

CHAPTER IX

Preparation of Paper-books

PART I-General

1. The printing of Paper-books shall be in accordance with the following directions:-
 - (i) The paper-books shall be printed in the form known as demy quarto, i.e., in papers 9 inches in length and 7 inches in width;
 - (ia) The size of the paper used shall be such that the sheet, when folded and trimmed, will be 11 inches long and 8¹/₂ inches wide.
 - (ii) The type to be used in the text shall be pica types but long prima shall be used in printing accounts, tabular matters and notes;
 - (iii) The number of lines in each page of pica type shall be at least 54 and every tenth line will be numbered in the margin;
 - (iv) In case the back of the sheet on which the Index ends happens to be blank, Part I of the paper-book shall ordinarily commence from that blank sheet;
 - (v) Card-board covers shall not be used unless the paper-book exceeds 200 pages;
 - (vi) In a paper-book which does not exceed 200 pages and is not bound in card-board, the Index may commence from the reverse side of the title page if practicable. When the printed matter ends on the inner side of the last sheet, no extra blank sheet for the cover may be used.
2. (a) "Editing" the paper-book includes-
 - (i) Collecting and arranging the papers required for inclusion in the paper-book;
 - (ii) Examining and comparing proofs, or when several copies of a typed paper-book are prepared, examining and comparing such copies with the originals or authenticated copies of English papers or translations where the rules provide for translations;
 - (iii) The preparation of title pages and indices;
 - (iv) The General supervision necessary to ensure the accuracy of the record and compliance with the provisions of the Appellate Side Rules with regard to the preparation of paper-books.
- (b) "Taxing" includes checking that the paper-book has been prepared in accordance with the rules of this Chapter.
3. Every paper-book shall have attached to it a fly leaf in the prescribed form, and giving the following particulars:-
 - (i) The number of the case or cause;
 - (ii) The name/names of the Judge/Judges of the Court/Courts below;
 - (iii) The names of the parties and their Advocates;
 - (iv) The date of the institution of the suit;

- (v) The date(s) of the Lower Court/ Appellate and Trial Court's judgment(s);
- (vi) The date on which the appeal was presented;
- (vii) The date on which the appeal was decided; and
- (viii) The date on which the decree was signed.

4. In any appeal, the Court may upon good cause being shown, allow any party to put in as many typed copies as it considers proper.

*Exception-*In an appeal from original order which is to be heard under Order XLI Rule 11, Civil Procedure Code, no paper-book shall be prepared unless and until an order for the service of notice on the respondent has been made.

5. There shall be at the end of one copy of the paper-book whether prepared in or outside Court, a statement in Form Nos. 15 or 15A (Civil), Appendix 1, in which shall be specified each item of actual cost incurred in its preparation by the Appellant, and the Respondent, respectively and a copy of the statement aforesaid shall be served on the party himself by registered post with acknowledgment due, the cost of the same being included in the estimate and deducted from the Initial Deposit.

6. In the case of Appeals, other than Appeals from Appellate Decrees or Orders, any surplus after deducting the costs actually incurred by each party from the amount deposited with the Accountant of the Court, may be refunded to the party by whom the deposit was made on his request or to his Advocate entitled to act for such party in that behalf.

7. The costs incurred in the preparation of the paper-books shall be costs in the appeal, unless as to the whole or any portion thereof the Court which hears the appeal shall otherwise direct.

8. No order shall be passed exempting any Appellant or Respondent from the operation of the whole or any part of the Rules of this Chapter, or no special order shall be made as to any matter with which these Rules are concerned, except upon a stamped application setting forth sufficient grounds.

An application for enlargement of time for the doing of any act required to be done under these Rules shall ordinarily be made before the expiry of the prescribed time:

Provided that where compliance with the Rule or Rules concerned or with any order passed in connection therewith takes place by the end of the day on which the case appears on the Lawazima List of the Registrar, the application may, in the discretion of the Registrar, be dispensed with:

Provided also that, if it is deemed necessary, order may be passed directing an affidavit to be filed in support of the application for extension of time.

9. When these Rules direct or allow any act to be done by, or any notice to be given to, an Appellant or Respondent such act may be done by, or such notice given to, the Advocate.

PART II - Appeals from Original Decrees
A-General

10. On receipt of the record from the Lower Court it shall be the duty of the Registrar to see that the paper-book in an appeal from an Original Decree for the use of the High Court at its hearing is prepared in accordance with the directions given in the following rules:

Provided that the Registrar, or the Division Court having jurisdiction in the matter, for sufficient cause shown, may pass any special order regarding the preparation of the paper-book of any particular Appeal.

11A. Except in cases arising out of the Bengal Money Lenders Act, Part I of the paper-book shall always contain the following papers which are commonly known as "compulsory papers":-

- (i) The plaint;
- (ii) Written statements of parties interested in the appeal;
- (iii) Issues framed (if any);
- (iv) The judgment and the decree from which the appeal is preferred, exclusive of schedules; but including annexures and in case of a decree under Section 17 of the Arbitration Act, 1940, the award on the basis of which the decree was passed;
- (v) Memorandum of Appeal; and
- (vi) A chronological Index.

In this Part shall also be included the following papers when their inclusion is necessary for the purpose of the Appeal, provided that the Registrar, may upon application being made to him, direct that any paper or part of a paper shall not be included:-

- (i) Order sheet;
- (ii) Schedule and annexures (if any);
- (iii) Report of Commissioner (if any), with maps, depositions, etc., annexed;
- (iv) Depositions of witnesses for the plaintiff and the defendant; and
- (v) Any other paper, other than an exhibit, on which the decision of the Appeal depends. .

