

CHAPTER V

General Rules of Procedure

1. The provisions of Chapter IV shall apply, as far as may be, to every memorandum of appeal, to every memorandum of objection under. Order XLI, rule 22 or 26, Civil Procedure Code, and to every application for revision.

2. Where a particular period has been prescribed by these rules for the doing of anything and the action to be taken is such that the party or his Advocate is to work in the offices of the Court, the prescribed period shall be reckoned exclusively of the day or days on which the offices of the Court are closed.

3. Every memorandum of appeal and of cross-objection shall be drawn up in the manner prescribed by Order XLI, rule 1, Civil Procedure Code. Every such memorandum of appeal and of cross-objection and every application for revision shall, immediately below the title, have endorsed on it "First Appeal", "Second Appeal", "Appeal from Order (Original or Appellate)," or "Revision," as the case may be, and shall state-

- (a) The name and father's or husband's name as the case may be and full postal address of each appellant or applicant;
- (b) the name of the cross-objector and the name of the person against whom the cross-objection is directed;
- (c) the number as plaintiff or defendant in the suit as the case may be, of such appellant or applicant;
- (d) the name of each person whom it is proposed to make a respondent or opposite party and in all cases in which such person is a resident of a foreign state, his full postal address;

Note-A separate line should be allotted to the name of each party to an appeal.

- (e) the Court in which, and (i) in the case of First Appeals the name of the Judge by whom the decree or order referred to was made, (ii) in the case of Second Appeals the name of the presiding officer of the Lower Appellate Court as well as that of the Court of the first instance;
- (f) the date when and the number and year of the suit or proceeding in which such decree or order was made;
- (g) the ground or grounds numbered *seriatim* of objection to the decree or judgment appealed from without any argument or narrative;
- (h) the value of the appeal and in revision cases the value of the suit or proceeding:

Provided that in every case in which an appeal or cross-objection is preferred to this Court and the valuation for the purposes of court-fees, or the court-fee paid, varies from that of the trial Court, in the case of First Appeals, or from that of either the trial Court or the lower Appellate Court, in the case of Second Appeals, the Advocate shall, at the time of filing the appeal, add below the valuation in the Memorandum of Appeal a short explanatory note setting forth the reasons for the variation, giving,

if necessary, references to the certified copies of the judgment and decrees, and mentioning the relevant pages thereof, which are filed with the Memorandum of Appeal. Any omission to make this note shall be forthwith reported to the Registrar, who may direct that the note be made within a specified period according to the circumstances of each case or direct that the matter be laid before the appropriate Bench;

(i) in the case of an appeal, whether the suit in which the appeal is made has already been before the Court on appeal; and

(j) in the case of an appeal from an appellate decree or order arising out of suits or proceedings the value of which exceeds Rs.2,000 the appellant shall file along with the memorandum of appeal, a copy of the Memorandum of Appeal and of judgment or order of the Court or Courts below.

4. Where more than one appeal is preferred from a judgment governing more than one case, the Registrar may dispense with the filing of more than one copy of the judgment and direct analogous hearing of the appeals on the application of the appellant.

5. In the case of-

- (i) appeals from orders of the Lower Appellate Courts remanding cases for retrial; and
- (ii) appeals from the orders of the Lower Courts made on remand by the High Court, there shall be added at the foot of every memorandum of appeal a note to the following effect:-

Note-This appeal is from an order of the Lower Appellate Court, dated, remanding the case for retrial under section/rule Civil Procedure Code.

Or,

This appeal is from an order of the Lower Appellate Court (or the Court of First instance, as the case may be) made on remand by the High Court, in Appeal No or dated, the in which this appellant was appellant or respondent (as the case may be).

6. In the event of any omission on the part of the Advocate to append to the memorandum of appeal a note in the terms required by rule 5, it shall be the duty of the Registrar to bring such omission to the notice of the appropriate Bench.

7. A memorandum of appeal to the High Court against the decree or order passed in appeal by any Court subordinate to it shall be accompanied by copies of the judgment and decree or order of both the lower courts, and, if filed by an Advocate of the High Court shall bear a certificate under his hand at the foot of the petition in the following form:-

"I, A. B. Advocate for the abovenameddo hereby certify that, in my judgment, the ground (or if there be several, each of the grounds) of appeal in the above petition presented by me on behalf of the said is a good ground of second appeal.

Date, theday of":
 Provided that in the case of an appeal against a decree or order passed after remand by this Court, copies of judgment or decree of the lower courts passed before the case was remanded need not be furnished.

8. Every party who files an appeal in person shall insert in his memorandum of appeal, or otherwise give in writing to the Deputy Registrar, an address at which notices and other processes in the appeal may be served upon him; and any notice or other process sent to such address by registered letter shall be presumed to have been duly served upon such party.

