

**PART B.—SUPREME COURT
RULES**

**The following rules from the Supreme Court Rules,
1966, are reproduced for facility of reference.**

Part II

Appellate Jurisdiction

**(A) Civil Appeals
ORDER XV**

Appeals on certificate by High Court

1. Where a certificate has been given under clause (1) of Article 132 or clause (1) of Article 133 or Article 135 of the Constitution, or under any other provision of law, the party concerned shall file a petition of appeal in the Court.

2. Subject to the provisions of section 4, 5 and 12 of the Limitation Act, 1963 (36 of 1963) the petition of appeal shall be presented within sixty days from the date of the grant of the certificate of fitness.

3. (1) The petition shall recite succinctly and in chronological order with relevant dates, the principal steps in the proceedings leading up to the appeal from the commencement thereof till the grant of the certificate of leave to appeal to the Court, and shall also state the amount or value of the subject-matter of the suit in the court of first instance and in the High Court, and the amount or value of the subject-matter in dispute before the Court with particulars showing how the said valuation has been arrived at. Where the appeal is incapable of valuation, it shall be so stated.

(2) The petition shall be accompanied by a certified copy of the decree or order appealed from. In cases where according to the practice prevailing in the High Court the decree or order is not required to be drawn up, it shall be so stated on affidavit and the petition of appeal in that event shall be accompanied by a certified copy of the Judgement appealed from. It shall not be necessary to file along with the petition of appeal a certified copy of the certificate of fitness granted by the High Court, but the petition shall be supported by an affidavit stating the date on which the application for certificate was made to the High Court, the date of the order granting the said certificate and the provisions of law under which the said certificate has been granted.

(3) Where at any time between the grant by the High Court of the Certificate for leave to appeal to the Court and the filing of the petition of appeal, any party to the proceeding in the Court below dies, the petition of appeal may be filed by or against the legal representative, as the case may be, of the deceased party, provided that the petition is accompanied by a separate application, only supported by an affidavit, praying for bringing on recordsuch person as the legal representative of the deceased partyand setting out the facts showing him to be the proper person to be entered on the records as such legal representative.

4. The Registrar, after satisfying himself that the petition of appeal is in order, shall endorse the date of presentation on the petition and register the same as an appeal in the Court.

5. Where a party desires to appeal on grounds which can be raised only with the leave of the Court, it shall lodge along with the petition of appeal a separate petition stating the grounds so proposed to be raised and praying for leave to appeal on those grounds.

6. Within thirty days of the filing of the petition of appeal, the appellant shall deposit in the Court security for the costs of the respondent.

7. The security for the costs of the respondent shall be in the sum of two thousand rupees. That Court may, in appropriate cases, enhance or reduce the amount of security to be deposited.

8. Where an appellant whose appeal has been registered in the Court fails to furnish the security within the time prescribed, or within such further time as the Court may allow, the Registrar shall call upon the appellant to show cause before the Court why the appeal should not be dismissed for non-prosecution.

9. The Court may after hearing the parties who have entered appearance dismiss the appeal for non-prosecution or give such other directions thereon as the justice of the case may require.

Appearance by Respondent

10. As soon as the security for the costs of the respondent has been deposited, the Registrar of the Court shall :—

- (i) require the appellant to furnish as many copies of the petition of appeal as may be necessary for record and for service on the respondent ; and
- (ii) send to the Registrar of the Court appealed from a copy of the petition of appeal for record in that court and a copy for service upon the respondent or each respondent:

Provided that the Registrar of the Court may on an application made for the purpose, dispense with service of the petition of appeal on any respondent who did not appear in the proceedings in the Court appealed from or on his legal representative :

Provided however that no order dispensing with service of notice shall be made in respect of a respondent who is a minor or a lunatic :

Provided further that an order dispensing with service of notice shall not preclude any respondent or his legal representative from appearing to contest the appeal.

11. On receipt from the Court of the copy of the petition of appeal, the Registrar of the Court appealed from shall:—

- (i) cause notice of the lodgment of the petition of appeal to be served on the respondent personally or in such manner as the court appealed from may by rules prescribe ;
- (ii) unless otherwise ordered by the Court, transmit to the Court at the expense of the appellant the original record of the case ; including the record of the Courts below

Provided that where a transcript is to be prepared in accordance with the proviso to sub-rule (1) of rule 14, no original record shall be transmitted until specifically requisitioned ; and

- (iii) as soon as notice as aforesaid is served, to send a certificate as to the date or dates on which the said notice was served.

12. A respondent shall enter appearance in the Court within thirty days of the service on him of the notice of lodgment of the petition of appeal.

13. The respondent may within the time limited for his appearance deliver to the Registrar of the Court and to the appellant a notice in writing consenting to the appeal, and the Court may thereupon make such order on the appeal as the justice of the case may require without requiring the attendance of the person co consenting.

