

CHAPTER IX

Procedure After Admission

1. Subject to any order which may be made by a Bench the date for hearing any suit, appeal or application, or any party or Advocate shall be fixed by the Registrar.
2. Such date shall be fixed with reference to the current business of the Court, the place of residence of the defendant or the respondent or other person to be served with notice and the time necessary for service of notice of the suit, appeal or application so as to allow the defendant or the respondent or such other person sufficient time to appear and answer the suit, appeal or application.
3. When an appeal is one which is to be heard under Order XLI, Rule 11 of the Code of Civil Procedure or which is an appeal under Article 4 of the Orissa High Court Order, 1948 read with clause 10 of the Letter Patent constituting the High Court of Judicature at Patna, as early a date as possible shall be fixed for hearing the appellant or his Advocate.
4. When an appeal under the Orissa High Court Order, 1948 read with the Letters Patent constituting the High Court of Judicature at Patna has been admitted the Registrar shall prepare a notice of the appeal in the prescribed form for service on the respondent and shall cause the notice to be served on the Advocate or any one of the Advocates who appeared for the respondent in the appeal in which the judgment was given. In any case in which the respondent did not enter appearance in the appeal in which the judgment was given, the notice shall be served in the mode provided by law for service of notice in an ordinary appeal.
5. In all cases in which any process is sent to a subordinate Court it shall be in Oriya language provided that the Registrar may in any case direct that the process shall be in English.
6. (1) The Court shall, in addition to and simultaneously with, the issue of summons for service in the manner provided in Rules 9 to 19 of order 5 of the Civil Procedure Code, also direct the summons to be served by registered post, acknowledgement due, addressed to the defendant or his agent empowered to accept the service.

Provided that in the event, the Court considers if unnecessary, it may not issue the summons/ notice by registered post simultaneously.

- (2) The court-fee stamp for the issue of notice as aforesaid shall be filed before the Deputy Registrar within ten days from the date of admission of the suit, appeal or application unless otherwise directed by the Court.
- (3) There shall be filed together with the court-fee stamp or the registered cover, as the case may be, the requisite number of prescribed printed forms of appearance and the date of notice being left blank.
- (4) Information entered in the forms shall be filled up in bold, clear and easily legible handwriting.
- (5) Parties filing the forms will be held responsible for the accuracy of the information entered therein.
- (6) The date of appearance will be inserted in the forms and the notice will be dated and signed by the Deputy Registrar or any other officer so authorised.
- (7) The requisite number of printed forms of notice will be supplied to the parties or their Advocates free of cost on application to the forms clerk. Other forms will not be accepted unless they are in the prescribed form and the quality of the paper and of the printing is as good as that of the forms supplied by the office of the Court.
7. If the court-fee and the registered cover for issue of notice or the notice forms duly filled up are filed as provided in the last preceding rule the suit, appeal or application shall be placed before the Bench, with office notes, for dismissal.
8. No process fee for the issue of notice of any suit, appeal or application and no notice forms shall, except under the orders of the Registrar, be received after the expiry of the ten days allowed by rule 6.
9. If the process fee be paid and the notice form duly filled up be filed within ten days or within the extended time, if any allowed by the Court, notice in the prescribed form shall at once issue on the defendant or the respondent or other person to be served with notice.
10. When an appeal or an application for revision has been admitted a notice shall be at once issued to the Court from whose decision the appeal is preferred or the application is made calling upon it to transmit the record of the case and all material papers if they are not already in the Court within seven days :

Provided that in every appeal from an interlocutory order made in a suit and coming under Order XLIII, rule 1, clauses (q), (r) and (s) of the Code of Civil Procedure, 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.

11. 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 or a person of unsound mind or other disqualified person, it shall also be issued to the guardian or next friend of such person.
12. In every case in which the Court orders a notice to issue under the last preceding rule the party at whose instance such order is made shall file along with the process fee as many typed copies of the application and affidavit as there are persons to be served.
13. Every application for an order to a Subordinate Court to forward any record, document or paper shall state –
 - (a) the Court in which such record, document or paper is ;
 - (b) the record or file in which such document or paper is ;
 - (c) the date of the record or document or paper ;
 - (d) the language in which the document or paper is ;
 - (e) the date when the document or paper was filed.
14. Every such application shall be accompanied by a deposit of one rupee in court-fee stamp and by a certificate signed by an Advocate that in his opinion such record, document or paper is requisite and material for supporting or opposing the suit, appeal or other proceeding.
15. In every case in which an appeal or an application for revision or review has been admitted, the Registrar shall cause paper books to be prepared in accordance with the provisions of Chapter XII.
16. On every Saturday or, if any Saturday be a holiday, on the last working day of the week the Registrar shall cause to be prepared and printed a complete list of the cases ready for hearing during the week classified under different headings, the cases made ready during the week being entered at the bottom of the appropriate headings. This list shall be called the Weekly Cause list of Ready cases. A copy of this list shall be pasted on the notice board outside the Lawazima Court.
17. (1) The Registrar shall, on the last working day of the week, cause to be prepared and pasted in the notice board of the Court a list of the cases to be taken up by each bench during the following week. This list shall be called the weekly cause list and a copy of it shall be sent to each judge.

Provided that if so directed by the Court the Registrar shall cause to be prepared and pasted on the Notice Board of the Court, a supplementary daily cause list of cases to be taken up on the following day and a copy of it shall be sent to each judge.