9. No memorandum of appeal from an Appellate Decree or from an Original or Appellate Order presented in person by any party to the appeal shall be registered without an order of the Court before whom the party presenting the appeal shall appear in person.

10. In the case of an application for revision, the application shall be accompanied by certified copies of each of the following documents:-

(i) the judgment, decree or order to which the application relates;

(ii) if the judgment, decree or order to which the application relates

was a judgment, decree or order delivered by a Court sitting in appeal, the copies of the judgment, decree or order of the Court of first instance;

(iii) in a case where the application arises out of a suit or proceeding the value of which exceeds Rs.2,000, the applicant shall file along with his application an additional copy of the application and of the judgement, decree or order of the Court or Courts below.

11. (1) When a memorandum of appeal is not in proper form and/or is not accompanied by the necessary copies of papers, the Registrar may allow time only once within which such memorandum must be amended or regularised and/or the necessary papers filed, or may lay the same before the Court taking Lawzima matters for orders.

(2) If a memorandum of appeal is presented for admission without copies of the judgment and decree or order appealed from, it shall forthwith be returned to the Advocate or party presenting it. If such copies are filed after the period of limitation has expired the memorandum shall be presented direct to the Court.

(3) If a memorandum of appeal is presented in the case of appeals from Appellate Decrees or orders without the copies of the judgment and decree or orders of the Court of the first instance, the Registrar may allow time only once within which such memorandum must be amended and regularised and the necessary papers filed or may lay it before the Lawzima Court for orders. .

12. Every memorandum of appeal (other than memorandum of appeal from an Appellate Decree filed by a party to the appeal in person) or memorandum of objection under Order XLI rule 22 or 26, Civil Procedure Code, shall be presented in the High Court to the Deputy Registrar or such other officer as the Registrar may appoint for the purpose by the appellant in person, or by his recognised agent, or by an Advocate, appointed under the provisions of Order III, rule 4, Civil Procedure Code or by some person appointed in writing by such Advocate to present the same. The date of presentation to the Deputy Registrar or such other officer as the Registrar may appoint as provided for in this paragraph shall be deemed to be the date of presentation for the purpose of limitation.

13. Except as provided in rule 14 of this Chapter, no memorandum of appeal, no memorandum of objection under Order XLI, rule 22 or 26, Civil Procedure Code, no application for review, and no application for leave to appeal *in forma pauperis* shall be presented for admission unless the same bears an office report as to limitation of time; and, when a stamp is required, as to the sufficiency or otherwise of the stamp; or, in the case of a stamp of which the sufficiency cannot be ascertained, that the report as to the sufficiency of the stamp will be made on the receipt of the record or after further enquiry. Such report shall ordinarily be endorsed on the memorandum or application and returned by the Stamp Reporter before 4 p.m. on the day on which such memorandum or application was made over to the Stamp Reporter for examination.

If the report of the Stamp Reporter on the memorandum of appeal or cross-objection is that the prescribed period of limitation has expired such memorandum shall be returned to the party or his Advocate filing it, who may present the same to the Court.

In cases in which it may not be possible for the Stamp Reporter to return the memorandum of appeal or application on the day on which such memorandum or application was made over to him for examination, the time taken by the Stamp Reporter in preparing his report shall be excluded from the prescribed period of limitation. As soon as the Stamp Reporter has made a report on the memorandum or application it shall be his duty to inform the party or his Advocate, if present in Court, that he should take return of the memorandum or application and the Stamp Reporter shall get the signature with date of the party or his Advocate or his clerk in token of having received the information from the Stamp Reporter.

14. On the first day on which the High Court re-opens after the annual long vacation a memorandum of appeal or objection under Order XLI, rule 22 or 26 may be presented to the Deputy Registrar or such other officer as the Registrar may appoint for the purpose, and an application for leave to appeal *in forma pauperis* may be presented to the Division Court or the Court taking appeals to be disposed of by a single Judge, as the case may be, according to value of the appeal, without the office report, as required by the preceding rule:

Provided that all memoranda of appeals or objections as aforesaid which are presented for admission on the re-opening date after the High Court's annual vacation shall be dealt with in accordance with the provisions of rule 18 of this Chapter, after the Stamp Reporter has recorded his report.

15. Applications for review and memoranda of Appeals from Appellate Decrees or from Original or Appellate Orders filed by parties to the appeal in person shall be presented direct to the Court concerned after the report prescribed in rule 13 above has been obtained.

Applications for revision shall be presented direct to the Court with the certificate from the Commissioner of Affidavit prescribed by rule 3 of Chapter IV and shall exhibit the particulars required by rule 2 of that Chapter.

16. Application for leave to appeal *in forma pauperis* shall be presented with the report of the Stamp Reporter in open Court to the Court concerned in accordance with the provisions of Order XLIV, Civil Procedure Code.

