

SINDH HIGH COURT
RULES AND FORMS
ON THE
ORIGINAL SIDE
IN ITS
SEVERAL JURISDICTIONS

Compiled by

Ghulam Mustafa Channa

Additional Registrar (Research)

CONTENTS

(ON THE ORIGINAL SIDE)

PART I **G E N E R A L** **CHAPTER I** *Preliminary*

1.	Short title	1
2.	Commencement and repeal	1
3.	Interpretation	1
4.	Computation of time	2
5.	Service of notice	2
6.	Use of forms in appendices	2
7.	Alteration, etc. of rules in First Schedule to the Code	2

CHAPTER II **Exercise of original Civil Jurisdiction**

8.	Holding of Court on Original Side	3
9.	Jurisdiction to be exercised by a Judge	3
10.	Reference to two or more Judges	3
11.	Distribution of business	3
12.	Disposal of miscellaneous matters	3
13.	Definition of miscellaneous matters	3
14.	Disposal of applications by Additional Registrar (O.S.)	5

Sindh High Court Rules (O.S.)

- 15. Appeal from the Additional Registrar to a Judge 9
- 16. Date to be fixed for hearing reference in Court 10
- 17. Costs of proceedings before Additional Registrar (O.S.)
10
- 18. Additional Registrar (A.S.) to dispose of business in
absence of Additional Registrar (O.S.) 10
- 19. Disposal of applications by the Deputy Registrar 10

CHAPTER III
The Original Side Office
Dates and Cause-lists

- 20. Additional Registrar (O.S.) to fix dates on every
Saturday 11
- 21. Day for short causes 11
- 22. What are short causes 11
- 23. Transfer of short causes to long causes 12
- 24. Days for execution proceedings, etc 12
- 25. Fixing of dates for final disposal 13
- 26. Cases to be brought to trial in order of their age 13
- 27. On order of transfer of Small Causes courts suit
being made, Additional Registrar (O.S.) to send for
records 14
- 28. Cause List 14
- 29. General Cause List Book 15
- 30. Sealing of summons, order, etc 15
- 31. Duties of Assistant Registrar 15

Sindh High Court Rules (O.S.)

32.	Registers	16
33.	Arrangement of record in pending matters	16
34.	Contents of each file	17
35.	Binding and title page	18
36.	One file in miscellaneous applications	18
37.	Diaries	18
38.	Order sheet	18
39.	Removal of record from Court-house	19

PART II

PROCEDURE ON THE ORIGINAL SIDE

CHAPTER IV

General Practice and Procedure
Form of Proceedings

40.	Proceedings how written	19
	Cause title	19
	Paragraphs	19
	Dates	19
	Application for translation of vernacular documents	19
41	Names etc., parties	20
42.	Authority to be stated	20
43.	Draftsman's endorsement	20
44.	Particulars to be stated in address for service	21
45.	Initialing alteration, etc	21

Vakalatnama

Sindh High Court Rules (O.S.)

46.	Form of Vakalatnama	21
47.	Execution and attestation of Vakalatnama	21
48.	Endorsement on Vakalatnama	21
49.	Notice of change of advocate	22
50.	Notice of discharge to a client	22
51.	Advocate-General and Government Pleader not to file Vakalatnama	22

Affidavits

52.	Ex-officio Commissioners	22
53.	Title	22
54.	Form	22
55.	Deponent's description	23
56.	Endorsement should state on whose behalf filed	23
57.	Source of information to be disclosed	23
58.	Affidavit stating matter of opinion	23
59.	Scandalous matters	24
60.	Alterations and interlineations	24
61.	Attestation fee	24
62.	Affidavit how taken outside Court House	24
63.	Reading of contents of affidavit to deponent	24
64.	Endorsement of the Commissioner	25
65.	Identification of deponent	25
66.	Pardanashin woman	25
67.	Every exhibit to be initialed and dated	26

Sindh High Court Rules (O.S.)

