

CHAPTER 1

Judicial Business

Part A (a)

THE PRESENTATION AND RECEPTION OF APPEALS, PETITIONS AND APPLICATIONS FOR REVIEW AND REVISION

1. To be deposited in petition box during Court hours—All ordinary appeals, petitions and applications for review or revision, written statements, affidavits or other documents sought to be presented to the Court, shall be presented by litigants or their Advocates by depositing them in the petition box of the Court outside the room of the Deputy Registrar (now on the filing counter on the ground floor of new Delhi High Court building) between the hours of 10 a.m. to 4 p.m. on every day which is not a Court holiday. Petitions, written statements, affidavits or other documents sought to be presented to the Court, sent by litigants through post for taking some judicial action shall not be entertained by this Court but returned per bearing post.

2. Urgent and transfer applications to be presented personally—Appeals, applications, etc., accompanied by petition to be treated as urgent, as well as transfer applications, petitions for Writs and for Habeas Corpus which are *ipso facto* treated as urgent may be presented personally to the Reader to the Deputy Registrar on any working day during Court hours. Civil writs and transfer applications in civil cases are not, however, treated as urgent during the period the High Court is closed for the long vacation unless accompanied by a petition to be treated as urgent.

No appeal, petition or application shall be received unless presented during the Court hours from 10 a.m. to 4 p.m.

2. (a) Every memorandum of appeal, and every application, written statement, affidavit, annexures to writ petitions, etc. shall be in the English language and shall be typed in double spacing on water marked plain paper, unless a printed form is prescribed for the purpose by the High Court. It shall be headed “In the High Court of Delhi at New Delhi” and signed by the appellant or applicant or by an Advocate entitled as of right to practise in the High Court on his behalf. The original typed copy and the carbon copy shall be filed in this Court. In case any document is required to be filed in duplicate copy shall be the first carbon copy. No memorandum or application or copy thereof will be entertained unless it is legible.

(b) Every memorandum of appeal shall be accompanied by copies of the decree and judgment, as prescribed by Order XLI, Rule 1 of the Civil Procedure Code. In the case of Second Appeals, in addition to the documents prescribed by Order XLI, Rule 1 of the Code, memorandum shall be accompanied by a copy of the judgment of the Court of First instance unless the appellate Court dispenses therewith. In all cases which are within the competence of Division Bench motion. Duplication type written copies of memorandum of appeal or revision and other essential

documents shall be furnished by the appellant or applicant, as the case may be, both in Civil and Criminal cases.

COMMENTS

Appeal was held incompetent where certified copy of trial Court's judgment and order was filed 2½ years after admission of second appeal. 1979 (1) Rent. L.R. 614 (Delhi).

In an appeal to High Court under Section 39(1) of Delhi Rent Control Act it was held that appeal memo must be accompanied by certified copies of Tribunal's order and Rent Controller's order. Appeal filed without either of aforesaid copies is not validly presented unless High Court dispenses with filing of copy of Rent Controller's order under Rule 2(b). *Lacchman Das v. Suraj Prakash*, 1980 Raj. L.R. 525.

3. Section and enactment to be specified—Every memorandum of appeal or application shall specify the section of the enactment under which the appeal or application lies. The Deputy Registrar is authorised to refuse to receive any memorandum of appeal or application which does not comply with this rule.

4. Letter Patent appeals—Time within which to be filed and documents to accompany—No memorandum of appeal preferred under clause 10 of the Letters Patent shall be entertained if presented after the expiration of 30 days from date of the judgment appealed from, unless the admitting Bench in its discretion, for good cause shown, grants further time for the presentation. Such memorandum of appeal need not be accompanied by a copy of the judgment appealed from, but a memorandum of appeal for which a certificate is required under clause 10, must contain a declaration to the effect that the Judge, who passed the judgment, has certified that the case is a fit one for appeal. The time spent in obtaining the certificate from the Judge (including the date of application and the date on which the Judge passed the order) shall be excluded in computing the period of limitation. Section 12 of the Indian Limitation Act governs an appeal under the Letters Patent and the appellant in such a case is entitled to exclude the "time requisite" for obtaining a copy of the judgment appealed against whether such copy is filed or not) even though under the rules of the Court no copy of the judgment required to be filed with the memorandum of appeal. [*Vide I.L.R. 1941, Lahore 191 (F.B.)*].

COMMENTS

The expression 'Admitting Bench' in Rule 4 has very well recognised concept according to High Court Rules. It cannot hence be said that the Bench hearing an appeal after notice should be treated as the admitting Bench for the purpose of Rule 4. *Matu Ram v. Union of India*, AIR 1967 Delhi 58.

It can not be argued that the Rule is ultra vires the Letters Patent (Lahore) in as much as clause 26 of the Letters Patent confers jurisdiction on Division Court to hear causes without any distinction which is sought to be created by Rule 4. *Matu Ram v. Union of India*, AIR 1967 Delhi 58.

Section 12 of the Indian Limitation Act 1908, governs an appeal preferred under Section 202 of the Indian Companies Act 1913, from an order of a single Judge exercising original jurisdiction where the *forum* of appeal (as distinct from the *right* of appeal) is provided by the Letters Patent and therefor, the appellant in such a case is entitled to exclude the "time requisite" for obtaining a copy of the judgment appealed against, even though under the Rules and Orders of the High Court no copy of the judgment is required to be filed with the memorandum of appeal. *The Punjab Co-Operative Bank. Ltd. Lahore v. The Official Liquidators The Punjab Cotton Press, Co. Ltd., (In Liquidation) and Others*, (1941) I.L.R. XXII Lah. 191. (*J. N. Surty v. T. S. Chettyar A Firm*, I.L.R. (1928) 6 Rang. 302 (P. C.), followed.) (*Dayal Singh v. Budha Singh*, I.L.R. (1921) 2 Lah. 127, and *Jog Dhian v. Hussain*, I.L.R. (1935) 16 Lah. 448 (F. B.), over-ruled.)

Section 12 of the Indian Limitation Act 1908, governs an appeal under the Letters Patent in which not only the *forum* of appeal, but also the right of appeal is given by the Letters Patent and, therefore, the appellant in such a case is entitled to exclude the "time requisite" for obtaining a copy of the judgment whether such copy is filed or not.