17. The officer to whom a memorandum is presented under rule 12 of this Chapter shall endorse on every such memorandum the date of presentation and shall send the same to the Stamp Reporter. The Stamp Reporter, if the memorandum is not barred by limitation and is sufficiently stamped and complies with the provisions of these rules, shall record a report to that effect and, after the Officer-in-charge of the Judicial Department has scrutinised the memorandum and satisfied himself that the stamps have been properly punched and defaced under the rule and that there are no obvious defects, shall-

- (a) in the case of an appeal from an Original Decree and an appeal under the Workmen's Compensation Act, admit it and cause it to be registered and notice to issue to the respondent;
- (b) in the case of an appeal from an Appellate Decree or an appeal from an order other than an appeal under the Workmen's Compensation Act, admit it and cause it to be registered, and post it to a Bench for hearing under Order XLI, rule 11, Civil Procedure Code; and
- (c) in the case of a memorandum of objection under Order XLI, rule 22 or 26, Civil Procedure Code, admit it and cause it to be registered.

*Note-*It shall be the duty of the Officer-in-Charge of the Judicial Department to examine at least five per cent of the memoranda submitted to him with a view to seeing whether the report as to sufficiency of the stamps is correct.

18. (1) If there is a reasonable doubt as to the amount of court-fee leviable on any memorandum of appeal which an Advocate or a party desires to present, he shall apply to the Registrar, as Taxing Officer, for his decision as to the court-fees payable, and the Registrar shall pass an order accordingly and fix a period only once within which the requisite court-fee must be paid.

If the requisite court-fee is not paid within the period fixed the case shall be laid before the Court for orders.

(2) If the Stamp Reporter, on a memorandum being presented to him, find that it has been insufficiently stamped, he shall make a note thereon as regards the deficiency and shall return it, with as little delay as possible to the Advocate or the party presenting it. If the Advocate or the party refiles it having supplied the deficit court-fees, within the prescribed period of limitation, the Stamp Reporter shall record a note to that effect on the memorandum which shall then be admitted.

(3) The Advocate or the party to whom a memorandum is returned under clause (2) may apply to the Registrar for one to put in the requisite court-fee. On such application being made the Registrar if he is satisfied that the insufficiency of the court-fee was due to a mistake on the part of the applicant as to the court-fee payable, may fix a period within which the additional court-fee must be paid. In other cases or when the requisite court-fee is not paid within the period fixed, the Registrar shall lay the matter before the Court for orders.

(4) If a memorandum which has been returned under clause (2) and for filing which no time under clause (3) has been fixed is refiled, sufficiently stamped, after the period of limitation has expired, it shall be presented

direct to the Registrar and the latter may pass an order for the admission thereof or lay it before the Court for orders according as, in his opinion, a case as to mistake as referred to in clause (3) has been made out or not.

(5) An application made under clause (3) or a memorandum of appeal refiled under clause (4) must be accompanied by an affidavit explaining the insufficiency, unless the insufficiency is due to a mistake which is apparent on the face of the papers filed.

19. In a case in which a memorandum of appeal or cross-objection or an application for review requires a court-fee stamp valued at more than Rs.50 (which is not available in the Court premises) is presented for admission on the last date of the period of limitation, it will be in the discretion of the Registrar to admit such memorandum or cross-objection or application for review with a deficit court-fee and grant the party time not exceeding four days to put in the deficit court-fees, but if such deficit court-fees are not paid within the time granted, the party shall have to present such memorandum or cross-objection or application for review to the Court concerned with an application duly stamped with affidavit explaining the delay.

20. The Stamp Reporter or the Commissioner of Affidavits or the Bench Clerks as the case may be must see that section 30 of the Court-fees Act is strictly complied with and that no document requiring any court-fee stamp is filed or acted upon in any proceeding either before the Court or in its office, until the stamp has been effectively cancelled.

21. In any case in which a memorandum has been returned for amendment under the orders of the Registrar, it shall be the duty of the Deputy Registrar to attest the amendment by his signature.

22. If a memorandum bears a note that a report as to the sufficiency of the stamp will be made on the receipt of the record, the Deputy Registrar or such other officer as the Registrar may appoint shall note thereon the date of presentation and shall retain it pending the receipt of the report.

23. Every memorandum retained under the provisions of rule 22 shall, immediately after the receipt of the record, be examined by the Stamp Reporter, who shall endorse on it his report as to the sufficiency of the stamp and shall thereupon proceed in the manner provided in rules 17 and 18 above.

24. Whenever the Stamp Reporter finds that a document which ought to bear a stamp under the Court-Fees Act, 1870, as amended from time to time, has been through mistake or inadvertence received, or filed or used in the Court without being properly stamped, he shall report the fact to the party or his Advocate who presented such document. Such party or Advocate shall at once initial the report and shall within one week thereafter, or within such further time as the Taxing Officer may allow, note on it whether he accepts or disputes the accuracy thereof. If such note is not made within such time it shall not be open to such party or Advocate to dispute the accuracy of the report.

