

## CHAPTER II

### POWERS OF THE REGISTRAR, DEPUTY REGISTRAR AND ASSISTANT REGISTRAR

#### **1. Powers and duties of the Registrar, Deputy Registrar and Assistant Registrar in connection with admission of appeal. —**

The Registrar, <sup>1</sup>[the Additional Registrar], the Deputy Registrar or the Assistant Registrar shall admit to the register all memoranda of appeals or cross-objections, which are duly stamped, are in the proper form and, contain the particulars required by law, are accompanied by the necessary copies, and are presented within the period prescribed for the same. No appeal shall be considered pending within the meaning of Order XLI, Rule 6 of the Code of Civil Procedure until it has been admitted to the register.

The Registrar shall decide all questions under this rule, and if he refuses to register any memorandum of appeal or cross-objections, the party aggrieved may move the Court within seven days from the date of the Registrar's refusal to direct its registration.

*1. Inserted by Notification No. 3601/82 Dt. 29-4-1983.*

#### **2. Rejection or return for amendment of memorandum by Registrar. —**

The Registrar may reject or direct the amendment then and there by the appellant of any memorandum of appeal for reasons specified in Order XLI, rule 3.

#### **3. Disposal of matters by Registrar. —**

(i) In addition to the powers conferred upon him by the other rules and subject to such limitations as may be prescribed therein, the Registrar may exercise the following powers :—

He may dispose of:

(a) Applications for orders under Order XLI, Rules 5, 6 and 10 of the Code of Civil Procedure in appeals, which have been admitted, provided that the Registrar may grant stay pending admission during vacation, and such stay shall remain operative for only seven days from the date of the order.

(b) Applications for correction of memoranda of appeals or applications as regards the description of the parties as majors and minors.

(c) Applications for amendment of memoranda of appeals or applications by correction of the description of the parties or deletion of the names of parties where there is no contest.

(d) Applications to appoint or discharge of next friend or guardian *ad item* of a minor or a person of unsound mind, except in cases of appeal to the Supreme Court, and to amend the record accordingly.

(e) Applications for the issue of notice to the proposed guardians or next friends of minors or lunatics.

(f) Applications for issue of a fresh notice or for extending the time for, or ordering a particular method of, service of notice on a respondent.

(g) Applications for orders for substituted service including substituted service by publication of the Notice by way of advertisement in a newspaper.

(h) Applications for fresh notice where there is delay in filing.

<sup>2</sup>[(i) Applications for entering on the record the names of the legal representatives of the deceased parties which are presented in time and/or in which there is no contest.]

*2. Substituted vide Notification No. P3601/2002, Dt. 4-2-2002, published in Mah. Govt. Gazette, Dt. 28-3-2002, Part 4-C, page. 56.*

(J) Applications for recording order of abatement where there is no contest.

(k) Applications for leave to continue the proceeding under Order XXII, Rule 10 of the Code of Civil Procedure.

(l) Notes filed by Advocates for calling for records and proceedings.

(m) Requisitions by subordinate Courts for records and documents.

(n) Notes filed by Advocates for orders regarding withdrawal of appearances in cases which are yet to be notified on the Weekly Board.

(o) Applications or notes for translations including notes and applications for excuse of delay or for extension of time for filing such applications.

(p) Notes for extension of time for payment of process fees, printing or translation charges, etc. not paid within the prescribed time.

(q) Notes for excuse of delay in filing of affidavits or copies required by these rules or dispensing with the filing of such copies if the proceedings are otherwise filed in time.

(r) Applications for certified copies in criminal cases where such copies are not, ordinarily granted without the permission of the Court.

(s) Requests for extension of time by lower Courts for certifying the record and proceedings with paper books in civil and criminal cases.

(sl) Reports for non-payment of paper book charges in the Courts below.

(t) Requests for extension of time in cases remanded for further evidence or findings on issues.

(u) Notes for dispensing with printing in appeals the hearing of which is expedited.

(v) Notes for extension of time in furnishing the security ordered by the Court.

(w) Applications for withdrawal of appeals or cross-objections.

(x) Applications for reducing the amount of deposit for the preparation of the transcript record for the purposes of appeal to the Supreme Court.

(y) Notes by the Office for additional deposits for the preparation of the transcript record for purposes of appeal to the Supreme Court.

(z) Applications or notes for the return of documents filed in any proceeding in the High Court.

(ii) No matter which can be disposed of by the Registrar under this rule shall, without the permission of the Court, be placed before the Court.

## **POWERS AND DUTIES OF THE REGISTRAR**

**4. Powers and Duties of the Registrar.** — The Registrar may besides—

(a) determine all questions relating to court-fees except those that are required to be dealt with by the Taxing Officer appointed under the Court- fees Act;

(b) determine all matters regarding service, or non-service or defective service of any notice;

(c) sign all decrees, writs and orders by the Court;

(d) adjudicate on all refunds under these rules or under the Court-fees Act and under the notifications, if any, issued there under;

(e) adjudicate on all disputes regarding the assessment of process fees;

(f) issue notices in all matters which are not required to be placed for preliminary hearing before the Court;

(g) pass orders for placing before the Court with the appeal or other substantive proceedings, applications to add additional grounds in the memoranda of appeals or petition or to adduce additional evidence at the hearing;

(h) issue notices in applications for substitution of names in appeal to the Supreme Court;