- (2) Cases shall be taken on the Weekly Cause List from the Weekly cause list of Ready cases ordinarily according to priority of institution unless otherwise specifically directed by the Chief Justice.
- (3) The Registrar shall include in the Weekly Cause List a List of the cases which will be taken up by him on the following Week.
- (4) No notice need be given to any party appearing in person in any suit, appeal or application about the date or dates to which they are posted either for taking steps or for final hearing.
18. Counsel shall exchange before the date of hearing all the authorities they propose to cite and the party defaulting shall be prohibited from citing authorities not so exchanged unless the Court make exceptions in appropriate cases.
19. If on the date fixed for the hearing of any suit, appeal, application or other matter it appears that the requisite notices have been served, the matter may be disposed of; if not disposed of, it shall come on for disposal in the ordinary course and no notice of any date fixed for hearing shall be given other than its inclusion in a Weekly Cause List or Supplementary Daily Cause list as the case may be.
20. A case which is partly heard shall, unless otherwise ordered by a Bench, be placed first in the Weekly 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.
21. Subject to Rule 19, a case which is specially fixed for a particular day before a particular Bench shall be placed at the head of the list for that day in the weekly cause list.
22. The cases in the Weekly Cause List and Supplementary Daily cause list shall, unless the Bench otherwise directs, be called on and disposed of in their order on the list.
23. No case in the Weekly Cause List and Supplementary Daily cause list shall be allowed to stand out of its place in the list or shall be adjourned on account of the absence of any Advocate unless such absence is, in the opinion of the Bench, unavoidable.
24. (1) Except as by these rules provided, no request for an order that a case shall stand out of its place in a Weekly Cause List and Supplementary Daily cause list or be adjourned or that a case shall not be placed in a Weekly Cause List and Supplementary Daily Cause List shall be entertained :

Provided that the Bench (when the case appears in the Weekly Cause List and Supplementary Daily cause list) or the Registrar (in other cases) may order such case to stand out of its place in such list or to be adjourned if such Bench or the Registrar is satisfied that by reason of legal process, recent death, sudden illness or domestic bereavement or by reason of an Advocate who is alone for a party in the case being engaged elsewhere the party cannot be properly represented at the hearing unless such order is made, or for any other sufficient cause and in its discretion :

Provided further that in the case of 'part heard', 'specially fixed' and three cases next below them in the list, the prayer for such adjournment shall be by an application in writing duly stamped.

(2) Any person desiring that a case may not be in its turn placed in the Weekly Cause List and Supplementary Daily cause list in accordance with rule 17(2) for any particular day or days may apply to the Registrar in a duly stamped petition. The Registrar may, if satisfied that there are exceptional reasons, order that such case shall not be placed in the Weekly Cause List and Supplementary Daily cause list for any such day or days.

(3) The Registrar alone in the office shall be competent to adjourn ready cases.

25. (1) The following cases shall have precedence over others in preparation for hearing, namely :--

- (a) cases in which an order of expedition has been passed by the Bench;
- (b) all cases, appeals, applications and motions which after admission and passing of interim orders hold up proceedings before Lower Courts;
- (c) applications for transfer;
- (d) matters relating to court-fee;
- (e) cases under sections 11 and 13 of the Orissa Money-Lenders Act;
- (f) cases under the following provisions of the Code of Civil Procedure :--
 - (i) applications under section 10;
 - (ii) amendment of pleadings including applications for adding or striking out parties under Order I, Rule 10;
 - (i) applications for separate trial under Order II, Rule 6;
 - (ii) applications for discovery and inspection under Order XI;
 - (iii) cases under Order XXI, Rule 9;
 - (iv) question of abatement, compromise and adjustment under Order XXII or under Order XXIII;
 - (v) applications against orders issuing or refusing to issue commission under Order XXVI;
 - (vi) applications relating to arrest under Order XXXVIII;
 - (vii) matters relating to injunction;
 - (viii) cases under Order XLI, Rule 19;
 - (ix) cases relating to amendment of decrees in the High Court;

- (x) cases relating to restoration of appeals dismissed for non-prosecution in the High Court;
- (xi) appeals from orders of the Lower Appellate Court remanding cases for retrial; and
- (xii) appeals from orders of Subordinate Courts made on remand by the High Court.

(2) Cases enlisted in sub-rule (1) shall be separately classified and shown in the Weekly cause list of Ready cases under the head "Expedition Cases" and shall be taken first in their order to the Weekly Cause List and the Supplementary Daily cause list in preference to the other cases on the Weekly cause list of Ready cases. Such cases shall appear in the Weekly Cause List and the Supplementary Daily cause list within four months of their institution unless the Bench on the recommendation of the Registrar on the ground of extraordinary circumstances extends the time. :--

26. When an order has been made under Order XLI, Rule 23 or 25 of the Code of Civil Procedure 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 a Subordinate Court has not made a return to the order of remand within four months or within such time as may have been specifically ordered.
27. The form of the oath or affirmation to be administered in the Court in civil cases shall be the same as that provided for criminal cases in Chapter XIV, Part A.
28. Where application is made to the Court for leave to enter into any agreement or compromise on behalf of a minor or other person under disability, the next friend or the guardian-*adlitem* of such minor or other person under disability shall file in Court with the application a certificate in the form of an affidavit to the effect that in his opinion and for reasons set forth therein the agreement or compromise is for the benefit of the minor or other person under disability. Counsel or advocate, if any, appearing on behalf of the minor or other person under disability shall also file with the application a statement certifying to the above effect.
