

**PART E. — THE MAKING AND FILING OF AFFIDAVITS  
IN THE HIGH COURT**

**1.** <sup>[1]</sup>["**Form and Attestation of Affidavits.**- Affidavits intended to be presented in the High Court in support of an assertion of any fact shall be drawn up and attested in the manner prescribed in Chapter 12 of Volume IV of High Court Rules and Orders. Such affidavits shall be sworn before some Court or Officer appointed to administer the oath to the deponent. If the affidavit is in a language other than English, then its translation in English shall also be filed in Court."]

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

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

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

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

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

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

- (a) Applications to admit an appeal or application, which is *prima facie* barred by time;
- (b) Applications to add parties or to substitute representatives of parties;

- (c) applications to readmit an appeal or application which has been dismissed for default or to re- hear an appeal heard in the absence of the respondent;
- (d) applications to transfer or withdraw a suit or appeal;
- (e) applications to stay execution of decree or order;
- (f) application for security of costs; and
- (g) applications for leave to appeal in *forma pauperis*.

**7.** <sup>[1]</sup>**Affidavit to be presented to.**- Affidavits intended to be used in any proceedings before the High Court may be presented before the Registrar (Judicial) up to *12 Noon of a day preceding* the date of hearing, who shall thereupon file them with the proceeding after noting thereon the date of presentation.

**8. No affidavit shall ordinarily be read** at the hearing of any appeal, application or other proceeding unless a copy thereof has been served upon the other party or his Advocate by *12 Noon preceding the day* before such hearing;

Provided that this rule shall not apply to urgent applications or to applications made ex-parte. ]

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

- (1) The Registrar for the time being;
- (2) The Deputy Registrar for the time being;
- (3) The Superintendent Judicial for the time being;
- (4) The Secretary to the Chief Justice;
- (5) Superintendent and the Reader to Deputy Registrar, Circuit Court, Delhi.