11B. In cases arising out of the Bengal Money Lenders Act, 1940, Part I of the paper-book shall consist of the following papers:-

- (i) The petition for re-opening the decree;
- (ii) Written objection to it (if any);
- (iii) Oral evidence in this proceeding started by the application for re-opening the decree;
- (iv) The judgment and decree or orders from which the appeal is preferred exclusive of schedule;
- (v) The Memorandum of Appeal; and
- (vi) A chronological index.

Note.-If any of the aforesaid documentary papers mentioned in Rule 11A (first paragraph) or 11B above, are omitted from the list. the office should include them in the list prepare the estimate.

Part II of the paper-book shall consist of exhibits (maps which are exhibits shall ordinarily be bound in a separate volume).

Note (1)-No finding or conclusion in the decision appealed from will be permitted to be challenged at the hearing of the Appeal unless the material on which such challenge is based is included in the paper-book.

Note (2)-Whenever a map prepared by a settlement or survey authority issued in printed form is necessary for inclusion in a paper-book, such map being an exhibit in the case, it shall not be necessary to reprint and reproduce such map. It will be sufficient if the requisite number of copies of the map are filed by the party concerned, if such copies can be purchased from the Government or other agents selling the same. Such copies when filed shall be taken as forming part of the paper-book. If in any case any lines, symbols or marks have been drawn, inserted or made in the map by any Survey Commissioner appointed by the Lower Court, or by any witness or party or by the Court itself, such lines, symbols or marks being drawn, inserted or made under the authority of the presiding Judge these lines symbols, or marks shall be reproduced on the copies of the map filed by the party or parties in the Appeal.

Note (3)-Complete depositions of all witnesses shall be included, if a deposition of any of them is considered necessary for the purpose of the Appeal.

12. Upon receipt of the records the Officer-in-Charge of the Judicial Department shall serve a notice on the Appellant requiring him to prepare and deliver to such officer a list of all papers (other than those mentioned in rule 11A (first paragraph) or 11B above, upon which the decision of the Appeal depends and which the Appellant desires to be included in Part I or Part II of the paper-book at his expense. This list shall be called "The Appellants List" and shall be divided into two parts. Part I shall contain papers other than exhibits and Part II shall contain the exhibits.

13. Such list shall be in Form No. 16 (Civil), Appendix I.

Printed copies of the forms of this list will be supplied to the parties or their Advocates entitled to act for them, free of costs, on application to the Forms Clerk.

14. There shall be entered in such list all documents on which the decision of the Appeal depends:

Provided that if it is necessary only to print a portion of any particular document for the decision of the Appeal, the relevant portion shall be specified by surrounding the Portion in pencil:

Provided also that ordinarily a long series of documents, such as accounts, rent-rolls, etc., shall not be printed in full but the parties, or their legal agents, shall agree to short extracts being printed, if necessary, in tabular form.

15. In Part II of this list the exhibits should retain their original numbers with the proper page numbers attached, the documents should be arranged, as far as possible in chronological order, mixing plaintiff's and defendant's documents together, when necessary, but in all cases documents relating to the same series, or to the same subject (e. g., a series of correspondence, or proceedings in a suit other than the one under appeal) should be kept together. A correct and full description of such documents must be given.

16. The Appellant shall, within three weeks after service of the notice required by rule 12 above, deliver to the Officer-in-Charge of the Judicial Department his complete list prepared in accordance with the above Rules. In no case time shall be extended by the Registrar by more than 4 weeks.

17. On receipt of the list of the papers to be included in Parts I and II of the paper-book at the expense of the Appellant, the Officer-in-Charge of the Judicial Department shall cause to be prepared estimates of the cost of the preparation of Parts I and II of the paper-book.

18. As soon as the list is delivered to the Officer-in-Charge of the Judicial Department by the Appellant, the former shall, if the Respondent enters appearance on or before the date mentioned in the notice under Order XLI, Rule 14, Civil Procedure Code, give notice of such delivery to such Respondent. If the Respondent fails to enter appearance on or before the date mentioned in the notice under Order XLI, Rule 14, and if it shall appear that the said notice has been duly served on such Respondent, he shall not, without leave of the Registrar, obtained upon an application (unstamped) filed simultaneously with the Vakalatnama explaining the delay in appearing and asking for notice of the Appellant's list, be entitled to file a list of papers for insertion in the paper-book under rule 20:

Provided that such leave shall not be refused if the Appellant has not already deposited the full amount required to be deposited under rule 27(i) of this Chapter.

19. Every Respondent, who has entered appearance, shall be entitled to inspect the Appellant's list and, at his own expense, to obtain a copy of the whole or of any portion thereof.

20. Every such Respondent shall, within three weeks after service upon him of the notice required by rule 18 above, deliver to the Officer-in-Charge of the Judicial Department, a list in duplicate in Form No. 17 (Civil) of the Appendix I. of the papers other than those inserted in the Appellant's list, and relevant to the subject matter of the Appeal, to which such Respondent desires that reference shall be made by the Court at the hearing of the Appeal and which shall be inserted in the paper-book at such Respondent's expense. Such list shall be termed "The Respondent's List" and shall be divided into two parts like the Appellant's list (rule 12 above). In no case time shall be extended by the Registrar by more than 4 weeks.

21. The Advocates for the Appellant and the Respondent shall at the time of filing their respective lists, enter in such lists the names and correct addresses (with post-office) of the parties on whose behalf the lists are filed by them.

22. If the Respondent considers that any paper or portion of a paper which ought to have been inserted in the Appellant's list under the provisions of rule 14 above, has been omitted therefrom in violation of these provisions, he may, at the time of filing the Respondent's list as prescribed in rule 20 above, and after giving notice to the Appellant of his intended application, apply to the Registrar for an order that such paper or portion of a paper be inserted in the paper-book of the case at the cost of the Appellant:

Provided that if any such application by a Respondent is disallowed by the Registrar, such Respondent shall be at liberty, at that time, to pray for the inclusion of the papers mentioned in his application, in his list (that is, the Respondent's list) at his own cost:

Provided also that if the Respondent has entered appearance out of time he shall not be permitted to pray for the inclusion in, or exclusion from, the Appellant's list of any papers whatsoever, if such application be not made before the actual preparation of the paper-book has commenced.

