

CHAPTER V

PROCEDURE AFTER PRESENTATION, REMOVAL OF OFFICE OBJECTIONS. ETC.

1. Cancellation of stamps. — The court-fee stamps on all the memoranda of appeals or cross-objections, on applications and other documents presented in the office shall be cancelled on the day of presentation or within a reasonable time from the date of presentation, but invariably before the document is filed or registered.

2. When enquiry need not be made regarding difference in court-fee paid. — When the court-fee paid on an appeal is found to correspond with the court-fee paid and accepted in the Court below, no further enquiry need be made, unless it appears that the court-fee has been assessed on a mistaken principle and that a different court-fee stamp is required on the appeal.

3.(i) Procedure for and the manner of examining matters filed. — The office shall examine every memorandum of appeal or cross-objections and every application as soon as possible after it is filed and prepare in duplicate a memorandum of objections in regard to the same. Where the objection relates to the valuation of the claim made in the memorandum of appeal or cross-objections or in any application or to the court-fee to be paid on such memorandum of appeal or cross-objections or application or on any copy or documents required to be Filed therewith, the office shall state what in its opinion the correct valuation is and what the correct amount of court-fee payable is. Such memorandum of objections shall be made ready within ten days from the date of Filing, provided that, in respect of matters filed on the reopening day of the High Court after the Summer Vacation such memorandum may be completed within 21 days from the date of Filing.

(ii) Manner of notifying office objections. — As soon as the memorandum of objections is ready the office shall notify the matter on the Notice Board under the signature of the Assistant Registrar calling upon the party or the Advocate concerned to remove the office objections within 14 days from the date of such notification. The matters shall be notified with reference to the stamp numbers or the Register Numbers, as the case may be, the District from which they arise and the names of the Advocates, if any. A copy of the notice shall be kept filed in the office, and a copy of the same shall also be supplied to the Advocates Association of Western India. The office shall also endorse on the memorandum of objections and its duplicate the date on which the matter was notified as above.

(iii) Period within which office objections should be removed. —The Advocates or the parties concerned shall receive from the office a copy of the memorandum of objections after acknowledging receipt thereof and shall remove all the objections within the 14 days allowed under the foregoing sub-rule.

(iv) Special provision for party appearing in person. — Notwithstanding anything contained in the foregoing sub-rules, where a party appears in person, the office shall arrange to give him under acknowledgement the memorandum of objections on the very day on which the presents the matter, unless the party agrees to call at a later date, in which case the office may give him a fixed date convenient to him (but not later than ten days from the date of the presentation of the matter) on which he should call at the office for receiving the memorandum of objections, and the office shall keep the memorandum of objections ready on the said day and deliver it to him under acknowledgment. The party in such cases shall be required to remove the objections within 14 days from the date of the receipt of the memorandum of objections. In case the party fails to turn up on the appointed day, the procedure prescribed under sub-rule (ii) and (iii) shall be followed.

4. (i) Manner of dealing with office objections relating to claim and court-fee. — Where the objection relates to the amount of claim in respect of any memorandum of appeal or cross-objections of any application, or where the objection relates to the

amount of court-fee to be paid on any memorandum of appeal or cross-objections or any application or on any copy or document required to be filed with the memorandum or the application, the party or the Advocate shall amend the claim or make good the deficit court-fee within the period of 14 days allowed under the foregoing rule. If he disputes the office objection, he shall file within the said period a note stating how the objection raised by the office is not tenable and how the claim stated by him or the court-fee paid by him is the correct one. In either case the objection shall be deemed to have been removed

(ii) Dispute regarding claim or court-fee to be referred to the Taxing Officer. — Where a note has been filed disputing the office-objection in relation to the claim or the court-fee under the foregoing sub-rule, the office shall, unless it is satisfied with the explanation given by the party or the Advocate, refer the matter, within three days from the filing of the note to the Taxing Officer for deciding the dispute.

(iii) Taxing Officer to decide dispute within 14 days. — The Taxing Officer shall decide the dispute referred to him within 14 days from the date of reference.