Note-The Hon'ble the Chief Justice has been pleased to declare that the Registrar of the High Court shall be the Taxing Officer within the meaning of section 5 of the Court-Fees Act, 1870.

25. If a memorandum which has been dealt with under rule 18 above is duly stamped or amended under rule 21 above within the time fixed by the Registrar or the Court, as the case may be, the Registrar or the Court shall admit it and cause it to be registered. If such memorandum is not duly stamped or amended or regularised within the time allowed, the Court may reject such memorandum or pass such other order relating thereto which it may consider proper.

26. An application supported by an affidavit shall be filed for an order for amendment of the memorandum of an appeal consequent on the death of a party including a party whose heirs are already on the record:

Provided that where such amendment relates to a matter in respect of which an order has already been obtained in the Court below but has not been incorporated in the decree of that Court, no application shall be necessary but an affidavit setting out the particulars will be sufficient.

27. If after the signing of the decree or order of the lower Court any of the parties dies and his heirs present an appeal in this Court, then ordinarily such heirs should file along with the memorandum of appeal a petition for getting themselves substituted in place of the said party or parties and such petition shall be duly stamped and accompanied with an affidavit.

28. If an appellant or a respondent, who was described as a minor in the decree to be appealed from, has attained majority before the appeal is preferred, and the appellant impleads him as a major in the memorandum of appeal, the same shall be accompanied by an affidavit stating the said fact.

29. Where the Deputy Registrar is appointed guardian *ad-litem* of minor respondents or opposite parties under Order XXXII, rule 4(4), Civil Procedure Code, the appellant or petitioner at whose instance such appointment is made shall, within 21 days, deposit with the Accountant of the Court the sum of ¹[Tk. 153 or 103] as the case may be, as cost to enable the Deputy Registrar to appoint an Advocate on his behalf, and shall within the same time file in Court an indemnity bond in favour of the Deputy Registrar.

In Rules arising out of appeals in which the Deputy Registrar is appointed guardian *ad-litem* of minor respondents, no fresh indemnity bond should be insisted on if the indemnity bond filed in the appeal contains a statement that it also extends to any Rule or Rules arising therefrom, but in those cases in which the indemnity bonds do not show that they extended to the Rule or Rules arising from the appeals, a fresh indemnity bond shall be filed. Unless the Court or the Registrar otherwise directs separate costs of the Deputy Registrar's Advocate shall be paid in respect of the Rule.

30. If a respondent, who was described as a minor in the memorandum of appeal, appears as a major, he shall, when making such appearance, file an affidavit stating the fact that he has attained majority together with the date when he did so. On such affidavit being filed, the appellant, unless he disputes the fact of the respondent attaining majority, shall be allowed to amend the memorandum of appeal within a time fixed by the Registrar.

¹ The word and figures "Tk 153 or 103" were substituted for the word and figures "Rs. 52 or Rs. 20" by Notification No. 340-G, The Bangladesh Gazette, January 27, 1982.

31. Where in an appeal or other proceeding the natural guardian of a minor respondent or opposite party, upon being duly served with notice does not appear within the time fixed by the notice, the Deputy Registrar shall be appointed guardian *ad-litem*. The natural guardian shall not thereafter be allowed to appear unless he files an application supported by an affidavit making out a sufficient ground for the removal of the Deputy Registrar as required by rule 11 of Order XXXII of the Code of Civil Procedure. Notice of such application shall be duly served by the applicant upon the Deputy Registrar and if an order is made removing the Deputy Registrar it shall be made subject to the payment by the natural guardian of any cost that the Deputy Registrar may have incurred as guardian *ad-litem* in respect of Advocates' fees, etc.

32. On any Court day on which no Bench is or has been sitting, any memorandum of appeal or application which might be barred by time and which is entertainable only by a Bench may be presented to the Registrar, or in his absence from Court on that day, to the Deputy Registrar of the Court, who shall certify thereon that such application was on that day presented to him; provided always that no such presentation to the Registrar or Deputy Registrar shall be of any effect unless such application be presented to a Bench on the next subsequent day on which a Bench taking up such matters is sitting.

33. When an Appeal from an Original Decree or an Appeal under the Workmen's Compensation Act or an application for revision has been admitted and registered, or, in the case of Appeals from Appellate Decrees and Appeals from Orders other than an order under the Workmen's Compensation Act; when the Court has passed an order to the effect that the appeal will be heard, it shall be the duty of the Deputy Registrar to send a notice in Form No.1 or 2 (Civil), Appendix 1 of the Rules immediately to the Court from whose decision the appeal is preferred, or the application is made, and to call for the transmission, ordinarily within seven days, of the record and all material papers:

Provided that in every appeal from an interlocutory order made in a suit and coming under Order XLIII, rule I, clauses (q), (r) and (s), Civil Procedure Code, copies only of the plaint, written statement (if any), order sheet and the papers directly relating to the interlocutory proceedings in appeal shall be called for unless the Court or the Registrar otherwise directs.

