearing, the Judge dismisses the said garnishee notice, the prohibitory order issued under any of the above rules shall stand discharged and the attachment raised.

260 Procedure when garnishee does not forthwith pay amount, etc.—If the garnishee does not forthwith pay or deliver into Court the amount due from or the property deliverable by him to the judgment-debtor or so much as may be sufficient to satisfy the decree and the cost of execution and does not dispute his liability to pay such debt or deliver such movable property, or if he does not appear in answer to the notice, then the Judge 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.

261 Procedure when Garnishee disputes his liability.—If the garnishee disputes his liability, the Judge instead of making such order may order that any issue or question necessary for determining his liability be tried as though it were an issue in a suit: and upon the determination of such issue shall pass such order upon the notice as shall be just.

262 Procedure when debt or property belongs to third person.—Whenever in any proceeding under this Chapter it is suggested, or appears to the Judge to be probable, that the debt or property attached or sought to be attached belongs to some third person or that any third person has a lien or charge upon, or an interest in it, the Judge may order such third person to appear and state the nature of his claim (if any) upon such debt or property, and prove the same. If necessary.

263 Order to be made on hearing such person.—After hearing such third person, and any other person, who may subsequently be ordered to appear, or in the case of such third or other person not appearing when ordered, the Judge may pass such order as is hereinbefore provided, or make such other order as he shall think

fit, upon such terms in all cases with respect to the lien, charge or interest (if any) of such third or other person as to such Judge shall seem just and reasonable.

264 Payment or delivery under order to be valid discharge
Payment or delivery made by, or execution levied upon the garnishee under any such order as aforesaid shall be valid discharge to him as against the judgment-debtor, and any other order to appear as aforesaid, for the amount paid. delivered or levied. although such order or the judgment may be set aside or reversed.

265 Attachment of debts owing from firm Debts owing
from a firm carrying on business within the jurisdiction may be attached under this Chapter, although one or more partners of such firm may be resident out of the jurisdiction provided that any person having the control or management of the partnership business or any partner of the firm within the jurisdiction is served with the garnishee order. An appearance by any partner pursuant to an order shall be sufficient appearance by the firm.

266 The costs of any application made under rule 259 The
costs of any application made under rule 259 and of any proceeding arising therefrom and incidental thereto shall be in the discretion of the Court.

267 An order made under any of the rules of this chapter
shall be appealable as a decree An order made under any of the rules of this Chapter shall be appealable as a decree.

CHAPTER 19 Minors and persons of unsound mind

268 Admission of next friend to bring a suit, order unnecessary.
-When a suit is brought on behalf of a minor, his next friend shall make an affidavit, to be presented to the Judge with the plaint in the suit, that he has not interest directly or indirectly adverse to that of the minor, and that he is otherwise a fit and proper person to act as such next friend. Date of birth of the minor If known or otherwise his age shall also be stated.

269 Procedure by petition when defendant is minor When
a Plaintiff knows that a defendant is a minor he shall on the presentation of the plaint, present a petition for the appointment of a guardian for the suit for such defendant: such petitions shall be in Form No. 40 and be verified in like manner as a plaint.

270 Person eligible to be guardian ad item The person to
be appointed guardian for the suit If he has no interest directly or indirectly adverse to the minor, and is otherwise fit, will ordinarily be the (a) testamentary or (b) natural guardian or (c) the custodian of the minor, and the plaintiff shall, if possible, obtain the consent In writing of one of such persons to the above order.

271 Procedure when stranger appointed If the plaintiff Is
unable to obtain the consent of any of the persons In the last rule mentioned he shall state the reason of his Inability and propose some other fit and proper person: a notice will then Issue to the minor and his testamentary or natural guardian, or failing them,

to the person with whom the minor resides Informing them that on the day to be therein named, the Judge sitting in Chambers will. If no cause be shown to the contrary, proceed to appoint the person proposed by the plaintiff, or some other fit and proper person, to be such guardian as aforesaid. (Form No. 41).

(1) Service of summons on guardian.-On such appointment being made the summons and other process or notice in the suit shall be served on such guardian ad item on behalf of the minor, unless otherwise ordered.

(2) Where no guardian ad item has been appointed or for any other reason the court orders service, on a minor personally and such minor is unable to acknowledge the same, it shall be done by effecting service on any person in whose charge the minor or with whom he habitually resides.

In case there is no such person, the service shall be effected by affixing a copy of the writ or other process (with a translation) on the outer door of the house in which the minor ordinarily resides.

272Application of Rules 268 to 271 to persons of unsound mindThe provisions contained in rules 268 to 271 so far as they are applicable shall extend to persons adjudged to be of unsound mind, and to persons who though not so adjudged, are found by the Court on enquiry by reason of unsoundness of mind or mental infirmity to be capable of protecting their interest when suing or being sued.

CHAPTER 20Motions-Injunctions

273Injunction order may be made by notice of motion Applications in Court for Injunctions, receivers and other interim relief in a cause shall be made by notice of motion. A notice of motion shall be in Form 8 with such variations as the circumstances may require. Where special leave to serve it, is obtained, the fact shall be so stated in the notice of motion. An application together with affidavit, if any. In support of the motion with sufficient number of copies for service on other parties shall. In the first instance be presented in the office for being registered.

274Service of notice of motion. Affidavits when to be filed and served Unless the Court or a Judge, gives special leave to the contrary, there must be at least seven clear days between the service of the notice of motion together with copies of the affidavits in support thereof and the day named for bringing on the notice of motion. Affidavits in reply shall be filed and copies thereof furnished to the other side not later than 1 p.m. on the penultimate working day preceding the date fixed for hearing, not more than one affidavit in rejoinder, shall be filed without the leave of the Judge and such affidavit shall be confined strictly to matters of reply. The affidavit in rejoinder shall be filed not later than 4.15 p.m. on the working day preceding the day fixed for the hearing. If such working day is 9[2nd or 4th Saturday of the month] affidavits in reply shall be filed not later than 11.30 a.m. and the affidavit in rejoinder

not later than 1.30 p.m. on such day.

275What affidavits can be used on argumentExcept by leave of the Court no affidavits in support of the application beyond those served with the notice of motion, and beyond the affidavit (if any) in rejoinder-, not any affidavit in answer to the motion filed later than the time prescribed in Rule 274 shall be used at the hearing.

276Notice for production of recordNo motion in which it may be necessary to refer to any proceeding in a suit or matter

shall except under very special circumstances and by leave of the Court, be made unless notice thereof shall have been given to the Registrar, before 4.15 p.m. in the afternoon of the day previous and such notice shall state Court In which and the day on which, the motion is intended to be made.

277Procedure In applying for Interim reliefThe plaintiff may move the Court ex-parte for interim relief on the grounds of urgency and the Court on such application may give leave to serve notice of motion for a particular date and may also If It shall think fit grant interim relief upto that date on such terms and undertakings as shall seem just.

278Undertaking to pay damages to be given by party applying for same A party to whom interim relief has been granted shall, before the order is issued, unless the Judge otherwise directs, give an undertaking in writing, either personally or through his Advocate to pay such sum by way of damages as the Court may award as compensation In the event of a party affected sustaining prejudice by such order.

RECEIVERS

279Definitions10

In these rules:-

(a) "Court Receiver" means a person appointed by the High Court to perform the functions of a Receiver under the Code of Civil Procedure.

(b) "Official Receiver" means a person appointed by the State Government to perform the functions of the Receiver under the Provincial Insolvency Act. 1920.

(c) "Special Receiver" means a person other than the Court Receiver or the Official Receiver appointed by the Court to perform the functions of a Receiver under the Code of Civil Procedure.]

279-AProcedure on application for appointment of a Receiver

11(1) An application for appointment of a receiver of property which is the subject matter of the suit, shall be made to the Court and In other cases which are usually dealt within Chambers before the Judge sitting in Chambers.

(2) The Court or the Judge, as the case may be, when appointing receiver shall ordinarily appoint the Court Receiver, provided that the Court or the Judge may, for reason to be recorded in writing, appoint any other person as Special Receiver.

(3) The Court or the Judge may, when making appointment of a Receiver or thereafter from time to time whenever deemed necessary, order any party to deposit such amount as may be deemed fit for the costs, charges, expenses, fees or commission of the receiver and issue such other directions as to the Court or the Judge may appear proper.

(4) When a receiver is appointed, the Registrar shall if the person appointed is the Court Receiver, forward to him a certificate certifying his appointment and the conditions, if any, under which he has been appointed, and, if the Receiver appointed is a person other than the Court Receiver, shall forward the certificate as aforesaid to the Commissioner for Taking Accounts.

12280 Provision for payment of receiver's costs, etc. When an order is made directing the Court Receiver or Special Receiver to part with any property, the order may provide that the costs, expenses, fees or commission of the Court Receiver or Special Receiver shall be deposited in Court by such party as the Court or the Judge may direct as a condition precedent to such delivery.]

281 Appointment of interim receiver The preceding provisions of this chapter shall apply mutatis mutandis to applications and orders for appointment of interim receivers.

CHAPTER 21 Arrest and Attachment Before Judgment.

282 Arrest or attachment before judgment All applications for arrest or attachment before judgment under Order XXXVIII of the Code of Civil Procedure shall be supported by an affidavit stating distinctly the ground on which the warrant is sought and the reason for believing such ground to exist.

A party applying under this rule shall give an undertaking in writing, signed by himself or his Advocate to pay such sum by way of damages as the Court may award as compensation in the event of a party affected sustaining prejudice by such order.

283 Conditional attachment duration of When a conditional attachment before judgment is granted under Order XXXVIII, rule 5 of the Code of Civil Procedure, it shall only continue until the day named in the warrant or until the further order of the Judge.

284 Rules 246 and 247 to apply Rules 246 and 247 shall severally mutatis mutandis to warrants of arrest and attachment before judgment.

285 Security procedure In every case where security shall be offered forty-eight hours' notice of the name and address of each surety, and of the description of property in respect of which such

surety will offer to justify and also the residence of each surety for the last six months, shall be given by the party or his Advocate tendering such security, to the party requiring it (unless the latter consents to the surety or sureties proposed): provided always that duly endorsed Government Promissory Notes or cash to the amount of security required, may be lodged and received by the Registrar without notice.

286 Surety to produce title deeds and make affidavit
Every person offering himself a surety (if there is no consent or deposit as provided in the last rule) shall produce before the Registrar his title-deeds and vouchers, and shall be examined by him on oath or solemn affirmation, as the case may be, 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 if the Registrar requires, deposit his title-deeds and vouchers.

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

288 More than two sureties
Irregular A tender of notice of more than two sureties shall not be accepted unless by order of the Court or a Judge.

289 When principal may be rendered
Sureties shall be at liberty to render the principal, at any time, during the last day for rendering, provided such render is made before the prison doors are closed for the night.

290 Procedure on render or surrender of principal
If the surety be desirous of rendering the principal, or If the principal be desirous of surrendering himself, such surety or principal shall give notice to the Registrar to attend In court or Chambers at the time of the render or surrender that the Registrar or the Nazlr may take immediate charge of the principal.

291 State of proceedings
A party shall not be at liberty to proceed on the bond, pending a rule to bring in the body of the principal.

CHAPTER 22 Examination De Bene Ease Commissions

292 Commission for examination of witness
When one party to a suit intends to apply for a commission under section 76, Order XXVI, rule 4 of the Code of Civil Procedure to examine a witness outside the local limits, he shall give notice to other party or parties.

