

## **APPELLATE SIDE RULES**

### **RULES OF THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH, AT HYDERABAD IN ITS APPELLATE JURISDICTION**

#### **PART – I Introductory Rule**

By virtue of powers conferred by the enactments set out in Appendix I hereto, and of all other powers hereunto enabling, it is ordered that the following Rules of Practice and Procedure shall be observed in the High Court of Judicature, Andhra Pradesh, in all causes and matters coming before the said Court on the Appellate Side and may be cited as "The Rules of the High Court of Judicature, Andhra Pradesh, Appellate Side".

#### **CHAPTER I Constitution of Benches**

##### **SINGLE JUDGE**

1. The following matters may be heard and determined by one Judge: provided that the Judge before whom the matter is posted for hearing may, at any time, adjourn it for hearing and determination by a Bench of two Judges :-

(1) Every application –

- (a) for determining in which of several Courts having jurisdiction a suit shall be heard:
- (b) for the admission of an appeal in forma pauperis :
- (c) Section 115 of the Code of Civil Procedure, 1908, and under Section 25 of the Provincial Small Causes Courts Act (IX of 1887) :
- (d) of an interlocutory character in appeals and other matters pending in the High Court except such of the applications as are posted before the Registrar for orders as to process-fees, payment of batta, etc :

“Provided that all applications for security for costs in appeals to be heard and determined by a Bench of two Judges as provided by Rule 2 shall, in all cases, be posted before a Bench”. (R.O.C. 5700/57-B1).

Note : - Such applications will be liable to be dismissed by the Registrar, if the practitioners consent to their dismissal, for want of prosecution or for any other cause.

- (e) for the admission of an appeal from the judgment or order for any Criminal Court ;
- (f) for the exercise by the High Court of its powers to revise the proceedings of any Criminal Court ;

- (g) made or transferred to the High Court to be entertained in the exercise of its original civil jurisdiction :
  - (h) for the transfer of any suit, appeal or other proceeding or proceedings in execution of a decree from one of the Civil Courts, subordinate to the High Court to another of such courts or to the High Court :
  - (i) for the transfer of an enquiry or trial or other proceedings from one of the Criminal Courts subordinate to the High Court to another of such Courts or to the High Court :
  - (j) for the admission of any appeal falling under clause (3) of this rule presented after the expiry of the period allowed by the Law of Limitation :
- (2) Every reference by a Criminal Court for the revision of the proceedings of a subordinate Criminal Court:
- (3) Every appeal –
- (a) from the judgment or order of a Criminal Court except in cases in which the appellant or a person tried with him has been sentenced to death or imprisonment for life :
  - (b) from an original decree when such appeal relates to costs only:
  - <sup>1\*</sup>(c) from an original decree when the amount or value of subject matter of the appeal does not exceed Rs.10,000, if the suit out of which the appeal arises was instituted before the 26<sup>th</sup> January,1950, and where such a suit was instituted after that date, when the amount or value of the subject matter of appeal does not exceed \* [Rs.25,00,000]
  - (d) from an order under the Code of Civil Procedure or any other enactment where the amount or value of the subject matter of the appeal does not exceed Rs.10,000 when the proceeding out of which the appeal arises was commenced before the 26<sup>th</sup> January,1950, and in all other cases when the amount or value of the subject matter of the appeal does not exceed <sup>1\*</sup>[Rs.25,00,000].
  - (e) from the appellate decree or order ;
  - (f) Omitted ;
  - (g) From an order of a Civil Court under Section 476 of the Code of Criminal Procedure ;
  - (h) Omitted :

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<sup>1\*</sup> In Rule 1 (3) (c) (d) amended as per ROC No. 1036/SO/97, dt. 25.07.1998 Vide R.S.T. Pt. I, (Ext.) A.P.Gazette, No:41, dt. 12.10.2000 ( Go.Rt. No. 1198 Law ( L.A. 2J Courts –C) 4-8-1999 No.165) IN Rule 1 (3) (c) (d) amended as A.P. Gazette No.4-A, 26.02.2014

4. Every suit or petition made or transferred to the High Court to be tried in the exercise of its original civil jurisdiction ;
5. Every commitment made or transferred to the High Court to be tried in the exercise of its original criminal jurisdiction ;
6. Every matter referred for determination by the Registrar ; and
7. Every other application not otherwise specially provided for.

### **BENCH OF TWO JUDGES**

2. The following matters may be heard and determined by a Bench of two Judges:

Provided that if both Judges agree that the determination involves a question of law they may order that the matter, or the question of law, be referred to a Full Bench :-

- (1) Every application petition } referred by a Bench suit or appeal  
of one Judge
- (2) Every appeal
  - (a) from the decree or order of a Civil Court except those mentioned in Rule 1 ;
  - (b) from the judgment of a Criminal Court in which sentence of death or imprisonment for life has been passed on the appellant or on a person tried with him ;
- (3) Every reference
  - (a) from a Civil Court ;
  - (b) for the confirmation of a sentence of death ;
- (4) Every application
  - (a) for the admission of an appeal falling under clause (2) of this rule and presented after the expiry of the period allowed by the Law of Limitation ;
  - (b) under Order XLV. Rule 2 of the code of Civil Procedure, for leave to appeal to the Supreme Court ;
  - (c) for security for costs under Order XLI. Rule 10 of the Code of Civil procedure, 1908 (Central Act V of 1908) in appeals falling under sub-clause (a) of clause (2) (Roc. No.5700/57-B1).
- (5) Every appeal under Clause 15 of the Letters Patent, which shall be heard by a Bench of two Judges other than Judge who heard the appeal, or matter ;  
"2-A, Applications for a direction, order, or writ in the nature of Habeas Corpus shall be posted before a Bench of two Judges" (P. Dis.No. 636 of 1953).

- 3 When a question of law is referred to a Full Bench, the Full Bench may finally decide the case or return it with an expression of its opinion upon the question referred for final adjudication by the Court which referred the question, and, in case of necessity in consequence of the absence of any or either of the referring Judges, for the ultimate decision of another Court.
- 4 Notwithstanding anything hereinbefore contained to the contrary the original and appellate jurisdiction vested in the High Court may, during the vacation of the Court, be exercised by a Single Judge acting as the Vacation Judge, except in cases in which such jurisdiction must be exercised, under any law or regulation made by the Union Government, by more than one Judge.

### **FULL BENCH**

- 5 A Full Bench shall be a Bench of any number not less than three of the Judges for the time being present as Judges of the Court.
- 6 Anything in the foregoing rules to the contrary notwithstanding the Chief Justice may direct that any application, petition, suit, appeal or reference shall be heard by a Full Bench as defined in these rules.
- 7 Omitted
- 8 Every enquiry under Clause 10 of the Letters Patent, 1865, shall ordinarily be heard and determined by a Bench of three Judges.
- 9 Omitted.

Note:- References under the Indian Divorce Act IV of 1869 and under Sections 57 and 60 of the Indian Stamp Act II of 1890 must be posted before a Division Bench of atleast three Judges.

### **CHAPTER II Officers of the Court**

- 10 The powers and authorities which, under these or other rules or the practice of the High Court, are exercisable by the Registrar (except such as may, from time to time be expressly excepted by the Chief Justice) may be exercised by the Deputy Registrar, or by the Assistant Registrar, Appellate side.
- 11 Where any duty to be discharged, under the code of Civil Procedure, or these rules, or any other enactment or rules, is a duty which has heretofore been discharged by any officer, such duty shall, unless and until otherwise ordered, continue to be discharged by the same officer, or by such other officer as the Chief Justice may by order direct : and where any new duty is to be discharged, the proper officer to discharge the same shall be such officer as the Chief Justice may, from time to time direct.

**12** In addition to the powers conferred by other rules, the Registrar shall have the following duties and powers, subject to any special or general order made by the Chief Justice.

- (i) (1) To receive all appeals, petitions and other proceedings :
- (2) To require any memorandum of appeal, petition, application, or other proceedings presented to the Court or to Registrar to be amended in accordance with the procedure or practice of the Court or to be represented after such other requisition, as the Registrar is empowered to make, has been complied with : Provided that the Registrar shall, when so required, refer the matter to the Court.
- (3) To admit all appeals against the decrees or orders of Civil Courts and to issue notice to the respondents therein provided that after the admission.
- (a) In appeals against original decrees and in appeals under Clause 15 of the Letters Patent from judgments of Single Judges passed in appeals from appellate decrees or orders, the Registrar shall issue notice forthwith.
- Note:- Other appeals under clause 15 of the Letters Patent are to be posted before a Bench of two Judges for orders as to notice under Rule 51(3)
- (b) In appeals against appellate decrees he shall take the orders of a Judge whether notice shall issue or the appeal be posted before a Judge for hearing under Rule 11 of Order XLI of the First Schedule of the Code of Civil Procedure, 1908.
- (c) In all other appeals he shall determine whether notice shall issue at once or whether the case is to be posted before a Judge for orders : and
- (d) In revision petitions he shall take the orders of a Judge as to whether notice shall issue or the petition be posted before a judge for hearing in the manner prescribed for appeals by Rule 11 of Order XLI of the First Schedule to the Code of Civil Procedure, 1908.
- (4) To fix the date of hearing of any interlocutory matter.
- (5) To advance the hearing of cases posted as ready on the notice board of the Court.
- (6) To determine all cases referred to him under Rule 60-A and, on application made to him by petition, to extend the period prescribed for payment of process fees, provided the whole period shall not exceed four weeks.
- (7) To direct service under Order XLI-A Rule 5.

- (8) On an application being made to him, to direct that any papers referred to in Rule 73 which he considers unnecessary be omitted from the record.
- (9) To direct the translation and printing of documents referred to in Rule 85.
- (10) To make an order for the supply of copies of
  - (a) records duly certified as correct copies ;
  - (b) uncertified printed records; and
  - (c) rough translations of records which are not printed: under Rules 87 and 88.
- (11) To stop at his discretion the issue of all or any papers to any pleader who has failed to pay any fee or charges due to the Court.
- (12) To direct the return of the deposit referred to in Rule 75.
- (13) To make an order for change of pleaders (with the consent of the pleader on record).
- (14) To require any person or party to file evidence to be given upon affidavit with respect to any application or matter in respect of which he has power to exercise any discretion or to make any order.
- (15) To appoint or discharge a next friend or guardian ad litem to a minor (except in cases under appeal to the Supreme Court) and to direct the amendment of the record accordingly.
- (16) To enter in the record the name of the representative of a deceased appellant petitioner or respondent, except in cases under appeal to the Supreme Court.

Provided that contested applications and applications presented out of time falling within clauses 15 and 16 above shall be posted before a Judge for disposal.
- (17) To make an order for leave to search the records of the Court under the rules in that behalf.
- (18) To dispose of all applications for copies of judicial records of, or in the custody of, the High Court, presented by persons who are not parties to the proceedings to which such records relate.
- (19) To determine whether any accounts which the parties to an appeal to the Supreme Court have not specifically asked to be included are necessary to the appeal.
- (20) Omitted.

- (21) Omitted.
- (22) To make an order for payment of costs of any application heard by him.
- (23) To give directions as to the preparation of the record in connected appeals.
- (24) To dispense with the affidavit required by Rule 44.
- (25) To allow from time to time any period or period not exceeding ten days in all for filing slips, furnishing information for paying process-fees, or initial printing deposits for any similar act necessary to make an appeal or a petition complete.
- (26) To extend the period mentioned in Order XLI-A, Rule 2, as follows:-
  - (a) If the respondent resides beyond the limits of the State of Andhra Pradesh within the limits of India or Ceylon, to not more; than eight weeks.
  - (b) If the respondent resides beyond the limits of India or Ceylon, to not more than ten weeks.
- (27) To extend the time originally fixed for furnishing security or to grant further time when default has been made in furnishing security within the time originally fixed, on an application made to him by petition.
- (28) To extend the time mentioned in Rule 60 to four weeks in all from the time of notice on the notice board.
- (29) To extend the time prescribed by Rule 79 for a period not exceeding ten days.
- (30) To extend the time for making the deposit referred to in Rule 91.
- (31) To extend upon good cause for a period not exceeding ten days the time limited by the rules relating to the preparation of the record for filing a list or making a deposit.
- (32) (i) To consider and dispose of claims by the unsuccessful party for the cost of unnecessary printing done at the instance of the other party.
- (ii) To refer any matter before him to the Court.

**12-A** The Chief Justice may, by general or special order, confer upon the Registrar power to hear and determine the classes of applications set forth below:

Provided that the Registrar while exercising such powers, at his discretion, may refer any such application before him for the decision of the Court.

Provided also that at the request of any party dissatisfied with the decision of the Registrar, the Registrar shall post the matter for the orders of a Bench of one Judge.

In exercise of the powers conferred by Rule 12-A of the Rules of the High Court of Judicature, Andhra Pradesh Appellate Side, the Honourable Chief Justice is pleased to confer upon the <sup>1\*</sup> Deputy Registrar, High Court until further orders, the powers to hear and determine the classes of applications set forth below:-

- (1) Applications to extend beyond four weeks:-
  - (i) the time allowed by Rule 12(6) of the said rules for payment of process-fees.
  - (ii) the time allowed by Rule 12(28) of the said rules for depositing fee for service of a fresh notice :
- (2) (a) Applications to extend beyond ten days :-  
the time allowed by Rule 12(i)(25) of the said rules for filing slips. etc.
- (b) Application to extend beyond ten days:-
  - (i) the time prescribed by Rule 70 of the said rules:
  - (ii) the time prescribed by rules relating to the preparation of the record, for filing a list or making a deposit.
- (3) Applications for extension of time to enter appearance.
- (4) Applications for an order directing substituted service under Order V, Rule 20 or for an order under Order XLI-A Rule 5 of the Code of Civil Procedure.
- (5) Applications for dispensing with printing or for leave to use previously printed papers.
- (6) Applications to call for documents not produced by a party.
- (7) Applications by a guardian ad litem for an order under Order XXXII, Rule 3(10) of the Code of Civil Procedure as to the manner of incurring costs.
- (8) Applications for the appointment of a guardian ad litem to persons of unsound mind in cases where they have been so found.
- (9) \* Applications for excusing delay of 60 days in a representation or in payment of deficit court-fee.
- (10) Applications for amendment of cause-title, or for an order directing change of parties.

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<sup>1\*</sup> Amended vide GO.Rt.No.2185, Law (LA & J Home Courts.D), Dt..04/11/2013 published in A.P. Gazette No.4-A, 26.02.2014

- (11) Applications for amendment of grounds of appeal or filing additional grounds.
- (12) Applications for refund of court-fee paid under a bonafide mistake.
- (13) Applications for leave to withdraw appearance.
- (14) Applications for change of pleaders where the consent of the pleader on record is not obtained.
- (15) Applications for the return of documents produced in pending cases.
- (16) All applications excepted under Rule 1(1)(d) and referred to in the note there under.
- (17) Applications to dispense with service of notice on respondents under the proviso to Order XLI. Rule 14(1) of the Code of Civil Procedure.1908.
- (18) Applications to dispense with the filing of the required number of copies of printed judgments in appeals, Second Appeals, Civil Miscellaneous Appeals and Civil Miscellaneous Second Appeals.
- (19) Applications for excusing the delay in filing fee certificates.