Note-Records of execution cases sent up in appeal to the High Court shall invariably be accompanied by all the papers connected with them in the lower Courts whether Original or Appellate, including the decree which is the subject of the execution proceedings.

34. When calling for the record and material papers under the preceding rule, the Deputy Registrar shall draw the attention of the lower Court to note 1 to rule 537 of the Civil Rules and Orders relating to the transmission of cumbrous and bulky exhibits and shall call for such of them only, as have been directed by the Court or the Registrar to be called for.

Note-Parties or their Advocates desiring bulky exhibits to be called for in case other than appeals from Original Decrees may apply to the Registrar before a case has appeared in the Daily Cause List, at least two weeks before the date of hearing, and to the Court thereafter, for an order under this Rule, setting forth sufficient grounds in support of the application; such application when made to the Registrar need not be stamped or verified but should comply with rule 7 of Chapter IV of these Rules.

35. (i) When calling for the record of a contested or uncontested suit or case for Probate or Letters of Administration or for revocation of the same, the attention of the District Judge or District Delegate shall be drawn to the note to rule 412(1), of the Civil Rules and Orders, Volume I, as amended by Circular Order No. 18(Civil) of 1939.

(ii) Before a "Will" is called for in connection with an appeal or case pending in this Court at the instance of a party, such party shall deposit with the Accountant of the Court with *chalans* in the prescribed form, a sum, to be assessed by the office, sufficient to cover, all the necessary expenses for transmission and retransmission thereof by registered post with acknowledgment due, and the requisition calling for the "Will" shall contain a certificate that such sum has been deposited.

(iii) Upon receipt of a "Will" the Deputy Registrar shall take all necessary precautions for the safe custody and preservation of the "Will" until the same is returned by registered post; with acknowledgment due, to the District Judge or District Delegate from whom it was received.

36. Whenever it shall be impossible for the lower Court to comply with the requisition within the time stated such Court shall report the reason of its inability and shall ask for such further time as may be necessary.

37. If the process fee be paid and the notice forms be filed within the period prescribed by rules 38 and 40 *post* or within the further period allowed by the Registrar or the Court, the notice in the prescribed form shall at once issue on the respondent.

38. The fee for the issue of the notice to the respondent under Order XLI, rule 14, Civil Procedure Code, shall be paid into Court by the appellant-

- (a) in the case of Appeals from Original Decrees and appeals under the Workmen's Compensation Act, within two weeks of the date of registration of the appeals, notices whereof shall be given by being entered in a list in Form No.3 (Civil), Appendix I, which will be displayed outside the Appeal Section concerned and a copy sent to the Bar Association's Library. This shall constitute sufficient notice of the date of registration of the Appeal.
- (b) in the case of Appeals from Appellate Decrees and Appeals from Orders, other than those which are dismissed at the preliminary hearing under Order XLI, rule 11, Civil Procedure Code, and other than appeals under the Workmen's Compensation Act, within 30 days of the date on which the Court passes an order admitting the appeal. .
- (c) Process fee required for the issue of notice on substituted parties shall be filed within a fortnight from the date of substitution and the process fee for the issue of fresh notice shall be filed within one week from the date of the order directing the issue of such notice. In either case notice forms duly filled in shall accompany the process fee. In no case time shall be extended by the Registrar for more than 3 (three) weeks.
- (d) The fee for the issue of notice under Order XLI, rule 22(3), Civil Procedure Code, shall be paid, together with the necessary copies of cross-objection, within one week from the date of registration of the memorandum of cross-objection, notice whereof shall be given in the manner prescribed in this rule.

39(a) The appellant within thirty days from the registration of the memorandum of appeal, notice whereof shall be given in the manner stated in rule 38(a) above, shall, in the case of Appeals from Original Decrees, deposit with the Accountant, in one installment, the sum of Rs.50 if the appeal does not exceed Rs.10,000 in value; Rs.75 if such appeal exceed Rs.10,000 in value but does not exceed Rs.15,000 and Rs.100 if such appeal exceeds Rs.15,000 in value. But in case of appeals under the Succession Act and order granting or refusing Probate and Letters of Administration and Appeals under the Workmen's Compensation Act, no initial deposit shall be demanded. In no case shall time for deposit of initial cost be extended by the Registrar beyond 90 days of the registration of the appeal.

(b) In the case of First Appeals from Orders passed by a Civil Court including orders under section 47, Civil Procedure Code the appellant shall, at the time of paying the fee for the issue of the notice to the respondent under Order XLI, rule 14, Civil Procedure Code, deposit the sum of Rs.30 towards the cost of the preparation of the paper book in the Appeal. In no case shall time for deposit of Rs.30 be extended by Registrar beyond 90 days.