Preparation of Record

14. (1) The record shall be printed in accordance with the rules contained in the First Schedule to these rules and, unless otherwise ordered by the Court, it shall be printed under the supervision of the Registrar of the Court :

Provided that where the proceedings from which the appeal arises were had in courts below in a language other than English, the Registrar of the Court appealed from shall within six months from the date of the service on the respondent of the notice of petition of appeal transmit to the Court in triplicate a transcript in English of the record proper of the appeal to be laid before the Court, one copy of which shall be duly authenticated. The provisions contained in rules 15 to 20 shall apply to the preparation and transmission to the Court of the said transcript record.

(2) Upon receipt from the Court appealed from the English transcript of the record as aforesaid, the Registrar of the Court shall proceed to cause an estimate of the costs of preparing the printed copies of the records to be made and served on the appellant in accordance with the provisions contained in rule 19 and, with all convenient speed, arrange for the preparation thereof.

(3) Unless otherwise ordered by the Court, at least twenty copies of the record shall be prepared.

15. (1) As soon as the original record of the case is received in the Court, the Registrar shall give notice to the parties who have entered appearance of the arrival of the original record and the parties shall, thereafter, be entitled to inspect the record and to extract all necessary particulars therefrom.

(2) The appellant shall within four weeks of the service upon him of the notice referred to in sub-rule (1), file a list of the documents which he proposes to include in the paper book, a copy whereof shall be served on the respondent. The respondent may within three weeks of the service on him of the said list file a list of such additional documents as he considers necessary for the determination of the appeal.

16. After the expiry of the time fixed for the filing of the additional list by the respondent, the Registrar shall fix a day for the settlement of list of documents to be included in the appeal record and shall give notice thereof to the parties who have entered appearance. In settling the lists the Registrar, as well as the parties concerned, shall endeavour to exclude from the record all documents that are not relevant to the subject-matter of the appeal and generally to reduce the bulk of the record as far as practicable.

17. Where the respondent objects to the inclusion of a document on the ground that it is not necessary or is frivolous and the appellant nevertheless insists upon its inclusion, the record as finally printed shall, with a view to subsequent adjustment of cost of and incidental to the printing of the said document, indicate in the index of papers or otherwise the fact that the respondent has objected to the inclusion of the document and that it has been included at the instance of the appellant.

18. Where the appellant objects to the inclusion of a document on the ground that it is not necessary or is frivolous and the respondent nevertheless insists upon its inclusion, the Registrar, if he is of opinion that the document is not relevant, may direct that the said document be printed separately at the expense of the respondent and require the respondent to deposit within such time as he may prescribe, the necessary charges therefore; and the question of the costs thereof shall be dealt with by the Court at the time of the determination of the appeal.

19. As soon as the index of the record is settled, the Registrar concerned shall cause an estimate of the costs of the preparation of the record to be prepared and served on the appellant and to require him to deposit within thirty days of such service the said amount. The appellant may deposit the said amount in lump sum or in such installments as the Registrar may prescribe.

20. Where the record has been printed for the purpose of the appeal before the High Court and sufficient number of copies of the said printed record are available no fresh printing of the record shall be necessary except of such additional papers as may be required.

21. Where an appeal paper book is likely to consist of two hundred or less number of pages, the Registrar may, instead of having it printed, have the record cyclostyled under his supervision.

22. If at any time during the preparation of the record the amount deposited is found insufficient, the Registrar shall call upon the appellant to deposit such further sum as may be necessary within such further time as may be deemed fit but not exceeding twenty-eight days in the aggregate.

23. Where the appellant fails to make the required deposit, the preparation of the record shall be suspended and the Registrar concerned shall not proceed with the preparation thereof without an order in this behalf of the Court and where the record is under preparation in the Court appealed from, of the Court appealed from.

24. When the record has been made ready the Registrar shall certify the same and give notice to the parties of the certification of the record and append to the record a certificate showing the amount of expenses incurred by the party concerned for the preparation of the record.

25. Each party who has entered appearance shall be entitled to three copies of the record for his own use.

26. Subject to any special direction from the Court to the contrary, the costs of, and incidental to, the printing of the record shall form part of the costs of the appeal, but the costs of, and incidental to, the printing of any document objected by one party in accordance with rule 18 or rule 19, shall, if such document is found, on taxation of costs to be unnecessary or irrelevant, be disallowed to, or borne by the party insisting on including the same in the record.

27. Where the record is directed to be prepared under the supervision of the Registrar of the Court appealed from, the provisions contained (in rules 15 to 25 shall apply mutatis mutandis to the preparation thereof.

Special Case

28. Where the decision of the appeal is likely to turn exclusively on a question of law, any party, with the sanction of the Registrar of the Court, may submit such question of law in the form of a special case, and the Registrar may call the parties before him, and having heard them and examined the record, may report to the Court as the nature of the proceedings and the record that may be necessary for the discussion of the same, upon perusing the said report, the Court

may give such directions as to the preparation of the record and hearing of the appeal including directions regarding the time within which or otherwise, the parties shall lodge their respective statements of case :

Provided that nothing herein contained shall in any way prevent this Court from ordering the full discussion of the whole case if the Court shall so think fit.