23. If one party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant, and the other party nevertheless insists upon its being included and the Registrar allows the document to be included, the Order Book, Paper-book and List shall clearly indicate that fact and also the party by whom the inclusion of the document was objected to.

24. The Registrar as well as the parties and their legal agents shall endeavour to exclude from the paper-book all documents (more particularly such as are merely formal) that are not relevant to the subject-matter of the Appeal, and generally, to reduce the bulk of the paper-book, as far as practicable, taking special care to avoid the duplication of documents and the unnecessary repetition of headings and other merely formal parts of documents.

Note (1)-Ordinarily, a long series of documents, such as accounts, rent-rolls inventories, etc., should not be printed in full; but the parties or their legal agents should agree to short extracts being printed as specimens.

Note (2)-Documents produced before the court of first instance but not admitted in evidence, shall not be included in the paper-book except under the orders of the Registrar obtained upon an application (unstamped) with notice to the opposite party. An Advocate desiring to refer to any such document at the hearing of the appeal before the High Court shall at any time before the hearing, serve on the Advocate for the opposite party a type-written copy, or a type-written copy of the translation, as the case may be, of any such document to which he desires that reference should be made, and shall also provide two such type-written copies or type-written copies of the translation for the use of the Court. If he fails to do so he shall not refer to such document at the hearing and no adjournment of the Appeal will be granted on this account unless the Court otherwise directs.

Note (3)-It shall be in the discretion of the Court not to allow any cost of the preparation of the paper-book to any party, who has unnecessarily increased the bulk of the paper-book.

25. The Appellant's and the Respondent's lists shall each bear a certificate under the hand of the Advocate for such Appellant or Respondent in the following form:-

I, A.B., Advocate fordo hereby certify that I have carefully examined this list with reference to the provisions of rule 24 of Chapter IX of the High Court Rules, and declare that in my judgment it is necessary to include in the paper-book of the Appeal every document, or portion of a document, included in the list in order to arrive at proper decision of the Appeal.

25A. In cases in which any paper or papers which are to be included in the paper-book under rule 11A (first paragraph) or 11B or 62A (first paragraph) of this Chapter have been omitted from the list, the office shall give notice to the Advocate concerned to the effect that unless the list is amended within seven days from the receipt of such notice or an order for the exclusion of such paper or papers is obtained upon an application before the expiry of that period, the paper or papers will be included in the list under the aforesaid Rules, and the office shall proceed to include them on the expiry of the said period, if no action is taken by the Advocate.

26. The Officer-in Charge of the Judicial Department shall within thirty days after the delivery by the Appellant and the Respondent of their lists, respectively, make and deliver to the Advocate for such Appellant and to the Advocate for such Respondent separate estimates of the cost of preparing their portions of the paper-book in Forms Nos. 18. (Civil) and 19 (Civil) respectively of Appendix I. Copies of the estimate along with the intimation of the date of service of the estimate upon the Advocate concerned shall be served on the parties (Appellant and Respondent) themselves by registered post with acknowledgement due, the cost for the same being included in the estimate and deducted from the Initial Deposit.

If for any reason the estimate is not served within the time prescribed in this rule, the matter shall forthwith be brought to the notice of the Registrar and in case the estimate is not delivered within 8 weeks, the matter shall be brought to the notice of the Chief Justice or the Judge-in-Charge.

Every estimate for the cost of the preparation of the paper-book shall include the cost of transcribing, translating and printing, etc., the documents mentioned in rule 11A (first paragraph) or rule 11B above. No revision of the lists filed by the Advocates of either party shall be allowed after the estimates have been prepared and served on the respective Advocates except under the orders of the Registrar to be obtained on an application with notice to the other side. The application for revision shall be a verified one but if the revision is agreed to by the opposite party such application for revision need not be verified.

27. The Appellant and Respondent respectively shall deposit with the Accountant of the Court the amount due on the estimates served under rule 26 above, within the period here specified-

- (i) The amount due for estimating, translating, and examining translations, after (in the case of the Appellant) deducting the amount of the Initial Deposit made under rule 39, Chapter V of these Rules within four weeks of the service of the estimate upon the Advocate for such Appellants and Respondents respectively, and
- (ii) The whole of the remainder within four weeks of the deposit of the amount under clause (i) above.

In no case the time provided for in either sub-rule (i) or (ii) above shall be extended by the Registrar by more than 4 weeks.

28. If the Respondent does not enter an appearance or does not deliver the list directed by, and within the time prescribed by rule 20 above, and if no order be made under rule 22 above, the paper-book shall be prepared in accordance with the Appellant's list.

29. When two or more Appellants or Respondents have the same interest in the Appeal, one set of list only shall be required from all such Appellants, or Respondents. Appellants or Respondents having separate interests shall deliver separate sets of lists. In such cases the principle of Rule 33 shall apply.

30. If any of the papers, which must be inserted in the Appellant's list or in the Respondent's list, was previously printed in a former paper-book, the fact of its having been so printed must be stated in the remark column

of the list in which such paper is inserted. Such papers shall not be printed unless the Registrar otherwise directs:

Provided that the party who refers to papers in a former paper-book, but who has not paid for the preparation of such previous paper-book, shall pay the charges fixed for the sale of paper-books from the Record Department if he requires a copy for his own use, and shall supply a copy at his cost to the other side unless the other side has paid for such previous paper-book in which event the copy supplied to him shall not be charged for. If either party contributed to the cost of the previous paper-book copies required for the use of the Court shall not be charged for; otherwise the party referring to papers in such paper-books shall pay for the copies required for the use of the Court.