The Letters Patent and the statutory rules framed by the High Court under clause 27 thereof, are a "special law" within the meaning of Section 29 of the Indian Limitation Act. *The Punjab Co-Operative Bank. Ltd. Lahore v. The Official Liquidators The Punjab Cotton Press, Co. Ltd., (In Liquidation) and Others*, (1941) I.L.R. XXII Lah. 191. (*S. R. Ganny v. I. M.*

Russell, I.L.R. (1930) 8 Rang. 380, (F. B.), and *Mukund Mahto v. Niranjan Chakravarti*, 1934 AIR (Pat.) 353, dissented from.) (*Neelratan Ganguli v. Emperor*, I.L.R. (1933) 60 Cal. 571, *Kruse v. Johnson*, (1898) L. R. 2. Q. B. 91, *Willingale v. Norris*, (1909) L. R. 1 K. B. 57, 64, *Gosling v. Veley*, (1847) L. R. 7 Q. B. 406 and *Hopkins v. Mayor of Swansea*, (1839) 4 M. & W. 640, relied upon.)

If Rule 4 of Chapter I-A(a) of the High Court Rules and Orders Volume V applies to an appeal under clause 10 of the Letters Patent, or, in other words, if Indian Limitation Act of 1908 was in force when the said appeal was presented, the discretion to condone the delay in filing the appeal is confined to the admitting Bench only, and no Bench subsequently hearing the appeal would be competent to extend the time for presenting the appeal, otherwise out of time. But if such an appeal is governed by the Limitation Act No. 36 of 1963, or, in other words, when it has been presented on or after January 1, 1964, the Bench hearing the appeal has the jurisdiction to condone the delay after considering the sufficiency of cause for filing it beyond time. The admitting Bench may also condone the said delay while admitting the appeal, but then the respondent will be entitled to reopen the question and contend before the Bench hearing the appeal that there was no sufficient cause for condoning the delay. Similarly, if the admitting Bench omits to condone such delay while admitting the appeal the appellant can claim extension of time from the Bench hearing the appeal, of course, by showing sufficient cause for not filing it within time. *Mahant Bikram Dass v. Financial Commissioner, Revenue Punjab*, (1974) 76 P.L.R. 451.

Where copy of the judgment appealed against was obtained the time requisite for securing the copy must be excluded and it is wholly immaterial whether the copy was applied for and obtained under Rule 11 in Chapter 5-B or whether the registry of the High Court should have refused the copy where Rule 11 was not applicable. No party can be made to suffer for any mistake made by the Court or its officials and even if the copy which was supplied to the appellant should not have been supplied, the appellant cannot be made to suffer for any such lapses. *Employees State Insurance Corpn. v. M/s. Spangles & Glue Manufacturers*, 1967 (69) PLR 433.

Section 4 of the Limitation Act does not extend the period of limitation nor does it furnish any data for computation of time, what it really does is that if the time allowed by statute to do an act or to take a proceeding expires on a day when the Court is closed, it may be done on the next sitting of the Court. The appellant who had delayed the application for the grant of the certificate to the last day of limitation cannot be allowed to annex another set of holidays to bring the period of limitation up to 15th of July, 1968. *Pirbhu v. Bhirkha*, 1969 (71) PLR 587.

It is to be borne in mind that the appellant had taken a calculated risk in filing the application for the grant of certificate on the last day of limitation. It should have been anticipated that the work after the grant of certificate could take more than a day and in failing to keep even a day's margin, the appellant could not be said to have exercised the diligence which was expected from him. It was within the appellant's knowledge that in making the application just in time he had exhausted the period of limitation for appeal, and it was his bounden duty in the circumstances to make arrangements, for the filing of the appeal on the day when the certificate was granted. *Pirbhu v. Bhirkha*, 1969 (71) PLR 587.

Rule 4 authorises the admitting Bench alone to extend period of limitation. Neither the Single Judge who grants leave to appeal nor the Bench hearing the appeal has such power. *Harnam Singh v. Karam Chand*, AIR 1949 E.P. 299.

Rule 4 in Chapter 1 of High Court Rules and Orders framed by the High Court in exercise of the legislative power conferred upon the High Court under Clause 27 of the Letters Patent, is a law made in respect of special cases covered by it and is a special law within the meaning of Section 29(2) of the Limitation Act. *Union of India v. Ram Kanwar*, AIR 1962 SC 247.

¹[5(1) The Deputy Registrar/Assistant Registrar, In-charge of the Filing Counter, may specify the objections (a copy of which will be kept for the Court Record) and return for amendment and re-filing within a time not exceeding 7 days at a time and 30 days in the aggregate to be fixed by him, any memorandum of appeal, for the reason specified in Order XLI, Rule 3, Civil Procedure Code.

1. Rule 5 substituted vide Notification No. 208/DHC/Rules dated 5-8-1988 and further substituted vide Notification No.112/Rules/DHC dated 26.4.1990.

(2) If the memorandum of appeal is not taken back, for amendment within the time allowed by the Deputy Registrar/Assistant Registrar, in charge of the Filing Counter under sub-rule (1), it shall be registered and listed before the Court for its dismissal for non-prosecution.

(3) If the memorandum of appeal is filed beyond the time allowed by the Deputy Registrar/Assistant Registrar, in charge of the Filing Counter, under sub-rule (1) it shall be considered as fresh institution.

Explanation : The period of seven days or thirty days mentioned above shall commence from the date, the objections are put on the notice board.

Note: The provisions contained in Rule 5(1), 5(2) and 5(3) shall mutatis mutandis apply to all matters, whether Civil or Criminal.]

COMMENTS

Power under Rules 3, 5 and 9 can be exercised by Deputy Registrar and not by Assistant Registrar. *Dewan Chand Choudhary v. R.L. Taluja*, 1973 Raj. L.R. (Delhi) 449.

If the memorandum of appeal is not amended and refiled within the time allowed by the Deputy Registrar, it does not become liable to dismissal automatically, it has to be listed for orders before the Court. This implies that the Court can in its discretion condone the delay if there is any. *N.K. (P.) Ltd. v. Hotz Hotels Ltd.*, 1974 Raj. L.R. 153.

Where no timely efforts were made by the counsel firstly to find out after filing application on 19th August, 1995 as to whether the Registry had raised any objection or not. Secondly, despite order of the Joint Registrar dated 9th January, 1996, the objection was removed only on 4th March, 1996 i.e. after the date which the Joint Registrar had fixed for the application being posted for hearing before the Court. When the application was refiled on 4th March, 1996, one would expect the person filing to be more careful thereby not giving an opportunity to the Registry to raise any other objection. But that was not so. The result was that the second objection was raised which, as noticed above, was removed on 21st March, 1996 but application was refiled only on 27th March, 1996. Apart from this casual approach, we do not find any mala fide intention on the part of the appellant to delay the proceedings. When there is negligence or causal approach in a matter like this in refiling of an application, though the Court may not be powerless to reject an application seeking condonation and may decline to condone the delay but at the same time, passing of any other appropriate order including imposition of cost can be considered by the Court to compensate the other party from delay which may occur on account of refiling of the application. *S. R. Kulkarni v. Birla VXL Ltd.*, 1998 (5) AD (Delhi) 634 : 1998 RLR 519.