Withdrawal of Appeal

29. Where at any stage prior to the hearing of the appeal an appellant desires to withdraw his appeal; he shall present a petition to that effect to the Court. At the hearing of any such petition a respondent who has entered appearance may apply to the Court for his costs.

Non-Prosecution of Appeals—Change of Parties

30. If an appellant fails to take any steps in the appeal within the time fixed for the same under these rules, or if no time is specified, it appears to the Registrar of the Court that he is not prosecuting the appeal with due diligence, the Registrar shall call upon him to explain his default and, if no explanation is offered, or if the explanation offered appears to the Registrar to be insufficient, the Registrar may issue a summons calling upon him to show cause before the Court why the appeal should not be dismissed for non-prosecution.

31. The Registrar shall send a copy of the summons mentioned in the last specified rule to every respondent who has entered appearance. The Court may, after hearing the parties, dismiss the appeal for non-prosecution or give such other directions thereon as the justice of the case may require.

32. Where at any time between the filing of the petition of appeal and the hearing of the appeal, the record becomes defective by reason of the death or change of status of a party to the appeal, or for any other reason, an application shall be made to the Court, stating who is the proper person to be substituted or entered on the record in place of, or in addition to the party on record.

33. Upon the filing of such an application the Registrar of the Court shall, after notice to the parties concerned, determine who in his opinion is 'the proper person to be substituted or entered on the record in place of, or in addition to the party on record, and the name of such person shall thereupon be substituted or entered on the record :

Provided that no such order of substitution or revivor shall be made by the Registrar-

- (i) where a question arises as to whether any person is or is not the legal representative of the deceased party, or
- (ii) where a question of setting aside the statement of the cause is involved ;

in such a case he shall place the matter before the Court for orders :

Provided further that where during the course of the proceedings it appears to the Registrar that it would be convenient for the enquiry that investigation in regard to the person who is to be substituted on record, be made by the Court appealed from or a Court subordinate thereto, the Registrar may place the matter before the Judge in Chambers and the Judge in Chambers may thereupon make an order directing the Court appealed from to investigate into the matter either itself or cause an enquiry to be made by a Court subordinate to it, after notice to the parties, and submit its report thereon to this Court within such time as may be fixed by the Order. On receipt of the report from the Court below the matter shall be posted before the Judge in Chambers again for appropriate orders.

34. Save as aforesaid the provisions of Order XXII of the Code relating to abatement shall apply *mutatis mutandis* to appeals and proceedings before the Court.

35. (1) Within sixty days of the service on him of the notice of authentication of the record, the appellant shall lodge in the Court the statement of his case and serve a copy thereof on the respondent. The respondent shall lodge his case within thirty days thereafter.

(2) No party to an appeal shall be entitled to be heard by the Court unless he has previously lodged his case in the appeal :

Provided that where a respondent, who has entered appearance, does not desire to lodge a case in the appeal, he may give the Registrar of the Court not in writing of his intention not to lodge any case while reserving his right to address the Court on the question of costs only.

36. (1) The statement of a case shall consist of two parts as follows :—

Part I shall consist of a concise statement of the facts of the case in proper sequence. A list of the dates of the relevant events leading up and concerning the litigation in chronological order and pedigree tables, wherever necessary, shall be given at the end of the part.

Part II shall set out the contentions of facts and law sought to be urged in support of the claim of the party lodging the case and the authorities in support thereof. Where authorities are cited, reference shall be given to the Official Reports, if available. Where text-books are cited, the reference shall, if possible be to the latest available editions. Where a statute, regulation, rule, ordinance or bye-law is cited or relied on, so much thereof as may be

necessary to the decision of the case shall be set out. At the end of the part shall ordinarily be set out a table of cases cited.

(2) The case shall consist of paragraph numbered consecutively. References shall be given by page and line to the relevant portions of the record in the margin and care shall be taken to avoid, as far as possible, the reproducing in the case of long extracts from the record. The case shall not travel beyond the limits of the certificate or the special leave, as the case may be, and of such additional grounds, if any, as the Court may allow to be urged on application made for the purpose. The Taxing Officer in taxing the costs of the appeal shall, either of his own motion, or at the instance of the opposite party, enquire into any unnecessary prolixity in the case, and shall disallow the costs occasioned thereby.

37. Two or more respondents may, at their own risk as to costs, lodge separate cases in the same appeal.

38. A respondent who has not entered appearance shall not be entitled to receive any notice relating to the appeal from the Registrar of the Court, nor allowed to lodge a statement of case in the appeal.

39. The appeal shall be set down for hearing one month after the expiry of the time prescribed for lodging the statement of cases by the respondent. Where a respondent fails to lodge the statement of case within the time prescribed, the appeal shall, subject to the provision in the proviso to rule 1, be set down *ex-parte* against the respondent in default.