If any of the papers included in Appellant's or Respondent's list was previously printed in a former paper-book but sufficient number of copies are not available, the Appellant or the Respondent shall be entitled to reprint the same from a copy of the former paper-book and in that case only the costs for estimating, printing and taxing should be charged for from the party who previously paid the charges.

31. No paper in the record of the case, which is not inserted in the Appellant's list or Respondent's list, or ordered to be included in the paper-book under rule 22 above, and printed in the paper-book of the case or in a former paper-book shall be referred to at the hearing of the Appeal without the special leave of the Court. But this rule shall not preclude the Court from referring to any paper to which it considers a reference necessary for the ends of justice.

32. If it subsequently appears that the amount deposited by either party to the Appeal is insufficient to defray the cost of preparing his portion of the paper-book, or a Supplementary paper-book after remand, the Officer-in-Charge of the Judicial Department shall estimate the additional amount required and shall give notice thereof to such party. Such additional amount shall be deposited by such party with the Accountant of the Court within two weeks after service upon him of such notice; and the Registrar shall not in any case extend the time by more than 3 weeks. No work in the matter of the preparation of the paper-book which is likely to cost more than the sum deposited, should ordinarily be undertaken, until such additional deposit has been made, unless the Registrar shall otherwise direct.

33. When separate Appeals have been preferred by different persons against the same decree, complete lists of the documents which the parties wish to include in the paper-book shall be delivered by the parties to each Appeal. Common matter shall appear in one paper-book only, the other paper-books containing reference to the pages of the paper-book in which such common matter appears. In such cases the Officer-in-Charge of the Judicial Department shall, subject to the order of the Registrar, apportion between the parties concerned the cost of preparation in respect of matter: common to all or any' of the parties on their application. The estimates for the cost of the preparation of Parts I and II of the paper-book in such cases shall not be served on the parties until such apportionment has been made. This rule shall also apply when two or more separate appeals are preferred as analogous cases.

34. If the Appellant fails to deliver his list of papers in accordance with rule 16 above, or if the Appellant or Respondent fails to make the deposit or additional deposit, required by rules 27 and 32 above, respectively, or the Appellant fails to file a declaration form under rule 35, or his Advocate fails to make a declaration under rule 37, or the Appellant fails to submit translations or fails to file paper-book under Rule 39 or 67(v) of this Chapter the Officer-in-Charge of the Judicial Department shall lay the matter before the Registrar who may, in case of default by the Appellant, or the Cross- Objector, as the case may be, cause the Appeal or Cross-Objection, as the case may be, to be set down for hearing; and the Court may, unless satisfied that there was reasonable ground for the default, direct the Appeal or the Cross-objection to be dismissed for want of prosecution Or may pass such other order as may seem proper in the circumstances of the case.

35. The appellant shall within 14 days (which may at the discretion of the Registrar be extended by 2 weeks only) of the registration of the Appeal, file with the Officer-in-Charge of the Judicial Department a declaration duly signed by himself stating the name of the Advocate, duly qualified under rule 36, by whom his paper-book will be prepared, either in accordance with rule 44 or with rule 48 and such declaration shall be noted in the order book of the Appeal. The declaration shall be in the following form:-

In this Appeal I/WeAppellant/Appellants, declare that the paper-book will be prepared by Mr., an Advocate of this Court, who is duly qualified to prepare paper- books under rule 36, Chapter IX of the High Court Rules.

The Officer-in-Charge of the Judicial Department shall thereupon make over to the Advocate so named the duplicate copy of the Respondent's list filed under rule 20 above, giving the Respondent notice thereof.

36. Any Advocate who has practiced in the High Court for a period of two years, or who has practiced in a Muffassil Court for not less than three years and in the High Court for not less than one year, shall be entitled to prepare a paper-book under these rules:

Provided that a Division Court, on being satisfied, either on the report of the Registrar or otherwise, that any Advocate has been negligent, incompetent, or careless in the preparation of a paper-book, may disqualify such Advocate from preparing paper-books for such period as to it may seem proper.

37. An Advocate duly authorised to prepare a paper-book shall be required to make a declaration in writing simultaneously with the deposit under rule 27 (i) above, to the effect that he will himself do the translation work and in the case of an Appeal valued under Rs.15,000, a declaration to the effect that he will himself, also do the editing. The declaration shall be in the following form:

In the above Appeal, Ihave been authorised by the Appellant under rule 35 to prepare the paper-book in this case. I being eligible under rule 36 to do so declare under rule 37, Chapter IX of the High Court Rules, that I shall, myself do the translation work and in the case of appeals valued under Rs.15,000, the editing work.

38. (a) An Advocate authorised under rule 35 above, who has filed a declaration under rule 37 above, shall be afforded all reasonable access to the original record in order to enable him to make transcript of the papers and do other acts necessary to the preparation of the paper-book, but he shall not be entitled to remove such original record from the Court's office. Certified transcript of the papers shall be furnished to him, if he so desires, upon payment of the usual rates.

(b) Such Advocate shall himself deal with the original records made over to him, and is here prohibited from entrusting them to the care of any other person. For the purpose of translating and copying documents, in any case, he alone will be permitted to have access to the original records of such case.

(c) Such Advocate shall be permitted to utilize the services of one reader or Muharrir to assist him in such work. He must however himself be present and continuously in possession of the records, and on his leaving the office, the records must be returned to the Officer of the Court-in-charge, and the work of preparing the paper-book must at once cease, the reader or Muharrir leaving with his employer.

(d) In the case of any paper-book in which a map has to be inserted such Advocate shall be allowed to utilize also the services of a draftsman, who will be allowed access to the records on the same terms as the reader or Muharrir.