293 Interrogatories, etc. when to be filed
If the opposite party joins In the commission, each party shall, when the evidence is to be taken on Interrogatories file his interrogatories-in-chief with the Registrar, and deliver a copy thereof to the opposite party within a fortnight from the granting of such order. In all such

cases, cross Interrogations shall be filed within ten days from the service of the copy of the interrogatories-in-chief and re-interrogatories within six days from the service of the cross-interrogatories: In

default of such filing, the commission may be Issued, but in any of the above cases of cross or re-interrogatories, application may be made to the Court or a Judge to enlarge the time.

294Preparation etc. of commissionThe commission shall be prepared by the Registrar, who shall seal the same, and annex thereto the Interrogatories, cross-interrogatories and re- Interrogatories, if any and shall enclose it (with directions that the same be returned to him when executed) in a sealed envelope to the Commissioner therein named (Form No. 43).

295Deposit of fees of the CommissionerWhenever a commission is issued outside the local limits of the Court, the Advocates at whose instance the commission is issued shall deposit with the Registrar such sum as an advance towards the payment of the fees of the Commissioner in question as the Registrar may determine, undertaking at the same time to pay a further sum exceeding the amount deposited.

296Procedure In examination of witnessThe Officer taking an examination under the preceding rules shall have regard to the provisions of the Indian Evidence Act, and shall, In case the Advocates or other person examining the witness, press any question and the answer thereto record the same, but the same shall not be admitted as evidence except when the Judge before whom the deposition is put in evidence, shall so direct. Where times or dates In Christian era appear In the evidence given, times and dates in Christian era corresponding thereto shall be given by the officer.

297Deposition of witness to be read over to and signed by himAfter the deposition of any witness shall have been taken down and before it is signed by him it shall be distinctly read over, and when necessary, translated to the witness in order that mistakes or omissions may be rectified or supplied. The deposition shall be signed by the witness, and left with the officer who shall subscribe his name and date of the examination.

CHAPTER 23Payments By Officers of the Court

298Application for payment of money, etc. by officers of the CourtEvery application for an order for delivery out of Government Promissory Notes or for payment out of cash in the hands of the Registrar, the Commissioner for taking accounts, or a Receiver shall be supported by an affidavit, instituted in the suit or matter, showing the right and interest of the party applying and shall be accompanied by the certificate of the Officer in whose hands such Government Promissory Notes or cash may be, certifying the amount and particulars of the estate in his hands.

299Certificate of such officerThe certificate mentioned in

the last preceding rule may be obtained on a letter signed by the party interested in such notes or cash. or by his Advocate, addressed to such officer, requesting such certificate and distinctly stating the interest of the party, and the object for which such certificate is required.

300Written authority of client requisite for payment to AdvocateUnless otherwise ordered by the Court or a Judge no payment in a suit or matter save and except when it is in respect of costs shall be made to an Advocate on behalf of his client without the written authority of the client for such payment.

301Decree In favour of a minor Investment of surplus InterestWhen a decree or order directs money to be deposited with the Registrar, on behalf of a minor, the decree or order directing such deposit should in general provide that any surplus interest, aggregating to Rs. 300 or over not required for current expenditure should from time to time be invested by the said Officer in further purchase of Government securities for the benefit of minor.

302Unclaimed deposits to be transferred to Government All securities and sums of money deposited in Court in the course of suits or proceedings and appearing to have been in such deposit for a period often years or upwards any claim thereto having been made allowed during that period, shall be transferred and paid to the State Government.

303Repayment on subsequent establishment of claimIf any claim be made in any part of the securities, money or proceeds which have been transferred and paid to Government under the last preceding rule, and if such claim is established to the satisfaction of the Court, the State Government shall pay to the Claimant the amount of the principal so transferred and paid as aforesaid, or so much thereof as shall appear to be due to claimant.

CHAPTER 24Execution of Court Processes

304Extent of limitsThe execution of the process of the Court shall ordinarily be within the local limits of the jurisdiction of the Court and the court shall not be compellable to execute process beyond the said limits.

305Special warrant to execute process within limits Upon occasions when It shall be necessary or expedient to serve a writ of summons or to execute process within the local limits of the jurisdiction of the Court by a person other than the Court bailiff, the Registrar shall grant his special warrant to such person or persons nominated by the Advocate at whose instance the writ of summons or process is issued: and In order to prevent any improper use or abuse of the process of the Court, the said Advocate shall give indemnity for its proper service or execution to the satisfaction of the Registrar.

306Service by parties in personParties in person shall serve all summonses and other processes through the Court.

307When translation of process necessaryIf the summons or other process has to be served or executed on any person, not being certified by the Party or his advocate, issuing the summons or process to be well acquainted with the Gujarati language such person shall at the time of such service or execution, be likewise served with a true translation in the English language if the party or his Advocate certifies that such person is familiar with the English language but otherwise in the Hindi language, of such summons, or other process, and of any endorsement there may be thereon, respectively, and where on the execution of any warrant or order of attachment against the houses, lands, or tenements of any person, it is necessary to affix the warrant shall, if such person be not certified as aforesaid, cause to be affixed in some conspicuous place on the premises a true translation of such warrant or order in the English language or Hindi language as the case may be.

308Payment of feesThe Court may refuse to serve the warrants unless fees are paid and a representative of the judgment-creditor is present to point out the property to be attached.

309Deposit with warrant of arrestBefore the issue of a warrant of arrest before or after judgment there shall be deposited with the Registrar the sum of Rs. 2 for the intermediate subsistence of the judgment-debtor, pursuant to Order XXI, rules 39 (1) to (4) of the Code of Civil Procedure.

310Release of person or estate or property attached(1)
Any person arrested before judgment shall be released from arrest by the Nazlr immediately on his being served with a certificate issued by the Registrar that sufficient security has been taken by that Officer.

(2) Any property attached before judgment shall be released from attachment by the Registrar on sufficient security being furnished to him.

311Release of judgment-debtor on the written request of Judgment-creditorThe Registrar shall cause the judgment-debtor to be released on the written request of the judgment-creditor or his Advocate, unless there are detainers against the same judgment-debtor lodged with the Registrar before the time of making the arrest.

312Levy of sums mentioned in warrant of arrest or attachment.
- Under every warrant of arrest and of attachment before or after judgment, the Registrar shall receive or levy the sums, if any mentioned therein, and a sufficient sum for Interest where interest is payable.

313Release on payment of moneys specified in preceding ruleThe Payment of the moneys specified In the preceding rule shall entitle the person against whom the warrant has been issued to his release and to the release of his property immediately after the Registrar has satisfied himself by search In his office that no

other warrant under which he or his property could be detained have been lodged.

314 Production of persons arrested before Judge, order.
committal warrant Every person arrested who is not released under the preceding rule shall, as soon as practicable, be brought before a Judge upon all warrants of arrest lodged against him with the Registrar for an order of committal or otherwise, but in no case after 8 p.m. A note of the purport of the order, and the rate of subsistence allowance fixed, if any, shall be endorsed on the warrant of arrest by the Registrar or an Officer of the Court in attendance, and authenticated by him with his Initials. Upon production in the Registrar's office of the warrant with an endorsement ordering a committal, a separate warrant shall be issued for the commitment of the person in which the rate of subsistence allowance if fixed as aforesaid shall be specified: Provided that in case of two or more warrants the Judge may apportion the subsistence allowance between the judgment-creditors in such manner as he thinks just.

315 Production of persons arrested after 8 p.m. Every person arrested after 8 p.m. shall be immediately lodged in the Jail and brought before one of the Judges at the opening of the Court the next day. If the next day happens to be a Sunday or other Holiday, such person shall be brought before one of the Judges at his bungalow.

316 Keeper to keep in custody The Keeper of the Civil Jail. Ahmedabad shall receive and keep in his custody any person arrested till the said person can be placed before a Judge for an order of committal or otherwise: provided that on committal an order of committal shall be lodged with the Keeper.

317 Application for production of person in custody If it shall at any time necessary that a person in custody of the Keeper of the Civil Jail, Ahmedabad, should be brought up before the Court or Judge, the application for that purpose shall be supported by an affidavit and by the production of the Bailiff's return of having executed the writ of attachment or warrant of arrest. The Officer having the custody of the Bailiffs return shall cause the same to be produced before the Court or Judge on a requisition to him in writing by the person making the application.

318 Production before Judge under fresh warrant of person already in custody When the Registrar received a warrant to arrest, a person already in custody of the Keeper of the Civil Jail, Ahmedabad, on civil process, he shall forthwith bring the person before a Judge for an Order of committal. The Judge may then apportion the subsistence allowance between the detaining creditors in such manner as he thinks just.

319 Payment of money realised under warrant of arrest The Registrar shall receive all money tendered to him under any warrant of arrest and shall, unless ordered to the contrary, pay the same to the judgment-creditor or his Advocate duly authorised who took out the warrant.

320 Procedure when Registrar receives money In other cases In all other cases, whenever the Registrar shall receive moneys under warrants of attachment or realize assets by sale or otherwise from the property of the judgment-debtor, he shall hold the same until the further order of a Judge.

321 Power of the Registrar to withdraw from possession In absence of further deposit The Registrar shall be entitled to withdraw from possession, when the deposit made with him for the incidental expenses of maintaining possession is exhausted, unless a further deposit is made on notice given by the Registrar.

322 Payment direct to Execution creditor or his Advocate. -Where any execution-creditor or his Advocate receives direct any instalment or other sum ordered to be paid by the judgment-debtor in whole or in part satisfaction of the decree he shall file a precipe with the Registrar informing him of the payment made.

323 When Advocate to be responsible for notifying such payment The Advocate shall be responsible for furnishing this precipe if the payment has been made through his office, or he has been informed of it by the execution-creditor.

324 Battaki when beaten For the purpose of Order XXI, rule 36 to 54, clause 2 and rules 67 and 96 of the Code of Civil Procedure. the Registrar shall cause to be beaten a Battaki on the premises at the time action is taken under the above mentioned rules.

325 Service of certain notices All notices under Order XXI. rules 16. 37. 22. section 145, Order XXI. rules 2, 34 (1) to (4) and section 73 of the Code of Civil Procedure shall be served through the Court.

326 Execution through Court of all warrants

(1) All warrants under decrees and orders of the Court for the attachment and sale of movable and immovable property shall be executed through the Court unless the contrary be especially ordered.

(2) In case there are goods of the judgment-debtor on the premises of which vacant possession is directed to be given under Order XXI. Rules 35 and 36. or Order XXI, rules 95 and 96, the Registrar shall unless the judgment-debtor makes immediate arrangements for taking charge of the goods sell the same, but immediately thereafter and if possible prior thereto, he shall give public notice in the press as to the goods, or the sale proceeds lying with him, if the value of the goods or the sale proceeds exceeds Rs. 100: where a sale has taken place hold the same till a claim is made. If no such claim is made within one year, the amount of the sale proceeds shall be credited to Government.

(3) In cases where the Registrar is directed to sell movable property and has sold such portion of the property as is sufficient to satisfy the judgment debt, costs of execution, etc., he shall hand over the surplus property to the judgment debtor if he be present or to his authorised agents. If the judgment-debtor is not present

nor represented by an authorised agent, the Registrar shall sell the same immediately and hold the sale proceeds of the surplus property till a claim is made: if no such claim is made within one year, the amount of the sale proceeds shall be credited to Government.