68.	Form of certificates	26
69.	What affidavit shall not be used in evidence	26
70.	Use of defective affidavit	26
71.	Special time for filing affidavit	26
72.	Proof on affidavits	26

Introductory Proceedings

73.	Form	27
74.	Contents thereof	27
75.	Counter-Affidavits, etc.	27
76.	Procedure in applying for interim relief	28

Receivers

77.	Application for appointment of receiver to be by petition supported by affidavit	28
78.	Form of order of appointment	28
79.	Register of receivers	28
80.	Receiver other than Official Receiver to give security	29
81.	Surety may point out omission or neglect of duty cast on receiver	29
82.	Notice to surety of application affecting surety's risk	29
83.	Powers of a receiver	29

Sindh High Court Rules (O.S.)

84.	Receiver's remuneration	30
85.	Establishment and costs thereof to be detailed in the appointment order	30
86.	No charge for additional establishment allowed	30
87.	Receiver to file half-yearly accounts	30
88.	Account to show balance in hand and how much may be paid into Court etc., to be filed with affidavit. Form of affidavit	30
89.	Examining and vouching of accounts by officers	30
90.	Appointment for passing accounts - Notice thereof	31
91.	Objections to report to be filed	31
92.	Passing of accounts by Court	31
93.	Procedure as to hearing of objections	31
94.	Auditing of difficult and complicated accounts	31
95.	Order as to payment of balance	32
96.	Consequence of receiver's negligence to file accounts or pay the balance, etc	32
97.	Consequence of default by receiver	32
98.	Rule 84 applicable to manager or guardian	32
99.	Interim receiver	32

Security Procedure

100.	Security Summons	33
------	------------------	----

Sindh High Court Rules (O.S.)

101.	Production to title deeds, affidavit of justification examination	33
102.	Contents of affidavit of justification	34
103.	More than two sureties irregular	34
104.	Property in respect of which a surety may justify	34
105.	Who are not competent sureties	34
106.	Who may be present at the examination	34
107.	Reference to Court	34
108.	Security for costs	35
109.	Custody of securities and security bonds	35

Miscellaneous

110.	Urgent motions	35
111.	Oral motions	35
112.	Urgent matters	35
113.	Only one advocate to be heard for a party	35
113-A	Notice of proceedings to Advocate-General	35

CHAPTER V
Institution of Proceedings

114.	Appearance by agent	36
115.	Leave to verify	36
116.	Suit against corporation or a firm	36
117.	Copies to be filed of applications, etc	37

Sindh High Court Rules (O.S.)

118.	Presentation of proceedings on Original Side	37
119.	Examination of proceedings	37
	Return if not in order	37
120.	Admission of complaints	38
121.	Plaint liable to be rejected to be submitted to Judge hearing miscellaneous matters	38
122.	Admission or rejection of execution application	38
123.	Notice to the other party	38
124.	Registration of proceedings admitted	39
125.	Ex-parte amendments	39
126.	Amendments how to be made	39
127.	Attestation of amendment	39

CHAPTER VI
Processes

128.	Time for payment of process fee and consequence of non-payment	39
129.	Restoration	40
130.	Fresh plaint	40
131.	Parties or their advocates may file processes duly filed up	40
132.	When process fee not to be levied	40
133.	Full address to be given to person on whom process to be served	41

Sindh High Court Rules (O.S.)

134.	Process for service on persons of rank and gazetted officers	41
135.	Summons for final disposal and settlement of issues	41
136.	Returnable date of summons	41
137.	Processes to be served or executed within Jurisdiction to be addressed to Nazir	41
138.	Endorsement on process for service outside jurisdiction	42
139.	Process to be served without identification by party	42
140.	Endorsement of identifier on the original process	42
141.	Procedure where defendant refuses to accept service or cannot be found	42
142.	Return of service	43
143.	Service by affixing to outer door	43
144.	Notice where summons is affixed to outer door	44
145.	Inquiry as to sufficiency of service	44
146.	Fresh process not to issue until previous one returned	44
147.	Acts of Additional Registrar to be effectual as acts of Court	44

CHAPTER VII

Suits by or against Minors and Persons of Unsound Mind

Sindh High Court Rules (O.S.)