40. As soon as an appeal is set down for hearing the appellant shall attend at the Registry and obtain eight copies of the record and cases to be bound in cloth or in one-fourth leather with paper sides, and six leaves of blank paper shall be inserted before the appellant's case. The front cover shall bear a printed label stating the title and Supreme Court Number of the Appeal, the contents of the Volume and the name and address of the advocates on record. The several documents, indicated by inducts, shall be arranged in the following order :—

- (1) Appellant's case ;
- (2) Respondent's Case ;
- (3) Record (if in more than one Part, showing the separate Parts by inducts, all Parts being paged at the top of the page) ;
- (4) Supplemental Record (if any) and the short title and Supreme Court Number of Appeal shall also be shown on the back.

41. The appellant shall lodge the bound copies not less than ten clear days before the date fixed for the hearing of the Appeal.

ORDER XVI

Appeals by Special Leave

1. Where leave to appeal to the Court was refused in a case by the High Court, a petition for special leave to appeal to the Court shall, subject to the provisions of sections 4, 5, 12 and 14 of the Limitation Act, 1963 (36 of 1963) be lodged in the Court within sixty days from the date of the order of refusal and in any other case within ninety days from the date of the judgment or order sought to be appealed from :

Provided that where an application for leave to appeal to the High Court from the judgment of a single judge of that Court has been made and refused, in computing the period of limitation in that case under this rule, the period from the making of that application and the rejection thereof shall also be excluded.

Explanation.—For purposes of this rule the expression 'order of refusal' means the order refusing to grant the certificate referred under article 132 or article 133 of the Constitution on merits and shall not include an order rejecting the application on the ground of limitation or on the ground that such an application is not maintainable.

2. Where the period of limitation is claimed from the date of the refusal of a certificate under article 132 or article 133 of the Constitution, It shall not be necessary to file the order refusing the certificate but the petition for special leave shall be accompanied by an affidavit stating the date of the judgment sought to be appealed from, the date on which the application for a certificate of fitness to appeal to the Court was made to the High Court, the date of the order refusing the certificate, and the ground or grounds on which the certificate was refused and in particular whether the application for the certificate was dismissed as being out of time.

3. Where an appeal lies to the Court on a certificate issued by the High Court, no application to the Court for special leave to appeal shall be entertained unless the High Court concerned has first been moved and it has refused to grant the certificate.

4. The petition shall state succinctly and clearly all such facts as may be necessary to enable the Court to determine whether special leave to appeal ought to be granted and shall be signed by the advocate on record for the petitioner unless the petitioner appears in person. The petition shall also state whether the petitioner has moved the High Court concerned for leave to appeal against its decision, and if so with what result.

5. The petition shall be accompanied by-

- (i) a certified copy of the judgment and order appealed from ; and
- (ii) an affidavit in support of the statement of facts contained in the petition.

6. No annexures to the petition shall be accepted unless such annexures are certified copies of documents which have formed part of the record of the case in the Court sought to be appealed from; provided that uncertified copies of documents may be accepted as annexures if such copies are affirmed to be true copies upon affidavit.

7. The petitioner shall file at least seven spare sets of the petition and of the accompanying papers.

8. Where any person is sought to be impleaded in the petition as the legal representative of any party to the proceedings in the Court below, the petition shall contain a prayer for bringing on record such person as the legal representative and shall be supported by an affidavit setting out the facts showing him to be the proper person to be entered on the record as such legal representative.

9. Where at any time between the filing of the petition for special leave to appeal and the hearing thereof the record becomes defective by reason of the death or change of status of a party to the appeal or for any other reason, an application shall be made to the Court stating who is the proper person to be substituted or entered on the record in place of or in addition to the party on record. Provisions contained in rule 33 of Order XV shall apply to the hearing of such applications.

10. (1) Unless a caveat as prescribed by rule 2 of Order XVIII has been lodged by the other parties who appeared in the Court below, petitions for grant of special leave shall be put up for hearing *ex parte*, but the Court, if it thinks fit, may direct issue of notice to the respondent and adjourn the hearing of the petition:

Provided that where a petition for special leave has been filed beyond the period of limitation prescribed therefore and is accompanied by an application for condonation of delay, the Court shall not condone the delay without notice to the respondent.

(2) A caveator shall not be entitled to costs of the petition, unless the Court otherwise orders.

Where a caveat has been lodged as aforesaid, notice of the hearing of the petition shall be given to the caveator; but a caveator shall not be entitled to costs of the petition, unless the Court otherwise orders.

11. On the grant of special leave, the petition for special leave shall, subject to the payment of additional Court fee, if any, be treated as the petition of appeal and it shall be registered and numbered as such. The provisions contained in Order XV shall, with necessary modifications and adaptations, be applicable to appeals by special leave and further steps in the appeal shall be taken in accordance with the provisions therefore.