(e) The Advocate filing a declaration under rule 37 above, shall examine, at the time of filing such declaration, the lists and estimates prepared for the preparation of the paper-book and, if he thinks that he requires the assistance of another Advocate or Advocates for the preparation of the paper-book, shall present a formal application to the Registrar stating the grounds upon which the application is made, and the Registrar may pass a special order after an examination of the actual requirements of the case:

Provided that every additional Advocate allowed, shall have already entered appearance on behalf of the Appellant, be eligible under rule 36 above, and make a declaration referred to in rule 37 above within ten days of the Registrar's order.

The provisions of clauses (a) to (d) of this Rule shall apply to all the Advocates thus employed in the preparation of a paper-book, and they shall be jointly responsible under the Rules of this Chapter for the proper and punctual preparation of the same.

Note-The provisions of this sub-rule will not apply to the case of assistance of another Advocate for the purpose of inspecting records or preparing lists. In such a case an unstamped application will be accepted.

39. Translations of the papers shall be submitted for examinations within the following limits of time from the date when the deposits required by rule 27(i) above are made:-

(a) In cases of not more than 5,000 vernacular words-four week, for every thousand additional vernacular words or part after the above-four days.

(b) Paper-books in Appeals from Original Decrees must be made ready and filed with the Officer-in-Charge of the Judicial Department within the following limits of time from the date when the deposits required to be made under rule 27(ii) above are made; or the examination of translations is completed, whichever is later- .

(i) Where the paper-book is estimated by the Officer-in-Charge of the Judicial Department to consist of not more than 100 pages- three months.

(ii) For every additional 100 pages or part after the above-three weeks.

Note.-In no case the time prescribed by this rule shall be extended by the Registrar.

(c) On the paper-books being filed, they shall be taxed and it will be the duty of the Taxing Officer to see that they have been prepared in accordance with these rules.

(d) When the Taxing Officer is satisfied that the paper-book has been properly prepared, he shall certify accordingly and upon such certificate being granted but not before, the balance of the amount due to the Advocate concerned shall be paid to him on application; provided that the Registrar may, in any proper case, pay the printer's fee to the printer.

40. The examination of translation shall be completed within half the time prescribed in rule 39 above.

41. It shall be the duty of the Examiners of Translations to report through the Taxing Officer to the Registrar any case in which the translations have been carelessly, negligently, or imperfectly done, and it shall be the duty of the Taxing Officer to report to the Registrar any case in which the preparation of any other portion of the paper-book has been carelessly, negligently or imperfectly done. The Registrar, if he thinks fit, will report any such matter to the Court, who may take action under the proviso to rule 36 above and may either in addition to, or without taking such action, direct that the whole or any portion of such funds, as are lying in the Court, to the credit of the account of the paper-book concerned be withheld from the Advocate in question, and may pass orders for the disposal of the funds so withheld.

42. When a case is ready for hearing, the Officer-in-Charge of the Judicial Department shall furnish the Advocates engaged on either side with copies to which they are entitled under Rule 47 or Rule 51. The issue of the paper-books to the Advocates will be notice to them that the case is ready for hearing.

43. The supplementary paper-book after the receipt of finding of a Lower Court in a case referred under Order XLI, rules 25 and 27, Civil Procedure Code, shall be governed by the Rules of this Chapter.

B-Appeals from Original Decrees valued under Rs.15,000.

44. (1) Paper-books in Appeals valued under Rs.15,000 shall be prepared entirely in the office of the Advocates for the Appellant and the Advocate concerned will be free to print his paper-book in any press he chooses whether such press be on the list referred to in rule 52 or not, but the Advocate will be responsible to the Court that the paper-book has been prepared and printed with due care and diligence. Bad work on the part of the press will bring the Advocate concerned within the mischief of the proviso to rule 36 above.

(2) The 'examination of translations shall be done on the fee system by a Panel of Examiners formed for the purpose from the practising Advocates of the Court (to be known as the "Below" panel) a list of Advocates forming such panel being maintained in the office of the Court from which the Respondent will select an Examiner for examining the translations made by the Appellant's Advocate:

Provided-

- (a) That if the Respondent fails to enter appearance by the time the Appellant submits his translations for examination he shall lose his privilege to select the Examiner, and the translations shall be examined by an Examiner from the "Below" panel to be selected by the Registrar;
- (b) That where it appears to the Registrar that a particular Examiner is overworked and another is underworked, it shall be open to the Registrar to call for a fresh nomination or to direct that the - work be done by some other Advocate on the panel;
- (c) That if the Advocate for the Respondent is on the panel of Examiners, it shall not be competent for him to nominate himself; and
- (d) That where two or more Advocates appear for one Respondent or set of Respondents and select different Examiners the nomination by any one of such Advocates first received by the office should prevail and that, subject to that condition, the nomination by one of the Advocates appearing for the principal Respondent should have preference over the nomination by the *pro forma* Respondent.

45. The estimate for the preparation of the paper-books in such Appeals shall state separately the cost of translating, editing, printing, etc., at the following rates:-

- (a) Estimating at 10,000 words per rupee;
- (b) Estimating charge for maps-12 1/2 per cent of the cost of tracing the same.
- (c) Estimating charge for photographs-12 1/2 per cent of the cost of producing the negative;
- (d) Translating at 150 vernacular words per Re.1-4, three figures being counted as one word;
- (e) Examining translations at 300 vernacular words per Re.1-4, three figures being counted as one word;
- (f) Copying at the rates specified in Chapter XIII;
- (g) Editing the paper-book at ten annas a page, if it is printed, and five annas a page if it is typed;
- (h) Lithographing, drawing or tracing maps (where necessary)- Re.1-4 per foolscap;
- (i) Printing fee for 16 copies at Rs.4-8 per page; Tabular Matter-actual cost; and
- (j) Taxing the paper-book costs at one anna per' page.

Note (1)-The above rates are liable to alteration.