Note.-When tendering money in the Accounts Section the Advocate shall certify that the amount tendered is the full amount of initial deposit, and the money shall not be received if this certificate is not given.

40. (1) Whenever it is necessary under these Rules to issue a notice to a respondent under Order XLI, rule 14, Civil Procedure Code, the appellant, shall, simultaneously with the filing of the fee for the issue of such notice, file printed forms of such notices, duly filled up in the prescribed Form Nos. 4 or 4A (Civil), Appendix I, the date of appearance and the date of the notice being left blank.

(2) The information entered in the forms must be filled up in the vernacular (or in English if the respondent to be served is a European British subject or a resident of a foreign State) in a bold, clear and easily legible handwriting.

(3) The date fixed for appearance will be inserted in the form and the notice will be dated and signed by an Officer of the High Court.

(4) The necessary number of the printed forms of notice in the prescribed form will be supplied to the appellants, or their Advocates, free of cost on an application to the Forms Clerk.

41. If the fee for the issue of the notice to the respondent be not paid into Court in the manner provided by rule 38 above or the deposit required under rule 39 above be not made within the time allowed by that rule, or if the notice forms, duly filled up, be not filed as provided in the last preceding rule, the appeal shall be placed before the Registrar who may, in his discretion, either grant one extension of time for making such payment, or deposit, or filing the notice forms, or direct the appeal to be placed before the Court for orders.

42. If the process fee be paid and the notice forms be filed within the period prescribed by rules 38 and 40 above or within the further period allowed by the Registrar or the Court, the notice in the prescribed form shall at once issue on the respondent.

43. If such respondents reside within the jurisdiction of the Court from whose decree or order the appeal is preferred, the notice to such respondent shall be sent to the presiding officer of such Court together with the proceeding of the High Court calling for the record. In case of parties living in a foreign state notices on the respondent or the opposite party shall be sent by registered post with acknowledgment due.

44. Notice for service on respondents or opposite parties residing in any district other than that from which the appeal, application, etc., comes, shall be sent by the Deputy Registrar to the proper Court in the district in which such notice is to be served. If, however, the opposite party or any of the parties to be served, reside in the same district but outside the jurisdiction of the Court from which the appeal, application, etc., comes, the notice shall be sent for service to the Court within whose jurisdiction the party resides, if known; if not known, then to the Court from which the appeal or application comes, directing the latter to forward it to the proper Court within the jurisdiction of which the notice is to be served. The Court which serves any notice shall in every case make its returns of service or of the failure of service (as the case may be), direct to the High Court, In the case of notices to be served in a foreign state, the notices shall be sent direct from the High Court to the address of those persons by registered post with acknowledgment due.

Note.-Where the jurisdiction within which a party resides is not known, notices in respect of such party shall be accompanied by a duplicate copy for the purpose of return of service.

45. On receipt of the proceedings of the High Court, transmitting the notices of appeal or application, the Lower Court shall cause their service without the payment of any further fee and without any further action by the appellant;

Provided that any appellant or applicant or his agent may accompany the serving officer for the purpose of facilitating the service of processes.

46. The time allowed for service of notice shall be specified thereon by the Deputy Registrar which time shall be a period of 21 days and shall commence from the date on which it is despatched, which shall, as far as possible, be the day on which the process fee is deposited and the notice forms are filed.

Note.-The officer-in-charge of the section concerned shall see that this rule is strictly complied with and any undue delay therein shall be brought to the notice of the Registrar by the Assistant Registrar-in-charge of the section for issuing notices.

47. The Lower Courts shall issue all notices immediately on receipt thereof and in their returns of service shall, in every instance, insert (a) date of receipt of notice; (b) date of delivery to the serving officer; and (c) date of receiving it back from him. .

48. It shall be the duty of the Lower Court to cause the notice to be served in sufficient time before the date fixed, and, if such service be impracticable, to state, when returning it to the High Court, the reasons thereof. The Lower Court shall satisfy itself that a valid service has been made, or that there has been a failure of service, and shall certify such opinion with the reasons in case of failure of service. The certificate shall be accompanied by the return of service or failure to serve the notice and the declaration of the serving officer specifying the fact and mode of service or the reason for non-service.

49. The date to be fixed for the hearing of the appeal shall be the 21st day after the date on which the time for the service of notices expires, provided that if such day be a Sunday or holiday the first Court day next following shall be the date fixed for hearing.

50. In an appeal in which more than one respondent is to be served with the notice under Order XLI, rule 14, Civil Procedure Code, the Deputy Registrar, in fixing the time for the hearing of the appeal, shall fix the 21st day after the day fixed for the service of the notice of appeal on the respondent.