(i) exercise all the powers of the Court under Order XLV, Rule 8 of the Code of Civil Procedure;

(j) fix another date in a case in which the party served under any of the provisions of the Code of Civil Procedure is not present on the date fixed and order the notice or process to be sent to the party by registered post pre-paid for acknowledgment;

(k) Order payment of interest accruing on Government Promissory Notes deposited as security deposit under Order V, Rule 7 of the Civil Procedure Code or the Supreme Court Rules and to order the refund of any unexpended balance under Order XLV, Rule 12 of the Code of Civil Procedure;

(l) direct from time to time the deposit of funds for the conduct of the proceedings on behalf of minor respondents or opponents for whom guardian *ad litem* has been appointed;

(m) order payment or refund according to the orders or directions of the Court of moneys paid or deposited in this Court;

(n) order refund of moneys paid in this Court for enrollment as Advocates or Pleaders or for copies or for any other purposes under the rules, of such amounts as may not have been utilized;

(o) call for reports from subordinate Courts regarding valuation of any property in respect of any proceeding in the High Court for the purposes of assessing the valuation for court-fees, stamp duty, costs, etc.

<sup>3</sup>[(p) [In the absence of Court's Order, the Registrar is empowered to invest the amounts of pending matter, deposited in the name of the Registrar, in Nationalised Banks already on the High Court Panel, by calling upon such nationalised banks, to submit offers, in order to invest the money in FDRs, on such terms and conditions as Registrar deems fit].

*3. Added by Notification No. 3605/2003, Dt. 15-7-2003, published in Mah. Govt. Gazette, Dt. 7-8-2003, Part4-C, Page.328.*

**5. Registrar not to extend time or excuse delay exceeding one month.** — <sup>4</sup>[Subject to the provisions of the other rules, the period of time which may be extended, or of delay which may be excused by the Registrar, for or in doing anything which is required to be done by the rules in a particular time, shall not exceed one month.

In all other cases, the Registrar may grant time upto three months.]

*4. Substituted by Notification No. P3601/2002, Dt. 4-2-2002, published in Mah. Govt. Gazette, Dt. 28-3-2002, Part 4-C, Page 56.*

<sup>5</sup>[**6. Delegation of powers to Additional Registrar, Deputy Registrar, Assistant Registrar or Special Officer and Additional Special Officer.** — The Registrar may delegate any of the powers mentioned in Rules 1 to 4 above to such Additional Registrar, Deputy Registrar or Assistant Registrar, <sup>6</sup>[Special Officer or Additional Special Officer] as the Honourable the Chief Justice may sanction.

5. *Substituted by Notification No. P. 3601/1982, Dt. 28-8-1992.*

6. *Deleted vide Mah. Govt. Gazette, Dt. 26-9-1996, Part 4-C, Page 431.*

**7. Revision of Orders of Registrar, Additional Registrar, Deputy Registrar, Assistant Registrar or Special Officer and Additional Special Officer.** — (i) Any orders passed by the Registrar, Additional Registrar, Deputy Registrar or Assistant Registrar <sup>7</sup>[Special Officer or Additional Special Officer] under Rules 1 to 5 above or any other Rules shall be subject to revision by a Single Judge upon a motion of the party aggrieved, contained in a note and no application is necessary for the same.

(ii) Such motions for revision under sub-rule (i) shall be made, under otherwise specifically provided for, within 15 days from the date of the Order complained of.

7. *Deleted vide Mah. Govt. Gazette, Dt. 26-9-1996, Part 4-C, Page 431.*

**8. Powers under section 152, Civil Procedure Code.** — The Registrar, Additional Registrar, Deputy Registrar or Assistant Registrar, <sup>8</sup>[Special Officer or Additional Special Officer] may exercise all the powers of a Court under section 152 of the Civil Procedure Code in respect of their own orders.

8. *Deleted vide Mah. Govt. Gazette, Dt. 26-9-1996, Part 4-C, Page 431.*

**9. What Officer can administer oaths.** — The Registrar, Additional Registrar, Deputy Registrar or Assistant Registrar, <sup>9</sup>[Special Officer, Additional Special Officer] Section Officer and Senior Superintendent may administer oath and solemn affirmations to deponents making affidavits.

9. *Deleted vide Mah. Govt. Gazette, Dt. 26-9-1996, Part 4-C, Page 431.*

**10. Rules applicable to all applications other than memoranda of appeals.** — The above rules apply *mutatis mutandis* to all applications other than memoranda of appeals which may be

presented to the Court and the term "appellant" includes "applicant" and the term "respondent" includes "opponent".

**11** .<sup>10</sup>[Deleted]

*10.Deleted by Notification No. P. 3601/1982, Dt. 29-4-1983.*

**11**[**12. "Registrar" includes Additional Registrar, Deputy Registrar or Assistant Registrar Special Officer and Additional Special Officer.** — Subject to the provisions of Rule 6 in Chapter II the word "Registrar" whenever it occurs in the Bombay High Court Appellate Side Rules, 1960, includes all Officers as designated as "Additional Registrar", "Deputy Registrar", "Assistant Registrar",<sup>12</sup>["Special Officer" or "Additional Special Officer"] wherever they are posted.]

*11. Substituted by Notification No. P. 3601/1982, Dt. 28-8-1992.*

*12. Deleted vide Mah. Govt. Gazette, Dt. 26-9-1996, Part 4-C, Pg.431.*

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