**12-B** The time prescribed under these rules for the doing of any act shall be extended only on application made by a stamped petition and the Registrar, shall wherever he considers it necessary, be at liberty to call for the production of a certificate showing the dates on which the acts prescribed by the rules were done or should have been done, which certificate will be granted by the Deputy Registrar upon payment of a fee of <sup>2\*</sup> Rupees Ten in court fee stamps.

The following duties under rule 12-B of the Appellate Side Rules will be performed by the officers mentioned below:-

#### **PRINTING CHARGES**

Assistant Registrar :-	Extension of ten days on informal application with a court-fee of Rupees ten.
Deputy Registrar : -	Extension of more than ten days on formal application with a court-fee of Rupees two and the Deputy Registrar's certificate.

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<sup>2\*</sup> Amended vide GO.Rt.No.2185, Law (LA & J Home Courts.D), Dt..04/11/2013 published in A.P. Gazette No.4-A, 26.02.2014

### **POINTING OUT PORTIONS FOR PRINTING**

Assistant Registrar :-	Extension of 10 days on informal application with a court-fee of Rupees ten.
Deputy Registrar :-	Extension of more than ten days on formal application with a court fee of Rupees ten with liberty to call for the Deputy Registrar's certificate.

### **LODGEMENT AND BATTA**

These being payable at the time of presentation of memorandum, in case of non-compliance a period of ten days will ordinarily be available under Rule 12(i) 25.

Deputy Registrar:-	Extension beyond the 10 days on a formal application with a court-fee for Rupees two with liberty to call for the Deputy Registrar's certificate.
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### **BATTA OTHER THAN THE INITIAL BATTA**

Assistant Registrar:-	Extension of 5 days after the 10 days allowed under Rule 60 on an informal application with court-fee of Rupees two.
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### **CHAPTER III Practitioners**

- 13** Advocates, Vakils and Attorneys of the High Court are entitled to practice in any of the Courts Subordinate to the High Court.
- 14** Attorneys of the High Court may appear, plead and act for the suitors of the Court in all matters of appellate jurisdiction, Civil or Criminal (except in appeals from cases of Original Civil Jurisdiction).
- 15** When a practitioner. Retained to appear for any party to an appeal or other case in the High Court, is prevented by sickness or engagement in another Court or other reasonable cause from appearing and conducting the case of his client, he may appoint another practitioner to appear for him, unless his client has expressly stipulated that he should not do so: and the Court, if it sees no reason to the contrary, may allow the hearing to proceed in the absence of the practitioner originally engaged.
- 16** Except when specially authorized by the Court, or by consent of the party, a pleader who has advised in connection with the institution of a suit, appeal or other proceeding, or has drawn pleadings in connection with any such matter, or has, during the progress or any such suit, appeal or other proceeding, acted for a party shall not, unless he first gives the party for whom he has advised, drawn pleadings or acted, an opportunity of engaging

his services, appear in such suit, appeal other proceeding, or in any appeal, or application for revision there from, or in any matter connected therewith, for any person whose interest is opposed to that of his former client.

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

Explanation:- Notwithstanding anything herein before contained, a practitioner who discloses to one client the information confided to him in his capacity as the legal practitioner of another client without the later's consent, shall not be protected merely by reason of his being permitted to appear for the other client under this rule.

- 16 (A)** An advocate proposing to file an appearance in an appeal or other proceeding in which there is already an advocate on record, may not do so, unless he produces the written consent of the advocate on record, or, where the consent of such advocate is refused, unless he obtains the special permission of the Court.
- 17** No person shall be recognized as the gumastah of a practitioner unless his name has been entered with the permission of the Registrar in a register kept for that purpose.
- 18** Registered gumastahs may communicate personally regarding suits, etc., with the Manager, Bench Clerk's Department, Manager, Translation and Printing Department, the Assistant Registrar, Judicial Department, the Superintendent of Copyists and the Accountant, but they shall not communicate with the other subordinates of the establishment nor enter the record room.
- 19** No information shall be furnished to a gumastah unless he produces a written memorandum signed by a practitioner.
- 20.** Gumasthas may, with the permission of the Deputy Registrar, correct any clerical error in a petition, such as the name of a party, the number of the suit or the like but such correction shall be made in the presence of the Deputy Registrar and shall be initialed by him.
- 21** No Advocate or attorney of the High Court shall be entitled to act in any civil case unless he files a vakalatnamah in the form appended hereto. The vakalatnamah shall authorize the advocate or attorney to appear in the appeal, petition or other proceedings including all interlocutory or miscellaneous proceedings connected with or arising out of the same matter and also in appeals under Clause 15 of the Letters Patent and in applications for review and for leave to appeal to the Supreme Court.

The Government pleader or other pleader appearing on behalf of the government or on behalf of any public servant sued in his official capacity shall not be required to file any document empowering him to act.

**FORM OF VAKALAT****Cause Title**

1. Appellant/Respondent/Petitioner in the above Appeal/Petition do hereby appoint and retain Advocate/Attorney of the High Court to appear for me in the above Appeal/Petition and to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein, including all applications for return of documents or the receipt of any moneys that may be payable to me in the said Appeal/Petition and also in applications for review, in appeals under clause 15 of the Letters Patent and in applications for leave to appeal to the Supreme Court.

Accepted.

The address for service of the said advocate is

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22. No advocate or attorney of the high court who has been engaged for the purpose of pleading only shall plead on behalf of any party unless he files in court a memorandum of appearance signed by himself and stating –
  - (a) the names of the parties to appeal or petition;
  - (b) the name of the party for whom he appears; and
  - (c) the name of the person by whom he is authorized to appear ;

Provided that nothing in this rule shall apply to any advocate or attorney engaged to plead on behalf of any party by any other advocate or attorney who has been duly appointed to act in Court on behalf of such party.

- 23 The vakalatnamah shall be executed or its execution attested before some judicial functionary, or a village munsif or Gazetted Officer, or the Assistant Registrars or Mangers of the High Court, Appellate side, or Commissioners for oaths, or before a member of the Lok Sabha or the Rajya Sabha or the Legislative Assembly of the State, or a retired Gazetted Officer receiving pension from Government, or the Manager of the Office of Board of the Commissioners for Hindu Religious Endowments, or any Superintendent or Inspector working under the Board, or a member of a District Board or a Panchayat constituted respectively under the Madras District Boards Act,1920 and the Madras Village Panchayats Act. 1950, or a Municipal Councillor or an advocate other than the advocate in whose favour the vakalatnamah is executed or in the city of Hyderabad before any Sub-Registrar. The Judicial functionary, gazetted officer or other officer or person authorized to attest shall certify, by his signature and designation that the vakalatnamah has been duly executed :

Provided that when a vakalatnamah is executed by any person who appears to the officer before whom it is executed or by whom the execution is attested, to be illiterate, blind, or unacquainted with the language in which

the vakalatnamah is written, the officer shall certify that the vakalatnamah was read, translated or explained in his presence to the executant, that the seemed to understand it and that he made his signature or mark in the presence of the officer.

- 24** Omitted.
- 25** Where the party is exempted from personal attendance in the Courts or unable from sickness or other cause to attend, the execution of the vakalatnamah may be verified by the attesting witnesses in the presence of the judicial functionary.
- 26** Every vakalatnamah shall be dated at the time of its execution.
- 27** An advocate or attorney shall endorse his name and the date of his endorsement on his vakalatnamah.
- 28** Vakalatnamahs and affidavits, etc., written on paper of insufficient stoutness and durability will not be received by the High Court.
- 29** Vakalatnamahs, notices of appearance, etc., sent into the Registrar's Office shall state clearly the names and description in the record of the parties on whose behalf counsel, etc., appear, Vakalatnamahs and notices of appearance not containing the required information will be returned for amendment.
- 30** A party who has retained an advocate or attorney to appear for him in a civil case shall not be heard in person unless he first withdraws the vakalatnamah.
- 31** Where a person is a party in two or more connected suits, Appeals or Petitions, he shall execute a separate vakalatnamah, in each case, notwithstanding that he may retain the same pleader in all.
- 32** Every appointment of an advocate or attorney shall be endorsed with a statement of the address for service of the advocate or attorney, and the endorsement shall be signed by him. If more than one advocate or attorney are named in the vakalatnamah, it should be endorsed with a statement of the address of only one advocate or attorney and signed by him.
- 33** An advocate or attorney authorized by a party to receive money on his behalf shall produce a vakalatnamah expressly giving him this authority.
- 33.A.** Save by special leave of the Court and except in the case of a legal practitioner appearing on behalf of the Government or of an incapacitated proprietor who is a ward of the Court of Wards, no fee shall in any case be entered as recoverable in a decree or order except on production within seven days from the date of the judgment or order or such further period as may be allowed by the Court, of a certificate from the legal practitioner that he has received such fee.

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

### **Chapter III-A**

#### **Norms for Presentation and Conduct of proceedings in person by parties**

**33 B** (1) Whenever a party wants to appear and argue the case in person, he/she shall first file an application along with the proceedings, seeking permission to appear in person. The application shall indicate reasons as to why he/she cannot engage an Advocate and wants to appear and argue in person, and if he is willing to accept an Advocate, who can be appointed for him by the Court.

(2) Such application as filed along with the proceedings shall be placed before a Committee of two Officers of the Registry, who are working on deputation from the State Judicial Service, to be nominated by the Honourable the Chief Justice. The Committee shall scrutinize the matter/proceedings filed by Party-in-person so as to ensure that the Party-in-person has complied with the requirements of the High Court Appellate Side Rules, and that the Party-in-person has not made any objectionable averments/ allegations and has not used unparliamentary language in the pleadings. The Committee shall interact with the Party-in-person and give opinion by way of Office Report whether Party-in-person is competent to assist the Court for disposal of the matter.

(3) In case a Party, who wishes to defend the matter/proceedings in person as respondent/opponent, the Court may direct such party to appear before the above committee and the above Committee shall ensure and certify that such person is 'Competent' to assist the Court in person.

Provided that such certification of competence to assist the Court, need not be insisted upon, in respect of practicing Advocates who choose to appear as party-in-person.

(4)(a) If the certificate is not issued in both the cases mentioned in sub Rule (2) and (3) above and the Party-in-person is lawfully entitled to be referred to the High Court Legal Services Committee in

accordance with law, the same will be referred to the Committee for offering legal services to the concerned litigant.

- (b) If the concerned litigant is not entitled under law to get assistance of Legal Services Committee, he will be asked to appoint a lawyer to represent his case.
- (c) In the event, it is certified that Party-in-person is 'competent' to assist the Court in person, the Party-in-person shall give an undertaking that he shall maintain decorum of the Court and shall not use or express objectionable and unparliamentary language or behaviour during the course of hearing in the Court or in the Court premises or in the further pleadings.
- (5) If the Party-in-person fails to abide by his Undertaking as above, Contempt Proceedings may be initiated against him and/or appropriate costs shall be imposed on him and/or the concerned party will not be allowed to appear in any case as Party-in-person for such period as the Court may think fit.
- (6) These Rules will not apply in the cases of applications for temporary bail, parole, furlough and *habeas corpus*.
- (7) Notwithstanding anything contained in these Rules, the concerned Court before which the matter lies, may, in its discretion, permit a litigant/s to appear in person and conduct the proceedings:  
Provided, that the Court may, in its discretion, require the concerned litigant/s, first to appear before the Scrutiny Committee under sub Rule (2) or (3), as the case may be.\*
- (8) Notwithstanding anything contained in the Writ Proceedings Rules, 1977, the Contempt of Court Rules, 1980, Public Interest Litigation Rules, 2015 and the Rules of the Madras High Court, Original Side,

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\* The proviso was added as per notification No.47/SO/2018 of High Court of Judicature at Hyderabad, published in A.P. Gazette W.No.7 (Part-II Miscellaneous Notifications), dated 15.02.2019.

1956, adopted by this Court, the provisions of Chapter III-A shall apply to all the writ, original and appellate proceedings in the High Court.

## CHAPTER IV

### Appeals from Decrees and Orders

- 34.** All appeals, petitions and other proceedings shall be presented in person by the appellant or his pleader or the pleader's registered clerk.

The memorandum of appeal shall be accompanied by as many authenticated copies on plain paper of the memorandum of appeal as there are respondents to be served and another such copy in addition for the court record, and two authenticated copies of the decree of the Court against which the appeal is presented on plain paper besides the certified copy required to be filed under Rule 1 of Order XLI of the First Schedule to the Code of Civil Procedure, provided that the Registrar may dispense with such portions of the decree which are only schedules and which are not in English, by the fees prescribed for service of notice on the respondent, by the particulars for service of the same set out as in Form I of Appendix IV and by the receipt of the Accountant of the Court for the sum mentioned in Rule 75.

In the case of a memorandum of appeal or petition presented after the expiration of the time limited by law, the fee for service of notice of the appeal and the receipt for the deposit for the preparation of the record shall be lodged, if necessary, within seven days of the final order of the court on the petition for extension of a the period of limitation prescribed by Order XLI. Rule 1 (3), Schedule I of the Code of Civil Procedure.

- <sup>2\*</sup>**[34-A]** In appeals, petitions or other proceedings from the orders of the lower courts filed in High Court before disposal of the main proceedings in the lower courts, copies if relevant affidavits and counter affidavits in the said main proceedings, as the case may be relating to such appeals, petitions or other proceedings shall also be filed along with the papers mentioned in Rule 34.”]

- 35.** No proceeding or communication received by post or telegram shall be accepted.

Provided that any application to the High court by a person who is in prison and has not appointed an advocate or attorney on his behalf, may be presented to the Officer-in-charge of the jail, who shall, thereupon, forward such application to the High Court”(R.O.C. 145/66-B1).

- 36.** Every memorandum of appeal and of objection shall contain a statement of the value of the appeal or objection for the purpose of the Court Fees Act.

- 36-A.** In appeals and petitions which, under the rules and practice of the High Court, have to be posted before a Bench of two Judges for hearing, and which are not printed, the practitioners should furnish at the time of filing an additional set of papers for the use of the second Judge.

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<sup>2\*</sup> Ins. By ROC No. 2286/SO/82, DT 9.7.87 vide R.S. to Part II (Ext.) A.P. Gazette, dt. 09.07.1987.

- 37.** (1) Every memorandum of appeal or petition which is presented after the expiration of the time limited by law and the petition for extension of time required by Order XLI, Rule 1 (3), schedule I of Code of Civil Procedure shall be posted together before a Single Judge or a Bench of two Judges, as the case may be ; and where notice is ordered to the respondent, the appellant shall within three days of such order bring into Court the notice prescribed by Rule 45 together with the fee prescribed for service of such notice and as many copies of the petition and affidavit as there are parties to be served and the petition shall be posted for hearing before a Single Judge or a Bench of two Judges, as the case may be; not less than 14 days after the service of notice on the respondent.
- (2) Every memorandum of appeal or petition which is presented after the expiration of the time limited by law shall be accompanied by an affidavit explaining the delay. If any such memorandum of appeal or petition is presented without such affidavit, it shall, together with all papers presented therewith, be returned to the pleader or party presenting them with an endorsement as follows :
- This memorandum of appeal (or petition) has been presented .....days out of time. The pleader (or Party) is requested to explain the cause of the delay in order that the case may be posted before the court for consideration of such explanation, and for orders thereon.
- (3) Every memorandum of appeal or petition represented with such explanation shall be posted for orders before a Single Judge or a Bench of two Judges, as the case may be, and the Court may direct notice to the respondent of the presentation of the appeal and of the grounds on which the appellant contends, that such presentation is within the period of limitation prescribed and the appellant shall within three days of such order bring into Court the process-fee required for the service of such notice on the respondent.