6. Particular ground to be specified in petition for revision—A petition to the High Court to exercise the powers conferred by Section 44 of the Punjab Courts Act specify the particular ground on which the aid of the High Court is invoked:

(a) if the ground be that the Court which decided the case exercised a jurisdiction not vested in it by law, the petition shall set out clearly the particular exercise of jurisdiction complained of;

(b) if it be that the Court which decided the case failed to exercise a jurisdiction so vested, the jurisdiction which ought, in the petitioner's opinion, to have, and has not, been exercised shall be clearly set out;

(c) if it be that the Court acted in the exercised of its jurisdiction with material irregularity, the particular irregularity complained of shall be similarly set out.

7. Documents to accompany such petition—Every such petition shall be stamped as required by law and shall be accompanied by a copy of the decree or order in respect of which such

application is made by a copy of the judgment upon which such decree is founded.

Document to accompany petitions for revision of the decree or order of appellate Court.

In the case of petition for revision of the decree for order of an appellate Court, a copy of the judgment or order of the Court of the first instance shall also be filed.

COMMENTS

Rule 7, Part (a) Chapter 1-A, Volume V of the High Court Rules and Orders consist of two paragraphs. The second paragraph of the rule, applies on to those cases in which revision is sought of a decree or order which has been passed in appeal from a decree or order of a lower Court. The two paragraphs of the rule are supplemental to each other and must be read together so that a harmonious construction may be placed on them. The first paragraph applies to petition seeking revision of any decree or order and requires that such a petition shall be accompanied by a copy of the decree or order of which revision is sought along with a copy of the judgment upon which such decree is based, while the second paragraph therein requires that when the petition is one for revision of a decree or order of an appellate Court, an additional document, namely, the judgment or order of the Court of first instance shall also be filed. In the context in which the words "appellate Court" occur, they must be construed to mean a Court which has passed the order sought to be revised while hearing an appeal from an order of a subordinate Court. In other words, where the "appellate Court" passes an original order in connection with an appeal pending before it, the provisions of the second paragraph of the rule do not come into play for, in that case, there is no "judgment or order of the Court of first instance" in the sense in which those words are used in the rule and there is good reason for such interpretation being placed on the second paragraph of the rule, the object of which is to ensure that this Court has before it all the available material which is relevant to the decision of the matter requiring determination by it. *Ram Nath & Other v. Murti Shri Krishan Maharaj*, 1974 (76) P.L.R. 112.

On the date of filing the petition, the petitioner had neither applied for the copies of the impugned orders nor informed this fact to this Court at the time of filing the petition. Rather she filed an application bearing CM. No. 2473/96 through which she mis-lead this Court in believing that she had applied for the certified copies of the impugned orders and further as and when the same will be procured those would be placed on record. Had she not represented so the Registry of this Court would not have entertained the revision petition. Because of the application seeking exemption from filing certified copies that case was listed before this Court. This Court under the impression that petitioner had applied for the certified copies allowed the exemption application subject to just exception. "Subject to just exception" does not mean that the petitioner was not to file certified copies at all or not within time. Just exception means that the certified copy has to be filed in accordance with rule and the law on the point. Rules have been laid under the Delhi High Court Rules, Practice & Procedure. Rule 7(1) of the said Rules clearly stipulate that for filing the revision petition, certified copy of the impugned order has to be filed. This, to my mind, was in the knowledge of the counsel for the petitioner when he applied for exemption vide application No.2473/96. Had he not been sure about this provision of law, he would not have written in para No.2 of the said application that petitioner undertakes to place on record the certified copy of the impugned order as and when procured. Instead he would have written that the certified copy was not necessary. The contention of counsel for the petitioner that there was fault of the lawyer and that petitioner should not be punished is without substance. The arguments of negligence of counsel cannot be inferred from the facts of this case nor such a negligence can be condemned as held by this Court in the case of *Banwari Lal & Sons Pvt. Ltd. v. Union of India*, AIR 1973 Delhi 24, where it was held that mistake of counsel should not be a device to conceal negligence or inaction. The Courts are meant for honest litigation. By misrepresenting the facts as mentioned in para No.2 of the application bearing CM.No.2478/96 the petitioner got the exemption. The revision was allowed to be filed without any objection. For such action of the petitioner she does not deserve any discretion. Revision petition without filing certified copy of impugned order is incompetent. *Indira Khurana v. Prem Prakash*, 1997 (40) DRJ 342 : 1997 (1) AD (Delhi) 236 : 1997 (65) DLT 36. (See also *Jagdishi Prasad Gupta v. Sh. Surinder Kumar & Others*, 1979 (1) RCR 737.)

It is not in each and every case the Court calls for the record. It is only where it is so required that the Court suo motu calls for the record. At the same time, duty is cast on the petitioner to file the certified copy with the petition. This Court in the case of *Shafiq Ahmed v. Mst. Shah Jehan Begum*, AIR 1981 Delhi 202 observed that in the absence of certified copy being accompanied with the revision petition, the revision was incompetent. To the same effect are the observations of this Court in the case of *P. C. Puri v. Polyolefins Industries Ltd. & Ors.*, 37 (1989) DLT 315. In that case against temporary stay granted, revision was filed without filing the certified copies of the orders of the Trial Court. This Court held that the revision was liable to be dismissed. The Court relied on the provisions of High Court orders and Rules and in particular Rule 7 of Chapter-1 Volume 5. It was observed that:

"It was incumbent on the petitioner to file certified copy of the lower Court judgment as required under rule 7 of Chapter 1-A Volume 5 as applicable to this Court and failure to file such copy makes the revision incompetent. *Indira Khurana v. Prem Prakash*, 1997 (40) DRJ 342 : 1997 (1) AD (Delhi) 236 : 1997 (65) DLT 36.

8. Petition for revision of Small Cause Court decrees to specify the error in law—A petition to exercise the power conferred by Section 25 of the Provincial Small Cause Court Act, 1887, shall specify in what particular the decree or order of the Small Cause Court is not according to law.

9. Power to return petition for amendment—The Deputy Registrar is authorised to return for amendment, within a time to be specified in an order to be recorded by him on the petition, any petition not down up in conformity with the foregoing directions.

10. Application for review to contain a certificate that there are sufficient grounds—Every application for review of a judgment or order of a Division Bench, or of a Single bench of the High Court presented by an Advocate shall be signed by him, and he shall certify that the grounds contained therein are good and sufficient grounds for the review sought. No Advocate shall be heard in support of an application for review of any judgment or order unless and until he has certified in the manner above prescribed the grounds already taken or any amended grounds of application.

COMMENTS

Order in review without notice to respondent is only a jurisdictional mistake and is not one without inherent jurisdiction hence respondent has no right to be heard before the writ is admitted. *Yogesh Chander Bahree v. The Registrar Punjab University*, (1966) 68 P.L.R. 718.