148.	Admission of next friend to bring a suit.	
	Order unnecessary	44
149.	Next friend to file address for service	45
150.	List of all likely guardians ad item to be filed	45
151.	Address for service of the Court appointed guardian ad-item	45
152.	Duty of the Officer of the Court appointed guardian ad litem	46
153.	Application of rules 148 to 152 to persons or unsound mind and to appeals and applications	46

CHAPTER VIII

Appearance by Defendant - Written Statement - Counter Claim

154.	Hearing of applications	46
155.	In default of appearance by defendant suit to be posted on short cause day	46
156.	Procedure when defendant appears	47
157.	Ordinarily one extension allowed for filing W.S.	47
158.	Procedure where no written statement filed by any defendant	47
159.	Procedure if written statement not filed by Some of the defendants	47
160.	Service of copies of written statement and list of documents on the other side	48

Set off

161. Court may disallow set-off	48
---------------------------------	----

Counter Claim

162. Counter claim by defendant	48
163. Counter claim	48
164. Reply to counter claim	49
165. Excluding counter claim	49
166. Proceeding with counter claim where action stayed	49
167. O. XX, R. 19 to apply to decree in such suits	49

**CHAPTER IX
Third Party Procedure**

168. Third party notice	49
169. Effect of notice	50
170. Appearance of third party - default of	50
171. Procedure on default before trial	50
172. Third party directions	50
173. At trial	51
174. Costs	52
175. Fourth and subsequent parties	52
176. Defendant claiming against co-defendant	52

**CHAPTER X
Summary Suits**

177. Written statement	53
------------------------	----

Sindh High Court Rules (O.S.)

- | | | |
|------|---|----|
| 178. | On default by defendant suit to be set down forthwith | 53 |
| 179. | Ex-parte order may be set aside on application | 53 |
| 180. | Judgment for part of claim | 53 |

CHAPTER XI
Commercial Suits

- | | | |
|------|--|----|
| 181. | Where one defendant has good defence but other not | 54 |
| 182. | What are commercial causes | 54 |
| 183. | Plaint in such suits to be marked “commercial suits” | 54 |
| 184. | Setting down of Commercial suits | 54 |
| 185. | Decision of Commercial Judge may by consent be final | 54 |

CHAPTER XII
Alternate Dispute Resolution

- | | | |
|------|---|----|
| 186. | Definition | 55 |
| 187. | Reference by Courts | 56 |
| 188. | Reference by Parties | 58 |
| 189. | Qualification of persons/organizations for
appointment as mediator / conciliator | 59 |
| 190. | Panel of mediators / conciliators | 60 |
| 191. | Duty of mediator/conciliator to disclose certain facts | 61 |
| 192. | Cancellation of appointment | 61 |
| 193. | Procedure of Mediation | 62 |

Sindh High Court Rules (O.S.)

194.	Mediator/conciliator not bound by Qanun-e-Shahadat Order 1984 or Code of Civil Procedure, 1908	64
195.	Non-attendance of parties at sessions or meetings on due dates	64
196.	Administrative Assistance	65
197.	Offer of settlement by parties	65
198.	Role of Mediator/Conciliator	66
199.	Representation of Parties	66
200.	Confidentiality, disclosure and in-admissibility of information	67
201.	Privacy	68
202.	Immunity	69
203.	Communication between mediator/conciliator and the Court	69
204.	Settlement / Agreement	70
205.	Court to fix a date for recording settlement and passing decree	71
206.	Fee of Mediator / Conciliator and cost	72
207.	Ethics to be followed by the Mediator/Conciliator	73

CHAPTER XIII

Directions

215.	Setting down for directions	69
216.	Any party may apply for directions at the hearing	69
217	Subsequent application must be by petition to Court	69
218.	Costs of subsequent application	69
219.	Appeal from Additional Registrar to a Judge	70

Discovery

220.	Agent may make affidavit of documents when none of the parties reside in Karachi	70
221.	Procedure where the affidavit is required to be made by the absent parties	70

Issues

222.	Date for settlement of issues by Court	70
------	--	----

CHAPTER XIV

Commissions

COMMISSIONS FOR EXAMINATION OF WITNESSES

223.	Parties to notify commission	71
224.	Commission on interrogatories	71
225.	Commission for viva voce examination	71
226.	Final hearing may be fixed after return of commission	72

227.	Preparation etc., of commission	72
228.	Commission executed by Official Commissioner	72
229.	Examination de bene esse	72