**38.** Notice of the date of hearing of an appeal from an appellate decree or order, posted before a Bench of two Judges for hearing under Order XLI, Rule 11, read where necessary with Order XLII or Order XLIII, shall be given by posting a list of appeals to be so heard on the notice board of the Court.

<sup>3\*</sup> [39. Where in an appeal appearance has been entered by the Advocate for the respondent or respondents before notice of the appeal is served on him or them, copy of the notice shall be taken by the Advocate from the Notice Section of the Office of the Registry within one month from date of his duly entering appearance. Such notice shall be a notice for the purpose of sub-rule (2) of Rule 2 of Order XLI-A, Civil Procedure Code.”]

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<sup>3\*</sup> Substituted by ROC No. 699/SO/92, Dt. 13.8.1993 published in R.S II Ext. Gazette No. 24 dt. 16.08.1993.

- 40.** Unless otherwise ordered cases posted on the notice board of the court as ready for hearing shall not be transferred to the daily cause list for hearing by the Court until the expiration of the following periods from the date of such posting:-

For first appeals	..	14 clear days
For appeals posted under Rule 38	..	3 clear days
For all other appeals and matters	..	7 clear days.

### **POSTING OF CASES IN THE DAILY CAUSE LIST**

- 40-A (1)** Subject to any orders to the contrary, cases transferred from the rough list or from another fair Cause List, or coming on after adjournment shall be posted at the bottom in the Daily cause List for hearing arranged in the order in which they were filed in the Court.
- (2) The following cases shall be given precedence in the Cause list:-
- (a) Cases in which the hearing has been directed to be expedited or advanced.
  - (b) Part-heard cases and cases in which reports have been called for or findings have been submitted.
  - (c) Cases which have been directed by court to be posted to a further date or on the expiry of a specified period.
  - (d) Cases in which there is a stay of proceedings in the same suit or in other civil and criminal courts.
  - (e) Cases, the pendency of which causes delay in the disposal of cases pending in lower courts.
  - (f) Second Appeals in rent suits.
  - (g) Original Side Appeals, City civil court Appeals and Letters Patent Appeals.
  - (h) Appeals in probate and succession cases.
  - (i) Appeals in land acquisition cases.
  - (j) Appeals under special Acts, such as the Indian Companies Act, Guardian and Wards Act, Insolvency Act.
  - (k) Cases of a quasi-criminal nature, such as contempt of court.
  - (l) Cases in which execution of decrees or orders of lower court has been stayed.
- 40-B** An application to postpone or advance the hearing of , or otherwise, with respect to a case on the ready board shall be made by petition endorsed with the consent of, or on notice to, all parties who have entered an appearance and shall be supported by evidence to be given on affidavit. Unless otherwise ordered, the applicant shall pay the costs of all parties appearing upon the application.
- 40-C** An application with respect to a case posted in the daily cause list may made orally to the Court before which it is posted upon notice to the other parties.

## REFERENCE AND REVISION PETITIONS

- 41** Every Civil Revision Petition shall be accompanied by-  
(R.O.C. 748/60-B1)
- (1) a typewritten or printed copy of the decree or order which it is sought to revise :
  - (2) a typewritten or printed copy of the judgment, if any, on which the decree or order is based, unless its production is dispensed with by the court; and
  - <sup>4\*</sup>(3) copies of relevant affidavit and counter affidavit in the main proceedings in lower courts as the case may be, relating to the civil revision petition, if the civil revision petition is presented in the High Court before disposal of the main proceedings in the lower courts".
  - (4) A duly filled in and properly stamped memorandum in Form No.1 of Appendix IV to these rules for issue of notice to respondents.
- 41-A** (1) A list of civil Revision Petitions admitted for hearing after notice or directed to be posted for disposal in the manner prescribed for appeals by Order XLI, Rule II, Civil Procedure Code, shall be affixed to the notice board of the High Court as soon as practicable after orders are obtained under Rule 12 (3)(d). Cases directed to be posted for disposal in the manner prescribed for appeals by Order XLI, Rule 11, Civil Procedure Code, shall be posted for hearing immediately after the expiry of one clear day from the date of affixture of the list on the notice board.
- (2) No application in civil Revision shall be presented after ninety days from the date of the order complained of, provided that the Court may, on sufficient cause shown, excuse the delay in presentation.
- 41-B** The provisions of Rules 11 (2),17,18,19 and 21 of Order XLI of the Code of Civil Procedure shall apply mutatis mutandis to all Civil Revision Petitions.
- <sup>4A\*</sup> Provided that the explanation to sub-rule (1) of Rule-17 of Order XLI of the Code of Civil Procedure shall not be applicable to the Civil Revision Petitions.
- 41-C** Unless otherwise ordered by the Court at the time of admission, there shall be no printing in a Civil Revision Petition presented against an interlocutory order in a suit or proceeding pending in the lower court.

On an application of an interlocutory character presented in any such Revision Petition, if an interim order is passed with a direction to issue notice

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<sup>4\*</sup> Ins. By ROC No. 2286/SO/87,Dt.09.07.1987 Published in A.P. Gazette,dt. 10.07.1987.

<sup>4A\*</sup> Ins.by ROC.No.1386/SO/95, dt.11/3/1999 published in A.P.Gazette, Part-I, No.(13), Dt.30/3/2000 page-420, GO.Ms.No.9, Law (LA & J Courts-C), 27/01/2000.

to the respondents in the application, notice shall be issued simultaneously fixing the same hearing date, both in the application and in the Revision Petition, on payment of a single process-fee in respect of respondents common to both the proceedings and separate process-fees in respect of respondents who are parties to the Revision Petition but not parties to the application.

Unless the Court otherwise directs, the Revision Petition and the application shall be posted together for final disposal within a fortnight after service of notice on the parties.

### **INTERLOCUTORY APPLICATIONS AND MATTERS**

- 42** An application for leave to amend a memorandum of appeal or of objections or a petition of revision shall be made by petition upon notice to any party, who has entered an appearance and shall set out the amendment prayed, if leave is granted the Court may allow further time for the preparation of the record, and unless the court otherwise directs the order shall be conditional upon payment by the appellant of the costs of the application and of any further translation and printing of the record.
- 43** When an issued referred for trial and the finding of the lower court is returned, notice shall be given on the notice board of the Court, and any party desirous of objecting to the finding shall, unless otherwise ordered, within seven days after such notice, file in Court a memorandum of his objections and serve a copy thereof on the other party.
- 44.** (1) An application with respect to any of the matters mentioned in these rules shall be made by a petition to the Court stating the provision of law under which relief is sought, and the order prayed and any evidence thereon shall be given by affidavit.
- (2) The petition shall be presented to the Registrar or such officer as he shall appoint.
- 45** (1) If notice of the application is to be given, the applicant shall file in Court a notice to each party in Form No.3 of Appendix IV and a copy thereof. The date of hearing shall be inserted in the notice and copy which shall be sealed with the Court seal. The applicant shall serve the copy upon the other party to the appeal in manner prescribed by Rule 6 of Order XLI-A and shall take the signature of the party or his pleader upon the notice in acknowledgment of service, and where service is on the party shall file affidavit in proof of service, provided that in any case within Rule 4 (2) of Order XLI-A, service shall be made under Rule 7 and the prescribed fee shall be filed with the petition.
- (2) Unless the Court otherwise orders notice need not be given to a party who has not entered an appearance.

- 46** Unless otherwise ordered, the day fixed for hearing shall be not less than 14 days from the date of presentation of the petition and the notice shall be served not less than seven days before the day so fixed.
- 47** (1) Any affidavit intended to be read in support of the petition shall be filed therewith and notice thereof shall be given to the other parties. If any party served with notice intends to use an affidavit upon the application he shall, not less than three days before the hearing, file the same in Court and give notice thereof to the applicant.
- (2) An affidavit in respect of which default has been made shall not be read in evidence, except by leave of the Court.
- 48** If the party intended to be served with notice is a respondent who has not entered an appearance, the applicant shall file the notice and the prescribed fees for service together with the petition, and a copy of any affidavit filed therewith, and thereupon the notice and copy of such affidavit shall be served in the same manner as a notice of appeal.
- 49.** In case of urgency, the applicant may apply to the Registrar that the petition may be posted for hearing without notice to any party. If at the hearing notice is directed to be given, unless otherwise ordered, the Registrar shall insert in the notice a day for the further hearing not less than three weeks from the date of hearing.
- 50.** (1) If on the day fixed for hearing it appears that notice has not been served, the Court may order notice to be issued or may dismiss the petition.
- (2) If notice is ordered and is to be served through the Court, the applicant shall pay the prescribed fees for service of notice within three days after the date of the order directing notice, <sup>2\*</sup> and if notice is permitted to be taken out by the petitioner or his Advocate no process fee is required and if an interim order has been made upon application it shall not be issued until the said fees have been paid.
- (3) Unless otherwise ordered, the costs of the first notice only shall be allowed to the applicant upon taxation, and if it appears to the Court that the applicant is not exercising due diligence in service of notice, the Court may order him to pay all the costs of the application.
- 50-A** In the event of the Admission Judge of the day, being indisposed or otherwise unable to deal with admission work, the applicant should set out in his application to the Judge before whom he moves-
- (a) the reason why the application should be regarded as imperatively urgent :
- (b) the dates on which the necessary documents were available ; and
- (c) the cause of his not having applied in the ordinary course to the sitting Judge before.

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<sup>2\*</sup> Amended vide GO.Rt.No.2185, Law (LA & J Home Courts.D), Dt..04/11/2013 published in A.P. Gazette No.4-A, 26.02.2014

**APPEALS TO THE HIGH COURT UNDER CLAUSE 15 OF THE LETTERS PATENT**

- 51** (1) An appeal under clause 15 of the Letters Patent, other than an appeal from a judgment, decree or order passed or made by the High Court in the exercise of its original jurisdiction, shall be preferred within thirty days from the date of the judgment, decree or order appealed from, provided that the Court may, in its discretion, on good cause shown, extend such period.
- (2) In appeals not provided for by Section 4 of the Court Fees Act, 1870, the fee shall be levied at the same rates and in the same manner as in appeals falling under the said section, provided that the fee shall not be less than Rs.10.
- (3) Appeals under the Letters Patent from judgments of single Judges passed in appeals other than those from appellate decrees or orders shall be posted before a Bench of two Judges for orders whether notice shall issue.
- (4) Rules 72 and 84 to 90 shall, so far as may be, apply to the preparation of the record, provided that it shall not be necessary to translate or print any paper translated and printed in the appeal from the lower court.
- (5) Rules 38 and 40 shall apply to the posting of appeals for hearing.

**PETITION**

- 52** A Petition shall, when presented by a pleader or attorney, bear his signature as pleader or attorney, and when presented by a party shall be signed or marked by him, and such signature or mark shall be acknowledged before the Registrar, the Deputy Registrar, the Assistant Registrar, the Sub-Assistant Registrars or the Managers, Appellate Side, or before the Presiding Officer of any court or any Magistrate including a Village Magistrate, or a Sub-Registrar, Nazir, Deputy Nazir, Assistant Nazir or a member of a District Board or a Pachayat constituted respectively under the Madras District Boards Act, 1920 and the Madras Village panchayats Act, 1950 or a gazetted officer, or a notary as defined in the Notaries Act, 1952 (Central Act LIII of 1952), or an Advocate of the High Court, or a member of the Lok Sabha or the Rajya Sabha or the Legislative Assembly of the State, who shall certify therein in the following form or to the like effect:-

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

- 52-A** Every petition or other matter filed in the High Court before the disposal of the main proceedings in the Lower Court shall mention the name and address of the pleader (if any) who represents the other party in the main proceedings in order that service may be effected in the manner provided in Rule 62-A.

- 53** Petitions to the High Court shall not be filed unless presented by a pleader of the Court, or his registered gumastah, or a party.
- 54** Petitions which are couched in improper language, or which are illegible, or unnecessarily prolix, shall be returned for amendment.
- 54-A** Wherein petitions for review presented to the High Court, notice is ordered to the opposite party, such notice shall be served on the pleader who represented that party in the main proceedings and such service shall be deemed to be sufficient service on the party who appeared by such pleader. In cases, however, where the opposite parties or any of them have not appeared by the pleader in the main proceedings, the notice shall be served on the party direct.
- 54-B (1)** In all cases where processes of the nature of summonses or notices have to be issued, the parties or their advocates on whose behalf such summonses or notices have to be issued, shall file with their applications for the issue of processes printed forms of processes in duplicate legibly filled up. The date of appearance and the date of process shall be left blank.
- (2)** The form of process in the High Court shall be used with such modifications as the circumstances of the case may demand.
- (3)** The parties or their advocates shall sign the form in the left bottom corner and will be responsible for the accuracy of the entries.
- (4)** Where orders for the issue of processes are passed, the date fixed for appearance will be inserted in the forms and the processes will be dated and signed by an officer of the court duly authorized.
- (5)** The necessary number of printed forms of processes will be supplied to the parties or their advocates at one rupee for 100 forms on application to the Registrar. The cost so incurred shall be allowed to the parties as part of the costs for the preparation of process.
- (6)** The Court may, in its discretion, direct in any particular case that the forms of processes be entirely filled up in the office of the Court (R.O.C.No.897/65-BI).
- 54-C** <sup>3\*</sup> A Court fee of Rs.10/- shall be affixed to the Miscellaneous petitions and applications shall also pay into Court necessary transmission fee.