11. Court-fees—No petition, memorandum of appeal or other document, which ought to bear a stamp under the Court-fees Act, 1870 shall be received in the Court until it is properly stamped.

²[11A **Payment and refund of court fees etc. by electronic means** - In addition to the existing modes, payment and refund of court fees, costs and other charges can be effected by electronic means.

Explanation: For the purposes of this Rule, “payment and refund by electronic means” includes payment and refund through an electronic payment gateway, debit card, credit card, cash card, wire transfer, on-line payment or any other recognized mode of electronic payment.]

12. Taxing Officer—The Chief Justice has been pleased to declare that the Registrar of the High Court shall be the Taxing Officer within the meaning of Section 5 the Court-fees Act.

13. Improperly stamped document remains invalid unless filed through mistake and time extended for making up deficiency—Attention is drawn to the provisions of Sections 4 and 28 of the Court-fees Act, and it must be understood in connection with Section 5 of the Indian Limitation Act that an improperly stamped document even though received, filed or used in the Court remains invalid, unless it is proved to the satisfaction of the Court that it was so filed or used through mistake or inadvertence, and time is extended for making up the deficiency in the Court fees.

14. Power to impound documents not duly stamped—The Deputy Registrar is authorised to examine and impound under Section 33(2) (b) of the Indian Stamp Act, 1899, any instrument not duly stamped.

15. If admitted the records in Civil Revisions, First Appeals from Orders, Second Appeals from Orders, First Appeals and Execution Second Appeals should be sent for automatically; provided that where the case is proceeding in the lower Courts, the Bench admitting the case for hearing

². Rule 11A introduced vide Notification No.514/Rules/DHC dated 24.11.2011

may direct that the record of the lower Courts may not be sent for.

Part A (b)
PRESENTATION OF PETITIONS FOR REVISION IN CRIMINAL
CASES AND CERTAIN OTHER CRIMINAL MATTERS

1. All ordinary petitions for revision under Section 436 (399 of the new Code) and 439 (401 of new Code) Code of Criminal Procedure, and other petitions connected with the judicial business of the Court shall be presented by litigants or their advocates by depositing them in the petition box of the Court outside the room of the Deputy Registrar (now on the filing counter on the ground floor of new Delhi High Court building) between the hours of 10 a.m. to 4 p.m. on every working day which is not a Court holiday.

In every criminal appeal/revision application the appellant/petitioner shall state that no such appeal/revision application in the same matter has previously been filed, and without that statement such appeal/revision application shall not be accepted.

³[Appeals, Petitions and applications etc. accompanied by a petition to treat the same as urgent, shall be received at the Filing Counter only up to 12 noon. In exceptional cases, these may be received thereafter for hearing on the following day with the specific permission of Hon'ble the Chief Justice.]

No appeal or application shall be received unless presented during Court hours from 10 a.m. to 7 p.m.

2. Documents to accompany petition for revision of acquittal order—The Deputy Registrar shall not in view of the provisions of Section 439(5) (401 of the new Code) of the Code of Criminal Procedure, receive any petition for revision of an order of acquittal passed in a case instituted on police report, unless it is accompanied by a copy of an order of Magistrate of the district, refusing to move the State Government to appeal under Section 417 (378 of the new Code) of the Code.

Note—The complainant has now a right of appeal from an order of acquittal passed in a case instituted upon complaint where the High Court has granted him special leave to appeal on an application made under Section 417(3)[378(4) of the new Code] of the Code (as amended by the Act No. 26 of 1955).

⁴[**3.** (a) Every petition of revision of an order shall be accompanied by a copy of the order in respect of which such application is made.

(b) In the case of petition for revision of the order passed by Session Judge in revision a copy of the order of the Court of first instance shall also be filed.

(c) In the case of petition for revision of the order of an appellate Court, a copy of the order of the Court of the first instance shall also be filed.]

COMMENTS

Revision from a provisional order of Sessions Judge need not be accompanied with copy of order of Magistrate. *Tokh Ram v. State*, 1978 Raj. L.R. (Notes) 18.

3. Substituted for third paragraph vide Notification No. 47/Rules/DHC dated 11.4.2002.

4. Substituted vide Notification No. 237/DHC/Rules dated 4-12-1976.

A revision petition would not be entertained by the High Court unless the aggrieved party has approached the inferior Court in the first instance. Even in cases where the Sessions Judge or the District Magistrate is not capable of passing effective orders and can only submit a report to the High Court it is practice in most of the High Courts to insist on the aggrieved party first approaching the inferior Court. *The State of Haryana v. Shri Ram Niwas Biria*, 1973 (75) P. L.R. 541.

Revision petition is not entertainable by High Court unless party aggrieved had approached the inferior Court in the first instance. *State of Haryana v. Shri Ran Niwas Biria*, (1973) 75 P.L.R. 541.

Rule 3 does not take away the jurisdiction of the High Court to entertain revision petition directly. *Inderjit Singh v. Ch. Bansi Lal Chief Minister, Haryana*, (1973) 75 P.L.R. 619.

If a revision is filed directly to the High Court and that too without stating compelling circumstances, can be dismissed for a contravention of Rule 3 even at the time of hearing. Petitioner cannot be heard to say that a petition having been admitted should not be dismissed for non-compliance with Rule 3, ILR 1973(1) Punjab 385.

Revision directly to High Court without approaching first to Session Judge is not maintainable. *Vijay Pat v. The State through Delhi Admn., Delhi*, 1972 Cr.LJ. 543 (Delhi).

A petition under Section 482 Cr.P.C., if treated as a revision should not be rejected on the ground of non-filing of certified copy of the order impugned, specially when the original order is on the record. *Raj Kapoor v. State*, 1980 Raj. L.R. 222.

4. Copies of bail applications to be supplied to Advocate General—Copies of all bail applications received in the High Court relating to criminal cases pending in lower Courts, when bail has already been refused by the lower Courts, shall be supplied to the Advocate General by the Deputy Registrar to enable him to appear, if desired, on behalf of the Government provided that hearing of any particular case by the Judge to whom it is assigned is not delayed by the procedure.

5. Bail Applications—In every application for bail presented to the High Court the petitioner shall state whether similar application has or has not been made to the Supreme Court, and if made shall state the result thereof. An application which does not contain this information shall be returned for re-submission with the necessary information.

6. Documents to accompany transfer applications—Where a petition or application for the transfer of a criminal case from one criminal Court to another criminal Court in the same Sessions division is made to the High Court, it shall contain an averment, supported by an affidavit or attested copies, that an application for the transfer of the case was made to the Sessions Judge and was rejected by him.

[Vide sub-section (1-A) of Section 526 and sub-section (1-C) of Section 528 of the Code of Criminal Procedure, as inserted by Act No. 26 of 1955 (Section 407 of new Code)].