327 Proclamation under Order XXI, rule 66, Civil Procedure Code- Movable Property The Registrar shall prepare the proclamations required by Order XXI, rule 66 of the Code of Civil Procedure in the case of the Intended sales of movable property and shall, if so ordered by the Court, publish them In such Gujarati or English newspaper as the Court may direct.

328 Proclamation under Order XXI, rule 66, Civil Procedure Code-Immovable property On receipt of the proclamation of sale of immovable property from the Commissioner appointed under Chapter XXIII, the Registrar shall publish it or material extracts thereof in such of the Gujarati newspaper as he may deem proper: Provided that the Registrar may publish the same In any English newspaper or newspapers if he so thinks fit.

329 Sale of movable property subject to certain conditions
very sale of movable property by the Registrar shall be made subject to the following conditions:-

1st. Terms cash.

2nd. All lots to be at the risk and expense of the purchaser from the time of sale and to be removed by them, with all faults and errors of description, immediately after the sale.

3rd. Should any mistake be made in describing any articles. such mistake shall not be held to vitiate or affect the sale of such lot In any way. It being understood that intending purchaser should satisfy themselves on all points before purchasing and no dispute shall be entertained after the sale.

330 Sale of immovable property subject to certain conditions.
- Every sale of Immovable property by the Registrar shall be made subject to the following conditions, videliot:-

1st. The highest bidder shall be the purchaser. If any dispute arises between two or more bidders, the lot In dispute shall be put up again at the last undisputed bidding.

2nd. The person who shall be declared to be the purchaser shall deposit immediately twenty-five per cent of the amount of his bid, and In default the property shall forthwith be again put up and sold.

Such deposit shall be made In cash unless the execution-creditor or his Advocate consents to receiving payment by cheque.

3rd. The balance of the purchase-money shall be paid by the purchaser before the closing of the Court on the fifteenth day from the day of sale, or if the fifteenth day be a Sunday or other close holiday, then on the first office day after the fifteenth day, and in default of payment within such period the deposit, after defraying

expenses of the sale. may be forfeited and the property shall be re-sold, and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may subsequently be sold. If the proceeds of the re- sale be less than the price bid by such defaulting purchaser, the difference shall be leviabale from him under the rules contained In Order XXI of the Code of Civil Procedure for the execution of a decree for money.

4th. The sale shall not become absolute until the same has been confirmed by the Court.

5th. If the sale be set aside by the Court, or if the judgment-debtor have no saleable interest whatever in any lot sold under these conditions, the purchaser shall be entitled to receive back his purchase-money with or without interest as the Court may direct.

6th. The right, title and interest only of the said judgment-debtor In the above described property is sold by the Registrar.

7th. The sale Is made under and subject to all other provisions contained In the Code of Civil Procedure relative to sales in execuion of decree.

331Registrar to include Deputy Registrar, etc.-In this Chapter the term "Registrar" shall include the Registrar or the Deputy Registrar or other officer who may be appointed by the Registrar to execute the process of the Court.

CHAPTER25Office of Commissioner for taking Accounts, etc

332Rules for Commissioner for taking AccountsWhenever the Commissioner for taking accounts is appointed a Commissioner by this Court in any, proceeding the following rules shall apply.

333Registrar to send certified copy of any decree or order of reference The Registrar shall send a certified copy of any decree or order of reference to the Commissioner as soon as practicable and the Commissioner shall thereupon fix a date for the purpose of taking Into consideration the matter of the said decree or order and shall Issue a notice Informing the parties about the same and cause the notice to be served on the parties or on their respective Advocates.

334Service of summons, etc. on parties concernedService of summonses, notices, orders or other proceedings upon any party concerned In such reference who Is not represented by an Advocate shall be made In the manner provided by the Code of Civil Procedure, unless the Commissioner otherwise directs.

335Manner of execution of decree or orderAt the time appointed for considering the matter of the said decree or order, the Commissioner shall proceed to regulate as far as may be the manner of Its execution and shall give such directions as may be necessary.

336. Commissioner may proceed ex-parte.If any party concerned

in such reference who shall have been duly served with notice of a meeting shall not attend the meeting or any adjournment thereof,
the Commissioner shall be at liberty to proceed ex parte as regards such party.

337Application to Court on certificate for performance of some act or In default for attachment
In cases where It is not expedient or practicable for the Commissioner to proceed by reason of the refusal or neglect of a party to do some act required to be done, the adverse party upon notice, and the Commissioner's certificate of the fact may apply to the Court for an order that the party served do the act required within a certain time, or that a writ of attachment may Issue against him on default, and the Court shall thereupon make such orders as to It may seem proper.

338Who is entitled to appear on a claim against estate of a deceased In any suit or matter for the administration of the estate of a deceased person, no party other than the executor or administrator shall, unless by leave of the Commissioner, be entitled to appear (except at his own risk as to costs) In the Commissioner's office on the claim of any person not a party to the suit or matter against the estate of the deceased person In respect of any debt or liability.

339Commissioner may obtain process for attendance or for production of documents
The Commissioner shall be at liberty In all matters referred to him to obtain the process of the Court to compel the attendance of witnesses or for the production of any document which he may desire to Inspect, and to examine such witnesses on oath or solemn affirmation touching the matters referred to him as he shall think proper.

340Commissioner may make a separate reportIn all matters referred to him, the Commissioner shall be at liberty, upon the application of any party Interested, to make a separate report or reports from time to time as to him shall seem expedient, the cost of such separate reports to be in the discretion of the Court.

341Commissioner may make special report for opinion of Court- Hearing of such report
The Commissioner, If he thinks fit, shall make a special report concerning any matter or thing arising In or about the matter referred to him, in order that the opinion of the Court may be taken therein, or with respect thereto, and such special report shall be brought before the Court by such parties as the Commissioner shall direct by motion on notice that such special report may be confirmed, discharged, or varied by order of the Court, or that any directions may be given thereon; and on the hearing of such motion the same may be confirmed, discharged, or varied as the Court shall deem just, or such directions may be given as shall appear to be necessary or expedient In that behalf.

342 Report of Commissioner is binding on parties unless discharged or varied

When any report of the Commissioner made in pursuance of any order of the Court or Judge in Chambers shall have been signed by him, the same shall forthwith be transmitted to the Registrar and shall be binding on all the parties to the proceeding except so far as the same may thereafter be discharged or varied either in Chambers or in Court according to the nature of the case in manner as is hereinafter provided.

343 Registrar to notify the date of the filing of the report
On the filing of the report in the Registrar's office, the Registrar shall notify the date of the filing of the report with particulars as to the number of suit and the parties to the suit on the notice board and such notification shall be deemed to be sufficient notice to all the parties concerned.

344 Exceptions to be filed and observed within twenty days. On abandonment by party filing them, other party may proceed with them.
Extension of time for filing exceptions
Any party desiring such report to be discharged or varied shall, within 20 days from the notification of the filing thereof in the Registrar's office as prescribed in the preceding rule, file his exceptions thereof, and serve a copy of the same on the other parties to the suit proceedings. After the exception have been filed as aforesaid, the suit shall be set down for hearing on such exceptions. If any party after having filed exceptions abandons or does not proceed with them, any other party in the same interest shall be at liberty to proceed with such exceptions: Provided that the Court or a Judge may for sufficient cause allow such exception to be filed and served within such time after the expiry of twenty days as may appear to be just.

345 Rules apply to Special Commissioner
This and the last preceding ten rules shall also apply to a Special Commissioner.

346 Disposal of suit without report to be notified to Commissioner.
Whenever a suit referred to the Commissioner is finally disposed of without his report or is referred to arbitration by the order of the Court, the Registrar shall forthwith notify the same to the Commissioner, who shall thereupon remove the suit from his list.

347 In case where no proceedings have been taken for three months Commissioner to certify to Registrar and to remove reference from his file.-In any case in which no effective proceedings have been taken in the office of the Commissioner for a period of three months in any reference or in the matter of a sale pending before him he shall certify the same to the Registrar, and remove the reference or sale matter from his file and the reference or sale matter shall not be restored without an order of the Court or a Judge.

13348 Security to be given by a receiver unless otherwise ordered
Where as order is made appointing a person other than the Court Receiver as a Special Receiver in any suit or proceeding

the person so appointed shall, unless otherwise ordered, first give security for such amount as the Court or the Judge may order to the satisfaction of the Registrar duly to account for such amount or other properties as he may receive in his capacity as Receiver and to account for and pay the same as the Court or the Judge may direct.

14349 Fees of Court Receiver

(1) Unless otherwise order by the Court or the Judge, the fees according to the following scale shall be charged by the Court Receiver:-

- | | | |
|-----|--|------------|
| (A) | On (a) Rents Recovered. | |
| | (b) Outstanding recovered except as provided in item (B) below and | |
| | (c) Value realised on the sale of movable and immovable properties calculated on any one estate. | |
| | (i) On First Rs. 1,000 | 5 p.c. |
| | (ii) Above Rs. 1,000 and upto Rs.2,500 | 3 p.c. |
| | (iii) Above Rs. 2,500 and upto Rs.5,000 | 2½ p.c. |
| | (iv) Above Rs. 5,000 and upto Rs. 10,000 | 2 p.c. |
| | (v) Above Rs. 10,000 and upto Rs. 1,00,000 | 1 p.c. |
| | (vi) Above Rs. 1,00,000 | ½ p.c. |
| (B) | On outstanding recovered from a Bank or from a public servant without filing a suit: - | |
| | (i) Upto Rs. 1,00,000/- | 1 p.c. |
| | (ii) On any further sum exceeding Rs. 1,00,000/- | ½ p.c. |
| (C) | For taking charges of movable property which is not sold on the estimated value. | 1 p.c. |
| (D) | For taking custody of moneys. | ½ p.c. |
| (E) | For taking custody of Government security or stocks, shares, debentures, debentures-stock or other securities which are not sold on the estimated value. | ½ p.c. |
| (F) | For special attendance out of the Office in cases not provided for above. | |
| | (i) For the first half hour. | Rs. 15/- |
| | (ii) Over half an hour and under an hour. | Rs. 30/- \ |
| | (iii) For every hour or fraction of an hour over one hour. | Rs. 15/- |
| (G) | For any special work not provided for above, such fees as the Court or the Judge may think fit. | |

(2) The amount of such fees shall be deposited in Court and credited to Government in the appropriate account,]

349A Remuneration of Special Receiver—The remuneration of a Receiver other than a Court Receiver shall be such amount

as may be allowed by the Court or the Judge, provided that the total remuneration allowed shall not ordinarily exceed the amount of fees computed under rule 349 above.

16350 Forms of Account for Receivers

(1) Forms of accounts

prescribed for the Official Receiver shall mutatis mutandis apply to the Court Receiver, who shall maintain accounts in such forms with suitable modification and adaptations.

(2) Special Receiver shall maintain accounts in form No. 44 of these rules with such modifications as may be directed by the Commissioner for Taking Accounts having regard to the circumstances of the case.

17350A Inspection of Court Receiver's Accounts

The Court Receiver's accounts shall be inspected and audited every six months by such Officers as the Principal Judge may designate.

351 Period for filing Receiver's accounts with the Commissioner.

In the absence of any directions of the Court to the contrary a receiver, other than the Court Receiver, shall file his accounts in the office of the Commissioner for taking accounts within three months from the expiry of a year from the date of his appointment, and thereafter, within three months from the expiry of each subsequent year.