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<sup>3\*</sup> Amended vide GO.Rt.No.2185, Law (LA & J Home Courts.D), Dt..04/11/2013 published in A.P. Gazette No.4-A, 26.02.2014

**CHAPTER V**  
**Affidavits**

- 55** (1) Every affidavit used in the High Court, Appellate Side, shall be entitled "In the High Court of Judicature, Appellate Side, Andhra Pradesh" and shall set forth the cause-title of the appeal or other matter in which the affidavit is sought to be used as evidence. An affidavit in support of, or in opposition to, an interlocutory application relating to an appeal, petition or other proceeding pending in the High Court shall also be entitled as made in such appeal, petition or other proceeding.
- (2) Every person making an affidavit shall be described in such a manner as will serve to identify him clearly, that is to say by the statement of his full name, the name of his father, his age, his profession or trade, and the place of his residence.
- (3) An affidavit shall be confined to statements of facts and be divided into numbered paragraphs, each paragraph being confined as nearly as may be to a distinct portion of the subject.
- (4) When the affidavit covers more than one side of a sheet of paper, the writing shall be on both sides of the sheet, and the declarant shall sign his name at the foot of each page of the affidavit.
- (5) When the declarant speaks to any fact within his own knowledge, he shall do so directly and positively using the words "I make oath (or affirm) and say".
- (6) When a particular fact is not within the declarant's own knowledge, but is stated up on information, the declarant shall use the words "I am informed by (giving source of information if possible) and verily believe it to be true", and set forth the grounds of his belief, if any.
- 56** (1) Affidavits intended for use in the Appellate side of the High Court may be made before any the officers of the High Court, the Sub-assistant Registrar or the Managers, Appellate Side or Commissioners for Oaths, or before the Presiding Officer of any Court or any Magistrate including a Village Magistrate or a Sub-Registrar, Nazir, Deputy Nazir, Assistant Nazir or a member of a District Board or a Panchayat constituted respectively under the Madras District Board's Act, 1920 and the Madras Village Panchayats Act, 1950 or Municipal Councillor or a member of the Legislative Council or the Legislative Assembly of the State or a retired gazetted officer receiving pension from Government or the manager of the Office of the Board of Commissioners for the Hindu Religious Endowments or any superintendent or Inspector working under the Board or an Advocate other than the Advocate who has been engaged in the case or and other gazetted officer in the service of the State Government or Central Government or a notary as defined in the Notaries Act, 1952 or any Commissioner or other person appointed by the High Court for the purpose of taking affidavits or affirmations, or any Judge or any

Commissioner for taking affidavits in any Court of Record in India.(Roc.No.3982 of 57 B-1, dated 1—8-1958.)

- (2) Documents referred to by affidavits shall be referred to as exhibits and shall be marked in the same manner as exhibits and shall bear a certificate signed by the officer before whom the affidavit is taken in the form.

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

(Signed) C.D.  
(Designation)

- (3) The officer or person before whom an affidavit is made shall state the day when and the place where the same is taken and sign his name and description at the end in the form following:-

Sworn (or solemnly affirmed)at .....on this day .....day of 19.....before me.

(Signed) S.D.  
(Signed) C.D.  
(Designation.)

- (4) Alterations and interlineations, if any, shall ,before the affidavit is sworn or affirmed, be authenticated by the initials of the officer or person before whom the affidavit is taken, and no affidavit having any alteration or interlineations, not so authenticated, or any erasure, shall, except with the leave of the Court be filed, or made use of in any manner. The number of any alterations or interlineations so authenticated shall be noted at the foot of each page under the initials of such officer or person. Each page shall be numbered at foot under the initials of the officer thus 'first page', 'second page' and to the number of the last page shall be added the words .....and last page.

- (5) Even person making an affidavit, if not personally known to the officer or person before whom the affidavit is taken, shall be identified by some person known to the officer or person, and the officer or person shall specify at the foot of the affidavit the name and description of him by whom the identification was made. If the declarant is not known to the officer or person and cannot be identified as above, the impression of the thumb of the declarant's left hand shall be taken at the foot of the last page of the affidavit and the following certificate shall be added to it:-

"Certified that this is the impression of the thumb of the left hand of the declarant of the above affidavit".

(Signed) A.B.  
(Designation.)

- (6) If the declarant is ignorant of the language in which the affidavit is written, or appears to be illiterate or blinded, the officer or person shall cause the affidavit to be read to the person in his presence in a language which the declarant understands. When the affidavit has been explained to the declarant, he shall be sworn or affirmed in the usual manner, and the officer or person shall certify at the foot of the affidavit as follows:

<p>Sworn (or solemnly affirmed) at  on this day of 19.....before me the contents of this affidavit  (or solemn affirmation) and the exhibits therein referred to have  been first truly and audibly read over to declarant in he being  unacquainted with (or being blind), who appeared perfectly to  understand the same and made his mark thereto (or signed his  name) in my presence.</p>	<p>(Signed)  C.D.</p>
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(Signed) A.B.  
(Designation.)

- (7) In administering oaths and affirmations, the officer or person shall be guided by the provisions of the Indian oaths Act (X of 1873).

The following forms are to be used:-

**OATH**

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

**SOLEMN AFFIRMATION**

- (a) "I, A.B., solemnly affirm in the presence of Almighty God that, that is my name and handwriting, and that the contents of this my affidavit are true".
- (b) "I.A.B., do solemnly sincerely and truly declare and affirm that is my name and handwriting, and that the contents of this my affidavit are true.

## CHAPTER VI

### Appointment of Guardian

- 57** Every application for the appointment of a guardian of a minor respondent shall be supported by an affidavit, stating that the proposed guardian has no interest in the matter in question in the appeal adverse to that of the minor. No order shall be made on an application by an appellant unless notice of the application has been duly served upon the father or guardian of the minor or upon the person with whom the minor resides six clear days before the day named in the notice for the hearing of the application.
- 58** An application for the appointment of a guardian ad litem shall not be combined with an application for bringing on record the legal representatives of a deceased appellant or respondent. The applications shall be by separate petitions.
- 59** When a guardian ad litem of a minor respondent is appointed, and it is made to appear to the Court that the guardian is not in possession of any, or sufficient, funds for the conduct of the appeal on behalf of the respondent and that the respondent will be prejudiced in his defence there by, the court may, from time to time, order the appellant to advance moneys to the guardian for the purpose of his defence, and all moneys so advanced shall form part of the costs of the appellant in the appeal. The order shall direct that the guardian do, as and when directed, file in Court an account of the moneys so received by him.

## CHAPTER VII

### Service of Notices

- 60.** (1) Every notice issued in respect of proceedings in the High Court other than writ petitioner, appeals against orders made in the exercise of original jurisdiction, petitions for injunction and all cases where notice is to a proposed guardian ad litem, shall be sent in the first instance to the address of the respondent given in the memorandum of appeal or petition, as the case may be by means of registered post, <sup>2\*</sup> **acknowledgment due or by speed post or by an approved courier service or by fax message or by electronic mail service or by such means.** An acknowledgment purporting to be signed by the respondent shall be deemed by the court to be sufficient proof of service of such notice. Notices in writ petitions, petitions for injunction, appeals against orders made in the exercise of original jurisdiction and to a proposed guardian ad litem shall be sent for service of the parties through the Nazareth of the subordinate court exercising jurisdiction over the area where the party to be served is residing or is carrying on business.

Provided that all notices issued by the High Court intended for service in the twin cities of Hyderabad and Secunderabad shall be sent to the City Civil Court, Hyderabad. (A.P.G.R.S. to Part II, dated 10-2-77).

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<sup>2</sup> \* Amended vide GO.Rt.No.2185, Law (LA & J Home Courts.D), Dt..04/11/2013 published in A.P. Gazette No.4-A, 26.02.2014

- (2) If any notice is returned unserved an intimation of that fact and of the reason why the notice has not been served shall be given on the notice board and within 15 days from the date on which the intimation is so given, the appellant or his pleader shall, except when the notice has not been served because the respondent concerned is dead, deposit further fee for the service of a fresh notice and shall give the particulars necessary for serving it, and, if the fresh notice or any subsequent notice is returned unserved, the same procedure shall be repeated.
- \* (3) The Petitioner/Appellant or his Advocate shall file a memo stating the mode of service in which he effected service enclosing the acknowledgement card of returned postal covers or any other proofs.
- \* (4) The Registrar (Judicial)/or the Officer authorized by him shall prepare the panel of courier service as required under Rule 9 (4) of Order V of CPC and such panel shall continue until further orders.
- <sup>3</sup>\* 60-A:** The Section Officer of the concerned Section of the High Court shall have power to determine whether notice of appeal or other process has been duly served and to direct the issue of fresh notice, of an appeal or petition or other process:
- Provided that if any party or pleader is dissatisfied with the finding of the Section Officer, the matter shall at the request of such party or pleader be posted for the orders of the Registrar (Judicial).  
(A.P.Gazette No.4-A, dt.26.02.2014)
- 61.** Omitted.
- 62.** Omitted.
- 62-A:** In any appeal, petition, case referred or other matter filed in the High Court before disposal of the main proceedings in the lower Court, notice shall be served on the pleader who represents the party in the main proceedings in the lower Court and such service shall be deemed to be sufficient service on the party who is represented by such pleader. In cases, however where the parties are not represented by a pleader in the main proceedings the notice shall be served on the party direct.
- 63.** The fees for the service of notices on respondents shall be paid in the form of court-fee labels, and the court-fee labels shall be attached to a memorandum in Form No. I of Appendix IV.
- 64.** When an appellant or his pleader has failed to pay into the Registrar's Office within the prescribed periods the fees required for the service of notices on the respondent, the appeal or appeals shall be posted for the orders of the Court.

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<sup>3</sup> \* Amended vide GO.Rt.No.2185, Law (LA & J Home Courts.D), Dt..04/11/2013 published in A.P. Gazette No.4-A, 26.02.2014

**CHAPTER VIII**  
**Searches of Records**

- 65.** Every person requiring a search to be made of the records of the Court for the purpose either of inspection or of obtaining copies of records, shall submit an application for the same in the subjoined form or to the like effect:-

FORM OF APPLICATION FOR SEARCH OF PUBLIC RECORDS.

To

The Registrar, High Court of Andhra Pradesh, Hyderabad-DN

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

Date : .....

Signature of applicant.

Explanation:- Inspection in this rule does not include the examination of records for the purpose of preparing or amending lists of papers under the provisions of Chapter IX of these rules.

- 66.** A separate application need not be presented in respect of each document for which a search is required. Enclosures or annexures to letters, accounts or other documents form part of the documents to which they appertain and are not reckoned for the purposes of these rules as separate documents.
- 67.** When leave has been granted, the pleader on the record, or his authorized assistant or the party in person may search the record in the presence of the Record Keeper or his assistant.
- 68.** The fee for a search shall be \* **Ten Rupees** for every hour or part of an hour during which the Record Keeper, shall be engaged and shall be paid by court-fee stamps affixed to the application.
- 69.** The payment of the fees for a search will entitle the applicant to read the document or part of the document for the finding of which the fees has been paid, or to have it read to him, or to make a short memorandum of the date and nature of the document so as to enable him to describe it sufficiently in case a copy is required but it shall not entitle him to take a copy of the document or part of the document or to make extracts therefrom.

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<sup>1</sup> \* Amended vide GO.Rt.No.2185, Law (LA & J Home Courts.D), Dt..04/11/2013 published in A.P. Gazette No.4-A, 26.02.2014

**CERTIFIED COPIES**

- 70.** (1) When a person is entitled to obtain a copy of a proceeding or document filed in or in the custody of the court, he may present an application therefor (addressed to the Registrar) to the Superintendent of Copyists in person, if he has no advocate on record, or by his advocate, or the latter's authorized clerk between the hours of 11-30 a.m. and 3 p.m.

The application shall set out the name of the applicant and his position in the appeal or proceeding and a description of the documents of which a copy is required; and an application which is not in proper form shall be returned for amendment.

<sup>4</sup>\* Affix a Court fee stamp of Rs.5/- in case of Urgent Copy application and Rs.2/- in case of Ordinary Copy application.

- (2) Defective applications:-
- (a) Applications not complying with the requirements of the rule are not to be received until amended in respect of the matters in which they are defective.
  - (b) All other applications shall be received and at once entered in Register A. Applications found defective after being entered in Register A shall be returned for amendment.
  - (c) When applications are returned for rectification of defects, a limit of 7 days shall be fixed for their representation. Defective applications which are not taken back by the parties or not represented within the prescribed period, shall be struck off by the Superintendent of Copyists.
- (3) Copies of judge's minutes, of correspondence not strictly judicial, or generally of any confidential proceedings will not be granted.
- (4) Application by a person who is not a party to the proceeding shall be accompanied by an affidavit setting forth the grounds on which he claims to be furnished with a copy.
- (5) In cases where it is doubtful whether a document of which a copy is applied for is one for which a copy can or ought to be granted and in all cases where the applicant is not a party to the suit or proceeding, the application shall be placed before the Deputy Registrar who shall decide whether it should be granted or refused. If the application is refused by the Deputy Registrar it shall be returned to the applicant with the order of the Deputy Registrar endorsed on it.
- (6) Notice as to stamp-papers:-

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<sup>4</sup> Amended vide GO.Rt.No.2185, Law (LA & J Home Courts.D), Dt..04/11/2013 published in A.P. Gazette No.4-A, 26.02.2014

Every day between the hours of 3 and 5 p.m. a list showing the applications in which the records have been received, and the number of Stamp-papers required, shall be prepared and affixed to the Court's notice board. Such list shall remain suspended for three days, or, if the last day is a holiday, till the next Court day. If the required stamp-papers have not been deposited by 3 p.m. on the fourth day counting that on which the list was suspended or, if the fourth day is a holiday, then on the next Court day, the application shall be struck off. Between the hours 3 and 5 p.m. on each of the intermediate days, the applications upon which the requisite deposits have been made shall be struck off the list. The procedure above prescribed shall apply also to calls for, additional stamp papers when the number first supplied has been found to be insufficient: Provided that where the additional stamp-papers called for are not deposited, but the stamp-papers originally deposited are sufficient for the preparation of complete copies of one or more documents applied for the application shall be struck off, only as regards the documents which cannot be prepared by reason of the insufficiency of the stamp-papers supplied; but it shall be complied with by delivery of such of the completed copies as can be prepared on the stamp-papers supplied;; the decision of the Superintendent as to the documents to be selected for copying being final.

Note:- It is open to the applicant to furnish the necessary stamp-papers as soon as their probable number is known.

When an application is struck off in whole or in part, the incomplete copy in every case shall be destroyed after 12 months from the date on which the application was struck off unless such copy is completed before the expiration of the period.

- (7) Order in which application should be complied with:- The preparation of the copies of all documents applied for or such of them as admit of being copied in full on the stamp-papers deposited shall (as far as possible) be undertaken in accordance with the serial order of applications except when the Registrar makes a special order for precedence as regards any particular application, provided that in complying with an application for copies, copies of decrees and judgments, if any, comprised in the application shall have precedence over copies of other documents applied for. A special order for precedence as regards any particular application shall be made only on a separate application duly stamped under the Court Fees Act and praying for such order.
- (8) Posting of list of copies ready for delivery:- A list of copies ready for delivery shall be posted on the notice board of the Court, and shall remain thereon for three clear days other than holidays. The copy and any unused stamp papers shall be delivered to the applicant between the hours of 10.30 and 11.30 O'clock in the morning and 3 and 5 O'clock in the afternoon; and if the copy is not claimed by the applicant within 12 months from the date of posting the said list, it shall be destroyed and the unused stamp papers, if any, shall be forwarded to the nearest Treasury Officer for reissue, if in good condition, by the Superintendent of Stamps. No party shall be entitled to the return of stamp-papers which are used, but in which an incomplete copy is written. But the incomplete copy ;may be completed, if the necessary additional

stamp-papers are deposited under the order of the Registrar within six months from the date of striking off, and may then be delivered in the usual manner.

**Note:-** Where stamp-papers have been furnished in excess of the requirements or where an insufficient number of stamp papers have been furnished and the parties fail to furnish the additional number of stamp papers within the given period, notice shall be given to the parties that the unused stamp-papers will be held at their disposal for a month from the date of the notice and will be sent to them by registered post if within the above period they remit the cost of dispatch which would be stated in each case. If the amount be not remitted and no arrangements made to take delivery in person within the period fixed, the unused stamp papers shall be sent to the local or nearest Treasury Officer.