7. Documents to accompany petition for transfer or for revision of interlocutory order—Records not be sent for—Petitions for transfer or for revision of an interlocutory order in a pending criminal case shall be refused by the Deputy Registrar unless accompanied by attested copies of the documents relied on by the petitioner. If admitted the records should not be sent for unless Judge specifically so orders.

COMMENTS

If in a revision against order in first appeal copy of order of trial Court is not filed within the limitation, then revision is not competent. *Shafiq Ahmed v. Shah Jahan Begum*, 1981 Raj. LR. 363.

8. Copies of certain petition to be supplied to Advocate-General—A copy of the petition for Transfer or for Habeas Corpus or for a Criminal Writ shall be supplied to Advocate-General before it is filed in Court. The petition shall state whether a copy has been supplied in accordance with this rule and if a copy has not been supplied the reasons for not supplying the same shall also be stated.

9. Procedure for notifying dates of hearing of urgent petitions—Notice of the hearing of urgent petitions shall not be given individually to the petitioner or his counsel but a list of such petitions shall be hung up for the purpose on the notice-board outside the Deputy Registrar's room on the day preceding the date fixed for the hearing of these petitions giving the name of the Judge by whom the petition will be heard.

10. Service of notice in transfer petitions—In petitions for transfer of cases under Section 526 (407 of new Code), Criminal Procedure Code, filed in the High Court, the District Magistrate shall, without fail, return all notices received by him from the High Court, whether for himself or for parties after service, within one week from the date of their receipt.

11. Submission of reports by District Magistrate on transfer petitions—The District Magistrate shall, without fail, also submit, within one week from the date of receipt of the High Court letter, all reports of explanation called for by the High Court from himself or the Magistrate concerned with regard to allegations contained in the petitions for transfer or affidavit, copy whereof will accompany the said letter.

[For instructions issued by the High Court to the lower Courts regarding submission of records under Section 438 (400 of new Code), Criminal Procedure Code, to the High Court for purposes of revision *see* Chapter 25-B Vol. III.]

12. Register of Summary trials—In petitions under Section 439 (397 of new Code), Criminal Procedure Code, against the order of a Magistrate or a Bench of Magistrates, in cases tried summarily and in which there are no records except entries in the Register of summary Trials (Criminal Register No. XVII), certified copies of the relevant entries in the Register shall be called for, instead of the Register.

13. Copies of applications filed by complainants for special leave to appeal from orders of acquittal to be supplied to the Advocate-General—Copies of applications presented in the High Court by complainants under Section 417(3) [478(4) of new Code] of the Code of Criminal Procedure for special leave to appeal against the orders of acquittal shall be supplied to the Advocate-General and a certificate to that effect obtained from him before filing them in the High Court.

⁵[Part A (c)]

JAIL PETITIONS

1. Filing of a Jail Petition etc.:

(a) If a person in Jail is not represented by an advocate, he or she can submit his or her petition including an appeal, a revision or an application of any kind, supported with documents and certified copy of the impugned judgment or order(s), and written arguments, if any, to the Officer-in-Charge of the Jail where he or she is lodged. The Officer-in-Charge of the Jail shall forward the same on the same day or the next day to the Legal Aid & Counseling Centre (herein after called "Centre") of Delhi Legal Services Authority, at Court Complex, Tihar Jail, Delhi or any other office or centre designated by Legal Services Authority for scrutiny. The "Centre" shall, without any undue delay, in any case not later than 48 hours, forward it to the Delhi High Court Legal Services Committee (herein after called "Committee"). The "Committee" shall there upon cause the same to be urgently filed in the Court after appointing an

⁵. New Part A(c) added vide Notification No.456/Rules/DHC dated 16.12.2009

advocate for conducting his or her case and serving the copies of same on the respondents mentioned herein.

(b) In case, the petition, appeal, revision or application is filed, after the expiry of the period of limitation, the same shall be accompanied by an application for condonation of delay, stating the reasons thereof.

(c) In case, the petition, appeal, revision or application is filed without the certified copies of the impugned judgment or order(s), the same shall be accompanied by an application for seeking exemption from filing the same.

(d) In every petition, appeal, revision or application filed, it shall be stated that no such petition, appeal, revision or application, as the case may be, had been previously filed before this Court or any other Court on the same subject matter. In case, any such petition, appeal, revision or application had been filed before this Court or any other Court, the details of the same shall be given.

(e) Where the petition, appeal, revision or application is to be heard by a Division Bench of this Court, the same shall be filed in duplicate, each set duly signed by the petitioner, appellant or the applicant, filing the same.

(f) (i) In case, the Officer-in-Charge of the Jail receives a hand written petition, appeal, revision or application, in English, he shall get the same typed and forward it to "Centre" for scrutiny, along with such hand written petition, appeal, revision or the application for being forwarded to the "Committee".

(ii) Where such petition, appeal, revision or application or any document or impugned judgment or order is in a language, other than English, whether hand written or not, the same shall be accompanied by a typed copy of English translation of the same.

2. Processing of Jail Petition etc. :

(a) Every petition, appeal, revision or application received from Jail shall be received and processed by the Registry in the same manner as any other similar urgent petition, appeal, revision or application received and processed by the Registry except hereinafter provided in this rule and list before the Court on the next working day of its filing or removal of objections, if any.

(b) The objections, if any, found after the scrutiny of any petition, appeal, revision or application received from Jail through the "Committee", shall be immediately returned to the "Committee" for being refiled after removing the objections.

(c) If for any reason, there is no advocate appointed to conduct the case of such a person or such a person has refused to accept the Legal Aid, the matter shall be placed before the Court and the Court may proceed to appoint an Amicus Curie, for assisting the Court on behalf of such a person.

(d) If the petition, appeal, revision or an application or any document, judgment or order(s), not in English, is received unaccompanied by its English translation, the same shall not be returned by the Registry but the Registry shall itself get it translated.

(e) Where a petition, appeal, revision or application has been returned to the "Committee", after scrutiny for removing the defects and such defects have not been removed within the time prescribed, the same shall be brought to the notice of the Secretary of the "Committee", by the Registry.

(f) If the petition, appeal, revision or application is refiled after the expiry of the prescribed period, the matter shall be placed before Court by the Registry soon after it is filed for further directions with its report.

(g) In the list of the Court where any petition, appeal, revision or application received from Jail is directed to be listed, the name of the Advocate appearing on behalf of the "Committee", shall be shown along with the acronym "DHCLSC".

3. Communication of Order/Judgment:

(a) In all cases where a person is in custody, the order/judgment passed by the court, in addition to the usual mode of communication, shall also be sent a digitally signed order/judgment through e-mail at designated e-mail address of the Jail Superintendent, Tihar Jail and a copy thereof shall also be forwarded to the Delhi High court Legal Services Committee through e-mail at its designated e-mail address.