Note (2)-The charge for editing includes the charge for indexing, if the paper-book is printed, and that for stationery if the paper-book is type-written.

Note (3)-If the document to be translated is in any language other than the vernacular of the Province, the rates prescribed by rule 7 and the note thereunder in Chapter XIII will apply.

Note (4)-Each item of cost in the preparation of the paper-book at the rates specified above should be calculated to the nearest anna (fraction below half an anna being omitted and half an anna or over being reckoned as one anna).

The entire cost estimated as above shall be deposited with the Accountant of the Court and from such deposit the Court's office, will keep the under-taking Advocate supplied with funds to carry on the work of the preparation of the paper-book. When the paper-book is finally prepared the cost shall be taxed under the direction of the Registrar.

46. The paper-books for the use of the High Court in such Appeals shall be printed and edited in accordance with the following directions:-

- (i) The printed paper-book shall consist of two parts in the same Volume, where practicable, viz., Part I and Part II. Part I shall contain the record of the proceedings in the Lower Court, and shall include all the papers mentioned in rule 11A or 11B above. These should be printed strictly in chronological order, that is, in the same order as the Index. Part II shall contain the exhibits and documents relevant to the subject matter of the appeal which should be arranged in the manner prescribed in rule 15 above, each document to show its exhibit mark and whether it is a plaintiff's or defendant's document (unless this is clear from the exhibit mark). Each part should be paged at the foot of each page. The heading to each document should consist of the number of exhibit mark and the description of the document in the Index with the date, and the corresponding English date must be given if the document bears any other date. All papers and documents in Parts I and II of the paper-book shall be printed without leaving any blank space in between, i.e., in a 'run on' style.
- (ii) The Index of Part I shall be in chronological order and shall be placed at the beginning of the volume. Part II shall have an Index arranged in the chronological order showing exhibit marks as well. This Index should be placed immediately after the Index to Part I. The documents in Part I should be numbered consecutively, while those in Part II should be numbered according to the exhibit marks. The Index should contain a correct and full description of each document and reference to the pages in the printed paper-book. Whenever any document included in Part I or II of the paper-book is dated according to any calendar other than English, the corresponding English date of such document must be entered in the Index.
- (iii) All papers which are not in English shall be translated into that language. Such translations and the original English papers shall be arranged and printed in Parts I and II in order prescribed by the first sub-clause of this Rule.
- (iv) Maps forming part of a paper-book shall be included in the Index, but shall not be bound up with the other papers in the paper-book. Such maps shall be drawn or printed on durable paper and they shall form a separate packet with a separate list. Translations of vernacular phrases or figures that form part of a map must be submitted on a correct tracing of the map in question.

47. Sixteen copies of the paper-book shall ordinarily be printed by the Appellant's Advocate, and filed in the office of the Court. On the application of either party the Registrar may direct a larger number to be printed. In any case, 5 copies shall be retained for use in the High Court.

Subject to a maximum of six copies on either side, if 16 copies have been printed, the service of paper-books on the parties under rule 42 will be regulated as follows:-

To the Appellants-Three copies, or one copy for the use of each Advocate who has appeared, whichever is more;

To the Respondents-One copy only for the use of the Advocate or all the Advocates, who has or have appeared for each set of Respondents:

Provided that if on the above basis, less than 12 copies have been distributed between both sides, additional copies up to that number may be supplied for use at the hearing on application to the Officer-in-Charge of the Judicial Department; but the latter should, if possible, retain copies for such of the Respondents who may still enter appearance in the Appeal. Any copy of the paper-book beyond the number specified in the rule, if available, may be supplied to the party on his application, on payment of costs, and such costs shall be fixed by the Deputy Registrar keeping in view the size of the paper-book.

C-Appeals from Original Decrees valued at Rs.15000 or over.

48. ¹[Paper-books in the First Appeals and First Miscellaneous Appeals valued at Tk. 15,000 or above shall be prepared entirely out of Court in the office of the Advocate for the Appellant and the Advocate concerned shall be free to print, type, stencil or prepare Photostat copy of the same according to the convenience of the parties. But the Advocate shall be responsible for preparing the paper-books with due care and diligence. Indistinct, illegible and incorrect work in the preparation of the paper-books shall bring the Advocate concerned within the mischief of the proviso to rule 36 above and such paper-books may not be accepted by the Registrar. On preparation of the transcripts by the Advocate of the party, the same shall be submitted to the office for examination of the same with the original. After finishing the work of examination, the same shall be returned quickly to the Advocate concerned by the office for final preparation of the paper-books.

Such paper-books shall be prepared within the period specified in rule 39 above. There shall ordinarily be prepared 16 copies of paper-books; but in any appeal, the Court may, upon good cause being shown, allow any party to prepare lesser number of copies of the paper-books. The Advocate concerned shall submit to the office the examined transcripts of the paper-books in a closed cover while submitting the paper-books.

Note-1:--- The word 'print' and its derivations in any form will also include the words 'Type' 'Stencil' and 'Photostat' and their derivations in any form wherever it may occur.

Note-2:--- The provisions of this rule will also apply as far as practicable to appeals valued under Tk. 15,000].

49. The estimate for the preparation of the paper-books in such Appeals shall be prepared in accordance with the particulars in rule 45 above.

The entire estimated cost shall be deposited with the Accountant of the Court and from such deposit the Court's office will keep the undertaking Advocate supplied with funds to carry on the work of preparation of the paper-book. When the paper-book is prepared and filed it shall be finally taxed by the Registrar.

50. Paper-books for the use of the High Court in such Appeals shall be printed and edited in accordance with the directions in rule 46 above.

51. (a) There shall ordinarily be printed and filed in the Court's office 16 copies of the paper-books, provided that the Registrar may, when necessary, direct a larger number of paper-books to be printed.