- (9) Disposal of incomplete copies and unused stamp-papers:-
- (a) Where an application is struck off in whole or in part under the above rules, the incomplete copy in every case shall be destroyed after twelve months from the date on which the application was struck off but may be completed if the necessary additional stamp-papers are deposited under the orders of the Registrar within six months from the date of striking off and may then be delivered in the usual manner. No party shall be entitled to return of stamp-papers which are used but on which an incomplete copy is written.
  - (b) Where parties have furnished the required number of stamp-papers, but some remain unused owing to the copyists writing too closely the Registrar shall forward the unused stamp-papers to the local or the nearest Treasury Officer.
  - (c) Where, however stamp-papers have been furnished in excess of requirement or where an insufficient number of stamp-papers has been furnished and the applicants fail to furnish the additional number of stamp-papers within the given period, notice shall be given to the parties that the unused stamp-papers will be held at their disposal for a month from the date of notice and will be sent to them by registered post, if within the above period they remit the cost of despatch which should be stated in each case. If no arrangements are made to take delivery in person within the period fixed the unused stamps shall be sent to the Treasury Officer. All stamps so sent to the treasury officer will be treated as cancelled.

- (10) Sealing and certificate:-

All copies furnished by the Court shall be certified to be true copies, and shall be sealed with the seal of the Court. The Superintendent of Copyists shall initial every alteration and interlineations in the copy, and shall sign a certificate at the foot thereof that the same is a true copy, and shall also state the number of alterations and interlineations made therein.

## (11) Endorsement as to dates:-

Every copy shall bear an endorsement showing the following dates:

1. Application made.
2. Stamp-papers (or charges) called for.
3. Stamp-papers (or charges) deposited.
4. Copy ready.
5. Copy delivered (or posted).

## (12) (a) one copy stamp-paper shall be furnished for every 350 words of fraction thereof.

In the case of a copy for which Article 20 of Schedule 1-A of the Indian Stamps Act, 1899, and the Indian Stamp Rules, 1925, require the production of non-judicial stamp-paper of a particular value, the stamp-paper or papers supplied for the purpose shall be used for copying and shall be written on in the same manner as copy stamp-papers, Copy stamp-papers shall be furnished to make up any deficiency in the paper required to complete the copying.

## (b) The first 175 words shall be written on the front page and the rest on the reverse.

(c) <sup>5\*</sup> The copying fee for each page shall be "for the Xerox copy Rs.2/- per page and for typewritten Rs.3/- per page and the said fee shall be paid in respect of the front page by means of adhesive Court fee label or labels, the value of which together with the value of the copy stamp-paper an amount of Rs.2/- or Rs.3/- as the case may be per page. Wherever the reverse side is written on, adhesive Court fee labels of the value of Rs.2/- or Rs.3/- as the case may be per page shall be affixed at the top right hand corner of that side and space left at the top left hand corner for the endorsement of the copyists. When the copy is written on non-judicial stamp-paper, adhesive Court fee label or labels of the value of Rs.2/- or Rs.3/- per page as the case may be shall be affixed to the front page and whenever the reverse side is written on, adhesive label or labels of the value of Rs.2/- or Rs.3/- per page as the case may be shall be affixed to that side in the manner specified in this clause.

## (d) Four figures shall be taken equivalent to one word and words in the Indian languages with short suffixes and inflections shall be counted as single words.

## (e) The cost copying maps, or other matter requiring skilled labour shall be fixed by the Registrar, and deposited in court in cash. Notice of the amount so fixed shall be posted on the notice board of the Court and the foregoing provisions of this Rule shall apply with respect of payment of such amount.

## (f) Except in any case requiring skilled labour, copying charges for the preparation of execution petitions, diglott registers, sale proclamations, books of account, or other matters including lines and columns, shall be levied with reference to the space occupied provided that not more than 175 words shall be copied on or computed as the equivalent of one page.

<sup>5</sup> Amended vide GO.Rt.No.2185, Law (LA & J Home Courts.D), Dt..04/11/2013 published in A.P. Gazette No.4-A, 26.02.2014

- (13) When however copy stamp papers are not available the Registrar may permit the use of white paper with court-fee label affixed for transcribing copies.

Whenever white paper is permitted to be used for transcribing copies the paper with the requisite court-fee label should be furnished by the party applying for copies and the paper supplied should be of durable quality and of foolscap size. Both sides of the white paper should be used for transcribing copies. The number of words that can be transcribed on either page will be subject to the following maxima.

First page 175 words

Reverse page 240 words.

The value of court-fee labels to be affixed to the white paper will be as follows:

- (a) When the first page of the paper above is written – \* Rupees five
- (b) When the reverse of the paper is also written-
- (i) for a maximum of 175 words on the reverse page – <sup>6\*</sup> five rupees more:
- (ii) for more words than 175 words on the reverse page – \* seven rupees more (for the whole of the reverse page).

- <sup>5\*</sup>(14) Whenever the Court directs the grant of carbon copies or copies taken by any mechanical reproduction of its proceedings, the same shall be certified and shall bear the seal of the court and shall contain the particulars mentioned in clause 11 endorsed thereon".

- <sup>6\*</sup>70-A On an application by the party the High Court may also grant copy of a proceeding or document filed in or in the custody of the court by getting it reproduced mechanically on payment of <sup>7\*</sup> Rs.3/- per page by means of affixture of court-fee labels to the application for copy or in cash through Lodgment Schedule within such time as the court may grant".

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<sup>6</sup> \* Amended vide GO.Rt.No.2185, Law (LA & J Home Courts.D), Dt..04/11/2013 published in A.P. Gazette No.4-A, 26.02.2014

<sup>5</sup>\* New Sub-rule 14 of Rule 70 is substituted for the existing sub-rule 14 vide Roc No. 1045/SO/81, dt.28.1.1984 published in A.P.Gazette No: 3 dt. 9.2.1984.

<sup>6</sup>\* Rule 70-A is incorporated newly vide ROC No.1045/SO/81 dt. 28.1.1984.

<sup>7</sup> \* Published in A.P. Gazette No.21, 24.05.2012, page-278 vide Notification No.17/SO/2012, Dt.03.05.2012.

**\*70-B**      Special provision in respect of interim orders:

If an amount of Rs.15/- is paid by way of stamps, along with the **case**, it shall not be necessary for the party thereto, to file separate application to obtain carbon copy of the interim orders, passed by the High Court in any proceedings before it. However, if the cost of the copy of such order exceeds Rs.15/-, he shall be under obligation to pay the balance.”

**71**      Nothing in these rules shall entitle any person to inspect or obtain copies of the registers of the Court without special leave of the Court, or to see Judge’s notes or autograph judgments.

## **CHAPTER IX**

### **Appeals From Original Decrees of Subordinate Courts**

<sup>7</sup>\*72      The record shall be in English and shall be got neatly typewritten on both sides of white foolscap folio paper with double spacing or reproduced mechanically by the Registrar. The separate sheets shall be stitched together bookwise and the pages numbered consecutively in figures.

Provided that subject to the examination and comparison of the record under the supervision of the Registrar, either of the parties may, on the orders of the Court on the application made to it, get the record neatly typewritten or reproduced mechanically privately as specified above”.

<sup>8</sup>\*73      The record shall consist of the following papers:-

- (1) A table of contents, with reference to the pages of the record.
- (2) A chronological index of all documents filed in the case;
- (3) The plaint, written statement and issues, with the Judge’s notes, if any;
- (4) The judgment and decree and any schedules thereto;
- (5) The grounds of appeal and memorandum of objections if any;
- (6) Any order calling for a finding or report, any finding or report, and the objections thereto;
- (7) The B Diary.
- (8) Such other papers as the parties desire to have translated and typed or reproduced mechanically and have within the prescribed period applied to be included in the record:

Provided that schedules to the plaint or decree except in suits for partition shall not be translated or typed or reproduced mechanically unless they are necessary for the decision of the appeal and are specified in the lists hereinafter mentioned. The schedules in partition suits shall be translated and neatly typed or reproduced mechanically along with the pleadings in all cases unless the parties or

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<sup>7</sup>\* New Rule 72 is substituted for the existing Rule 72 vide ROC No.1045/SO/81 dt. 28.01.1984.

<sup>8</sup>\* New rule 73 is substituted for the existing rule 73 vide ROC No. 1045/SO/81 dt. 28.01.1984.

their pleaders state at the foot of the memorandum of grounds that they do not require the same to be typed or reproduced mechanically:

Provided further that judgments need not be typed or reproduced mechanically in the High Court wherever the requisite copies of the same have been filed along with the memorandum of appeal as provided by Order XL-IA, sub-rule (1) of Rule 2 or order XLII, sub-rule (2) of the Code of Civil Procedure.,1908 (Act V of 1908)".

74. (1) The appellant, at the time of filing his memorandum of appeal, and the respondent within one month after service on him of the notice of appeal, shall file in Court lists in Form NO.2 of Appendix IV, of the papers mentioned in Rule 73 which they desire to have translated and typed or in any other way mechanically reproduced. If the respondent has filed a memorandum of objections, it should be included in his list.
- (2) The lists above referred to shall contain a full description of the papers required to be translated and typed or in any other way mechanically reproduced. No papers other than exhibits and depositions will be called for from the lower court unless specially mentioned in the list.
75. (1) Unless in cases which do not involve comparison of record or translation the court otherwise directs, the Appellant shall pay into the court along with his Memorandum of Appeal a sum of Rs.50 as the cost of preparing the portions of the record numbered 3 (except the issued and the Judges notes, if any) 4 and 5 in Rule 73.(P.Dis.469/61).
- (2) In the case of several connected appeals or batches of appeals a single deposit to cover the cost of preparing the record in the leading case may be accepted in the discretion of the Registrar.
- (3) If the cost of preparing the said portions of the record exceeds the said sum, the party shall pay the excess together with the sum mentioned in Rule 79. If the cost of preparing the said portions of the record is less than the said sum, the balance may be returned to the party on application after the case has been disposed of.
76. Any party shall be entitled to inspect in the Registrar's Office the list of any other party in the case, and at his own expense, to obtain a copy of the whole or of any portion thereof under the rules of the High Court relating to copies.
- 77 (1) A list of cases in which portions of documents are required to be translated and typed or in any other way mechanically reproduced shall be posted on the notice board from time to time.
- (2) The parties concerned shall, within seven days of the date of the said notice point out the required portions. In default, these documents will be excluded from the record.

78 The Registrar shall cause to be prepared and entered in the said lists filed by the parties an estimate of the sums payable by such parties for preparing the record framed in accordance with the prescribed schedule of rates and shall give credit therein for the amount paid by the appellant in accordance with clause (1) of Rule 75.

79 (1) The Registrar shall give to the parties notice of the amounts of the estimate mentioned in Rule 78 by affixing a statement thereof to the Court notice board, and thereupon the party shall be at liberty within 25 days from the date of such notice to deposit the requisite sum in Court.

(2) The preparation of the record and the hearing of the appeal shall not be delayed by reason of the failure of a party to deposit a sufficient sum in Court within the prescribed period; provided that he may apply for further time in manner prescribed by sub-rule (2) of Rule 3 of Order XLI-A of the Code of Civil Procedure, and shall thereupon produce a certificate showing the dates on which the acts prescribed by the rules were done or should have been done, which will be granted by the Deputy Registrar upon payment of a fee of \*<sup>8</sup>Rs.10/- to be paid in court-fee stamps, and provided also that the Registrar may, whenever he thinks fit, dispense with the formal application subject to the condition that the fees payable are the same as in the case of a formal application.

(3) A party shall be entitled to one copy of the portion of the record, for the preparation of which he has paid free of charge and to the further copies thereof mentioned in the list filed by him and any available copies of other portions of the record prepared under these rules, upon payment of a charge to be fixed by the Registrar in accordance with the Prescribed schedule of rates, provided that in cases to which the Government is a party, the Law Officers of Government shall be supplied with typed or in any other way mechanically reproduced records free of charge, but the charges incurred therefor shall be entered in the account maintained for the purpose.

(4) The respondent shall apply in writing within one month after service on him of the notice of appeal, if he requires a set of printed or typed records.

#### MEMORANDUM OF OBJECTIONS

79-A [Omitted]

79-B Any party who has received or been served with a memorandum of objections may, within two weeks from the date of acknowledgment or of service, file a further list of documents.

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<sup>8</sup>\* Amended vide GO.Rt.No.2185, Law (LA & J Home Courts.D), Dt..04/11/2013 published in A.P. Gazette No.4-A, 26.02.2014

- 79-C When an appeal is dismissed under Rule 10 of Order XLI-A, Civil Procedure Code, any respondent who has filed a memorandum of cross-objection may, if the Court so directs, be permitted to deposit within a time specified, funds sufficient for the further preparation of so much of the record as is necessary for the hearing of the memorandum of cross-objection.
- 80.** When the record has been prepared and typed or in any other way mechanically reproduced so as far as the sum deposited within the prescribed period permitted, the appeal shall be posted on the notice board of the court as ready for hearing; Provided that unless otherwise ordered, no case shall be so posted until after the expiration of eight weeks from the date of service of the notice of appeal upon the respondent.
- 81. 82 and 83 [Omitted]**
- <sup>9\*</sup>84 Pleaders shall be responsible to the Registrar for all translation and typing or mechanical reproduction charges incurred by him on their behalf under these rules. The Registrar shall have power to stop at his discretion the issue of all or any papers to any pleader who has failed to pay any money due by him to the Court under these rules.
- <sup>10\*</sup>85 When application is made for the translation and typing or mechanical reproduction of any document not on the record with a view to its admission in evidence the translation and typing or mechanical reproduction may be ordered by the Registrar provided that the order shall be made without prejudice to the posting of the case."
- <sup>11\*</sup>86 The charges for translation and typing or mechanical reproduction including those incurred under Rules 78 and 79, will as a rule, be costs in the cause. But if it appears to the court that the translation or typing or mechanical reproduction of any paper or part of a paper was not necessary to the proper determination of the cause, the party at whose instance the typing or mechanical reproduction of translation was executed may be ordered to bear the costs thereof.
- 87 When a record not required to be printed under these rules is in a vernacular language and has been translated into English for the convenience of the Court, any party to the case who desires to have a copy of such translation for the purpose of the hearing of the case or of any interlocutory application in connection therewith, shall apply therefor in writing to the Deputy Registrar Appellate side.
- 88 It shall be within the discretion of the Deputy Registrar to grant or refuse all such applications on the understanding that the Court has no objection to the grant of such copies unless it appears that they have been applied for with some ulterior object, e.g., to cause delay. It must also be

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<sup>9\*</sup> New Rule 84 is substituted for the existing Rule 84 vide ROC No. 1045/SO/81, dt. 28.01.1984.

<sup>10\*</sup> New Rule 85 is substituted for the existing Rule 85 vide ROC No. 1045/SO/81, dt. 28.01.1984 (Gazette No.3,dt.9.2.1984.)