51. When in an appeal or other proceeding the Court orders a notice to show cause to issue, such notice shall ordinarily be issued to all parties to such appeal or other proceeding and to any person whom it is proposed to make a party. If the person to whom the notice is to issue is a minor, a person of unsound mind, or other disqualified person, it shall also be issued to the guardian or next friend of such person.

52. In every case in which an appeal has been admitted, the Registrar shall cause paper-books to be prepared in accordance with the provisions of Chapter IX.

53. As soon as the paper-book has been prepared in accordance with the provisions of Chapter IX and the appeal is otherwise ready for hearing, it shall be entered in the General Warning List and notice thereof shall be published in the manner prescribed in Rule 61, Chapter IX of these Rules.

Note - Provided that in Probate cases, in cases under Workmen's Compensation Act and in cases under Dissolution of Muslim Marriages Act and in such other matters as the Chief Justice directs notice shall be prepared and published in the manner prescribed in Rule 61 of Chapter IX.

54. The Deputy Registrar shall on last Saturday of each ¹[quarter of the] year cause to be prepared and posted on the Notice Board of the Court a list of cases which are ready for hearing during the following ¹[three months]. This list shall be called "The ¹[Quarterly] Cause List".

55. From the Monthly Cause List the Deputy Registrar, subject to any special orders passed by the Chief Justice or other Judges, or by the Registrar under rule 60 of this Chapter, shall each day cause to be prepared and posted on the Notice Board of the Court a list of the cases to be taken up by each Bench on the following day. This list shall be called "The Daily Cause List", and a copy of it shall be submitted to each Judge.

56. The Daily Cause List for the days on which the Registrar sits shall include a list of the cases which will be taken up by him, under the heading "Lawazima".

57. If on the date fixed for the hearing of any appeal, application or other matter, it appears that the requisite notices have been served, and the matter is otherwise ready for hearing, the matter may be disposed of; if not disposed of, it shall come on for disposal in ordinary course, and no notice of any date fixed for hearing shall be given other than its inclusion in the Daily Cause List.

58. A case which is part-heard shall unless otherwise ordered by a Bench be placed first in the Daily Cause List for the day on which the Bench which has partly heard such case next sits for the disposal of that class of business.

¹ The words "quarter of the year", "three months" and "Quarterly" were substituted for the words "month", "Month" and "monthly" respectively by Notification No. 3190-G, The Dacca Gazette (Extraordinary), September 09, 1971

Subject to the above, a case which is specially fixed for a particular day before a particular Bench shall be placed at the top of the list before that Bench.

59. The cases in the Daily Cause List shall, unless the Bench otherwise directs, be called on and disposed of in their order on the list.

60. Any person desiring that a case shall not be placed in the Daily Cause List for any particular day or days may, after notice to the opposite party apply to the Registrar, and thereupon the Registrar may, subject to the proviso to rule 2(XIX), Chapter II, order that such case shall not be placed in the Daily Cause List for any such day or days.

61. Appeals from Orders shall have precedence over other appeals in preparation for hearing and shall, when ready, be put up for hearing as soon as possible.

62. In every judgment, decree or final order to which the provisions of Article 157 of the Constitution apply, it shall be recorded whether a certificate under that section is granted or withheld.

63. When an order has been made under Order XLI, rule 23 or 23A or 25, Civil Procedure Code, the Deputy Registrar shall make a note of the same in a register to be kept for the purpose, and he shall bring to the notice of the Registrar any case in which the Subordinate Court has not made a return to the order of remand within 3 months, or within such time as may have been specifically ordered.

64. On receipt of the finding of a Lower Court in a case referred under Order XLI, rule 25, Civil Procedure Code, the Deputy Registrar shall notify to the Advocates of the parties that any objection to such finding must be filed within one week from the date of the service of the notice.

65. Whenever by an order of a Court, the decree or order of a Lower Court is affirmed, modified or reversed, or costs are fixed in any special sum not specified in the judgment, as soon as the decree or order has been drawn up it will be the duty of the Bench Clerk concerned to cause a notice to be issued to the Advocates concerned or to the parties, if acting in person, stating that such decree or order has been drawn up and that it may be perused by any party or his Advocate within one week from the date of issue of the notice.

66. When such notice has been issued, any party or his Advocate may, before the expiry of the time prescribed in rule 65, peruse the decree and either sign it or state his objection to the Judge or Judges, or one of them who delivered the judgment, or if such Judge or Judges has or have ceased to be a Judge or Judges of the Court, or be; absent on leave then before such Judge or Judges as the Chief Justice may appoint for that purpose.

67. (1) Should no objection be filed on or before the date specified in the notice, the Bench Clerk shall submit the decree to the Judge or Judges for signature.