(iv) Procedure where the decision of the Taxing Officer is accepted.— if the decision of the Taxing Officer is against the party or the Advocate and if he accepts the decision of the Taxing Officer, he shall accordingly amend the claim or make good the deficit court-fee within 14 days from the date of the decision of the Taxing Officer.

(v) Procedure where the decision of the Taxing Officer is disputed. — If the party or the Advocate disputes the decision of the Taxing Officer, he shall make the necessary Revision Application against the decision of the Taxing Officer to the Court and shall amend the claim or make good the deficit court-fee, if so required, as per the decision of the Court within 14 days from the decisions of the Court.

(vi) Registrar to refuse registration If claim is not amended or deficit court-fee is not made good within time allowed. — If the party or the Advocate fails to amend the claim or make good the deficit court-fee within the period prescribed therefor under sub-rules (iv) and (v), the Registrar shall refuse registration of the matter.

(vii) All other objections to be removed within time prescribed though dispute regarding claim or court-fee is not finally decided, — Notwithstanding that the objection regarding claim or court-fee is not finally decided, the party or the Advocate shall be bound to remove all other objections within the prescribed time.

5. Registrar to refuse registration where objections are not removed within prescribed time. — Except as provided in Rule 4, immediately after the expiry of the period prescribed under Rule 3 for the removal of office objections, the office shall place before the Registrar all such matters in which all or any of the objections have not been removed within the prescribed time and the Registrar shall refuse registration of all such matters:

Registrar's Powers to condone delay and order registration. — Provided, however, that, if the party or the Advocate removes all objections within a period of 14 days next after the expiry of the period prescribed under Rule 3 and also makes a regular application with the necessary court-fee stamp for excuse of delay in removing the objections, the Registrar may excuse the delay and order that the matter be registered:

Social provisions when objections are removed within the period of limitation prescribed by the Limitation Act. — Provided further that if a matter is still within the period of limitation allowed under the Limitation Act, 1963, even though the period prescribed under Rule 3 may have expired, no regular application with the necessary court-fee stamp for excusing the delay shall be necessary, but that an ordinary note explaining the position under the Limitation Act, 1963, and requesting that the matter be registered would be sufficient, and the Registrar, if satisfied that the

matter is still within the period of limitation prescribed by the Limitation Act, 1963 shall order the matter to be registered.

6. Procedure for revision of the Registrar's order refusing registration. — Notwithstanding anything contained in Rule 7 of an order of the registrar refusing registration of any matter under the foregoing rules of this Chapter shall be revisable only upon a regular stamped application which shall be filed within seven days from date of the order of the Registrar complained of, provided that the Court may, for good cause shown, condone the delay in making the application. Such application shall, unless dispensed with by the Court, be supported by an affidavit explaining the circumstances under which the objections could not be removed within the time allowed.

7. Registration of matters. — Where all office objections are removed within the time prescribed by Rule 3 or the delay has been excused under Rule 5 or 6, the officer shall take orders from the Assistant Registrar for admission of the matter to the file after which the matter shall be immediately entered in the appropriate register. Such matter shall be entered in the register and shall be numbered in accordance with the serial number of sequence of the entries in the register.

8. Registration of matters under Special Acts. — Appeals presented under Special Acts, such as the Indian Succession Act (XXXIX of 1925), the Guardians and Wards Act (VIII of 1880), etc. shall be registered in the ordinary way as First or Second Appeals, as the case may be.

9. Papers to be returned when registration is refused. — Whenever registration of any appeal, memorandum of cross-objection or application is for any reason refused by the Registrar, the papers shall be returned to the party or the Advocate who presented the same.