<sup>11\*</sup> New Rule 86 is substituted for the existing Rule 86 vide ROC No. 1045/SO/81 dt.28.1.84.

distinctly understood that such translations are only rough translations made for the convenience of the Court, that their absolute correctness is not vouched for, and that copies granted under this rule are intended only to be used at the hearing of the particular appeal concerned. To prevent any improper use of such translations all copies granted under this rule shall be clearly marked as follows.

Uncertified copy of a translation of Exhibit in Appeal/Petition

No..... of 19 ..... on the file of the High Court. The translation of this document was prepared in the High Court for the purpose of Appeal /Petition ..... No..... of 19 ..... and the copy was granted to Mr .....(Counsel)/Advocate/ for .....solely for use of the hearing /Appeal/Petition and must not be made use of for any other purpose.

89 Whenever with the permission of the Court a paper which has not been previously translated as provided above is translated orally in open Court, the party at whose instance the translation is made shall be charged a special fee of \*Rs.10/- per page or fraction of page.

<sup>12\*</sup>90 (1) (a) The following rates shall be charged for translating typing, or cyclostyling or reproducing mechanically the record.

CHARGES FOR	
	Rs.
Translating (including those granted under Rule 88) per page of 24 lines	10/-
Typing per page not exceeding 32 lines	5/-
Cyclostyling per page not exceeding 32 lines	10/-
Reproducing mechanically per page	1-25
Additional copy supplied, or, copy supplied to the opposite party per typed, or cyclostyled or mechanically reproduced page	2/-
Where the record was got typed or cyclostyled privately, comparing and examining per page	1/-

<sup>9\*</sup> Amended vide GO.Rt.No.2185, Law (LA & J Home Courts.D), Dt..04/11/2013 published in A.P. Gazette No.4-A, 26.02.2014

<sup>12\*</sup> New Rule 90 (1) is substituted for the existing Rule 90 (1)(a) to (c) vide Roc No. 1045/SO/81 dt. 28.s01.84. Vide GO.Rt.No.2185, Law (LA & J Home Courts.D), Dt..04/11/2013 published in A.P. Gazette No.4-A, 26.02.2014

<sup>10\*</sup> 90 (1) (b)

CHARGES FOR	
	Rs.
(i) For the first copy supplied to the opposite party, printed page	3/-
(ii) Spare copies, if applied for at the time of presenting the original List (Rules 74 and 75), per printed page	1/-
(iii) Spare copies, if not applied for at the time of presenting such list (Rules 74 and 75), per printed page	1/-
(iv) Copies of translations granted under Rule 88 (per page of 24 lines)	1/-

(2) The rates in sub-rule (1) shall be subject to such modification as the Registrar may decide from time to time in accordance with the increase or decrease in the cost of translation and printing records and the rates so revised shall not take effect until they have been notified in the Gazette and on the notice board of the High Court.

(3) The rates prescribed in sub-rule (1) and any increase or decrease thereof ordered under sub-rule (2) of this rule shall take effect from an appointed day and shall apply to all records dispatched by the Government Press after printing on and from that date. The rates prescribed in sub-rule (1) shall come into force from 3<sup>rd</sup> January, 1949.

<sup>13\*</sup>(4) Any balance that may remain after translation and typing or mechanical reproduction have been completed in a case shall be refunded to the depositor.

90A These rules shall apply to appeals transferred to the High Court from other courts.

90B (1) All appeals to the High Court from Original Decrees of Subordinate Courts shall be neatly typewritten or mechanically reproduced in any other way unless either an appellant at the time of filing the appeal or

<sup>10\*</sup> Amended vide GO.Rt.No.2185, Law (LA & J Home Courts.D), Dt..04/11/2013 published in A.P. Gazette No.4-A, 26.02.2014

<sup>13\*</sup> New Sub-Rule (4) of Rule 90 is substitute for Rule 90 (4) Vide ROC.No. 1045/SO/81 dt.28.01.1984.

a respondent within seven days of filing his appearance applies for the record to be printed in the Supreme Court Form.

- (2) When the record is printed in the Supreme Court Form, the preparation of the record and the arrangement of the papers shall as far as practicable be in conformity with the rules laid down for the preparation and the printing of records for the Supreme Court and care shall be taken that the oral evidence begins at the commencement of a sheet and is printed in such a way that this portion of the record can easily be detached and bound together with the documents, so as to constitute a separate volume for the use of the High Court in hearing the appeal. Each exhibit shall be printed separately and paged at the foot of each page, so as to admit of the papers being readily detached and rearranged in accordance with the provisions contained in Schedule 1 to the Supreme Court Rules in the event of an appeals to the Supreme Court.
- (3) In appeals where the amount or value of the subject matter of the dispute in the Court of first instance and still in dispute on appeal to this Court is not less than twenty thousand rupees, whether the printing is done in the ordinary form or in the Supreme Court form, in addition to the number of copies ordinarily struck off for the use of the appeal in the High Court, 35 additional copies shall be struck off and retained in the High Court, so as to be available for use in the event of an appeal to the Supreme Court from the appellate decree of the High Court. (P.Dis.532/62).
- (4) The charges for the preparation of the record shall be divided between the parties in the same manner as they would be, if the record had been prepared in the ordinary form. The charges for translation shall be at the rate prescribed in this Chapter. In all other respects the rules embodied in this Chapter and in the Chapter X shall be followed in so far as they are applicable.

### **CHAPTER IX-A**

Appeals against Orders, Appellate Decrees, Appellate Orders, Interlocutory Orders and Appeals Relating to Costs only, Revision Petitions and Letters Patent Appeals

**Note** : - In this Chapter, the word 'Appeal' and 'Appellant' will be understood to mean 'Petition' and 'Petitioner' in the case of Revision Petitions, wherever the context so requires.

- 91 A memorandum of appeal against decrees and orders falling under this chapter shall be accompanied by the fees prescribed for notice and by as many copies on plain paper of such memorandum as there are respondents to be served, plus an additional copy.
- 92 A list of cases to be heard under Order XLI Rule 11 read with Order XLII of the Code of Civil Procedure shall be affixed to Court notice board, and any such case may be posted for hearing not less than three clear days after it

has been entered in the said list, and such entry shall be sufficient notice to the appellant of the day fixed for hearing the appeal. If notice to the respondent is ordered, intimation of that order shall be given to the appellant on the notice board of the Court.

- 93 If an appeal is posted under Order XLI, Rule 11, Civil procedure Code, the appellant shall within three days after it is entered in the list mentioned in Rule 92 file a typed copy of all the papers he desires to rely upon.
- 94 There shall be no printing of the record in appeals falling under this chapter unless the Court otherwise directs.
- 95 In all such cases, the parties shall furnish to the Court two copies of all such pleadings and documents as they require typed in English (and certified by counsel in case where they are translated, that the translations are true and correct) as soon as may be after the case is given ready and in any case at least a fortnight before the date when it is taken up for hearing copies. So filed in Court shall be accompanied by an endorsement from counsel on the opposite side, that copy of that record has been served on him, provided when the Court requires additional copies of the record, the parties shall furnish the same.
- 96 All records prepared for the use of the Court shall be neatly typewritten with the pages numbered consecutively indexed with a table of contents with reference to the number of the pages and stitched into books
- 97 Notwithstanding anything contained in the above rules, the Court may allow a practitioner who discovers that any paper necessary for the disposal of the case has not been typed or printed, to provide at the time of hearing, after serving copies in advance on the other side, typed copies in English of such paper, accompanied by a certificate that the translation is true and correct where the original is not in English and the translation was not done in the High Court.
- 98 The parties may get translated by the High Court office any paper they intend to use before the Court on payment of the charges therefor. Where the paper filed in the office for such translation is not the original or a certified copy, it shall be accompanied by a certificate by the counsel filing it that it is a true and correct copy of the original.
- 99 Where at the time of the hearing for the admission of the appeal printing of the record is directed by the Court, the notice of appeal or petition issued to respondents shall contain a note to that effect. A list of cases in which printing has been ordered shall be affixed to the Court notice board from time to time. The appellant or petitioner shall within ten days from the date of such intimation file in the Court, lists as in Form No.2 of Appendix IV of such pleadings and documents as he desire to have translated and printed. The respondent may also file similar lists within one month either from the date of such intimation on the notice board or from the date of service on him of the notice of appeal or petition, whichever is later, provided that a memorandum of objections, if any, filed by him shall always form a part of the record to be printed. When a memorandum of objections is filed, the

appellant or any respondent affected thereby may within one week of the service of such memorandum vary or amend his list.

- 100 To cases in which printing has been ordered the rules relating to the preparation of appeals from original decrees, with the exception of Rule 73 and so much of Rule 75(1) as relates to payment of deposit shall, so far as may be applicable.
- 101 In all cases where the records have not been called for, the appellant shall within twenty-one days from the date of notice of admission of the appeal file in Court certified copies of all the papers (other than those filed with the memorandum of appeal) which he desires to have translated or translated and printed as the case may be. The respondent shall within twenty-one days from the date of his entering appearance or within 6 weeks from the date of service of notice shall do likewise.
- <sup>14\*</sup>102 Notwithstanding anything in the foregoing rules, the Registrar may suo motu or at the instance of a party direct that the records in any appeal be translated, typed, or cyclostyled or reproduced mechanically by the office of the court. In such cases the charges at the rates prescribed in Rule 90 shall be collected from the parties in the manner prescribed for the collection of such charges in appeals from original decrees.”
103. All appeals in which there is no printing of record shall be posted on the notice board as ready for hearing three months after the records therein have been received from the lower court and in cases where the records have not been called for, three months after the date of admission, provided, that unless otherwise ordered, no case shall be posted until after the expiration of eight weeks from the date of service of notice of the appeal upon the respondent.
- 104 (1) The party to whom costs are awarded may include in the memorandum of costs filed by him the expenses incurred for printing or typing and the Registrar shall allow the party such costs or such portion of the costs as he considers reasonable.
- (2) If the unsuccessful party claims that any portion of the printing or typing done at the instance of the other party was unnecessary, he may immediately after the disposal of the case apply to the Court for disallowance to the other side of the costs unnecessarily incurred, and the Court may pass such orders as it deems fit.
- 105 When an appeal against an appellate decree or order has been heard and disposed of by a Single Judge on application for leave to appeal under clause 15 of the Letters Patent of the High Court shall be made orally and immediately after the Judgment has been delivered.

Note: Rules 91 to 105 of this chapter were substituted in lieu of the old Rules 91 to 106-A(High Court's R.O.C. No. 238/48-B1,dated 4<sup>th</sup> April,1957).

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<sup>14\*</sup> New Rule 102 is substituted for the existing Rule 102 vide Roc No. 1045/SO/81 dt. 28.01.84.

**CHAPTER X**  
**Appeals to the Supreme Court**

- 106 Whoever desires to appeal to the Supreme Court under Clause (1) of Article 133 of the Constitution, shall apply for a certificate by petition to the court whose judgment, decree or final order is complained of:

Provided that an application may be made orally for the purpose immediately after the judgment has been delivered:

Provided further where the certificate has been refused on an oral application no subsequent petition for the certificate shall lie.

- 107 Every petition for a certificate to appeal to the Supreme Court shall be accompanied by an acknowledgment signed by the Advocate; if any who has appeared for the opposite party at the hearing of the appeal in the High Court stating that he has received a copy of the petition or proof of refusal of notice by such advocate and such acknowledgment or proof of refusal shall be deemed to be sufficient service on the party who has appeared by such advocate.

An advocate appearing for a party to the appeal shall receive notice of such petition for a certificate unless he has withdrawn appearance with a certificate of the Court.

- 108 On receipt from the Supreme Court of the copy of the petition of appeal under Rule 11 of the Order XV of the Supreme Court Rules, 1966, the Registrar shall:-

- (1) cause notice of lodgement of the petition of appeal together with the copy of the said petition of appeal to be served on the advocate for the respondent who is on record in the High Court.
- (2) In case where the advocate for the respondent refuses to receive the said notice and in case where the respondent is not represented by an advocate in the High Court, as soon as possible, call upon the appellant to file the necessary process for the service of the notice of lodgement of the petition of appeal on the respondent with the proscribed fee in accordance with the Rules contained in Chapter VII of the Rules.
- (3) As soon as notice as aforesaid is served on the respondent, send a certificate to the Supreme Court as to the date or dates on which the said notice was served; and
- (4) Unless otherwise ordered by the Supreme Court, transmit to the Supreme Court at the expense of the appellant the original record of the case.

- 109 The appellant shall, within two weeks from the receipt of the memo from the Registrar or such extended time as the Court may order on application, deposit into Court the necessary amount as shown in the memo for transmission of the original record to the Supreme Court.

- 110 Where, however, the Supreme Court on an application made for the purpose, dispenses with service of the petition of appeal on any respondent who did not appear in the proceedings in the High Court or on his legal representative under Rule 10 of order XV of the Supreme Court Rules, 1966 the appellant shall file a copy of the said order along with the process referred to in Clause (2) of Rule 109.
- 111 Whenever the Supreme Court by its order directs the High Court to have the record printed and prepared in the High Court under the provisions of Order XV, Rule 14, of the Supreme Court Rules, in the absence of any specific directions in the matter, the following rules apply in regard to the preparation of the records by the High Court.
- 112 (1) As soon as the original record of the case is received, the Registrar shall give notice to the parties of the receipt of the original record.
- (2) The appellant shall, within four weeks of the receipt of the notice referred to in clause (1), file a list of documents to be included in the record and serve a copy thereof on the respondent who shall be at liberty, within three weeks of the receipt of such list, to file such list of additional documents as he considers necessary for the determination of the appeal.
- Provided that no such list of documents shall be necessary where the entire case record is in English and where the Supreme Court takes up the printing of the case record.
- 113 After the expiry of the time fixed for the filing of the additional list by the respondent the Registrar shall fix a day for the settlement of list of documents to be included in the appeal record and shall give notice thereof to the parties who have entered appearance. In settling the lists, the Registrar as well as the parties concerned, shall endeavour to exclude from the record all documents that are not relevant to the subject matter of the appeal and generally to reduce the bulk of the record as far as practicable.
- 114 Where the respondent objects to the inclusion of a document on the ground that it is not necessary or is irrelevant and the appellant nevertheless insists upon its inclusion, the record as finally printed, shall, with a view to subsequent adjustment of cost of and incidental to the printing of the said document, indicate in the index of papers or otherwise the fact that the respondent has objected to the inclusion of the document and that it has been included at the instance of the appellant.
- 115 Where the appellant objects to the inclusion of a document on the ground that it is not necessary or is irrelevant and the respondent nevertheless insists upon its inclusion, the Registrar, if he is of opinion that the document is not relevant, may direct that the said document be printed separately at the expense of the respondent and require the respondent to deposit within such time as he may prescribe, the necessary charges therefor and the question of cost thereof shall be dealt with by the Court at the time of determination of the appeal.