18352 Inspection and passing of accounts of Special Receivers and payment of balance to be fixed by Commissioner

(1) The Commissioner shall fix the days upon which a Receiver other than a Court Receiver shall pass his accounts and also the day upon which such Receiver shall pay the balance appearing due on the accounts so filed or such part of the balance as the Commissioner may deem proper to be paid by him. And with respect of any such Receiver who shall neglect to file his accounts as aforesaid and pass the same and pay the balance thereof at the time fixed for that purpose, the Commissioner may require such Receiver or the parties, or any of them to attend the Office of the

Commissioner to show cause why such account has not been filed, or passed or such payment made or any other proper proceeding taken or act done and thereupon such directions as may be deemed proper may be given by the Commissioner.

(2) If the Commissioner does not see fit to require such Receiver or the parties to attend as aforesaid. or if he shall not be satisfied with the explanation offered to him, or in any other case where there has been neglect as aforesaid on the part of such Receiver, and directions of the Court are necessary, the Commissioner shall forthwith report the matter to the Court subject to such directions as may be given by the Court on the report of the Commissioner or on the application of such receiver, the Commissioner shall, when the subsequent accounts of such Receiver are produced to be examined and passed, disallow any remuneration or commission claimed by such Receiver in the accounts In respect of which he was in default and also charge him with interest at the rate of 4 per

cent per annum upon any balance directed to be paid by him during the time the same shall appear to have remained in the hands of such Receiver. If on the report of the Commissioner, It appears to the Court or Judge that such Receiver has mismanaged or neglected the estate or neglected to file and pass his accounts and pay the balance thereof, the Court or Judge may remove such Receiver and appoint another Receiver of that estate or may make such other order as the Court or Judge may deem proper.

353Upon account being filed, a warrant to proceed etc. to issueUpon a Receiver's account being filed In the office of the Commissioner to be passed, a warrant to proceed thereon and other necessary warrants shall be taken out: and an affidavit verifying the accounts so passed shall be endorsed at the foot of the account and shall refer to it as an exhibit.

354Consequences of default by receiverIn case of any receiver failing to leave any accounts or affidavit, or to pass such accounts or to make any payment, or otherwise, the receiver or the parties, or any of them may be required to attend the office of the Commissioner to show cause why such accounts or affidavit have not been filed, or such accounts passed, or such payment made, or any other proper proceeding taken, and thereupon such directions as shall be proper may be given by the Commissioner or he may refer the matter to the Court.

355Commissioner to Issue a certificateThe Commissioner shall at the request of the parties concerned Issue from time to time a certificate stating the result of a receiver's account.

356When certificates becomes binding-Application to discharge or vary ItEvery certificate with the accounts (if any) to be filed therewith shall be transmitted by the Commissioner at the request of the parties concerned to the office of the Registrar to be these filed, and shall thenceforth be binding on all the parties to the proceedings unless discharged or varied upon application by summons to be made before the expiration of eight clear days after the filing of the certificate.

357Discharge or variation of certificate after lapse of any timeThe Court may. if the special circumstances of the case require it, upon an application by summons for the purpose, direct a certificate to be discharged or varied at any time after the same has become binding on the parties.

358Certificate from the CommissionerWhen a decree or order directs an unascertained sum to be deposited with the Registrar on behalf of a minor, the Advocate or the party concerned shall lodge before the Commissioner for taking accounts sufficient accounts with all vouchers relating thereto for verification In a summary manner of the sum to be deposited, and shall obtain from the Commissioner a certificate as to the correct amount of such sum. The Registrar shall not receive any such sum unless accompanied by such a certificate, provided however that this certificate shall not be required when money is deposited either by the Court receiver or other person who is ordinarily appointed by the Court as Receiver, or if such certificate is expressly dispensed with by

order of the Judge.

359 Registrar's receipt to be produced before the Commissioner.
-Within seven days from the issue of the Commissioner's certificate mentioned in rule 358. Advocate or the party concerned shall forward the amount specified in the certificate to the Registrar, and within seven days from the date of issue of the receipt by the Registrar shall produce before the Commissioner for his inspection the receipt of the Registrar in respect of the amount so forwarded. In default of the production of the said receipt within the period aforesaid, the Commissioner shall refer the matter to the Honourable the Sitting Judge in Chambers who after hearing the advocate or party concerned shall make such order as he may seem fit.

360 Bond by guardian or next friend The bond to be given by a guardian or the next friend of a minor shall, unless otherwise ordered, be with two sufficient sureties to be approved of by the Commissioner and shall be in Form No. 45 with such variation as the circumstances may require.

SALE OF PROPERTIES

361 Copy of decree or order for sale to be filed A certified copy of every decree or order for the sale of property by the Commissioner shall be filed in the office of the Commissioner.

362 Sale to be conducted by or with the approbation of the Commissioner by public auction, exception Unless otherwise ordered, every such sale shall be by or with the approbation of the Commissioner and shall be made by public auction except that if the property to be sold shall consist of negotiable securities, or of shares in any Public Company or Corporation, the Commissioner shall be at liberty to sell the same through a broker at the market rate of the day.

363 Sale to be to the best purchaser offering a sufficient sum Every such sale shall be to the best purchaser that can be got for the same provided the Commissioner shall consider that a sufficient sum has been offered.

364 Conduct of proceedings When mortgaged property is to be sold, the mortgagee, or first mortgagee, and in other cases the plaintiff, or party having the carriage of the general proceedings, shall have the carriage of the proceedings relating to the sale, but a Judge may, when necessary, commit the carriage of such proceedings to any other party.

365 Documents of title to be left with the Commissioner and to be disposed of under directions-appeal All documents of title relating to the property to be sold in the possession or power of any of the parties shall be produced to and left with the Commissioner, and shall be subject to his directions both as to their custody pending the sale and their ultimate destination, such directions being subject to appeal to a Judge.

366 Mode of notifying sale or property Notwithstanding

any thing contained in Order XXI, rules 54 (2) and 67 (1) of the Code of Civil Procedure, a notification of every Intended sale by public auction under this Chapter shall be published In such public papers, and as often as the Commissioner shall direct, having regard to the nature and value of the property to be sold. A proclamation of sale of the property together with a copy of the print containing particulars and conditions of sale shall be affixed on a conspicuous part of the property to be sold and copies thereof shall be put up on the Notice Board of the City Civil Court, of the office of the Commissioner and of the office of the Collector of the District In which the property is situate.

367Sale to be regulated by conditionsEvery such sale shall be regulated by conditions in writing, which, when immovable property is to be sold shall be adapted to the state of the title to such property.

368Notification and conditions of sale and abstract of title by whom to be preparedThe notification and conditions of sale and an abstract of title when Immovable property Is to be sold and the same has directed by the Commissioner, shall be prepared by the Advocate of the party having the carriage of the proceedings.

369Notification of saleThe notification shall specie the time and place of sale, and shall contain a description and particulars of the property, together with a statement that it Is to be sold by or with the approbation of the Commissioner pursuant to a decree or order of the Court, and of the manner in which It is proposed to lot the same. When the property or any portion of It, Is to be sold subject to an encumbrance, the nature and amount of such encumbrance shall so far as practicable, be also stated.

370Conditions of saleThe conditions of sale shall be as few and simple and may be compatible with the nature of the property to be sold. If a reserved bidding be fixed, the fact of a reserved bidding having been fixed, but not the amount shall be stated in the conditions. When movable property is to be sold, unless otherwise ordered or agreed to by the parties, it shall be a condition that the whole of the purchase-money shall be paid to the Commissioner at the time of the sale, and that upon such payment the sale shall become absolute, and delivery of the property sold shall be given to the purchaser and that In default of such payment the property shall be again Immediately put up for sale. When Immovable property is to be sold, unless otherwise ordered or agreed to by the parties, it shall be a condition that not less than twenty-five per cent, of the purchase-money shall be deposited with the Commissioner at the time of the sale, and that unless so deposited the property shall Immediately be again put up for sale, and it shall be stated in the conditions that the purchaser shall, at his own expense, take such steps as may be necessary for the purpose of obtaining possession. When immovable property is to be sold in lots, and the same monuments of title relate to more than one lot, or when the same monuments of title relate to property, a portion of which remains unsold, provision shall be made in the conditions for the destination of the original monuments and for the production thereof and the furnishing of copies. (Forms Nos. 46 and 47).

371Settlement of notification and conditions and abstractThe notification, conditions and abstract shall be left with the Commissioner, and an appointment obtained from him to go through the same. Notice of such appointment shall be served on all parties entitled to attend. At such appointment or an adjournment thereof the notification, conditions and abstract shall be settled, the day, time and place of the sale fixed, the days appointed for delivery of the abstract and of objections and requisitions to and on the title, and for payments Into the Court of the purchase-money, and the notification shall be signed and issued by the Commissioner and directions given for Its publication.

372Reserved biddingWhen a sale is ordered at the instance of a subsequent encumbrance or of a mortgagor, or when a party having the carriage of the proceedings has obtained leave to bid, reserved bidding shall be fixed by the Commissioner, unless dispensed with by the proper parties. The Commissioner may also in any other case, in which it taay be deemed necessary or desirable, fix a reserved bidding.

373ValuationFor the purpose of fixing a reserved bidding, the Commissioner shall decide the reserved bid on a valuation made by him on the materials supplied by the parties or in special cases with the previous permission of the court may direct a valuation by a Surveyor or an Architect appointed by the Court. In case a Special Surveyor or Architect Is appointed, such Surveyor or Architect shall certify the result of his valuation under his signature, and shall deliver or transmit such certificate to the Commissioner under a sealed cover with the words on the cover "Private and to be opened only by the Commissioner". The Commissioner may, If he shall think fit, require the certificate to be verified by an affidavit or affirmation of the valuer. In that case the certificate shall be referred to without being annexed to or filed with the affidavit or affirmation, which shall be so prepared as not to disclose the contents of the certificate. On the reserved bidding being fixed, the certificate shall be put In a sealed cover and kept with the proceedings.

374Reserved bidding not to be divulgedUnless otherwise ordered the reserved bidding shall not be divulged to any person either before, at, or after the sale.

375Copy of notification and conditions and abstract to be filedOn the certificate and conditions being settled a fair copy thereof, and of the abstract shall be filed In the Commissioner's office. If required by him.

376Copy of notification and conditions with translation to be posted upA copy of the notification and conditions of sale, with translation thereof as the Commissioner shall direct, shall be posted up at the door of the Commissioner's office on the day of the sale, and for a week previously.

377When conditions of sale to be published and hand bills

distributed In any case In which it may be deemed desirable, and the value of the property to be sold shall admit of it, It shall be In the discretion of the Commissioner to cause the conditions of sale or any part thereof to be published with the notification mentioned in Rule No. 366 and also, with a view to give greater publicity to the sale, to cause hand-bills to be prepared and distributed.

378 Advocate conducting proceeding to be present at the sale The Advocate of the party having the carriage of the sale proceedings shall be present at the sale.

379 Sale On the day, and at the time and place appointed for the sale, the notification and conditions of sale, and the translations thereof, if any shall be read out preparatory to the property being put up for sale.

380 Biddings to be entered in the Commissioner's note book The amount of each bid shall be entered in the Commissioner's note-book.

381 Postponement of sale for want of sufficient bidding If there be no bid, or the highest bid be below the reserved price (if any) or be deemed insufficient by the Commissioner he shall postpone the sale and record the reason for such postponement in his note-book.