(2) In drawing up decrees of this Court dismissing with costs appeals by minors, the Bench Clerks should be careful to make the next friend of the minor liable for such costs, unless the Court otherwise orders.

(3) In cases where a minor is a respondent and the decree of the Court below is reversed or altered, it shall be the duty of the Bench Clerk to call the attention of the Court to that effect, in order that special directions may be given as to the payment of costs.

68. A copy of the judgment and of the decree passed by the High Court, disposing of an appeal shall be certified by the Deputy Registrar and forwarded by him to the Court which passed the decree appealed from, in the manner prescribed by Order XLI, rule 37, Civil Procedure Code.

69. Every decree and order made by the High Court shall be drawn up in the language of the Court.

70. Except when the Registrar otherwise directs, the records of the Lower Courts shall be sent down as soon as possible after the case has been disposed of. The Assistant Registrar under whom the despatch section is or the Deputy Registrar shall see that in no case after the disposal of an appeal by this Court, the Lower Court records are held up for more than three weeks from the date of signing of the decree.

71. No Advocate shall receive instructions from any person other than an Advocate, an Attorney, an enrolled Mukhtear of the Court, or the party himself, or a person holding a general power of attorney from him, or is servant or relation, or a pleader of the Mufassil Court, specially authorised in writing in that behalf. Where there are more parties than one, and they appear by separate vakalatnamas, the vakalatnama of one may be received from any other similarly authorised, but if they appear by one and the same vakalatnama, it may be received from any of them, or from a person duly authorised by anyone of them, without special authority from others. When any vakalatnama is filed by an Advocate, he shall endorse on the back of it the name of the person from whom it is received and if such person is not the client himself, or an Advocate, Attorney, or enrolled Mukhtear, shall state the nature of the authority with date, of that person and the Advocate shall put in the date of his signature in the Vakalatnama.

72. When an Advocate retained to appear for any party to an appeal is prevented by sickness or engagement in another Court, or for any other V sufficient cause, from appearing and conducting the case of his client, he may appoint another Advocate to appear in his place, so that his client may not be unrepresented at the hearing; but such Advocate shall not so appear unless he shall have first obtained the special permission of the Court, or the Registrar, as the case may be.

73. In any case in which the party employing an Advocate, or his agent, after due notice fails to pay the amount of the estimated costs for preparing briefs necessary to enable the Advocate or Advocates to conduct the case properly the Advocate or Advocates may, after notice to such party or his agent, or by leave of the Court, withdraw from the further conduct of the case.

An Advocate may also, for any other sufficient cause, and after such notice to his client as may enable him to appoint another Advocate by leave of the Court, but not otherwise withdraw from the further conduct of the case.

74. Any party desiring to cancel a Vakalatnama filed by him in any appeal or other proceeding in this Court must file a duly stamped application supported by an affidavit for the orders of the Court unless the Advocate who accepted the Vakalatnama signifies his willingness to retire from the case, in which case the application need not be supported by an affidavit.

75. The Deputy Registrar shall endorse the date of receipt on all Vakalatnamas and Mukhtearnamas in all cases in the High Court in its Appellate Jurisdiction. An Advocate may be permitted to accept a Vakalatnama filed in which his name appears but which he has not previously accepted and in such case the Deputy Registrar shall put his signature and date of acceptance.

75A. An Advocate who leaves the Court on acceptance of an office or otherwise, shall immediately intimate the said fact to his client by registered post and to the office of the Court and in such case a fresh Vakalatnama shall be required to be filed.

76. The Deputy Registrar shall bring to the notice of the Registrar any willful neglect on the part of any Advocate or Attorney to attend at his office.

77. In every civil matter in which the Court directs an order to be issued immediately, the Bench Clerk shall at once draw up the order in the prescribed form [*see* Form No.5 (Civil), Appendix I] and after obtaining the signature of the Judge or Judges thereto, send it forthwith to the Deputy Registrar or the Officer-in-charge of the Judicial Department as the case may be, for issue without waiting for the formal order or the judgment to be signed. The Deputy Registrar or the Officer-in-Charge of the Judicial Department shall issue the order upon payment of such fee as may be chargeable:

Provided that if it is not possible to obtain the signature or signatures of the Judge or Judges on the day on which the order is passed, the matter should be brought immediately to the notice of the Registrar. If one Judge of a Bench has signed the order, the substance of it shall be communicated to the Lower Court immediately, with a note that the copy of the order proper will follow.

78. The Stamp Reporter shall bring to the notice of the Assistant Registrar any irregularity committed by the Lower Courts in the preparation and endorsement of certified copies of the judgments and decrees of their Courts, and the Assistant Registrar shall submit his report of such irregularity to the Registrar.

79. Requisitions made under Order XIII, Rule 10, Civil Procedure Code for the production of records of cases pertaining to, and in the custody of other High Courts or Courts Subordinate to such other High Court should be addressed to such High Courts.