(b) In case of an order of acquittal passed by the Court or a person being admitted to bail, the Jail Superintendent of the concerned Jail shall be required to send a compliance report to the Court of concerned Judge through Registry of High Court. In case, however, no such compliance is received

within a period of one month from the date of passing of such order, the Registry of High Court shall place the file of the case before the Court, without any delay.]

Part B
THE RECEPTION OF PAUPER APPEALS

1. Appeals to be accompanied by application for leave to appeal—No application for leave to appeal as a pauper shall be received unless it is accompanied by a memorandum of appeal, nor shall a memorandum of appeal purporting to be on behalf of a pauper be received unless it is accompanied by an application for leave to appeal as a pauper. A schedule of any movable or immovable property belonging to the applicant, with the estimated value thereof shall be annexed thereto. The schedule shall also be signed and verified in the manner prescribed for the signing and verification of pleadings.

2.(a) Who can present—Such application and memorandum shall be presented to the Court by the applicant in person, unless he is exempted from appearing in Court, under Section 132 or Section 133 of the Civil Procedure Code or any other provision of law. In the latter case the application and memorandum can be presented by an authorised agent who can answer all material questions relating to the application. Such agent may be examined in the same manner as the party represented by him might have been examined, had such party attended in person.

(b) Grounds for exemption to be stated if not presented personally—Every such application, if presented by an agent shall state on the face thereof, that the applicant is a person exempted from appearance under Section 132 or Section 133 of the Code of Civil Procedure or any other provision of law and shall not be received unless it contains such statement.

3. Treatment of petition not duly presented—When an application or memorandum of appeal is one that cannot be received under the foregoing directions the Deputy Registrar shall record, or cause to be recorded thereon, the name of the person presenting such application or memorandum, the date of its presentation, and an order returning the same for due presentation with the reason for such order, and shall sign and date such order with his own hand.

Part C
APPLICATIONS UNDER ORDER XXII, CODE OF CIVIL PROCEDURE

(i) Legal representatives of deceased parties and appeals by persons who were not parties to the decree or order

1. Procedure to make respondent the legal representative of deceased party who died after the decree or order appealed from—Whenever a party to a decree or order, which is appealable to the High Court, desires to appeal therefrom and to make as a respondent to his appeal the legal representative of a person who, having been a party to such decree or order, has died after the date of such decree or order, and who, if alive, would be a necessary party as a respondent to such appeal, and whose legal representative has not as such been made a party to the decree or order, or to subsequent proceedings thereunder or thereon, the party so desiring to appeal may present to the High Court for admission a memorandum of appeal with the name of such legal representative mentioned therein as such as that of a respondent if at the time when he

presents such memorandum of appeal for admission, he along with such memorandum of appeal, presents an application for leave to make such legal representative as such a party as a respondent to his appeal, and, except as hereinafter provided, an affidavit stating such facts as may be necessary in support of his application:

Provided always that a Judge of the High Court may, by an order, allow in his discretion reasonable time in that behalf for the presentation of such affidavit, if it appears to him that the applicant could not by the exercise of due diligence have procured such affidavit in time for presentation along with the memorandum of appeal.

2. Appeals by persons other than parties to the decree or order appealed from—Whenever by a decree or order which is appealable to the High Court the interest of:

(a) a beneficiary in property which at the date of such decree or order was vested in or in the possession of a trustee, an executor, an administrator, or a receiver or manager appointed by a Court who as such was a party to such decree or order; or

(b) a legal representative as such of a deceased party to such decree or order; or

(c) an assignee of a party to such decree or order by assignment subsequent to the date of such decree or order; or

(d) a person whose interest arose after the date of any such creation or devolution of interest by, through, or from any party to such decree or order is affected;

and such beneficiary, legal representative, assignee, or person was not or has not been made a party to such decree or order or to proceedings thereunder or thereon, and desires to present to the High Court for admission a memorandum of appeals from such decree or order, he may name himself therein as an appellant if at time when he presents such memorandum of appeal for admission he along with such memorandum of appeal presents an application for leave to make himself an appellant, and, except as hereinafter provided, an affidavit stating such facts as may be necessary in support of his application: Provided always, that a Judge of the High Court may, by an order, allow in his discretion a reasonable time in that behalf for the presentation of such an affidavit if it appears to him that the applicant could not by the exercise of due diligence have procured such affidavit in time for presentation along with the memorandum of appeal.

COMMENTS

Where a party to a decree which was appealable to the High Court, died before filing of the appeal and his legal representatives filed an appeal within the prescribed period of limitation showing themselves as his sons but failed to put in an application at the same time for permission to appeal as legal representatives as required by the rule, but they did so after objection was raised by the office.

It was held that under the circumstances, putting in an application as contemplated by the rule was only a formality which also had been complied with on the objection being raised. In such a contingency the appeal neither abated nor was it incompetent and could not be dismissed that ground. *Baton Singh v. Nathu Birju*, AIR 1961 Punjab 503.

3. Procedure to make respondent the legal representative of a party who died before the decree or order appealed from but whose legal representative has not been brought on record—Whenever in any suit or appeal from the decree or order, in which an appeal may be preferred to the High Court, a party has, before the appealable decree or order in such suit or appeal has been made, died, and the name of such deceased party appears in such decree or order as that of a party thereto, and his representative has not been brought upon the record, and such deceased party would, if alive, be necessary party to an appeal to the High Court from such decree or order, and any party to such decree or order, or the legal representative of any such

party, having a right of appeal from such decree or order, desires to appeal from such decree or order, and to make the legal representative of such deceased party to the appeal, he may present to the High Court for admission a memorandum of appeal with the name of such legal representative mentioned therein as a party appeal for admission he along with such memorandum of appeal presents an application for leave to make such legal representative a party to the appeal, and except as hereinafter provided, an affidavit showing that he did not know, before the decree or order from which desires to appeal was made, that such deceased party had died, or that he had no reasonable opportunity of informing the Court which made the decree or order, before such decree or order was made that such deceased party was dead, and stating such other facts as may be necessary in support of his application; provided that a Judge of the High Court may, by an order allow in his discretion a reasonable time in that behalf for the presentation of such affidavit, if it appears to him that the applicant could not by the exercise of due diligence have procured such affidavit in time for presentation along with the memorandum of appeal.