382 When property sold, form of entry to be made in the Commissioner's note-book..-If the highest bid be equal to, or higher than the reserved price (If any), or be deemed sufficient by the Commissioner, he shall, subject to the provisions of rule 383, make an entry In his note-book to the following effect:-

"I declare A.B. to be the purchaser of the property comprised in lot for the sum of Rs."

383 Property to be again Immediately put up for sale. If deposit or purchase money not paid If in the case of movable property the purchase money, or so much thereof, as may be payable at the time of the sale, or if In the case of Immovable property the amount to be deposited, be not at once paid to or deposited with the Commissioner, the bid of the person who would otherwise have been declared the purchasers shall be rejected and the property again immediately put up for sale:

Provided that at the request and risk of the party having the carriage of the proceedings, such bid may be accepted and time allowed to the purchaser to pay the amount payable by him.

384 Bidding Paper to be signed by the purchaser The result of the sale shall also be set forth In a paper to be called "the Bidding Paper" with particulars showing the lots, which have been sold, and for what price, and the lots which have not been sold, and stating the names of the purchasers, and what sums have been received as deposits and the balance remaining due in respect of each purchase. If there be no bid for any lot, the words "no bidding" shall be written in the bidding paper opposite the number of the

lot. If the highest bid be deemed Insufficient the words "not sold" shall be written opposite the number of the lot. If the property be sold, the highest bid shall be inserted opposite the number of the lot, and the purchaser shall write his full name opposite such entry, and shall add his address and occupation. All notices thereafter served at the address so given shall be deemed to have been duly served (Form No. 48).

385Or by his agent as suchA person purchasing as agent for another shall sign the bidding paper as such giving the full name, address, and occupation, both of himself and his principal. All notices thereafter served at either of the addresses so given shall be deemed to have been duly served.

386Postponement of sale otherwise than under rule
(1)The Commissioner, if unable to attend on the day appointed for the sale or for other sufficient cause or with the consent of the parties, may postpone the sale.

(2) When a sale is advertised in newspapers and the Commissioner is unable to conduct the sale on account of the office being closed on the day of the sale under the orders of the High Court, the Commissioner shall postpone the sale and fix a fresh date of the sale and shall give a short notice of such postponement In newspapers and shall dispense with fresh notification of sale.

387When sale postponed a new day to be fixedWhen a sale is postponed, the Commissioner shall be at liberty without further order to appoint a new day for the sale of the property, and, on notice to the parties, to make any necessary alterations In the notification and conditions of sale.

388Proceedings on a postponed sale or re-saleWhen sale is postponed, or when a resale is directed, unless otherwise ordered a fresh notification shall be issued and published and the proceedings down to the certificate of sale shall be similar to those on an original sale.

389Certificate of result of saleThe Commissioner shall, as soon as possible after the sale. proceed to certify the result. The party having the carriage of the proceedings shall file the certificate, and apply for an order confirming the sale. In case of his not doing so, the purchaser of the property comprised In any lot shall be at liberty to apply for such order, and to retain the costs out of the purchase money.

390Certificate of sale to be confirmed by the courtNo sale of Immovable property made under this chapter shall become absolute until It has been confirmed by the Court.

391Certificate of Commissioner and Registrar required for confirmation of saleOn every application for confirmation of sale there shall be produced a certificate of sale from the Commissioner and also a certificate of the Registrar certifying that no application has been made to set aside the said sale.

392Application to compel delivery of abstract costIf the abstract of title be not delivered within the time specified in the conditions of sale a summons may be taken out by the purchaser and served on the party conducting the proceedings, requiring him to deliver the abstract within a limited time. Such order shall be made thereon, and as to the costs of the application, as to the Judge shall deem fit.

393Questions arising out of objections or requisitions Any disputed question arising out of objections or requisitions by a purchaser may be brought by either party before the Commissioner who shall certify his opinion.

394Enquiry whether a good title can be madeWhen Important questions of title are in dispute, either party may apply, on summons, for an order that It may be referred to the Commissioner to enquire whether a good title can be made.

395Costs of the enquiryIf the title be found to be good on grounds not appearing on the abstract, the purchaser unless otherwise ordered shall be entitled to his costs of enquiry, if the title be found to be good on grounds appearing on the abstract, the purchaser, unless his objections have been frivolous or vexatious or unless otherwise ordered, shall not be liable to pay more than his own costs of the enquiry.

396If sale set aside purchaser entitled to receive back his deposit or purchase money with costsWhen a sale of immovable property Is set aside, the purchaser, unless precluded by the conditions of sale, or unless otherwise ordered, shall be entitled to receive back his deposit of purchase-money, and to be paid his costs, charges and expenses occasioned by his bidding for and being declared the purchaser of the property, and also incidental to his application to be discharged.

397Application by purchaser for leave to pay his purchase money into CourtAfter a sale has been made the purchaser may, If prepared to accept the title, at once pay the balance of the purchase-money Into Court to the credit of the suit, or he may. If not prepared to accept the title, apply for leave to pay the purchase-money Into Court, without prejudice to any question as the title to the property. Such application shall be made on summons to the party having the carriage of the proceedings, and also to the party whose property has been sold. Such terms as to the Judge shall seem fit may be Imposed upon the purchaser as to his paying Interest upon the purchase-money or waiving his right to the rents In the events of a good title having made to the property upto the time when the question as to title shall be determined.

398Application by any other party against defaulting purchaser-Any party interested may apply, on summons, for such order or orders as It may be necessary to obtain for the purpose of compelling a purchaser, who has neglected to pay his purchaseoney In due time to comply with the conditions of sale. Such order or orders may be made subject to the right (If any) of the purchaser to obtain an inquiry as to whether a good title can be

made.

399Direction for Investment of purchase-moneyWhen an application Is made to confirm the sale or when an application Is made under either of the last two preceding rules for payment of the purchase-money Into Court, the purchaser, or the Advocate of the party having the carriage of the proceedings, may at the same time obtain directions for Investment of the purchase money. Any subsequent application for that purpose shall be on summons, and, unless otherwise ordered, at the expenses of the applicant.

400Purchase-money to remain uninvested until otherwise orderedThe purchase-money. If paid Into Court without any directions as to Investment, shall until otherwise ordered, remain uninvested.

401Not to be paid out without an orderThe purchase money paid into Court shall not be paid out or otherwise disposed of without an order of the Court or a Judge in Chambers, except in the case of ground rent and municipal taxes due In respect of the property sold.

402Purchaser when deemed to have accepted the titleA purchaser of Immovable property or of any right title or Interest in such property, who pays his purchase money Into Court without his right to object to the title being reserved, or who enters Into possession, shall be deemed to have accepted the title.

403Possession of movable property-Transfer of securities and sharesOn the purchase money of movable property being paid the purchaser, unless otherwise provided for In the conditions of sale. shall be entitled to obtain Immediate possession thereof and If such property shall consist of negotiable securities, or of any shares In any Public Company or Corporation, to have the same duly transferred to him.

404ConveyanceOn the purchase money for Immovable property being paid, and the sale confirmed the purchaser (except In cases In which the legal estate Is already In him, and the equitable estate has passed to him by virtue of the sale so as to complete his title) shall be entitled to proper conveyance. In which all necessary parties shall join as the Commissioner shall direct.

405By whom to be preparedUnless otherwise ordered, the conveyance shall be prepared by and at the expense of the purchaser, and shall be sent for approval to the Advocate of the party having the conduct of the proceedings.

406Improper delay In perusing & returning Costs-If there be any Improper delay In perusing and returning the conveyance to the purchaser, he may apply, on summons for the return thereof to him. and such order shall be made thereon, and as to costs as to the Judge shall seem fit.

407Conveyance to be fettled by the CommissionerSubject to appeal to a Judge, every conveyance shall be settled by the Commissioner If the parties differ about the same or If any of them

be under any legal disability.

408Certificate of approvalWhen a conveyance is settled by the Commissioner, a certificate of approval shall be Issued by him or endorsed by him upon such conveyance.

409Proceedings to procure execution of conveyanceIf any person certified by the Commissioner to be a necessary party to a conveyance be a minor or otherwise under disability, or being sui juris shall neglect or refuse to execute the conveyance an order may be obtained In the case of a person under disability appointing the Commissioner to convey the property, the subject of such conveyance, and execute the conveyance for him and in his name and In other cases directing the person to execute the conveyance within a time to be fixed by the order, and In default thereof appointing the Commissioner to convey the property and execute the conveyance for him and In his name. The application shall be on summons, and shall be supported by an affidavit or affirmation of the facts, and It shall be shown that the person required to execute the conveyance was certified by the Commissioner to be a necessary party, and that the conveyance has been approved of by such party or by the Commissioner.

410Possession of immovable propertyOn the purchase-money for Immovable property being paid and the title accepted, the purchaser shall be entitled to proceed to obtain possession of the property purchased by him In like manner as the purchaser of Immovable property sold In execution under the provision of the Code of Civil Procedure.

411Bidding not to be openedNo bidding shall be opened, except with the consent of the purchaser, or unless It be shown that there has been fraud or misconduct In the management of the sale, or that the purchaser by reason of being In a fiduciary position, was disqualified from purchasing.

412Leave to bidAny party to the suit may apply for leave to bid at the sale. Such leave If not contain In the decree or order directing the sale, may be obtained on summons; but the costs of a separate application, unless otherwise ordered, shall be borne and paid by the applicant. Where such leave is granted to a mortgagee, the Court may order that he shall not bid at the sale for an amount less than the principal. Interest and costs due to him; and where the property is to be sold In separate lots. the bid shall not be less In respect of each lot than such figure as shall appear to be properly attributable to it In relation to the said amount.

413Special certificateIf a party to the suit, not having the conduct of the proceedings without obtaining previous leave to bid, be accepted as the purchaser, the fact, together with the circumstances under which he was allowed to bid shall be specially stated In the certificate of sale. In every such case the sale shall not be confirmed without an order obtained on notice.

414Application for Incumbrancer to be made a party to

the cult, or to Join In the saleAn incumbrancer, not a party to the suit may, at any time before the sale, apply by motion In Court to be made a party or for leave to join In the sale; and such order shall be made thereon, and In protection of his rights and as to costs as to the Judge shall seem fit.

415Substitution of nameThe name of a principal or subpurchaser shall not be substituted for that of the person certified to be the purchaser, without an order to be applied for on summons. The application shall be supported by an affidavit, or affirmation, stating the facts, and when It Is sought to be substituted the name of a sub-purchaser for that of an original purchaser, the affidavit, or affirmation, shall also show that there was no collusion or under bargain between the purchaser and sub-purchaser before the sale was confirmed, or shall disclose the terms of the under-bargain, If any.

416Not allowed after execution of conveyanceNo order shall be made for the substitution of names under the last preceding rule after the execution of a conveyance to a purchaser.

417When additional price if any, to be paid Into Court Unless It shall appear that the purchase by a sub-purchaser was made after the sale has been confirmed or unless otherwise ordered, every order for the substitution of the name of a sub-purchaser for that of an original purchaser shall be made subject to the payment into Court as part of the purchase-money of any additional price obtained by the original purchaser from the subpurchaser.

418One application may be made for the substitution of names and confirmation of saleApplication for the substitution of names under rule 415 may be made as part of the application to confirm the sale.

419Sale by private contractThe sale of property ordered to be sold by the Commissioner by private contract shall be regulated by the foregoing rules as far as they are applicable.