ORDER XVII
Pauper Appeals and Applications

1. An application for leave to proceed as a pauper shall be made on a petition. It shall be accompanied by:—

- (a) a copy of petition of appeal and the documents referred to in rule 3 of Order XV, or of the petition for special leave and the documents mentioned in rule 5 of Order XVI, as the case may be, and
- (b) an affidavit from the petitioner disclosing all the property to which he is entitled and the value thereof other than his necessary wearing apparel and his interest in the subject-matter of the intended appeal and stating that he is unable to provide security or surety for the cost of the respondent and pay Court fees.

2. The Registrar shall, on satisfying himself that the petition is in order, direct that the petition shall be filed and set down for hearing before the Chamber Judge on a date to be fixed for the purpose.

3. The application shall be posted before the Judge in Chambers who may himself inquire into the pauperism of the petitioner after notice to the other parties in the case and to the Attorney-General, or make an order directing the High Court either by itself or by a Court subordinate to the High Court, to investigate the pauperism after notice to the parties interested and submit a report thereon within such time as may be fixed by the order. On receipt of the report, the petition shall again be posted before the Judge in Chambers for further orders :

Provided that, if the applicant was allowed to sue or appeal as a pauper in the court from whose decree the appeal is preferred, no further inquiry in respect of his pauperism shall be necessary, unless this Court sees cause to direct such inquiry.

4. In granting or refusing leave to appeal as a pauper, the Court shall ordinarily follow the principles set out in sub-rule (2) of rule I. or Order XLIV of the Code.

5. Where a petitioner obtains leave of the Court to appeal as a pauper he shall not be required to pay Court- fees or to lodge security for the costs of the respondent.

6. The Judge in Chambers may assign an advocate on record to assist a pauper in the case, unless the pauper has made his own arrangement for his representation. Such assignment shall ordinarily be from a panel of advocates willing to assist paupers and chosen by the Judge in Chambers. It shall however be open to the Judge in Chambers in his discretion to assign an advocate outside the panel in any particular case.

7. (a) No fees shall be payable by a pauper to his advocate, nor shall any such fees be allowed on taxation against the other party except by an order of Court. The advocate may however receive from the pauper money for out of pocket expenses, if any, properly incurred in the case.

(b) It shall be open to the Court, if it thinks fit, to award costs against the adverse party or out of the property decreed to a pauper, and to direct payment of such costs to the advocate for the pauper.

(c) Save as aforesaid, no person shall take or agree to take or seek to obtain from a pauper any fee, profit or reward for the conduct of his case, and any person who takes, agrees to take or seeks to obtain, any such fee, profit or reward, shall be guilty of contempt of Court.

(d) Soon after a pauper appeal has been heard and disposed of, the advocate for the pauper shall file in the Registry a statement of account showing what monies, if any, were received by him in the case on any account from the pauper or from any person on his behalf and the expenditure incurred. If no monies had been received, a statement shall be filed to that effect. The Taxing Officer may, where he thinks it necessary, place the statement filed before the Judge in Chambers for his perusal and orders.

8. Where the appellant succeeds in the appeal, the Registrar shall calculate the amount of court-fees which would have been paid by the appellant if he had not been permitted to appeal as a pauper and incorporate it in the decree or order of the Court; such amount shall be recoverable by the Government of India from any party ordered by the Court to pay the same, and shall be the first charge on the subject-matter of the appeal.

9. Where the appellant fails in the appeal or is dispaupered, the Court may order the appellant to pay the court-fees which would have been paid by him if he had not been permitted to appeal as a pauper.

10. The Central Government shall have the right at any time to apply to the Court to make an order for the payment of Court-fees under rule 8 or rule 9.

11. All matters arising between the Central Government and any party to the appeal under the three preceding rules shall be deemed to be questions arising between the parties to the appeal.

12. In every pauper appeal the Registrar shall, after the disposal thereof, send to the Attorney-General for India a memorandum of the court-fees payable by the pauper.

13. No appeal or other proceeding begun, carried on or defended by a pauper shall be compromised or discontinued without the leave of the Court.

**ORDER XVIII
PETITIONS GENERALLY**

1. Every petition shall consist of paragraphs numbered consecutively and shall be fairly and legibly written, type-written, lithographed or printed on the side of standard petition paper, demy, fool-scape size, or on paper ordinarily used in High Courts for transcribing petitions, with quarter margin, and endorsed with the name of the Court appealed from, the full title and Supreme Court number of the appeal or matter to which the petition relates and the name and address of the advocate on record of the petitioner or of the petitioner where the petitioner appears in person. The petitioner shall file along with the petition such number of copies thereof as may be required for the use of the Court.

2. Where a petition is expected to be lodged, or has been lodged, which does not relate to any pending appeal of which the record has been registered in the Registry of the Court, any person claiming a right to appear before the Court on the hearing of such petition may lodge a caveat in the matter thereof, and shall thereupon be entitled to receive from the Registrar notice of the lodging of the petition, if at the time of the lodging of the caveat such petition has not yet been lodged, and, if and when the petition has been lodged, to require the petitioner to serve him with copy of the petition and to furnish him, at his own expense, with copies of any papers lodged by the petitioner in support of his petition. The caveator shall forthwith, after lodging his caveat, give notice thereof to the petitioner, if the petition has been lodged.