4. Amendment of memorandum of appeal when a deceased person made a party in ignorance of death—Whenever, after a memorandum of appeal has been presented of the High Court, any appellant or any party interested in the maintenance of any objection filed in the appeal under Order XLI, Rule 22 or 26 of the Code of Civil Procedure first ascertains that a person, whose name appears in the memorandum of appeal, as that of a party to the appeal, and who, if alive, would be a necessary party to such appeal or objection, had died before the memorandum of appeal was presented to the High Court or admitted such appellant or party so interested as aforesaid may, but subject to the law of limitation, apply for an order that the memorandum of appeal be amended by substituting for the person, who has so died as aforesaid, his legal representative, if at the time when he presents such application, he along with such application, except as hereinafter provided, presents for filing an affidavit showing that such application is made will all reasonable diligence after the fact of the death of such person first came to the knowledge of such applicant or the agent, if any, acting on his behalf in the litigation; provided that a Judge of the High Court may, by an order, allow in his discretion a reasonable time in that behalf for the presentation of such affidavit, if it appears to him that the applicant could not by the exercise of due diligence have procured such affidavit in time for presentation along with the application.

(ii) General Rules as to Suits and Appeals

5. Application to bring on record legal representative of a party to show death of date—Every application—

(a) under Order XXII, Rules 3(1) and 11 of the Code of Civil Procedure, by a person claiming to be legal representative of deceased plaintiff or appellant to enter his name on the record in place of the deceased party;

(b) under Order XXII, Rules 4 and 11 of the Code of Civil Procedure, to make the legal representative of a deceased defendant or respondent a party in place of the deceased; and

(c) under the second clause of Order XXII, Rule 3 of the Code of Civil Procedure, by a defendant or respondent;

shall, in addition to any particulars required by law, state approximately the date of the death of the deceased party.

COMMENTS

Application to bring legal representatives of deceased defendant on record must be accompanied with an affidavit. Rule 5 is mandatory, 1LR 1973 HP 1314.

6. Application to set aside order of abatement or dismissal—Every application under Order XXII, Rule 9 (read with Rule 11) of the Code of Civil Procedure, by a person claiming to be the legal representative of a deceased or the assignee or the receiver of an insolvent plaintiff or appellant, for an order to set aside an order of abatement or dismissal, shall state the cause which prevented him from continuing the suit or appeal.

7. Affidavit to accompany application made under Rules 5 and 6 and application to add or substitute a party—Every application of the kind specified in Rules 5 and 6 of these rules and every application under Order XXII, Rule 10 of the Code of Civil Procedure, to make the petitioner or some other person an addition or substituted party in a suit or appeal, shall as to the allegations of fact contained in such application, be verified by affidavit.

8. Mode of presentation—Every application under Order XXII of the Code of Civil Procedure shall ordinarily be presented to the Deputy Registrar, who shall cause the date of presentation to be entered thereon.

9. Return for amendment—The Deputy Registrar shall examine the application, and, if it does not satisfy the requirement of the Code or of these rules in that behalf, may return it to the person presenting it, for amendment and representation within a time to be noted on such application under his signature, or may refer application to a Judge for orders.

10. Effect of not presenting application before the date of hearing—Any such application may be presented to a Judge or to Bench (as the case may be) on the date fixed for the hearing of the case; but unless sufficient cause be shown for the application not having been presented in the ordinary course to the Deputy Registrar, before such hearing, the applicant will become liable to pay the costs of any adjournment or postponement caused by the omission to present the application to the Deputy Registrar.

11. When an application to have the name of the legal representative of a deceased party, or the name of an additional or substituted party, brought on the record, or to have the name of a party struck off the record, is granted by order of a Judge or Bench (as the case may be), the Deputy Registrar shall cause the record of the proceeding in the High Court to be amended in conformity with such order.

12. Form of amendment—Every person admitted on the record as the legal representative of a deceased plaintiff, defendant, appellant or respondent, shall be described as “the legal representative of A.B. deceased plaintiff” (or defendant, appellant or respondent, as the case may be); and, similarly in the case of an insolvent plaintiff, defendant, appellant, or respondent.

(iii) Special Rule as to Suits

13. Application in original suits to be granted by the trial Judge—Application under Order XXII of the Code of Civil Procedure, in original suit, then presented of the Deputy Registrar, shall subject to Rule 9 of these rules, be laid by him for orders before a Judge who shall ordinarily be the Judge before whom the suit to which it relates is pending.

(iv) Special Rules as to Appeals

14. When an application of the kinds specified in Rule 5 of these rules is presented to the Deputy Registrar in relation to an appeal pending amendment, and the Deputy Registrar does not deem it necessary to refer the application for the order of a Judge, he is authorised to make an order granting the application “Subject to all just exceptions” and to cause the necessary amendments to be made in the memorandum of parties’ names and notices to be issued to the parties concerned to show cause on the date fixed for hearing the appeal. Where, however, the

application is time-barred or affects a minor, the Deputy Registrar shall refer it for the order of a Judge.

15. Others to be granted by a Judge—Every application under Order XXII of the Code of Civil Procedure, not falling within Rule 14 of the rules or not granted under that rule, shall be laid before a Judge for orders.

(v) Rules as to proceedings other than Suits and Appeals

16. Rules to apply to other proceedings—The foregoing rules shall apply to all proceedings of a civil nature, other than suits on appeals, to which Order XXII of the Code of Civil Procedure is applicable.

Part D
THE REPRESENTATION OF MINORS AND PERSONS
OF UNSOUND MIND

1. Appointment of next friend or guardian—Whenever a Judge or Bench sees cause to appoint a next friend of a minor plaintiff or appellant or a guardian in the suit or appeal of a minor defendant or respondent, and an order to that effect is passed, the Deputy Registrar shall cause the memorandum of parties' names in the suit or appeal to be amended accordingly.

2. Officer to note minority on memorandum of appeal for order of the Judge—In every appeal presented to the Deputy Registrar in which it appears from the memorandum of appeal or the copies of the judgments filed therewith, that the appellant or respondent or any of the appellants or respondent is a minor, the Deputy Registrar shall cause a note to be made on such appeal for the information and orders of the Judge or Bench exercising jurisdiction in the appeal.

3. Notice of appeal to issue until guardian has been appointed—No notice in relation to an appeal shall be issued to any respondent who, from the memorandum of appeal of the proceedings of the lower Courts, appears to be a minor, unless and until a guardian for such minor has been appointed by an order of the Court or unless the issue of such notice be authorised by the special order of a Judge.

4. Rules to apply to proceedings other than appeals—The foregoing rules shall apply, so far as may be to proceedings in review of judgment or in revision and to proceedings of a civil nature other than suits or appeals, to which XXXII of the Code of Civil Procedure is applicable.

5. Rule to apply in case of persons of unsound mind—The foregoing rules relating to the representation of minors shall apply, *mutatis mutandis*, to the representation of persons of unsound mind, adjudged to be so under any law for the time being in force.

6. Savings for Princes and Chiefs—The foregoing rules are subject to the provisions of Order XXXII, Rule 16 of the Code of Civil Procedure.

