

PART H-RULES OF PROCEDURE IN APPEALS

(a) Judgment and Orders

1. Judgments may be written by the Judge in English and delivered orally, and in the latter case a written note thereof in writing in the English language, or short hand, shall be taken by an officer of the Court in attendance for the purpose. The note so taken shall be written out of typed in full by the officer by whom it was taken, and shall be submitted by him to the Judge for correction. After being corrected by the Judge, where necessary, it shall be filed as the Judgment of the Court.

Oral and
written
judgments.

2. (1) After a case has been heard judgment may be pronounced either at once or on some future date which shall be notified in the Cause List. No other notice to the parties shall be necessary.

Pronouncing
judgment.

(2) *Where a case is heard by two or more Judges and judgment is reserved, their judgment or judgments may be pronounced by any one of them. If no such judge be present such judgment or judgments may be pronounced by any other Judge.*

(3) Where a case is heard by a Judge sitting alone and judgment is reserved, his judgment may, in his absence, be pronounced by any other Judge.

3. When an appeal has been heard by a Bench of Court, the written opinions of the Judges who heard the appeal, but have ceased to be attached to the Court before delivery of judgment, shall unless delivered by another Judge of the Bench which heard the appeal, be deemed to be minutes merely and not judgments.

Opinion
recorded
before
delivery of
judgment.

4. When a party to the appeal dies after the last hearing, but before delivery of judgment, the Court may order the judgment to bear the date of the last hearing.

Predating of
judgment
when party
dies.

5. When an appeal is heard by a bench consisting of two judges and the Judges composing the Bench differ on point of law and refer the appeal under section 98 of the Code of Civil Procedure, the Judges so

Reference in
case of
difference of
opinion.

differing shall each record his judgment on the appeal, and the appeal shall thereupon be laid before the Chief Justice, who shall direct to which other Judge or other Judges the appeal shall be referred. Similarly when the Judges composing a Bench being equally divided in opinion as to the decision on a point, state that point for reference to another Judge or Judges under clause 26 of the Letters Patent, the case shall be heard on that point by one or more Judges to be nominated by the Chief Justice. The Chief Justice may be such other Judge or one of such other Judges.

(b) Appellate Decrees

Decrees in English.

6. The decree of the High Court shall be drawn up in English, and shall bear the same date as the Judgment.

Contents of decree.

7. (i) The decree shall contain the number of the appeal, the names and description of the appellant and respondent, the names of the plaintiff and defendant in the suit and the description of the Court from whose decree or order the appeal is preferred, with the date of such decree or order and shall clearly state the relief granted or other determination of the appeal, in such manner as not to render reference to other documents necessary, except the decrees of Courts below, when those decrees are affirmed or varied, but not reversed.

Note.-In all important cases the Deputy Registrar will, if this can be done without undue delay or inconvenience, obtain the signature of counsel to the draft decree,

Decree to mention costs.

(ii) The decree shall also state the amount of costs incurred in the appeal, and what parties and in what proportions the same, and the costs incurred in the Courts below, shall be paid.

Decrees in pauper appeals.

(iii) In pauper appeals the provisions of Order XXXIII; Rule 10 of the Code of Civil Procedure shall be observed.

The heading of the decree should run-
"Appeal in forma pauperis by....."

In the body should be inserted-

"The following Court fee costs are recoverable by Government as a first charge upon the subject matter under Order XXXIII, Rule 10 of the Code of Civil Procedure."

8. (I) As soon as a decree has been drawn up, the Deputy Registrar shall cause a notice to be exhibited on the notice board, stating that the decree has been drawn up, and that any party to the decree or any counsel of any party to the decree may, within 3 days, persue the decree and sign it or file with the Deputy Registrar an objection to the decree on the ground that there is in the judgment a clerical error or omission or that the decree is not in accordance with the judgment upon which it is based. Such objection, if any, shall state clearly what is the clerical error or omission alleged or in what respect the decree is not in accordance with the judgment, and shall be signed and dated by the party or by the Advocate filing it.

Objection to draft of decrees.

(ii) Should any such objection, as is mentioned in clause (i), be filed on or before the date specified in the notice, the Deputy Registrar shall, on notice to all the parties, put up the appeal or case together with the judgement therein, the draft decree and the objection, for orders before 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 High Court or be absent on leave or furlough, then before such Judge or Judges as the Chief Justice shall appoint for that purpose.

Objection to be laid before a Judge.

(ii) Should no such objection, as is mentioned in clause (i), be filed on or before the date specified in the notice, the Deputy Registrar or such other officer signed as may be incharge of the Judicial Department for the time being having first dated the decree as of the day when the judgement upon which the decree is founded was delivered shall sign the decree and seal it with the seal of the Court.

Case in which decree may be signed by the Registrar.

Above procedure to apply to other final orders.

(iv) The above procedure shall also be observed in respect of final orders in all miscellaneous, revisions, for other cases.

No alteration of the decree or order.

Note.---Under no circumstances shall any decree or order passed or made by a Judge or Judges be altered, varied or departed from in any particular in the office, except under an order, in writing, of the Judge or Judges who passed or made such decree or order or except under an order made an appeal from such decree or order or except under an order made in review.

No decree under order XLI Rule 11.

9. No decree shall be drawn up in cases in which the decision of the lower Court is confirmed under Order XLI, Rule 11, of the Code of Civil Procedure.

Procedure for notice to parties when draft to be settled in their presence.

10. (i) When the draft of any decree or order has been ordered to be settled in the presence of the parties, or when none of the Judges who concurred in the Judgement continues attached to the Court and the Deputy Registrar thinks it necessary that it should be so settled, the Deputy Registrar shall by notice in writing, which shall be accompanied by copies of the draft prepared for approval, appoint a time for settling the same, and the parties or their counsel must attend such appointment and produce before the Deputy Registrar such documents as may be necessary to enable him to settle the draft. The notice will be sent from the Deputy Registrar's office to counsel, if any, of the parties with a receipt book, in which shall be obtained the signature of the person with whom the notice is left.

Mode of service of notice.

(ii) The notice shall be served on the parties who have appeared in person by the party who has the carriage of the decree or order. When so served, the original notice with a memorandum endorsed thereon of the service of a copy thereof signed by the party by whom such service was made, must be delivered to the Deputy Registrar who may, if not satisfied that service has been duly made, require such service to be verified by affidavit.

Settlement of draft in case parties fail to act.

11. If any party fails to attend the Deputy Registrar's appointment for settling the draft of a decree or order, or fails to produce any documents called for by the Deputy Registrar, the Deputy Registrar may proceed to settle such draft in his absence or

without the production of the documents aforesaid, or may mention the matter to the Court.

12. The Deputy Registrar may adjourn any appointment for settling the draft of any decree or order to such time as he may think fit, and the parties who attend the appointment shall be bound to attend the adjourned appointment without further notice.

Adjournment
of settlement
of draft.

13. If any party is dissatisfied with any decree order as settled by the Deputy Registrar and intends to mention the matter to the Court the Deputy Registrar if informed of such intention shall not proceed to complete the decree without allowing such party sufficient time to apply to the Court. The application must be made by motion, or notice to the parties who appeared at the hearing.

Right of party
dissatisfied
with
Registrar's
settlement.

14. When a variation is made by the Court in a draft settled by the Deputy Registrar, such variation shall be embodied in the decree or order, and except when the costs of the application are ordered to be paid, no fresh order need be drawn up.

Variation of
draft settled
by the
Registrar.