3. Where a petition is lodged in the matter of any pending appeal of which the record has been registered in the Registry of the Court, the petitioner shall serve any party who has entered an appearance in the appeal, with a copy of such petition and the party so served shall thereupon be entitled to require the petitioner to furnish him at his own expense, with copies of any papers lodged by the petitioner in support of his petition.

4. A petition other than memorandum of appeal containing allegations of fact which cannot be verified by reference to the record in the Court shall be supported by an affidavit.

5. The Registrar may refuse to receive a petition other than Petition under Article 32 of the Constitution on the ground that it discloses no reasonable cause or is frivolous, or contains scandalous matter but the petitioner may appeal, by way of motion, from such refusal to the Court.

6. As soon as all necessary documents are lodged, the petition shall be set down for hearing.

7. Subject to the provisions of rule 8, the Registrar shall, as soon as the Court has appointed a day for the hearing of a petition, notify the day appointed on the notice-board of the Court.

8. Where the prayer of a petition is consented to in writing by the opposite party, or where a petition is of a formal and non-contentious character, the Court may, if it thinks fit, make an order thereon, without requiring the attendance of the parties, but the Registrar shall, with all convenient speed, after the Court has made its order, notify the parties that the order has been made and of the date and nature of such order.

9. A petitioner who desires to withdraw his petition shall give notice in writing to that effect to the Registrar. Where the petition is opposed the opponent shall, subject to any agreement between the Parties to the contrary, be entitled to apply to the Court for his costs, but where the petition is unopposed or where in the case of an opposed petition, the parties have come to an agreement as to the costs of the Petition, the petition may, if the Court thinks fit, be disposed of in the same way *mutatis mutandis* as a consent petition under the provisions of rule 8.

10. Where a petitioner unduly delays the bringing of a petition to a hearing, the Registrar shall call upon him to explain the delay, and if no explanation is offered, or if the explanation offered is, in the opinion of the Registrar, insufficient, the Registrar may, after notifying all parties, who have entered appearance place the petition before the Court for such directions as the Court may think fit to give thereon.

11. At the hearing of a petition not more than one advocate shall be heard on one side.

ORDER XIX HEARING OF APPEALS

1. Subject to the directions of the Court, at the hearing of an appeal not more than two advocates shall be heard on one side.

2. No party shall, without the leave of the Court, rely at the hearing on any grounds not specified in the statement of the case filed by him.

3. Where the Court, after hearing an appeal, decides to reserve its judgment thereon, the Registrar shall notify the parties through their advocates on record of the day appointed by the Court for the delivery of the judgment.

4. (a) An appellant, whose appeal has been dismissed for default of appearance may, within thirty days of the order, present a petition praying that the appeal may be restored and the Court may, after giving notice of such application to the respondent who has entered appearance in the appeal, restore the appeal if good and sufficient cause is shown, putting the appellant on terms as to costs or otherwise as it thinks fit, or

pass such other order as the circumstances of the case and the ends of justice may require.

(b) Where an appeal is heard *ex parte* and judgment is pronounced against the respondent, he may apply the Court to re-hear the appeal, and if he satisfies the Court that the appeal was set down *ex parte* against him without notice to him or that he was prevented by sufficient cause from appearing when the appeal was called on for hearing the Court may rehear the appeal on such terms as to costs or otherwise as it thinks fit to impose upon him.

ORDER XX Miscellaneous

1. The filing of an appeal shall not prevent execution of the decree or order appealed against but the Court may subject to such terms and conditions as it may think fit to impose, order a stay of execution of the decree or order, or order a stay of proceedings in any case under appeal to the Court.

2. A party to an appeal who appears in person shall furnish the Registrar with an address for service and all documents left to that address or sent by registered post to that address, shall be deemed to have been duly served.

B--Criminal Appeals

ORDER XXI

Special Leave Petitions in Criminal Proceedings and Criminal Appeals

SPECIAL LEAVE PETITIONS

1. (1) Where leave to appeal to the Court was refused in a case by the High Court a petition for special leave to appeal shall, subject to the provisions of sections 4, 5, 12 and 14 of the Limitation Act; 1963 (36 of 1963), be lodged in the Court within sixty days from the date of order of refusal and in any other case within ninety days from the date of judgement or order sought to be appealed from :

Provided further that where an application for leave to appeal to the High Court from the judgement of a single Judge of that court has been made and refused, in computing the period of limitation in that case under this rule, the period from the making of that application and the rejection thereof shall also be excluded.

Explanation.—For purposes of this rule the expression 'order of refusal' means an order refusing to grant the certificate referred to in article 132 or article 134, as the case may be, of the Constitution on merits and shall not include an order rejecting the application on the ground of limitation or on the ground that such an application is not maintainable.