10. Kinds of registers to be maintained. — The office shall maintain separate register for each of the following classes of proceedings for each calendar year:—

- (i) First Appeals.
- (ii) Second Appeals.
- (iii) Letters Patent Appeals.
- (iv) Appeals from Order.
- (v) Civil Revision Applications.
- (vi) Special Civil Applications under Articles 226, 227 and 228 of the Constitution.
- (vii) Civil Applications for Interlocutory Orders.
- (viii) Miscellaneous Civil Applications.
- (ix) Civil References-
- (x) Proceedings under the Companies Act.
- (xi) Register of cases not Prosecuted.
- (xii) Register of Transferred Suits.
- ¹[(xiii) The Family Court Appeals.]
- ²[(xiv) Contempt Petitions.
- (xv) Contempt Appeals.
- (xvi) Review Petitions.
- (xvii) Tax Appeals.
- (xviii) Arbitration Petitions.
- (xix) Public Interest Litigation Matters]

1. Added by Notification No. 3604/90 dt. 27-11-1990.

2. Added by Notification No. P. 3604/2000, Dt. 3-8-2000, published in Govt. Gazette, Dt. 7-9-2000, Part 4-C, Pg. 375.

11. Special procedure where matters are required to be placed before Court before removal of objections. —

Notwithstanding anything contained in the foregoing rules, any matter which a party or an Advocate requires to be placed before the Court before the removal of office objections, shall be registered subject to office objections and may, subject to the special or general orders of the Court taking such matters, be placed before the Court, provided the party, where he appears in person, and in other cases the Advocate, undertakes in writing personally to remove the office objections including objections in regard to court-fee. If any such matter placed before the Court is admitted, the office shall specify all the objections within seven days from the date of the order admitting the matter and the party or the Advocate, as the case may be, shall remove the office objections within 14 days from the date of the Court's order admitting the matter failing which the matter shall be placed before the Court which may dismiss it for want of prosecution:

Certain objections to be waived where the matter is summarily rejected. — Provided that where such matter is dismissed summarily, all objections, excepting those relating to court-fee and Vakalatnama and those of which the objections relating to court-fee are based, shall be waived.

12. Where certified copies are not supplied within ten days, explanation to be called from lower Court. — If in any case the time shown by the endorsement to have been occupied in obtaining a copy of the decree, judgment or order is found to be greater than 10 days. an explanation of the delay should be obtained from the lower Court and Registrar should submit the same, if he considers it necessary, to one of the Administrative Judges.

13. (i) Refund of excess of court-fee paid through inadvertence etc. — If it appears to the office at any time that a court-fee of greater value than is required has been affixed to a memorandum of appeal or cross-objections or to an application through inadvertence, mistake, or miscalculation, the matter shall be placed immediately before the Taxing Officer and upon his so certifying, a refund certificate shall be granted to the party or the Advocate, before admitting the matter to the appropriate register.

(ii) Refund of excess of court-fee on conversion of one kind of proceeding into another. — If as a result of one kind of

proceeding being converted into another under the order or with the permission of the Court a lower court-fee becomes payable on the converted proceeding, a refund certificate for the amount of difference between the amount of court-fee paid on the original proceeding and that payable on the converted proceeding shall, after obtaining the orders of the Taxing Officer, be granted to the party or the Advocate concerned before admitting the converted matter to the appropriate register.

(iii) Refund of court-fee paid through oversight where party is entitled to exemption. — If it is found that in any case a party entitled to any statutory exemption in respect of court-fee has paid any court-fee which the party was exempt from paying, a refund certificate for the amount of court-fee covered by the exemption shall, after obtaining the order of the Taxing Officer, be granted to the party or the Advocate concerned, before admitting the matter to the appropriate register:

Special powers of the Registrar in the matter of refund of excess of court-fee. — Provided that the Registrar on a note being presented to him by the party or the Advocate concerned in this behalf shall have the power to order the issue of the necessary certificate under sub-rules (i), (ii) and (iii) notwithstanding that the matter has been admitted to the register before granting the refund certification required, and

No certificate of refund in respect of sums less than Rs.3. — Provided further that no such certificate shall be granted under sub-rules (i) and (ii) for any sum less than Rs. 3 in any one case.

(iv) Amount of court-fee refunded to be endorsed on document. — Where the refund certificate is granted in respect of the whole or part to any amount of court-fee, a statement of the amount of refund shall be annexed or endorsed under the signature of the Registrar on the document to which such court-fee stamps were affixed.

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