- 116 As soon as the index of the record is settled, the Registrar shall cause an estimate of the costs of the preparation of the record to be printed and served, on the appellant and to require him to deposit within thirty days of such service the said amount. The Registrar may extend the time for good cause on application made for the purpose.
- 117 When the Supreme Court or High Court, on an application made for the purpose, consolidates several appeals for giving security for the costs of the respondent subject to such orders of Court as may be made the cost of printing in appeals consolidated shall be borne by the appellants in each of the appeals in such proportion as may be agreed upon by common consent, and in case of disagreement in accordance with the apportionment made by the officer entrusted with the preparation of the record.
- 118 (1) Where the record has been printed for the purpose of the appeal in the High Court in the Supreme Court Form under Rule 90(B) and sufficient number of such copies are available, no fresh printing of the record shall be necessary except of such additional documents as are mentioned in the list of documents and subsequent proceedings in the appeal but a sum of Rs.300(to be afterwards increased if necessary) shall be deposited to meet expenses of preparing or completing and transmitting the record.
- (2) Where no portion of record has been printed in the Supreme Court form under Rule 90 (B) the appellant shall, in first instance deposit a sum of Rs.800 to meet the expenses of translating, transcribing, indexing, printing and transmitting the record.
- Provided that the deposits mentioned in sub-rules (1) and (2) shall not be required by Government or where the Government has undertaken the defence of the suit from any Public Officer sued in respect of an act purporting to be done by him in his official capacity.
- 119 Where the appeal paper book is likely to consist of two hundred or less number of pages, the Court may, on the application made for the purpose, order instead of having it printed, cyclostyling of the case record under the supervision of the Registrar.
- 120 If at any time during the preparation of the record the amount deposited is found insufficient, the Registrar shall call upon the appellant to deposit such further sum as may be necessary within such further time as may be deemed fit but not exceeding twenty-eight days in the aggregate.
- 121 Where the appellant fails to make the required depository, the preparation of the record shall be suspended and the Registrar shall not proceed with the preparation thereof without an order in this behalf of the court.

- 122 The charge for the preparation of the record shall be calculated at the rates mentioned in the Schedule annexed hereto: but the said rates are subject to modification by the Registrar from time to time.
- 123 In addition to twenty copies fixed under sub-rule (3) of Rule 14 of Order XV of the Supreme Court Rules, 1966, fifteen additional copies shall be printed and retained in the High court for further reference and for supply to the parties on application.
- 124 The entire costs of printing, indexing and transmitting of the record, unless otherwise ordered by court shall be borne by the appellant; and the Registrar shall certify when necessary the fees and expenses incurred and paid for the aforesaid purpose.
- 125 Where the proceedings from which the appeal arises, were heard in courts below, in a language other than English each party shall bear the translation and typing charges of the documents asked for in their respective lists. The necessary charges therefor shall be deposited by the parties in the High Court prior to the transmission of the record to the Supreme Court. If the appellant commits default in making such deposit, he shall be dealt with under Rule 121. If the respondent commits default the documents shall be excluded from the printed record and a note to that effect recorded in the Index.
- 126 When the record has been made ready, the Registrar shall certify the same and give notice to the parties of the certification of the record and append to the record a certificate showing the amount of expenses incurred by the party concerned for the preparation of the record.
- 127 (1) When a party who has been successful in an appeal to the Supreme Court applies for a certificate of the costs incurred in the appeal in the High Court, the Registrar shall upon production of the order of the Supreme Court for the payment of such costs and without reference to the Court prepare a certificate of the fees and expenses incurred and paid for the preparation and transmission of the record and place it on the record of the Supreme Court.
- (2) Such certificate may also include Advocate's fee incurred in the high Court in connection with the application for leave and proceedings subsequent thereto and the Registrar may assess the amount thereof at a sum not exceeding Rs.250 having due regard to the circumstances of the case.
- 128 Where no time is fixed for any act to be done in the High Court in pursuance of these rules, the Registrar may in his discretion fix the time for the doing of such act and grant such further time as he may deem proper in the circumstances of each case.
- 129 (1) When Special Leave to appeal has been granted by the Supreme Court and intimation thereof is received in the High Court, notice of the grant of such special leave shall be given to the respondent, or to his pleader, if any, and a copy of this notice and the return thereto, together with a certificate by the Registrar that such notice has been duly served shall form part of the records.

- (2) Where the name of a person has been brought on the record of the appeal as respondent by an order of the Supreme Court and an intimation thereof is received in the High Court, notice of the fact shall be given to the said respondent through his pleader, if any, and a copy of the notice and the return thereto, together with a certificate by the Registrar that such notice has been duly served, shall form part of the record, if any, or shall be separately transmitted to the Supreme Court.
- (3) When the record or supplementary record in an appeal to the Supreme Court has been despatched to the Registrar of the Supreme Court, notice of the despatch to the Registrar of the Supreme Court, notice of the despatch shall be given to the parties through their pleaders if any and by affixing a copy of the notice on the notice board of the Court and a copy of this notice and a certificate by the Registrar showing the fact and manner of service shall be transmitted to the Supreme Court.
- (4) The charge for serving the notices referred to in this rule shall be borne by the appellant and provisions of Chapter VII of the rules shall apply.
- 130 Where the preparation of the record has been done by the High Court at the direction of the Supreme Court, the party making deposits for translation, printing and preparation of the record shall be entitled to refund to the amount unspent on application made to the Registrar, after the disposal of the appeal by the Supreme Court.

**SCHEDULE OF RATES  
(Rule 122)**

	Rs.	Ps.
Printing per page in Supreme Court Form:-	Actual charges to be ascertained according to the prevailing rates.	
Cost of paper for printing	-do-	
Translation per page of 24 lines	3.50	
Copying and examining per page not exceeding 32 lines	1.50	
Preparation of the record for the press and examination of the proofs for every printed page	1.00	
Indexing for every 100 words	1.50	
For Additional printed copy per page.	1.00	

**FORMS**

**Certificate that appellant has given security for the costs of the respondent. etc.**

(Rule 114)

I, hereby certify that ..... has this day deposited in the office of the Registrar of the High Court the sum of Rs..... has security for the costs of the respondent in the appeal sought to be preferred to the Supreme Court against the decree of the High Court in suit No .....of ..... and has deposited the sum of Rs..... to defray the expenses of translating, transcribing, indexing, printing and transmitting to the Supreme Court a correct copy of the material portion of the record of the said suit.

**Form of Order admitting Appeal to the Supreme Court**

**(Rule 115)**

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

Application praying Inter alia, that the High Court will, on the fulfillment of the necessary conditions, be pleased to make the further order required by Order XLV, Rule 8 of the Code of Civil Procedure, in the appeal sought to be preferred by the petitioner to the Supreme Court against the decree of the High Court in Appeal No. .... of 19 ..... dated .....

**ORDER**

This application coming on for orders; upon perusing the application and upon hearing the arguments of ..... for the petitioner, and it appearing from the certificate of the Registrar of this Court, dated ..... 19 ..... that a the petitioner ..... fulfilled ..... the requirement of Order XLV, Rule 7, in regard to giving security for the costs of the respondent and making deposit of the amount required to defray the expenses of preparing a copy of the record for transmission to the Supreme Court ;this Court doth hereby declare that the appeal of the petitioner to the Supreme Court against the decree of this Court in Appeal No. .... of 19 ..... is admitted; and the Court doth further order that notice thereof be sent to the respondent, and that a correct copy of the material portions of the record of the said appeal be transmitted to the Supreme Court under the seal of the Court.

## CHAPTER XI

<sup>15\*</sup>Reference and applications under Income Tax Act, 1961, Wealth Tax Act, 1957 and Gift Tax Act, 1958”

The following Rules shall regulate the procedure to be adopted in regard to the reference and applications to the High Court under Section 256 (1) of the Indian Income Tax Act, Section 26 (1) of the Gift Tax Act, 1958 and Section 27 (1) of the Wealth Tax Act, 1957”.

- <sup>16\*</sup>1      References under Section 256 (1) of Income Tax Act, 1961, Section 26 (1) of the Gift Tax Act, 1958 and Section 27 (1) of the Wealth Tax Act, 1957” by the Appellate Tribunal stating a case for the opinion of the High Court shall, on receipt thereof by the Registrar, be numbered as Referred Cases but no court-fee shall be levied on such references by the Registrar.
- 2      The registrar, Appellate Tribunal, shall together with the letter of reference submit two copies of the said letter and of any records necessary for the consideration of the reference.
- 3      (a)      On the said reference being numbered as a Referred Case, the Registrar shall fix a day for the hearing of the case and intimation thereof shall be given to the Appellate Tribunal and to the Commissioner of Income-tax.
- (b)      Within a fortnight of the receipt of the intimation referred to in sub-clause (a) above the Commissioner of Income-tax shall file a memorandum giving particulars for service on the parties concerned in Form-I of Appendix IV of Appellate Side Rules with court-fee labels attached for the fees prescribed for service of notice on them.
- <sup>17\*</sup>4      (a)      Any application under Section 256 (2) of the Income Tax Act, 1961, Sec.26 (3) of the Gift Tax Act 1958 and sec. 27 (3) of the Wealth Tax Act, 1957” requiring the Appellate Tribunal to state a case for the opinion of the High Court shall be by a Civil Miscellaneous Petition. The petition shall be verified and shall contain in precise language a statement of the point of law upon which the case is to be stated and shall set out concisely the material facts and the proceedings which have taken place before the Income-tax Officers and the Appellate

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<sup>15\*</sup> Amended by ROC No. 341/SO/87 DT. 26.8.87 VIDE A.P. GAZETTE NO. 166, PART II (Ext.). dt. 26.8.1987.

<sup>16\*</sup> In Rule 1 for the word “Under Sec.66(1) of the Act” the words “Sec.256(1) of Income Tax Act, 1961, Sec. 26(1) of the Gift Tax Act, 1958 and Sec. 27(1) of the walth Tax Act 1957 are substituted vide Roc no. 341/SO/87 dt. 26.08.87 (A.P.Gazette No. 166 Part II (Ext.) dt.26.08.1987.

<sup>17\*</sup> In Rule 4 (a) for the words “Sec.66(2) of the Act, “See .256 (2) of I.T. Act, 1961, Sec.26 (3) Gift Tax Act, 1958, and Sec.27(3) of W.T.Act, 1957 are substituted. In the some rule 4 (a),the words and numbers “under Sec.33(4) of the Act are deleted and for the words and numbers under Sec.66 of the Act” the words” “the order” are substituted vide ROC No. 341/SO/87 dt.26.08.1987. It is published in A.P. Gazette No. 166 Part.II (Ext.) dt. 26.08.87.

Tribunal Copies of the orders of the Income – Tax officer of the Appellate Assistant Commissioner of Income Tax and of the Appellate Tribunal, out of which the question of law arose and ( \* \* \* ) the order refusing to state a case shall be filed with the petition.

<sup>18\*</sup>(b) An application under Section 256 (2) of the Income Tax Act, 1961, Section 26 (3) of the Gift Tax Act, 1958 and Section 27 (3) of the Wealth Tax Act, 1957” shall also be by a Civil Miscellaneous Petition which shall be verified and which shall set out concisely the proceedings which have taken place before the Appellate Tribunal. It shall be accompanied by two copies of the Orders of the Appellate Tribunal disposing of the case.

<sup>19\*</sup>4-A An application Under Section 256 (2) of the Income Tax Act, 1961, Section 26 (3) of the Gift Tax Act, 1958 and Section 27 (3) of the Wealth Tax Act, 1957 filed by an assessee shall be accompanied by a certificate from the Income Tax Appellate Tribunal to the effect that he has not withdrawn his applications to the said Tribunal under Sec.256(3) of the Income Tax Act,1961, Sec.26 (3) of Gift Tax Act, 1958 and Sec.27(3) of the Wealth Tax Act 1957.

5 With the petition, shall be filed two spare copies thereof and of the orders referred to in Rule 4 supra. The two spare copies of the petition and orders shall be nearly typed on substantial white paper, paged, indexed and stitched in book form. The petition shall also be accompanied by a memorandum giving particulars for service on the respondent in Form No.1 of Appendix IV, Appellate Side Rules, with Court-fee labels attached for the fees prescribed for Service of notice on him.

6 As soon as the application under Section 256 (2) of the Income Tax Act, 1961 or Section 26 (3) of the Gift Tax Act, 1958, or Section 27 (3) of the Wealth Tax Act, 1957 is numbered, it shall be posted for admission before a Bench of two Judges who shall direct notice of final hearing of the said petition to be issued to the respondent or respondents if they are satisfied that the decision of the Appellate Tribunal is not prima facie correct and the said application shall thereupon be heard for final hearing as soon as the respondents are served. If the Bench hearing the application is satisfied with the correctness of the decision of the Appellate Tribunal, it shall dismiss the application after hearing the petitioner.

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<sup>18\*</sup> In Rule 4 (b) for the words and numbers i.e. “Sec.66(3) of the Act”, the words and numbers i.e Sec.256 (2) of the I.T.Act, 1961,Sec.26(3) of Gift Tax Act, 1958, and sec.27(3) of the W.T.Act, 1957 “are substituted vide ROC.No. 341/SO/87 dt.26.08.1987.

<sup>19\*</sup> Rule 4-A is substituted with the new words and numbers in the existing Rule 4-A vide ROC.No. 341/SO/87 dt.26.08.87.

- 7 Either the Income Tax Department or the assessee may with the permission of the Court consolidate and file one single application under Section 256 (2) of the Income-Tax Act, 1961, Section 26 (3) of the Gift Tax Act, 1958, and Section 27 (3) of the Wealth Tax Act, 1957 if the order of the Appellate Tribunal relates to the same assessee and for the purpose of such consolidation, the petitioner shall indicate the reason for such consolidation and also the cases disposed of by the Tribunal which form a batch.

When the Income-Tax Tribunal disposes of a number of appeals relating to the same assessee but relating to different assessment years under common order, it shall be open either to the Income-Tax Department or to the assessee to file only one application provided the questions of law and fact arising in the orders of the Tribunal are common and the Court permits the Income-Tax Department or the assessee to do so.

- <sup>20\*</sup>7-A The procedure prescribed under Section 148-A C.P.C. for filing Caveat opposing the application at the stage of admission shall be applicable to the proceedings posted for admission under these Rules.
- 8 All cases referred or stated by the Appellate Tribunal shall, as far as possible be divided, into paragraphs, numbered consecutively and shall concisely state such facts and refer to such documents, with copies of the latter annexed, as may be necessary to enable the Court to decide the question raised thereby.
- 9 The Appellate Tribunal shall settle the case in its final form, forward the case as thus settled to the High Court and supply three copies thereof to the commissioner of Income-tax and the assessee, intimating to them at the same time the date on which the case stated by the Tribunal was sent to the High Court.
- 10 Upon the argument of such reference or petition, the Court and the parties shall be at liberty to refer to the whole of the contents of the documents annexed to the case.
- 11 The statement of the case shall set out in the concluding paragraph thereof the point of law to be decided as stated in the application of the assessee or of the Commissioner of Income-tax or any modified form thereof which the High Court may have ordered.
- 12 The Court disposing of the case shall fix the fees payable by or to either party in its absolute discretion.

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<sup>20\*</sup> Rule 7-A is newly incorporated vide ROC No.341/SO/87 dt.26.08.87

## ANNEXURE

Form of Notice under Rule 6  
 In the High Court of Judicature, Andhra Pradesh, Hyderabad.  
 Appellate Side  
 Referred Case No. .... of 19 .....

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C.M.P. No. .... of 19 .....  
 Applicant in ..... On the file  
 Of the Appellate Tribunal  
 Petitioner  
 Versus

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Respondent in ..... on the  
 File of the Appellate Tribunal

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Respondent.