(2) Where the period of limitation is claimed from the date of refusal of a certificate, it shall not be necessary to file the order refusing a certificate, but the petition for special leave shall be accompanied by an affidavit stating the date of the judgement sought to be appealed from, the date on which the application for a certificate was made to the High Court, the date of the order refusing the certificate and the ground or grounds, on which the certificate was refused and in Particular whether the application for a certificate was dismissed as being out of time.

2. Where an appeal lies to the Court on a certificate issued by the High Court no application to the Court for special leave to appeal shall be entertained unless the High Court concerned has first been moved and it has refused to grant the certificate.

3. The petition shall state sufficiently and clearly all such facts as may be necessary to enable the Court to determine whether special leave to appeal ought to be granted and shall be signed by the advocate on record for the petitioner unless the petitioner appears in person. The petition shall also state whether the petitioner has moved the High Court concerned for leave to appeal against its decision, and if so, with what result.

4. The petition shall be accompanied by:

(1) a certified copy of the judgment and order appealed from; and

(2) an affidavit in support of the statement of facts contained in the petition.

5. (1) No annexures to the petition shall be accepted unless such annexures are certified copies of documents which have formed part of the record in the court or tribunal sought to be appealed from, provided that uncertified copies of documents may be accepted as annexures if such copies are affirmed to be true copies upon affidavit.

(2) The High Court or the tribunal concerned shall, on application by a petitioner intending to apply for special leave, grant him free of cost a certified copy of the judgment or order sought to be appealed from.

6. Where the petitioner has been sentenced to a term of imprisonment, the petition shall state whether the petitioner has surrendered. Where the petitioner has not surrendered to the sentence, the petition shall not be posted for hearing unless the Court, on a written application for the purpose, orders to the contrary. Where the petition is accompanied by such an application the application and the petition shall be posted together before the Court.

7. Unless a caveat as prescribed by rule 2 Order XVIII has been lodged by the other parties who appeared in the court below, petitions for grant of special leave shall be put up for hearing *ex parte*, but the Court, if it thinks fit, may direct issue of notice to the respondent and adjourn the hearing of petition.

8. (1) If the petitioner is in jail and is not represented by an advocate on record he may present his petition for special leave or appeal together with the certified copy of the judgment and any written argument which he may desire to advance to the officer-in-charge of the jail, who shall forthwith forward the same to the Registrar of this Court. Upon receipt of the said petition, the Registrar of the Court shall, whenever necessary call, from the proper officer of the court or the tribunal appealed from the relevant documents for determination of the petition for special leave to appeal.

(2) As soon as all necessary documents are available the Registrar shall, where the petitioner has been sentenced to death, assign a counsel from a panel of *amicus curiae* and thereafter place the petition and complete documents for hearing before the Court. The fee of the counsel so assigned shall be one hundred rupees or such reasonable fee as may be fixed by the Court hearing the petition.

9. On the granting of the special leave, the petition for special leave shall be treated as the petition of appeal and shall be registered and numbered as such.

10. Upon an order being made granting special leave to appeal, the Registrar shall transmit to the court appealed from, a certified copy of the order together with a certified copy of the petition for special leave, and the affidavit, if any, in support thereof.

11. On receipt of the said order, the court appealed from shall give notice of the order to the respondent and require the parties to take all necessary steps to have the record of the case transmitted to the Court in accordance with the directions contained in the order granting special leave. The Registrar of the court appealed from shall certify to the Registrar of the Court that the respondent has received notice of the order of the Court granting special leave to appeal.

CRIMINAL APPEALS

12. Every criminal appeal under article 132(1) (c) of the Constitution shall be lodged in the Court within sixty days from the date of the certificate granted by the High Court, and every appeal under article 134(1) (a) and (b) of the Constitution or under any other provision of law within sixty days from the date of the judgment, final order or sentence appealed from :

Provided that in computing the period, the time requisite for obtaining a copy of the judgment or order appealed from, and, where the appeal is on a certificate, of the certificate, shall be excluded :

Provided further that the Court may, for sufficient cause shown extend the time.

13. (1) The memorandum of appeal shall be in the form of a petition. It shall state succinctly and briefly, and as far as possible, in chronological order, the principal steps in the proceedings from its commencement till its conclusion in the High Court.

(2) Where the appeal lies to the Court as of right, the petition shall be accompanied by a certified copy of the judgement appealed from.

(3) Where the appeal is preferred by a certificate granted by the High Court it shall not be necessary to file along with the petition of appeal a certified copy of the judgment appealed from or of the certificate of fitness granted by the High Court ; but in such case the petition shall be supported by an affidavit stating the date on which the application for certificate was made to the High Court and the date of the order granting the said certificate and the provision of law under which the said certificate is granted.

14. Where the appellant is in jail, he may present his petition of appeal and the documents mentioned in rule 13 including any written argument which he may desire to advance to the officer-in-charge of the jail, who shall forthwith forward the same to the Registrar of the Court.