420Copy of warrant of sale of property attached in execution to be looked In Commissioner's OfficeWhen Immovable property has been attachedIn execution of a decree and the attaching creditor is desirous of having same sold, he shall lodge a copy of the warrant of sale in the Commissioner's office.

421Commissioner may issue summons on Judgment-debtor to attend and produce and lodge all title deeds of property proposed to be soldThe Commissioner shall, when the attendance of the judgment-debtor can conveniently be produced, issue a summons calling upon him to attend upon a day therein named and to produce and lodge with the Commissioner all title-deeds and other documents affecting the property proposed to be sold which may be In his possession or power. Such documents shall (If produced) be left with the Commissioner and shall be subject to his directions both as to their custody pending the sale and their ultimate destination, such directions being subject to appeal to the Sitting Judge In Chambers (Form No. 49).

422 Enquiry before the Commissioner also as to matters specified in O. XXI r. 66, C.P.C.—If the judgment debtor attends

upon the day named in the summons, the Commissioner shall examine him on any matter affecting his title to the attached property. The judgment-creditor may also examine him on any matter relating thereto. If the judgment-debtor fails to attend on the summons or if no summons has been issued the Commissioner may produce ex parte. In conducting an enquiry under these rules the Commissioner may also summons any person whom he thinks necessary and examine him in respect of the matter specified in Order XXI, rule 66, of the Code of Civil Procedure and may require him to produce any documents in his possession or power relating thereto, but such documents shall not, without a special order, the reasons for which are to be recorded, be handed over for perusal to any other person than the Commissioner and shall at the end of the particular enquiry to which they relate be restored to persons who have produced them.

423 Commissioner shall also issue notice to all persons having rights to such property to lodge claims of oath. The Commissioner shall also, at the instance of the judgment creditor issue a notice to all persons having rights in or charges or claims on the attached property or any part thereof (except claims under Order XXI, rule 58, of the Code of Civil Procedure involving an objection to the attachment or seeking the removal of the same which claims will be disposed of by the Sitting Judge in Chambers upon summons) that they should on or before a day to be named therein, lodged in the office of the Commissioner a statement verified on oath or solemn affirmation of the rights, interest or claim in each instance set up. The notice shall be in Form No. 50 or as the circumstances of the case may require, and shall be published in such of the English and/or Gujarati newspapers as the Commissioner may direct, and copies thereof shall be posted upon the attached premises and in conspicuous place in the Collector's office and in the Court.

424 Claims to be registered—Day to be fixed for enquiry
When any such claim has been lodged in the office of the Commissioner he shall enter the same in a register to be kept for the purpose and shall fix a day for the investigation thereof. The judgment creditor shall then obtain from the Commissioner a summons calling upon the claimant to appear before the Commissioner upon the day so fixed with such evidence as he may desire to produce in support of his claim.

425 Enquiry to such claim, result thereof to be included in the proclamation
Upon the day named in the summons or upon any adjournment thereof the Commissioner shall proceed to deal with the several claims brought forwards relating to the property proposed to be sold, and after a perusal of the documents by which such claims are supported and resisted and after taking such oral evidence and hearing such arguments as shall be brought forward, determine summarily, whether such claims or any of them shall be included in the list of claims to be appended to the proclamation of sale hereinafter mentioned.

426 On Investigation a list of claims to be drawn up When the Commissioner shall have Investigated the several claims relating to the attached property he shall draw up a list of all those for which a reasonable and probable cause shall appear, and append the same to the proclamation of sale hereinafter mentioned.

427 Appeal from decision of Commissioner The decision of the Commissioner on any matters mentioned In the foregoing rules shall be subject to appeal to the Sitting Judge In Chambers.

428 After investigation Commissioner to prepare proclamation of sale The Commissioner shall Immediately after such investigation prepare the proclamation of sale required by Order XXI, rule 66, of the Code of Civil Procedure and forward the same to the Registrar upon the application of the judgment-creditor or his Advocate. (Form No. 51).

429 Procedure when order not filed within proper time, etc Suits which the Commissioner has certified for non-prosecution, or which have been settled or otherwise concluded, and suits In which reports have been made disposing of the case, shall be removed from the board of the Commissioner. Suits which have been removed from the board of the Commissioner on the ground that the Commissioner has certified them for non-prosecution, shall be set down for directions before the Judge, taking miscellaneous.

The fact that the suits will be so set down shall be notified at least one week in advance on the notice board of the Court.

430 Certificate of no exceptions to vary or discharge report When no exceptions have been filed to vary or discharge a report within the prescribed time, the Registrar shall, at the request of any party to the proceedings, certify such fact on the report; and such certificate shall appear on such report, before the Court or a Judge Is asked to give further directions therein.

431 Setting down of suit for hearing on exceptions to Commissioner's Report Unless otherwise provided by an order of the Court or a Judge, exceptions to the Commissioner's report shall be set down for hearing at the same time as the suit is set down for further directions before the Judge who made the reference to the Commissioner, If he is available, and otherwise before any other Judge sitting on the original side, fourteen days after the exceptions are filed. Such further hearing of the suit on exceptions and on further directions shall be treated in regard to Its place on the board as a part-heard suit.

432 Procedure when no application made for confirmation. -If in a suit referred to the Commissioner for taking accounts, no application is made for confirmation of the Commissioner's report within two months from the date on which the same is filed in the Registrar's office, the suit shall be set down for directions before the Judge taking miscellaneous matters. The fact that the

suit will be so set down shall be notified at least one week in advance on the notice board of the Registrar.

19[432AFees to be charged by the Commissioner for Taking AccountsUnless otherwise ordered by the Court of Judge, for reasons to be recorded in writing, the Commissioner for Taking Accounts shall charge the following fees:-

(1) (a)	For attendance on sales	Rs. 25.00
(b)	For attendance outside the Court	
	House to take examinations, administer oaths or other business incidental to his office.	
	(i) for a period not exceeding one hour	Rs. 10.00
	(ii) for every other hour or part thereof	Rs. 6.00
	(iii) In addition to the fees in (i) and (ii) above, if any expenses have been incurred by Commissioner for conveyance fare or otherwise, the actual amount of such expenses.	
(c)	For taking custody of proceeds of sale of movable or immovable property, except in so far as the same are covered by a set-off allowed by a Court or Judge: -	½ per cent (subject to a maximum of Rs. 500.00).
(d)	For the execution by the Commissioner of any Conveyance of immovable property under orders of a Court or Judge: -	
	For each party in whose behalf he executes the conveyance.	Rs. 10. 00 (subject to a maximum of Rs. 50.00).

(2) Except for the expenses mentioned In item (b) (iii) of Sub-rule (1) above, all the fees shall be paid In Court fee stamps In the manner prescribed In Rule 432-B below.

432-BComputation of fees, estimated, maintenance of register for In respect of fees etc.--(1) When the fee prescribed In rule 432-A is a fixed amount which does not require computation after the work is done. Court fee stamps of the required value shall be supplied in advance before the work is commenced.

(2) When the fee is to be computed and ascertained after the work is done, the office shall estimate in advance the fee likely to be incurred and the party concerned shall thereupon forthwith deposit with the Nazir of the City Civil Court, the amount of the estimated fee.

(3) The office shall estimate in advance the expenses to be incurred for conveyance fare or other expenses likely to be incurred when the Commissioner is required to work outside the Court premises and the party concerned shall forthwith deposit the amount of the estimated expenses with the Nazir of the City Civil Court.

(4) When the fees mentioned in sub-rule (2) have been computed and ascertained after the work is done, the Court fee Stamp of the required value shall be purchased from the amount in deposit, and appropriated to the said fee.

(5) The Commissioner shall submit his bill certifying the actual expenses incurred by him for conveyance charges or other expenses and the amount of such bill shall be paid from the deposit made under sub-rule (3) above.

(6) The balance of any deposit made under sub-rules (2) and (3) after the payment of the fees or expenses of the Commissioner, as the case may be, shall be refunded to the party who made the deposit.

(7) When the amount deposited under sub-rule (2) or (3) is found to be insufficient, the party concerned shall within seven days of his being given a notice of such deficiency, supply the Court fee stamps of the value of the deficit in the amount deposited under sub-rule (2) or deposit in cash with the Nazir, the deficit in the amount deposited under sub-rule (3), as the case may be.

(8) The Commissioner shall report to the Court or Judge any default of the party in making good the deficit under sub-rule (7), and the Court or Judge may pass such orders as may be deemed fit.

432-C.(1) The office of the Commissioner for Taking Accounts shall maintain separate Registers in respect of the fees paid under sub-rule (1), the fees payable under sub-rule (2) and expenses payable under sub-rule (3) of rule 422-B above.

(2) The Nazir of the City Civil Court shall maintain separate Registers in respect of deposits made under sub-rules (2) and (3) of rule 432-B.

433 "Commissioner" to Include any other qualified officer appointed by the Principal Judge. The term "Commissioner" shall throughout this chapter include in case of temporary absence of the Commissioner any other qualified officer authorised by the Principal Judge to perform the duties usually performed by the Commissioner whether in connection with sales or otherwise.

CHAPTER 26 Appeals

434. Subject to the Rules hereinafter following the provisions of O. 41 of the Code of Civil Procedure, 1908, and the provisions contained in Chapter XX of the Civil Manual, 1960. shall mutatis mutandis apply to appeals transferred to the Ahmedabad City Civil Court under the Ahmedabad City Court Act, 1961.

435.(i) When the Court hearing an appeal is of the opinion that It Is necessary to pass an order under O. 41, R. 23, Code of Civil Procedure, 1908, on an order for further hearing of the suit it shall pronounce Judgment accordingly with a direction that the matter shall be placed before the Principal Judge for directions.

(ii) The Principal Judge shall direct the Registrar to take the original suit from which the appeal arose, on the file as If the suit had been originally instituted in the Ahmedabad City Civil Court and further direct that the suit be placed before a Judge for disposal according to law.

(iii) The provisions as to suits prescribed In these rules shall apply to suits restored to file under sub-rule (ii) above.

436(i) When the Court hearing an appeal is of the opinion that it is necessary to frame fresh issues under Rule 25 of Order XLI of the Code of Civil Procedure, 1908, It shall pronounce Judgment accordingly and frame the issues.

(ii) When the Court is of the opinion that the evidence already on record Is sufficient for the decision of the issues so framed. It shall record its findings on the said issues and proceed to dispose of the appeal according to law.

(iii) When the Court is of opinion that the parties to the appeal should be given an opportunity to lead fresh evidence on the Issues so framed, it shall record the evidence the parties may lead on the said issues, and after deciding the said issues proceed to dispose of the appeal according to law.

437. When the trial Court has not tried and recorded Its findings on the Issues remanded for trial by Appellate Court under Rule 25 of Order XLI of the Code of Civil Procedure before the transfer of appeal to the Ahmedabad City Civil Court, the appeal shall be placed before such Judge as the Principal Judge may order. The Judge shall try and record findings on the Issues remanded for trial by the Appellate Judgment and thereafter proceed to dispose of the appeal in accordance with law.

CHAPTER 27 Miscellaneous Matters

438 Petitions how verified All petitions and miscellaneous applications shall be signed and verified in the same manner as plaints.

439Service of processService effected after 5 p.m. on [working days and 1.15 p.m. on a 2nd and 4th Saturday of the month when it is a working day), shall for the purpose of computing any period of time subsequent to such service, be deemed to have been affected on the following day.