7. A single Judge may pass orders—Nothing in the foregoing rules shall be deemed to require that any order made thereunder shall be made or signed by more than one Judge of the Court.

Part E
THE MAKING AND FILING OF AFFIDAVITS IN THE HIGH COURT

1. Form and attestation affidavits—Affidavits intended to be presented in the High Court in support of an assertion of any fact shall be drawn up and attested in the manner prescribed in Chapter 12 of Volume IV of High Court Rules and Orders. Such affidavits shall be declared before some Court or officer appointed to administer the oath to the deponent.

The affidavit shall be written in a language which the deponent understands. If the affidavit is in a language other than the English language then its translation in English shall also be filed in Court.

2. When affidavits necessary—When a memorandum of appeal, cross-objection, petition or application in any proceeding in the High Court contains an assertion of any fact or facts contrary to or outside the record or not supported by evidence already on record, such assertion shall be supported by one or more affidavits.

3. Affidavits when to be presented—Such affidavit shall ordinarily be presented with the memorandum of appeal, cross-objection, application or petition.

4. Effect of absence of affidavit—Any ground contained in any such memorandum of appeal, cross-objection, application, or petition containing an assertion of fact not supported by affidavit may on the hearing thereof be ordered, by the Judge or Bench to be struck out or amended summarily, unless leave be granted to present an affidavit in support thereof.

5. Counter-affidavit—Facts asserted by a party showing cause against any appeal, application or petition supported by affidavit, shall likewise be supported by affidavit, whether the facts asserted be in contradiction of the facts asserted in support of the same or be fresh matter. Such affidavits must ordinarily be presented before the date fixed for the hearing but may with the permission of the Judge be presented at the hearing.

6. Evidence to be given by affidavit—When upon any application any evidence to be given, such evidence shall ordinarily be given by affidavit as provided in Order XIX, Rule 2 of the Code of Civil Procedure, and not otherwise, unless by an order of a Judge or Bench

Explanation : Evidence give in support of any of the following or similar applications should be given by affidavit unless otherwise ordered:—

- (a) applications to admit an appeal or application, which is *prima facie* barred by time;
- (b) applications to add parties or to substitute representative of parties;
- (c) applications to re-admit an appeal or application which has been dismissed for default or to re-hear an appeal heard in the absence of the respondent.
- (d) applications to transfer or withdraw a suit or appeal;
- (e) applications to stay execution of decree or order;
- (f) applications for security of costs; and
- (g) applications for leave to appeal in *forma pauperis*.

7. Affidavits to be presented to—Affidavits intended to be used in any proceeding before the

High Court may be presented unless otherwise directed, to Judge or Bench at the time when the proceedings is called on, or before such time to the Registrar, or the Deputy Registrar, who shall thereupon file them with the proceeding after noting thereon the date of presentation.

8. No affidavit shall ordinarily be read at the hearing of any appeal, application or other proceeding unless a copy thereof has been served upon the other party or his Advocate at least three days before such hearing.

Provided that this rule shall not apply to urgent application or to applications made *ex parte*.

9. Affidavit to be attested by—Under the provisions of Section 139, clause (b) of the Code of Civil Procedure, the following officers have been appointed by the High Court to administer the oath to the deponent in the case of any affidavit under the said Code:

- (1) The Registrar for the time being.
- (2) The Deputy Registrar for the time being.
- (3) The Superintendent Judicial for the time being.
- (4) The Private Secretary to the Chief Justice.

Part F
PROCESSES ISSUED BY THE HIGH COURT IN THE
EXERCISE OF ITS JURISDICTION

The following rules have been made by the High Court under clause 27 of the Letters Patent constituting, the High Court, for regulating the payment of process fee for processes issued by the Court in exercise of its jurisdiction—

1. Amount of process-fee—A fee of rupees three in Court-fee tables shall subject to rules in chapter 5-B, Rules and Orders of this Court, Volume IV, be charged for each summon, notice or other process issued by the Court.

2. Period allowed—Unless otherwise ordered by a Judge, process-fee shall be paid within a period not exceeding seven days from the date of the order admitting an appeal or application or of an order for notice or warrant; provided that if the office of the Court is closed on the seventh day, the fee shall be tendered on the next day the office is open. The office shall not be required to give any notice or intimation that such process-fee is payable.

Note 1—In motions which are admitted, the Court Reader will draw the attention of the appellant or petitioner, who appears in person and not through counsel, to rule and take his signature under the order of admission in token of communication.

Note 2—No process-fee shall be accepted unless it is accompanied by copies of the memorandum of appeal or concise statement, as the case may be in view of the provisions of Order XLI, Rule 14(6), Civil Procedure Code, as amended by this Court.

Note 3—No fee is charged for issue of process in criminal cases in this Court.

3. Receipt of the process—No process shall be prepared or issued until the proper fee for the service thereof has been paid, where necessary, but as soon as the process-fee is paid, a receipt in the form contained in the Appendix to these rules shall be granted by the official receiving the same and thereafter the Court-fee label denoting the fee shall be placed on the record of the case

and immediately punched.

4. Action on default—Process-fee tendered after the expiration of the period fixed in Rule 2 shall be refused unless it is accompanied by an application, duly stamped with Rs. 2.65 paise Court-fee under Article I(d)(iii) of Schedule II to the Court-fees Act, 1870 and giving reasons for tendering process-fee late.

5. On the presentation of such application, the Deputy Registrar may, when he is satisfied that service of process can be effected before the date already fixed for hearing, accept the process-fee so tendered and cause notice to be issued for the date of hearing already fixed. Where the Deputy Registrar is of opinion that service cannot be effected before the date of hearing, he will cause the application to be laid before a Judge for orders as to acceptance of be lated process-fee and the fixing of a fresh date of hearing.

6. Action on default—In the event of Process-fee not being paid and no application as provided in Rules 4 and 5 being made, the cause will be listed for a date soon after the original date of hearing before a single Judge or a Division Bench, as the case may be, for disposal according to Order 9, Rule 2, or Order 41 Rule 18, Civil Procedure Code, or otherwise, as the Court may order. Previous notice of the date so fixed will be given to the appellant or petitioner by listing the cause as a Motion Cause and, where the appellant or petitioner in the case is not represented by counsel, by registered post-card also.

(High Court Notification No. 32-R/V/H/1, dated the 2nd February, 1943).

APPENDIX

(Delhi High Court at New Delhi)

Process-fee Receipt

Received on (date) Court-fee stamp of the value of
Rupees in case No. in re
Versus

Signature of the Head Notice-writer.
(. Branch)

⁶[7.

8.]

⁶. Rules 7 & 8 inserted vide Notification No.208/DHC/Rules dated 5.8.1988 and deleted vide Notification No.112/Rules/DHC dated 26.04.1990