15. The petition of appeal shall be registered and numbered as soon as it is lodged. On the registration of the appeal the Registrar shall send a copy of the petition of appeal and the accompanying papers, if any, to the High Court or the tribunal concerned, and shall cause notice of the appeal to be given, where the appeal is by a convicted person, to the Attorney-General for India or to the Advocate- General or the Government Advocate of the State concerned or to both as the case may require, and, in cases where the appeal is by the Government, to the accused, and shall also furnish the Attorney-General for India or the Advocate- General or the Government Advocate of the State concerned as the case may be with a copy of the petition of appeal and the accompanying papers, if any.

16. The respondent may enter appearance in the Court within thirty days of the notice of lodgment of the petition of appeal on him.

PREPARATION OF RECORD

17. The record of the appeal shall be printed in accordance with the rules contained in the First Schedule to these rules. It may be printed either under the supervision of the Registrar of this Court, or under the supervision of the Registrar of the Court appealed from. The record shall be printed at the expense of the appellant unless otherwise ordered by the Court. In appeals involving sentence of death and in such other cases in which the Court thinks fit to so direct the record shall be printed at the expense of the State concerned.

18. (1) In the preparation of the record, the provisions contained in Order XV relating to the preparation of the record in Civil Appeals shall, with necessary modifications and adaptations, apply to Criminal Appeals.

(2) In all cases where a sufficient number of copies of the printed record of the court appealed from are available, they shall be dispatched to the Court along with such additional records as may be necessary as soon as these are printed, and where the record is to be printed afresh for the Supreme Court appeal the printed record shall be made ready and dispatched to the Court within a period of sixty days after the receipt of the intimation from the Registrar of the Court of the filing of the petition of appeal, or of the order granting special leave to appeal.

19. Where the appellant fails to take necessary steps to have the printed record prepared and transmitted to the Court with due diligence, the Registrar of the court appealed from shall report the default to the Registrar of the Court and the Registrar of the Court may thereupon issue a summons to the appellant calling upon him to show cause before the Court a time to be specified in the summons why the appeal should not be dismissed. The Court may thereupon dismiss the appeal for non-prosecution or pass such orders as the justice of the case may require.

20. Where an appeal has been dismissed for non-prosecution; the appellant may, within thirty days of the order, present a petition praying that the appeal may be restored and the Court may, after giving notice of the application to the respondent, if he has entered appearance restore the appeal if good and sufficient cause is shown.

21. (1) As soon as the record has been got ready the Registrar of the court appealed from shall dispatch to the Registrar of the Court not less than fifteen copies where the appeal raises a question as to the interpretation of the Constitution, and not less than 10 copies in other cases.

(2) In all cases involving a sentence of death, where a sufficient number of copies of the printed record of the court appealed from are available they shall be dispatched to this

Court along with such additional records as may be necessary as soon as these are printed, and where the record is to be printed afresh for the Supreme Court appeal the printed record shall be made ready and dispatched to this Court within a period of sixty days after the receipt of the intimation from the Registrar of the Court of the filing of the petition of appeal, or of the order granting special leave to appeal.

22. As soon as the record is ready the Registrar concerned shall give notice thereof to the parties to the appeal, and where the record is prepared under the supervision of the Registrar of the Court appealed from the said Registrar shall, after service of the notice, send to the Registrar of this Court a certificate as to the date or dates on which the notice has been served.

HEARING OF THE APPEAL

23. Each party who has entered appearance shall be entitled to two copies of the record for his own use.

24. Unless otherwise ordered by the Court the appeal shall be set down for hearing thirty days after the expiry of the time prescribed for entering appearance by the respondent.

25. Where the accused person is not represented by an Advocate on Record of his choice the Court may, in a proper case, direct the engagement of an Advocate, at the cost of the Government. The fee of the Advocate so engaged shall be two hundred and fifty rupees for the first day of the hearing, with a refresher, where the hearing has lasted for more than 4½ hours, of one hundred and twenty-five rupees for each additional day of the hearing, or such reasonable fee as may be fixed by the Court hearing the appeal.

26. (1) Due notice shall be given to the accused, where he is not represented, of the date fixed for the hearing of the appeal. The accused person may, if he so wishes, present his case by submitting his argument in writing and the same shall be considered at the hearing of the appeal

(2) It shall not be necessary for an accused person in custody to be produced before the Court at the hearing unless the Court thinks fit in the interest of justice to direct him to be produced to enable him to argue his case or for other reasons.

27. Pending the disposal of any appeal under these rules, the Court may order that the execution of the sentence or order appealed against be stayed on such terms as the Court may think fit.

28. After the appeal has been disposed of, the Registrar shall, with the utmost expedition, send a copy of the Court's judgement or order to the High Court or tribunal concerned.

29. In criminal proceedings, no security for costs shall be required to be deposited, and no court fee, process fee, or search fee shall be charged and an accused person shall not be required to pay copying charges except for copies other than the first.