440Business In VacationWhenever any business is required to be done In Vacation, the Advocate or party in person shall give reasonable notice thereof to the Registrar or the Officer whose duty it is to attend to such business.

441Advocate's responsibility forNo Advocate shall be at liberty to withdraw from the conduct of any suit or matter without written order for that purpose from the Court or a Judge thereof.

442Notice of change of AdvocateWhen a suitor applies for a Chamber Order for change of his Advocate on record In a suit or matter, he shall first give notice of his intended application for change to that Advocate and the fact of such notice having been served shall be stated in the affidavit in support of the said order.

443Notice of discharge to clientWhen an Advocate on record in a suit, or matter, applies for a Chamber Order for his discharge, he shall first give notice of his intended application for discharge to his client and the fact of such notice having been served shall be stated in the affidavit in support of the order.

444Duration of Advocate retainerAn Advocate on the record of a suit or matter shall continue to represent his client until an order of Discharge Is obtained and filed In Court or until the

Substituted by Notfn. 2111/64; G.G.Gaz. IV-C. dt. 9-12-1965,p. 1277.

final conclusion of such suit or matter. Proceedings in execution shall be deemed to be proceedings in the suit or matter. The parties to the suit will not be allowed to appear or apply in person, by precipe or otherwise when they are represented by an advocate.

445Security for costs of plaintiff temporarily within jurisdiction. -A Plaintiff ordinarily resident out of India may be ordered to give security for costs though he may be temporarily within the jurisdiction.

446Bank and Insurance Company as SuretiesBesides any Nationalised Bank or Nationalised Insurance Company, any other Scheduled Bank approved by the Principal Judge may be accepted as surety in respect of any order for security to be given in any matter or proceeding in the Court.

447.The procedure prescribed by these Rules shall as far as applicable be followed in all petitions under the Indian Divorce Act, 1869, the Special Marriage Act XLIII of 1954 and the Hindu Marriage Act XXV of 1955 except In so far as it Is Inconsistent with the Rules framed by the High Court under the said respective/Acts.

Party in Person

448Name, etc. of party in person and of the writer, personal attendance
In case of parties, acting in person, the name,
exact address and description of such parties and of the writer of
all documents filed shall be subscribed therein and parties acting
in person must personally attend the Registrar's office to receive
notice, or information they may require.

449Costs(a) The Costs of an Advocate or Pleader shall be
taxed in accordance with the Rules framed by the High Court
under section 16 of the Bar Councils Act or section
31 of the Bombay Pleader's Act.

(b) When several defendants having substantially one
defence to make employ several Advocates, they shall be
allowed one set of cost only. In such cases It will be for
the Plaintiff, at the time of hearing, to ask for a direction
of the Court that separate costs be not allowed.

(c) When two or more defendants having separate substantial
defences have engaged the services of one Advocate,
they shall be allowed separate sets of costs. In this case
it will be for the defendants Interested to apply at the
hearing for separate costs.

Substituted by H.C. Notfn. 0251/61 dt. 26-11-1974; G.G.Gaz. IV-C. dt.
5-12-1974,

p. 1020.(d) When several defendants having separate defences are
represented by separate Advocates they shall be entitled
to separate costs.

(e) In case of the death of one Advocate and the appointment
of another, a second fee should not be included in
the bill of costs and made leviabale under the decree. This
bill exhibits the costs as between party and party, not
between Advocate and client. A party can only be made
liable for one fee on account of the costs of the opposite
party's Advocate.

(f) No separate cost for Advocates or Pleaders fees shall be
taxed on a Chamber Summons or a Notice of Motion
unless expressly ordered by the Court. Any party desiring
that such costs should be awarded should move the
Court at the hearing of such a Chamber Summons or
Notice of Motion.

450Forms to be observedThe forms contained in part II
with such variation as the circumstances of each case may require
shall be used for the respective purpose therein mentioned.

Civil Manual

451Civil Manual to apply when not Inconsistent with the Rules or Act

The Orders contained In the Civil Manual, 1960

Volumes I and II of the High Court will apply In so far as they are not inconsistent with the above Rules or the provisions of the Ahmedabad City Courts Act, 1961, and the rules framed under the Act.

Copies and copying fees, etc

22452Rules under the Bombay Civil Courts Act to apply

(1)The Rules in respect of supply of copies and translations, for search, and fees prescribed therefor, framed under the Bombay Civil Courts Act. 1969. and contained in Chapter XXVI of the Civil Manual, shall apply to the copies and translations supplied and search allowed In the City Civil Court, Ahmedabad.

(2) The party or advocate applying for certified copy of the decree (except in summary suits) shall furnish with the application

R. 452 renumbered and sub-rule (2) added by H.C. Notfn. 0205/61. dt. 10-8-1977; G.G.Gaz. IV-C, dt. 25-8-1977, p. 743.

a copy of the plaint (as amended up to date) for preparing the certified copy of the decree and the applicant will not be entitled to the supply of a certified copy of the decree applied for till such a copy of the plaint Is furnished:

Provided that In case the party does not supply the copy within a fortnight, his application shall be deemed to have lapsed.]

23452ASupply of uncertified copies(i) Subject to such regulations as the Principal Judge may make with the previous approval of High Court, any party to the proceeding or his advocate may obtain uncertified copies of notes of evidence recorded by the Court. Fees for supply of such copies shall be charged as follows:-

(a)	If only one party applies for a copy, per folio of 100 words or fraction thereof —	12 Ps.
(b)	If two parties apply for copies. per folio of 100 words or fraction thereof —	10 Ps. per party.
(c)	If more than two parties apply for copies, per folio of 100 words or fraction thereof —	8 Ps. per party.

(ii) out of the fees recovered as above, one half shall be paid to the stenographer or typist making out the copies and the balance shall be credited to Government.

452B Supply of uncertified copies of Commissioner's Reports and Maps etc-(1) Subject to such regulations as the Principal Judge may make with the previous approval of the High Court, any party to the proceeding or his Advocate may obtain uncertified copies of Commissioner reports and maps with explanatory notes, if any, prepared by the Commissioner appointed by the Court for making Inventory notes, maps, etc. as also of reports of the Commissioner for taking accounts In matters pending before the City Civil Court. Copying fee for such copies other than maps or plans the copying fees shall be such fees not exceeding Rs. 15 and not less than Re. I as the Registrar, may determine. Such fees for uncertified copies shall be credited to Government. No comparing fees for such uncertified copies shall be charged.

Petition Writers

453 Rules under the Bombay Civil Courts Act to apply The Rules In respect of petition writers, framed under the Bombay Civil Courts Act, 1869, and contained in Chapter XXVIII of the Civil Manual, shall apply mutatis mutandis to the Petition Writers In City Civil Court. Ahmedabad.

23 Added by G.G.Gaz. IV-C, d, 10-8-1967, p. 974.

CHAPTER 28 Rules for Preservation and Destruction of Records in the Ahmedabad City Civil Court.24

454.(1) The Superintendent of the Civil Board Department shall latest by the 15th of each month cause to be prepared a list of suits, petitions, awards and all miscellaneous matters and proceedings, which have been disposed of during the preceding month.

(2) The Superintendent of Execution Department shall latest by the 15th of each month cause to be prepared a list of execution application and other proceedings (except such miscellaneous proceedings account of which Is maintained by the Board Department) which have been disposed of during the preceding month.

(3) The Superintendent of Appeal Department shall latest by the 15th of each month cause to be prepared a list of appeals, and all miscellaneous matters and proceedings pertaining to appeals which have been disposed of during the preceding month.

(4) The aforesaid lists shall be In the form prescribed below:-

S.No.	No. and year of the Date Proceeding of disposal	Remarks, If any	
1	2	3	4

(5) The Superintendent concerned shall certify at the foot of the list that the final orders passed In such proceedings have been duly noted In the relevant registers.

455.The Superintendents of the Departments concerned shall by 25th of each month or within ten days of the receipt of the record, whichever is later, send records alongwith the list prepared as per Rule 454 of the preceding month to the Superintendent, Record Department.

456.On receipt of the records, the Superintendent, Record Department shall verify whether the records correspond with those entered In the list.

457.The Superintendent, Record Department shall, on receipt of the list and records and after verification as per Rule 456, arrange the records of such suits, appeals and matters In file to be marked as files 'A', 'B', 'C' and 'D'. These files shall be kept in the prescribed Docket on a durable paper (Form No. 85 In part II of the Ahmedabad City Civil Court Rules, 1961).

Note.-The Sheristedar of the Court concerned should, as far as practicable, place the papers classification-wise as Indicated hereinafter In dockets or envelops marked with letters "A", "B", "C" and "D" respectively as soon as the suit or proceeding is disposed of by the Court.

24 Chapt. XXVII. Rr. 454-470 added by Notfn. No. C. 205/61. d. 30- 4-1970;
G.G.Gaz. IV-C, d. 14-5-1970, p. 544.

458.The arrangement of the records of such proceedings In the said flies shall be done In the following manner:-

(i)The papers which are required to be preserved shall be kept In file 'A'.

(ii)The papers which are required to be preserved for 30 years shall be kept In the file 'B'.

(iii)The papers which are required to be preserved for 12 years shall be kept In file 'C'.

(iv)The papers which are required to be preserved for 3 years shall be kept In file 'D'.

459.The Record-keeper shall prepare each month a list of the records received by him each month of such proceedings In the form prescribed below:-

S. No.	No. and	Names	Date	No. of
	year of	of	of	papers in
	proceeding	parties	decision	the case as
				per
1	2	3	4	Roznama.
				5

No. of papers not noted in the Roznama	No. of papers filed after decision	No. of Exhs. not to be destroyed.	Date of receipt in the Record Room	No. of cupboards or Rack and shelf
6	7	8	9	10
No. & year of appeal etc. if any	Date when due for destruction	When actually destroyed	If destroyed what extent	Remarks
11	12	13	14	15

460. The records shall be kept in the Record Room in cupboards or racks and all precautions shall be taken to ensure that the records are not destroyed by white-ants, Insect, etc. Any damage noticed in this respect shall be brought to the notice of the Registrar, Immediately.

461. Each cup-board and rack shall be numbered. Each shelf of a cup-board and rack shall also be numbered.

462. (1) All records of such proceeding Including the records of any appeal etc., therefrom, shall be kept together In one bundle. Cumbersome or bulky records shall be kept separately. The records shall be arranged monthwise according to the dates of disposal.

(2) A card shall be affixed to each cup-board and rack, and the number of shelves and the particulars of the records kept In each shelf of such cup-board and rack.

463. A test Inspection of the records kept In the Record Room shall be made at the end of each quarter by an Officer to be appointed for the purpose by the Registrar. A note of the Inspection shall be made and submitted to the Registrar.

464. When any record Is removed from the Record Room for any purpose, a note regarding such removal shall be made by the Superintendent on a sheet of foolscap paper and such note shall be kept In the bundle where such record was kept. On return of the record a note to that effect shall be made on the said foolscap paper by the Superintendent.

465. (1) The papers and registers shall be preserved for the period specified In this rule. On expiry of the respective periods or as soon thereafter as may be convenient, they shall be destroyed.

(2) Papers falling in:-

- A Category on file shall be preserved permanently.
- B Category on file shall be destroyed at the end of 30 years.
- C Category on file shall be destroyed at the end of 12 years.
- D Category on file shall be destroyed at the end of 3 years

(3) The above periods, shall be calculated from the date of the final decree or order, which In cases In which appeal or revision applications are filed will be that of the appellate or revisional Court.