(b) Of the 16 bound copies, 5 copies shall be retained for the use of the Court and the remaining 11 copies distributed to the Appellant and the Respondent in the proportion laid down in rule 47 above.

Note:----- In the event of an Appeal to the Supreme Court being admitted, the Appellants to the Supreme Court shall file 20 unbound copies of the paper-books prepared in accordance with the rules in this Chapter, together with the papers to be included in accordance with the provision of Chapter VI of these Rules.

¹ Rule 48 was substituted for Rule 48 by SRO No. 14-Ain/95, The Bangladesh Gazette, January 24, 1995.

52. The printing of paper-books in such cases by the office will be done only by the presses approved by the Court, a list of which shall be maintained in the Court's office; and instances of indifferent work, delay, etc., in the printing of paper-books by any such press shall be brought immediately to the notice of the Registrar, who may direct the removal of the press or presses concerned from the list or pass such order or orders as to him seem proper:

Provided it shall be in the discretion of the Court to direct or authorise the Advocate to have the paper-books printed by any press other than those mentioned in the list aforesaid.

D-Analogous Appeals from Original Decrees and Orders, some valued under, and some at or over, Rs.15,000.

53. In analogous Appeals from Original Decrees and Orders some of which are valued below and some at Rs.15,000 or above, all the appeals shall be treated as appeals valued at Rs.15,000 or above, for the purpose of the preparation of the paper-books, unless on a verified petition duly filed, the Advocate for any party obtains orders of the Registrar for relaxing the Rule in any particular case.

PART III-Appeals from Appellate Decrees or Orders.

¹[54. (1) Notwithstanding anything contained in any rule, it shall not be necessary to prepare paper-books in appeals from appellate decrees or appellant orders, but each memorandum of such appeal shall, apart from the certified copy of the decree appealed against, be accompanied by—

- (i) Certified copies of the Judgments of the Courts below, and
- (ii) Ordinary copies of the Judgments of the Courts below,

(2) The appellant shall forward a true copy of the memorandum of appeal to each set of the appearing respondents, and shall also file in the Court one such copy of the memorandum for each set of minors, if represented by the Deputy Registrar of the Court, along with other requisites for the Deputy Registrar.

(3) In appeals mentioned in sub-rule (1), the parties there to shall produce such other documents or papers as may be called for by the Court].

Note (1)--- If any ground taken in a memorandum of appeal necessitates a reference to the plaint, written statements or any document or documents other than those mentioned above, the appellant shall, at the time of the preliminary hearing under Order XLI, Rule 11, Civil Procedure Code, provide for the use of the Court, one or two type-written copies, according as the value of the suit out of which the appeal arises is below or above Rs. 2,000, of such pleadings or documents, or, if they are not in the English language, type-written copies of translations thereof and such documents shall form part of the paper-book. If he fails to provide such copies he shall not be heard in regard to such ground or grounds except with the leave of the Court.

Note (2)--- If at the time of the preliminary hearing under Order XLI, Rule 11, Civil Procedure Code, the Court directs that the pleadings or any document other than those mentioned in this rule be included in the paper-book, the Appellant shall include in the paper-book such pleadings or documents, or, if the said pleadings or documents are not in the English language, translations thereof.

¹ Rule 54 was substituted for rule 54 by Notification No. 2665-G, The Dacca Gazette (Extraordinary), May 15, 1968.

Note (3)-If any Respondent considers that reference is necessary to the pleadings or to any other documents and the same have not been included in the paper- book, he shall prepare one or two, as the value of the suit out of which the appeal arises is above or below Rs.2,000, type-written copies of the said pleadings or documents or of the translations of the same, if they are not in the English language, for the use of the Court at the time of hearing and shall serve one copy on the Advocate for the Appellant, within a week after the inclusion of the appeal in the General Warning List.

Note (4)-The Advocate preparing the paper-book shall append a certificate under his signature that he has compared the papers in the paper-book with' the original record.

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¹ Rules 55 to 61 were omitted by Notification No. 2665-G, The Dacca Gazette.

PART IV-Appeals from Original Orders.

62. The rules for the preparation of paper-books in Appeals from Original Decrees valued under Rs.15,000 or valued at Rs.15,000 or more, shall apply, respectively, to every First Appeal from an Order of the like value (including an Order under Section 47, Civil Procedure Code) passed by a Subordinate Court not being an Order under Order XLI, Rule 23 or 23A of the same Code, with the following modifications:-

(A) That Part I of the paper-book shall contain the following papers:-

- (a) The relevant portions of the Order-sheet;
- (b) The application or proceeding on which the order appealed from was passed;
- (c) The petition, if any, filed in answer;
- (d) The order appealed from;
- (e) The Memorandum of Appeal; and
- (f) In cases falling under clauses (ii), (iii) and (vi) of Section 39(1) of the Arbitration Act, 1940, the Award in respect of which the order appealed from was made and in cases falling under clauses (iv) and (v) *ibid*, the Arbitration Agreement in respect of which the order appealed from was passed.

In this part shall also be included the following papers when their inclusion is necessary for the purpose of the Appeal, provided that the Registrar may, upon application being made to him, direct that any paper or part of a paper shall not be included in this part:-

(I) The evidence, oral or documentary, which may have been taken or put in with reference to the application or proceeding, and which is necessary for the decision of the Appeal;

(II) Any other papers to which reference may be necessary for the decision of the appeal.

(B) That the Appellant's list shall be delivered to the Officer-in-Charge of the Judicial Department within two weeks after the service of notice of the arrival of the record. In no case time shall be extended save by an order of the Court. .

(C) That the Respondent's list shall be delivered to the Officer-in-Charge of the Judicial Department within two weeks of the service upon him of notice of the filing of the Appellant's list. In no case time shall be extended save by the order of the Court.