COMMISSIONS FOR TAKING ACCOUNTS AND FOR LOCAL INVESTIGATIONS AND PARTITION OF IMMOVABLE PROPERTY

230.	Official Commissioner to execute Commissions for accounts	72
231.	Additional Registrar, (O.S.) to send necessary proceedings to Commissioner	72
232.	Commission for taking accounts how executed	73
233.	Deposit of commission fees	74
234.	Return of commission	74
235.	Procedure in examination of witnesses	75
236.	Deposition to be read over to and signed by the witness	75
237.	Notice of filing of report. Filing objections thereto	75

**CHAPTER XV
Witnesses**

238.	Summon to witnesses	76
239.	Summoning public officers as witnesses	76
240.	Summoning Finger Print expert	76
241.	Payment of expenses to witnesses who are public officers	77
242.	Payment of expenses to other witnesses and issue of certificates to Railway servants	78

243. Re-attendance of witnesses on adjourned hearing 78

PRODUCTION OF PUBLIC DOCUMENTS

244. Production of public documents 78
245. Return of original public record after its production in evidence 79
246. Power of Courts to summon public records *suo motu* 79

CHAPTER XVI Adjournments

247. Adjournments to be a day certain 79
248. Adjournment granted only on good cause 79
249. Costs of adjournment 80
250. Notice of antedating of hearing 80

CHAPTER XVII Originating Summons

251. Who may take out originating summons and in respect of what matters 80
252. Order for administration of estate or of the trust 81
253. Persons to be served with summons 81
254. Vendor or purchaser may take out summons 82
255. Persons to be served with such summons 83
256. Mortgagee or mortgagor may take out such summons 83
257. When may a partner take out such summons 83
258. Persons interested under will, etc., may take out such

Sindh High Court Rules (O.S.)

summons	83
259. Court not bound to determine question of construction	83
260. Persons to be served with such summons	84
261. Service on other persons by direction	84
262. Complaint and document along to be filed	84
263. O.S. complaint how to be marked	84
264. Service of originating summons	84
265. Returnable date of originating summons	84
266. Entry of appearance	85
267. When may be supported by evidence	85
268. What may be done on bearing originating summons	85
269. Costs in originating summons	85
270. Order made on originating summons to be drawn up as decree of Court	86
271. Direction as to carriage or execution of decree	86
272. Subsequent summons about same estate	86
273. O.II, R.2 of the Code not to apply to complaints filed in support of originating summons	86
274. When costs of originating summons shall be allowed in a suit	86

CHAPTER XVIII

Proceedings at the hearing of Suit, and up to and inclusive of decrees

275. Evidence, how taken	86
276. Any particular question and answer may be taken	

Sindh High Court Rules (O.S.)

down	87
277. Question objected to and allowed by Court	87
278. Remarks on demeanour of witnesses	87
279. Assistant Registrar to bring to Judge's erasure, etc., and documents tendered in evidence	87
280. Exhibits how marked	87
281. Numbering lines of depositions, etc	87
282. Proceedings in another suit, how put in evidence	88
283. Witnesses not to be present in Court during hearing of the suit	88
284. Exhibits to be officially translated	88
285. No compromise without leave of Court in pauper suits	88
286. Judgment how delivered	88
287. Written judgment of two or more Judges how pronounced	88
288. Payment of costs a condition precedent in order for withdrawal	89
289. Setting of draft of decree	89
290. Directions under Rule 260(3) and (4) liable to be refereed to Court	89
291. Date of signing decree to be also endorsed	90
292. Copies of decrees to Collector Certificate under S. II, Court Fees Act to be sent to Collector	90
293. Errors how rectified after decree sealed	90

CHAPTER XIX

Taxation of Costs

294.	What bills of costs are to be taxed by the Deputy Registrar	90
295.	Time for filing bill of costs	91
296.	Receipt and advocate's certificate to accompany bill of costs	91
297.	Notice for taxation	91
298.	What expenses of witnesses may be included in costs	91
299.	Condition for taxing expenses of copies of documents	91
300.	Taxation of costs	91
301.	Review of taxation only on notice to the opposite side	93
302.	No review of taxation of costs if bill of costs not filed in time	93
303.	What costs allowed after taxation	93
304.	Meaning of "proportionate costs"	93
305.	Application to Court for review of taxation	93
306.	Hearing of such application	93

CHAPTER XX
Arbitration

Proceedings under Chapters III and IV of the Arbitration Act, 1940

307.	Proceedings under Chapters III and IV how entitled	94
------	--	----

SPECIAL CASE

308.	Form	94
------	------	----

Sindh High Court Rules (O.S.)