Take notice that a case has been stated and referred by the Appellate Tribunal for the opinion of the Honourable Judges of the High Court under date the .....day of .....19 ..... Or that a petition has been made to the High Court on the ..... day of ..... 19 ..... By the above-named petitioner to require the Appellate Tribunal to state a case and refer it to the High Court for the opinion of the Honourable Judges or to require the Appellate Tribunal to treat the application made by him to the Appellate Tribunal under Section 256(2) of the Income Tax Act, 1961, Section 26(3) of the Gift Tax Act, 1958 ; and Section 27(3) of the Wealth Tax act, 1957 as made within the prescribed time. You are hereby required to appear before the said High Court on the ..... day of .....19 ..... In person or by a duly authorized pleader and be prepared to argue the said reference or petition and that, in default of your appearance, the said reference or petition may be heard or determined in your absence.

High Court of the Andhra Pradesh  
 Date ..... 19 .....

Assistant Registrar,  
 Judicial Department.

<sup>21\*</sup>CHAPTER XI-A

The following rules are framed to regulate the procedure to be adopted with regard to proceedings to the High Court under Sections 22 and 23 of the A.P. General Sales Tax Act, 1957.

- 1 All Tax Revision Cases filed under Section 22 of the Andhra Pradesh General Sales Tax Act, 1957 shall be accompanied by a Memorandum of grounds a copy of which shall be served on the Government Pleader for Commercial Taxes or in the office of the Government Pleader alongwith any material papers filed with such Tax Revision Case.
- 2 All Special Appeals under Section 23 of the A.P. General Sales Tax Act, 1957 shall be in the form of Memorandum of Appeal and a copy of such Memorandum together with all material papers on which the appellants are relying, shall be served on the Government Pleader for Commercial Taxes or in the Office of the Government Pleader as the case may be.
- 3 Notice shall be given to the Government Pleader for Commercial Taxes in all Applications for interim relief filed either in Tax Revision Cases under Section 22 of the Act or in Appeals under Section 23 of the Act and no Tax Revision Case or Special Appeal either under Section 22 or under Section 23 shall be numbered and posted for admission unless the Memorandum of Revision or appeal as the case may be bears endorsement of such service referred to in these Rules.

**CHAPTER XII**

## Miscellaneous

137. [Omitted]
138. When any act has not been done within the time lawfully appointed for that purpose by the Registrar and an application to the Court therefore becomes necessary, such application shall be made by petition. Any facts required to be proved in support of such petition shall be ordinarily proved by affidavit and such petition and affidavit (if any) shall be filed in the Registrar's Office before 4.0'clock in the afternoon of the day preceding that fixed for the sitting of the Court before which the application is to be made.
139. The forms given in Appendix IV shall be used for the purposes therein mentioned.

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<sup>21\*</sup> Chapter XI-A is newly added by framing rules under A.P. General Sales Tax Act, 1957 vide ROC.No.918/SO/87 dt.26.08.87, published in A.P.Gazette No.166 (PartII (Ext.) dt. 26.08.1987.

140. The Office of the Registrar shall be open for the transaction of business from 11 a.m. to 4 p.m. on all days except Sundays and holidays. On Saturdays the office shall be closed for money transactions at 1 p.m.
141. Omitted.
142. When papers bearing court-fee labels are filed each set of papers filed at one time in a case must be accompanied by a form of receipt in duplicate duly filled up for the amount of the court-fee paid. The receipt shall be in a the printed form available for sale at the Registrar's office. The receiving clerk shall, after verifying the correctness of the particulars entered in the receipt, affix the date stamp to the original and duplicate, initial them and return the original to the person filing the papers.
143. Any party, dissatisfied with the decision of the Taxing Officer under Rules 43 and 48 of the Practitioner's Fees Rules, may within three days from the date of the order of the Taxing Officer apply to Court by petition for a review of the order.

#### APPENDIX I

##### Enactments referred to in the Introductory Rule

1. 24 and 25 Vic., c, 104-Sections 13 and 14.
2. The Letters patent of the High Court of Judicature at Madras 1865.
3. The Code of Civil Procedure, 1908 and the Acts amending the Same.
4. The Constitution of India.
5. The Andhra State Act, 1953 (Central Act, XXX of 1953).

#### APPENDIX II CONTITUTION OF THE HIGH COURT OF ANDHRA THE ANDHRA STATE ACT, 1953

(XXX of 1953)

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## PART IV

## HIGH COURTS

28. *High Court for Andhra*:- (1) As from the 1<sup>st</sup> day of January, 1956, or such earlier date as may be appointed under sub section (2), there shall be a separate High Court for the State of Andhra (hereinafter referred to as "The High Court of Andhra").

(2) The President may, if a resolution recommending the establishment of a separate High Court for the State of Andhra has, after having been adopted by the Legislative Assembly of that state, been submitted to him, appoint, by notification in the Official Gazette, a date earlier than the 1<sup>st</sup> day of January, 1956, for the purpose of sub-section (1).

**GOVERNMENT OF ANDHRA  
ABSTRACT**

COURTS – High Court of Andhra – Establishment of – Appointment of the date – President's Notification – Republished.

LAW DEPARTMENT

G.O.Ms.No.661  
Read the following:-

Dated the 25<sup>th</sup> June, 1954

From the Government of India, Ministry of Home Affairs, letter No.11/6/54 – Judicial, dated 8-6-54.

**ORDER:**

The following notification of the Government of India will be republished in the Andhra Pradesh:

**NOTIFICATION**

A resolution recommending the establishment of a separate High Court for the State of Andhra with effect from 5<sup>th</sup> July, 1954, having been adopted by the Legislative Assembly of that state, and the resolution so adopted having been submitted to the President under sub-section (2) of section 28 of the Andhra State Act, 1953 (30 of 1953) the President hereby appoints the 5<sup>th</sup> July, 1954, as the date on which a separate High Court for the State of Andhra shall be established.

**(BY ORDER OF THE GOVERNOR)**

B.CH.NARAYANA MURTHY,  
Secretary to Government.

(3) The date mentioned in sub-section (1) or, if an earlier date is appointed under sub-section (2), the date so appointed is hereinafter referred to as the 'prescribed day'.

\* (4) The principal seat of the High Court of Andhra shall be at such place as the Governor of Andhra may, before the prescribed day, order, appoint:

Provided that if a resolution recommending any place for such principal seat is adopted by the Legislative Assembly of Andhra such place shall be appointed by the Governor as the principal seat.

GOVERNMENT OF ANDHRA  
ABSTRACT

COURTS – High Court of Andhra – Establishment of – Appointment of the principal seat of High Court – Notified.

**LAW DEPARTMENT**

G.O.Ms.No.660

Dated the 25<sup>th</sup> June, 1954

Read the following:-

From the Legislative Secretariat U.O.Note No. 421/54-2-AL, dated 1-3-1954.

From the Government of India, Ministry of Home Affairs, Letter No.11/6/54 – Judicial, Dated 8-6-1954.

**ORDER:**

The appended notification will be published in the Andhra Gazette.

**APPENDIX  
NOTIFICATION**

Whereas under the proviso to sub-section (4) of section 28 of the Andhra State Act, 1953 (Central Act XXX of 1953), if a resolution recommending any place for the principal seat for the High Court of Andhra is adopted by the Legislative Assembly for Andhra, such place shall be appointed by the Governor of Andhra as the principal seat.

AND WHEREAS the Legislative Assembly of Andhra has on the 1<sup>st</sup> March, 1954 adopted a resolution recommending that the principal seat of the High Court of Andhra shall temporarily be at Guntur in the Guntur District:

Now, THEREFORE in exercise of the powers conferred by sub-section (4) of the said section 28 and in pursuance of the resolution aforesaid, the Governor of Andhra hereby appoints Guntur in the Guntur District temporarily to be the principal seat of the High Court of Andhra.

(BY ORDER OF THE GOVERNOR)

B.CH.NARAYANAMURTHY,  
Secretary to Government.

29. Judges of the Andhra High Court:-

- (1) Such of the Judges of the High Court at Madras holding office immediately before the prescribed day as may be determined by the President shall, on that day, cease to be Judges of the High Court at Madras and become Judges of the High Court of Andhra.
- (2) The persons who by virtue of sub-section (1) become Judges of the High Court of Andhra shall, except in the case where any such person is appointed to be the Chief Justice of that High Court, rank in that court according to the priority of their respective appointments as Judges of the High Court at Madras.
- (3) Any person who by virtue of sub-section (1) becomes a Judge of the High Court of Andhra shall, except in the case where a Judge other than the Chief Justice of the High Court at Madras is appointed to be the Chief Justice of the High Court of Andhra, continue to be entitled to receive in respect of time spent on actual service as a Judge of the High Court of Andhra, the special pay which he was drawing immediately before the prescribed day under subparagraph (2) of paragraph 10 of the second schedule to the Constitution.

30. Jurisdiction of Andhra High Court:- The High Court of Andhra shall have, in respect of the territories for the time being included in the State of Andhra, all such original, appellate and other jurisdiction as, under the law in force immediately before the prescribed day, is exercisable in respect of the said territories or any part thereof by the High Court at Madras.

31. Power to enroll advocates, etc:- (1) The High Court of Andhra shall have the like power to approve, admit, enrol, remove, and suspend advocates and attorneys, and to make rules with respect to advocates and attorneys, as are, under the law in force immediately before the prescribed day, exercisable by the High Court at Madras.

(2) The right of audience in the High Court of Andhra shall be regulated in accordance with the like principles as, immediately before the prescribed day, are in force with respect to the right to audience in the High Court at Madras:

Provided that subject to any rule made or direction given by the High Court of Andhra in the exercise of the powers conferred by this section, any person who immediately before the prescribed day is an advocate entitled to practice or an attorney entitled to act in the High Court at Madras shall be recognized as an advocate or an attorney entitled to practice or to act, as the case may be, in the High Court of Andhra.

32. Practice and procedure in Andhra High Court:- Subject to the provisions of this part, the law in force immediately before the prescribed day with respect to practice and procedure in the High Court at Madras shall, with the necessary modifications, apply in relation to the High Court of Andhra, and accordingly that High Court shall have all such powers to make rules and orders with respect to practice and procedure as are immediately before the prescribed day exercisable by the High Court at Madras.

Provided that any rules or orders which are in force immediately before the prescribed day with respect to practice and procedure in the High Court at Madras shall, until varied or revoked by rules or orders made by the High Court of Andhra, apply with the necessary modifications in relation to practice and procedure in the High Court of Andhra as if made by that court.

33. Custody of the seal of the Andhra High Court:- The law in force immediately before the prescribed day with respect to the custody of the seal of the High Court at Madras shall, with the necessary modifications, apply with respect to the custody of the seal of the High Court of Andhra.
34. Form of Writs and other Processes:- The law in force immediately before the prescribed day with respect to the form of writs and other processes used, issued or awarded by the High Court at Madras shall, with the necessary modifications, apply with respect to the form of writs and other processes used, issued or awarded by the High Court of Andhra.
35. Powers of Judges:- The law in force immediately before the prescribed day relating to the powers of the Chief Justice, single Judges and Division Courts of the High Court at Madras and with respect to all matters ancillary to the exercise of those powers shall, with the necessary modifications, apply in relation to the High Court of Andhra.
36. The place of sitting of the High Court:- The Judges and Division Courts of the High Court of Andhra may sit at such place or places in the State of Andhra other than its principal seat as the Chief Justice may, with the approval of the Governor of Andhra, appoint.
37. Procedure as to appeals to the Supreme Court:- The law in force immediately before the prescribed day relating to appeals to the Supreme Court from the High Court at Madras, and the Judges and Division Courts thereof, shall, with the necessary modifications apply in relation to the High Court of Andhra.
38. Transfer of proceedings from Madras High Court to Andhra High Court:-
  - (1) Except as hereinafter provided, the High Court at Madras, shall as from the prescribed day, have no jurisdiction in respect of the state of Andhra.
  - (2) Such proceedings pending in the High Court at Madras immediately before the prescribed day as are certified, whether before or after that day, by the Chief Justice of that High Court having regard to the place of accrual of the cause of action and other circumstances to be proceedings which ought to have been heard and decided by the High Court of Andhra shall as soon as may be after such certification be transferred to the High Court of Andhra.
  - (3) Notwithstanding anything contained in sub-sections (1) and (2) of this section or in Section 30, but save as hereinafter provided, the High Court at Madras shall have, and the High Court of Andhra shall not have, jurisdiction to entertain, hear, or dispose of appeals, applications for leave to appeal including leave to appeal to the Supreme Court,

applications for review and other proceedings where any such proceedings seek any relief in respect of any order passed by the High Court at Madras before the prescribed day.

Provided that if after any such proceedings have been entertained by the High Court at Madras, it appears to the Chief Justice of that High Court that they ought to be transferred to the High Court of Andhra he shall order that they shall be so transferred and such proceedings shall thereupon be transferred accordingly.

(4) Any order made by the High Court at Madras:-

- (a) before the prescribed day, in any proceedings transferred to the High Court of Andhra by virtue of sub-section (2), or
- (b) in any proceedings with respect to which the High Court at Madras retains jurisdiction by virtue of sub-section (3) shall for all purposes have effect, not only as an order of the High Court at Madras, but also as an order made by the High Court of Andhra.

39. Savings:- Nothing in this part shall affect the application to the High Court of Andhra of any provisions of the Constitution, and this part shall have effect subject to any provision that may be made on or after the prescribed day with respect to that High Court by any Legislature or other authority having power to make such provisions.

40. Transitional provisions:- (1) The provisions of this section shall have effect with respect to the period beginning on the appointed day and ending immediately before the prescribed day.

(2) The jurisdiction of the High Court at Madras shall extend to the state of Andhra, and the said High Court, shall in relation to the territories of that State continue to have such jurisdiction as it had immediately before the appointed day.

\* \* \* \* \*



**FORM NO. 2**

(See Rules 73 and 74)

*Form of list of documents to form the record in appeal in the High Court  
(Cause title)*

Mark in The lower Court.	Date and description Of document	Whether the whole or part of the Document.	*Number of pages of		* Estimate of cost.
			Translation	Printing	

Rs. .

Total ..

The applicant will require  
Record in addition to the first copy

copies of the

(signed) A.B.,

Advocate for Appellant  
(Respondent)  
Court

\*These Columns are to be filled in by the officers

**Note:-** Where portion only of documents are required to be translated and printed and where the portions to be translated and printed are not pointed out within the prescribed time, those documents will be excluded from the record.

**Form No. 3**

(See Rule 45)

*Notice of application to the court.*  
(Cause title)

Take notice that the appellant (respondent) has presented a petition to the Court praying that (*set out the terms of the prayer*) and that the same will be heard by the Court (*Registrar*) on the \_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

Execution has been stayed (*or other order made*) by orders, dated the \_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

The affidavit of E.F. has been filed in support of the application.

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_ .

(signed) A.B.,

Advocate for Appellant  
(Respondent)

To

Mr. C.D., Advocate for respondent (appellate)  
At (enter address for service).

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High Court of Judicature, Andhra Pradesh.