(D) That the declaration signed by the Appellant himself required by rule 35 of this Chapter shall be filed with the Officer-in-Charge of the Judicial Department within two weeks after admission of the Appeal under Order XLI, Rule 11, Civil Procedure Code. In no case time shall be extended save by the order of the Court.

63. In Appeals from Remand Orders under Order XLI, Rule 23, or 23A, Civil Procedure Code, the paper-book shall be prepared and supplied to the parties in accordance with the Rules relating to the preparation of paper-books in Appeals from Appellate Decrees.

PART V-Full Bench Reference.

64. No charge shall be levied from the parties for the preparation of the paper-books in Full Bench Reference cases.

65. In every case 21 copies of the referring judgment shall be printed. The additional number of copies, if any, of the paper-book in the Appeal which will be required for the hearing of the reference will be determined by the Registrar upon a report from the office as to the number already available.

66. Parties will not be entitled to any free copies of the referring judgment. Copies, may, however, be purchased by the parties or their Advocates (including copies for the Advocates for the Deputy Registrar in the case of minor Respondent) at the rate of six annas per page subject to a maximum charge of Tk. 50 for each case. If additional copies of printed paper-books in the appeal are required by the parties for the Full Bench Reference they shall be purchased at the above rate, the maximum of Tk. 50 being applicable to each volume of such paper-book.

PART VI-Appeals under the Workmen's Compensation Act (VIII of 1923) and under the Succession Act (XXXIX of 1925).

67. The preparation of paper-books in appeals under the Workmen's Compensation Act (VIII of 1923) and under the Succession Act (XXXIX of 1925) shall be governed by the following rules:-

(I) (a) On receipt of the record from the Lower Court the Officer-in-Charge of the Judicial Department shall serve a notice on the Advocate for the Appellant informing him of the arrival of the record and calling upon him to prepare and file within seven days of the service of such notice a list of the papers which he considers to be necessary for the decision of the appeal.

- (b) If the Respondent enters appearance within the time allowed for such appearance, the Officer-in-Charge of the Judicial Department shall serve a notice calling upon him to inspect the list filed by the appellant and state within seven days of such service whether he wishes any other papers to be included in the paper-book of the case:

Provided that the Registrar may for good and sufficient reason extend the time allowed under the foregoing sub-rules by such periods, not exceeding fourteen days, as to him may seem proper.

- (II) If the Respondent considers that any paper or portion of a paper which ought to have been inserted in the appellant's list under the provisions of rule 1(a) above has been omitted therefrom he may, within the period specified in rule 1(b) above and after giving notice to the appellant of his intended application, apply to the Registrar for an order that such paper or portion of a paper be inserted in the paper-book of the case:

Provided that if any such application by a Respondent is disallowed by the Registrar, such respondent shall be at liberty at that time to pray for the inclusion of the papers mentioned in his application in the paper-book to be prepared by him at his own cost:

Provided also that if the Respondent has entered appearance out of time he shall not be permitted to pray for the inclusion in, or exclusion from, the Appellant's list of any papers whatsoever, if such application be not made before the actual preparation of the paper-book has commenced.

- (III) If one party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant, and the other party nevertheless insists upon its being included and the Registrar allows the document to be included, the Order Book, Paper Book and the List shall clearly indicate that fact and the party by whom, the inclusion of the document was objected to.
- (IV) The Registrar as well as the parties and their legal agents shall endeavour to exclude from the paper-book all documents (more particularly such as are merely formal) that are not relevant to the subject matter of the appeal, and generally, to reduce the bulk of the paper-book, as far as practicable, taking special care to avoid the duplication of documents and the unnecessary repetition of headings and other merely formal parts of documents.

Note (1) - Ordinarily a long series of documents, such as accounts, rent rolls, inventories, etc., should not be printed in full; but the parties or their legal- agents should agree to short extracts being printed as specimens.

Note (2)-Documents produced before the Court of first instance, but not admitted in evidence, shall not be included in the paper-book except under the order of the Registrar obtained upon an application (unstamped) with notice to the opposite party. An Advocate desiring to refer to any such document at the hearing of the Appeal before the High Court shall, at any time before the hearing, serve on the Advocate for the opposite party a type-written copy, or a type-written copy of the translation, as the case may be, of any such document to which he desires that reference should be made, and shall also provide two such type-written copies or type-written copies of the translation for the use of the Court. If he fails to do so he shall not refer to such document at the hearing and no adjournment of the Appeal will be granted on this account unless the Court otherwise directs.

- (V) As soon as the list of papers to be included in the paper-book has been settled in accordance with the foregoing rules, the Officer- in-Charge of the Judicial Department shall issue a notice on the Advocate for the Appellant calling upon him to prepare type- written paper-books in accordance with such list, serve a copy thereof on each of the appearing Respondents and file two copies for the use of the Court before the expiry of thirty days from the date of such notice, accompanied by a certificate that copies have been served on all the appearing respondents.
- (VI) If the Respondent has under the first proviso to rule 67(II) of this Chapter been allowed to prepare a separate paper-book at his own cost, he shall be called upon to serve upon the Appellant a copy of such paper-book and to file two copies for the use of the Court within the time allowed to the Appellant as aforesaid.
- (VII) Every paper-book, whether prepared by the Appellant or the Respondent, shall contain at the end of it a cost sheet prepared in accordance with rule 45 of this Chapter save that no charge shall be made for "estimating and taxing".
- (VIII) As soon as the requirements of the preceding Rules have been complied with and the appeal is otherwise ready for hearing, the Officer-in-Charge of the Judicial Department shall include the case on the General Warning List in Form No. 23 (Civil) Appendix 1, a copy of which shall be displayed in the manner Prescribed in rule 61 of this Chapter. This will be considered sufficient notice to the Advocate concerned that the case is ready for hearing. Where, however any party has not entered appearance through an Advocate such notice shall be served upon him by registered post.