466.(1) The papers and Registers hereunder mentioned shall be preserved for the periods specified in Rule 466. On expiry of the respective periods or as soon thereafter as may be convenient, they shall be destroyed.

PART 1

Papers forming part of Court proceeding .-(A) To be preserved permanently:

- (1) In the case of suits and matrimonial cause:-
 - (a) Plaintiff.
 - (b) Written Statement and counter-claim if they form one document.
 - (c) Counter-claim If made separately from written statement.
 - (d) Judgment.
 - (e) Preliminary and final decree.
 - (f) Final order.
 - (g) Written statement other than that shown In (b).
 - (h) Reply to counter-claim or set off.
- (2) In case of execution proceedings:-
 - (a) Order confirming Sale of immovable property in execution.
 - (b) Copy of sale certificate for sale of immovable property.
 - (c) Proclamation of sale. Lilav yadi or Memorandum of auction in case of sale of immovable property in execution of decree.
- (3) In case of appeals:-
 - (a) Appeal Memo.
 - (b) Memorandum of Cross objections.
 - (c) Judgment.
 - (d) Decree or final order.
- (4) In the case of Testamentary and Succession matters:-
 - (a) Petition.
 - (b) Judgment.
 - (c) Final order.

(3) In case of Insolvency matters:-

- (a) Petition.
- (b) Order of Adjudication.
- (c) Order setting aside order of adjudication.
- (d) Judgment or final order.
- (e) Order on the application for discharge.
- (f) Order of Annulment.

(g) Order sanctioning sale of insolvent's immovable property-

(6) In the case of other petitions, applications and miscellaneous matters not being of an interlocutory nature:-

- (a) Petition.
- (b) Judgment.
- (c) Final Decree or final order.

(B) To be preserved, for 30 years.- (1) In the case of suits and other matters mentioned at (1), (2), (3), (4), (5) and (6) above.

(a) Summons on notice with return thereof in cases in

which an ex parte order is passed against the defendant.

(b) Reference to Arbitration and award if Decree is passed

in terms thereof.

(c) any order of the Court sanctioning a compromise as

beneficial to minor or lunatic.

(d) Petition of compromise if given effect to in the decree.

(e) Roznama of proceeding.

(f) Findings certified to the Appellate court.

(g) Copy of judgment. Decree or orders passed in appeal or

revision, if any.

(h) Bond given as security.

(I) Administration Bond.

(j) Schedule of insolvent's assets and liabilities.

(k) Maps or plans relating to property in dispute and admitted in evidence.

(C) To be preserved for 12 years:-

(a) Affidavits giving particulars in pleadings.

(b) Documents admitted in evidence.

(c) Interrogatories and their answers.

(d) Oral evidence.

(e) Affidavits when treated as evidence.

(f) Reports and petitions of the Official Receiver and the

orders passed thereon.

(g) Memorandum of Issues.

(D) To be preserved for 3 years:-

(a) Warrant of attachment before judgment.

(b) All summonses and notice except those mentioned in file

'B' (a).

- (c) List of witnesses and documents.
- (d) Petition relating attendance of witnesses and adjournments on calling for and sending papers or records.
- (e) Registered addresses of parties.
- (f) Documents not exhibited.
- (g) Powers of attorney.
- (h) Vakalatnamas and memo of appearance.
- (l) Interlocutory proceedings not specified as Included in any other file.
- (j) All papers relating to Insolvency petition and insolvency notice not otherwise provided for by these rules.
- (k) All other papers not included in files 'A', 'B', 'C'.

PART II

Papers not forming part of court proceeding are classified as follows for the purpose of destruction of records.

	Nature	Classification
	1	2
	(1) CIVIL BOARD DEPARTMENT	
1.	Register of Suits.	A
2.	Register of Land References	A
3.	Register of Insolvency Petitions	A
4.	Register of M.A.C.T.	A
5.	Register of Misc. Appln. in M.A.C.T.	A
6.	Lodging Registers of Suits	D
7.	Lodging Registers of Petitions	D
8.	Lodging Registers of Insolvency Petitions	D
9.	Register of Processes sent for service	D
10.	Register of compensation cases	A
11.	Register under Guardian and Wards Act	A
12.	Register of rejected plaints	C
13.	File of plaints returned for presentation to proper courts	B
14.	Daily court fee register	C
15.	Process fee register	C
16.	'A', 'B', 'C', 'D' Registers of decided cases.	D
17.	Register of Notice of Motion	D
18.	Register of Chamber Summons.	D
19.	Register of Commission issued	D
20.	Register of stamp duty and penalty	C
21.	Daily, Weekly and Monthly Boards	D
22.	Memo Books	C

23.	Register of pending suits (Bombay Register)	D
24.	Register of suits referred to and pending with the Commissioner.	D
25.	Register of stayed suits.	D
26.	Register of suits referred to Arbitration	D
27.	Register showing original suits and matters sent to Decree Department.	D
28.	Register of Grants	D
29.	Register showing transmission of process for service through courts.	D
	(2) NAZIR AND ACCOUNTS DEPARTMENT	
1.	Forms A-C-D-E-F-G-H-I-J-K-L, regarding accounts	D
	Note. -Before the Registers in Form 'C' and 'G' are destroyed all the outstanding items therein including amounts lapsed to Government should be transferred to new Registers in the same forms under the initials of the Superintendent of the Department and these new Registers (to be called the permanent Registers 'C' and 'G') should be preserved permanently.	C
2.	Instructions issued for guidance on examination of accounts (from the date of receipt)	B
3.	Chalans	C
4.	Accounts Books of postage stamps	D
5.	Office copies of contingent bills and Travelling Allowance bills	D
6.	Receipt of Registered letters and money orders.	D
7.	Bailiffs' process serving and receipt book	6 years.
8.	Audit Notes and objections (not containing instructions for guidance) (from the date of receipt)	6 years.
9.	Office copies of replies on explanations to Audit Notes and Objections (from the dates	6 years.

	of such replies on explanations).	
10.	File of Wills	A
11.	Register of cases in which Nazir is appointed guardian-ad- litem.	C
12.	Register of Attachment.	C
	(3) EXECUTION DEPARTMENT	
1.	Register of application for Execution.	B
2.	Register of Applications requiring Judicial inquiry	A
3.	Register of Applications not requiring Judicial inquiry	C
4.	Register of Sale Certificates.	C
5.	Register of Darkhasts transferred to the Collector for execution.	B
6.	Register of Decrees received for execution.	C
7.	Daily Court-fee Register	C
8.	Process Fee Register	C
9.	File containing copies of sale certificates.	A
10.	Register showing documents sent to Sub-Registrar for registration.	B
11	Register showing transmission of certified copies of decree and orders .	C
	(4) DECREE DEPARTMENT	
1.	Register showing progress of the drawing up of the decrees and orders.	D
2.	Register showing Applications for certified copies and translation.	C
3.	Applications for copies and translations.	D
4.	Fee account book kept under Rules 4 and 7 (para 505 of the Civil Manual).	C
5.	Register of copies supplied to prisoners in Jail (From VII).	D
	(5) RECORD DEPARTMENT	
1.	Receipt books of documents, returned to parties.	D
2.	Register of withdrawal of exhibits.	D
3.	Register for search and inspection purposes	D
4.	General Register of records.	A
5.	Registers showing original documents or suit records sent to other Department or court.	B
	(6) APPEAL-CUM-COPYING DEPARTMENT	
1.	Receipt Book of documents given to Section	D

	Writers.	
2.	Register of work done by Section-Writers.	D
3.	Appeal Register.	A
4.	Register of Writs in Appeals.	C
	(7) CORRESPONDENCE DEPARTMENT	
1.	Register of Commission.	D
2.	Inward and Outward Registers. (Both English and Gujarati)	C
3.	Correspondence file of ephemeral importance.	C
4.	Government Gazettes.	A
5.	Reports of Enquiry Officers and final orders 6 in Departmental enquiries (from the date of final order).	years .
6.	Other miscellaneous correspondence (from the date of disposal of the subject to which such correspondence relates).	D
7.	Miscellaneous reports of Judges to Principal Judge.	D
8.	Post Books (tapal books)	D
9.	Lawyer's application for leave, etc.	D
10.	Muster Rolls.	D
11.	Statements, depositions and other records of departmental enquiries (other than reports of Enquiry Officers and Final orders) (from the date of final order).	6 years.
12.	Reports of Enquiry Officers and Final Orders in Department enquiry (from the date of final order).	B
13.	Correspondence and office copies of correspondence relating to Administrative subjects such as buildings, accommodation, strength of staff etc. and miscellaneous correspondence (From the date of disposal of the subject to which such correspondence relates.)	6 years.
14.	Government Resolution File.	A
15.	Register of Pleaders.	A
16.	Register of Pleaders' clerks.	A
17.	Register of Advocates regarding issue of certificates.	D
18.	Register of Departmental enquiry.	B

19.	L.A. and L.C. Questions Register.	C
20.	Register regarding Advocates debarred from practice.	B
21.	Register regarding oath of allegiance.	B

Note. I. -The period prescribed for the destruction of the records mentioned in Part II will begin to run from the date of the last entry.

2. The records will not be destroyed till all live entries required to be carried forward are carried forward to new register.

PART III

467Special order for preservation or destructionNotwithstanding anything herein contained, the Principal Judge, may, for any reason, direct that any of the papers and books be destroyed either earlier or later than the time prescribed by the above rules. The Principal Judge may direct that any book or documents not hereinabove mentioned may be destroyed after such time as he may think fit.

PART IV

468Preparation of list of suits etc., in which papers are proposed to be destroyed(1) The Record Keeper shall, in the month of March every year. prepare a list of suits, matter and appeal in which the papers are proposed to be destroyed. The list shall be approved by an Officer to be appointed by the Registrar, City Civil Court for this purpose.

(2) Notice to be put up.-One month before the date fixed for the destruction of records a notice alongwith the list prepared under sub-rule (I) shall be put up on the notice board In the office of the Registrar, City Civil Court, Ahmedabad. informing parties that it is proposed to destroy the records of suits, matters and appeals mentioned in the said list In accordance with the rules for the destruction of records.

(3) Application for withdrawal of exhibit.-Any party desiring to withdraw any exhibit produced by him may apply to the Registrar, City Civil Court for its withdrawal. The application shall be made within three weeks from the date of the notice mentioned in sub-rules.

(4) If no application Is made within such time, the exhibit shall be destroyed in accordance with these rules.

PART V

469Records due for destruction to be kept separatelyThe record which Is due for destruction in any year shall be taken out and kept on separate racks until it is destroyed.

PART VI

470When destruction to be carried out disposal of
destroyed recordThe destruction of records shall ordinarily be
carried out in the Summer Vacation each year. The destroyed
record shall be disposed of in accordance with the orders issued by
Government from time to time.

Rule 37 (2) Verification of plaint on written statement.

Rule 49 Short Cause Plaint presented this day of 19 Summons
to answer plaint under section 27, O. V, rr. 1, 5, 7
and 8 and O. VIII, r. 9 of the Code of Civil Procedure.

Rule 49 Long Cause Plaint filed this day of 19 . You are required to
file a written Statement of your defence and
serve a copy on the Plaintiff within four weeks from
the service of this summons upon you, in default
whereof the suit will be set down to be heard as
undefended and you will be liable to have a
Decree or order passed against you.