309. Special case to be forwarded to Additional Registrar
(O.S.)
Hearing in Court 94

Awards

310. Form of award 95
Award in form of special case
311. Award how filed in Court 95
312. Service of notice of filing of award in Court 96
313. Form of application to modify, correct or set aside
award 96

Interim Orders

314. Applications for interim orders to be by interlocutory
applications 96
315. Service of notice of interim order on opposite party
97

Application

316. Form of other applications under the Act and their
registration 97
317. Notice to persons concerned 98

Stay of Proceedings

318. Title of applications, etc., under section 34 98

Notice to issue before ordering stay of proceedings

Fees

319. Advocates' fees 98

General

Sindh High Court Rules (O.S.)

320.	Notice of an appointment of arbitrator	98
321.	Mode of service of notices	98
322.	Award includes interim award	99

**RECOGNITION AND ENFORCEMENT (ARBITRATION
AGREEMENTS AND FOREIGN ARBITRAL AWARDS)**

323.	Title of applications, etc	99
324.	Applications for stay of Arbitration Proceedings to be disposed of as miscellaneous matters	99
325.	Contents of petition	99
326.	Stay of Foreign Arbitration proceedings	99
327.	Documents to be produced with petition Procedure to be followed in case of non-production of documents with petition	100 100
328.	Presumption as regards certain copies	101
329.	Execution of decrees and orders	101
330.	Advocates fees	101

**CHAPTER XXI
Proceedings in Execution**

331.	Interpretation	102
------	----------------	-----

APPLICATION FOR TRANSMISSION

332.	Transmission of decrees for execution	102
333.	Stay of execution on transmission	102

Sindh High Court Rules (O.S.)

- 334. Transmission of decree in two or more districts simultaneously 102
- 335. When insufficient amount realized in first district 103
- 336. Also in second or succeeding districts 103
- 337. When sufficient amount realized in execution 103
- 338. Notice of execution of foreign Court decree to issue to judgment-debtor 103
- 339. Register of decrees received from other courts 103
- 340. Return of decree to the transmitting Court 104

APPLICATION FOR EXECUTION

- 341. Application under O. XXI, R. 15 to be supported by affidavit 104
- 342. Checking and admission of execution petition 104
- 343. Procedure in execution application under O. XXI, R. 15 104
- 344. Procedure when cause not shown 104
- 345. Additional Registrar, (O.S.), not to issue execution simultaneously against person and property 105
- 346. Application for receiver in execution of decree 105

MODE OF EXECUTION
Execution of documents

- 347. Decree-holder to file in Court the draft and fees for service 105
- 348. Execution of document under O. XXI, Rule 34(5) 105

Arrest

- | | | |
|------|---|-----|
| 349. | Deposit with warrant of arrest | 106 |
| 350. | Production of person arrested after sunset | 106 |
| 351. | Superintendent to keep in custody | 106 |
| 352. | Production before Judge under fresh warrant of persons already in custody | 106 |

Attachment

- | | | |
|------|--|-----|
| 353. | Application of encumbrance to be made a party to the suit or to join in the sale | 106 |
| 354. | Inquiry before the Additional Registrar, (O.S.) as to matters specified in O. XXI, Rule 66 | 106 |
| 355. | Receipt of attached property to be given | 107 |
| 356. | Procedure where property is already under attachment by revenue authorities | 107 |
| 357. | Removal of property attached under O. XXI, Rule 43 to the Court | 107 |
| 358. | Removal to Court by judgment-creditor on executing bond | 107 |
| 359. | Procedure where removal impracticable or costly | 108 |
| 360. | Deposit of cost for removal or maintenance of property | 108 |
| 361. | Account to be rendered on demand | 109 |
| 362. | Restoration of attached property on payment of costs incurred | 109 |

Sale of attached property

- | | | |
|------|---|-----|
| 363. | Notice regarding sale of guns and other arms, etc. attached | 109 |
|------|---|-----|

Sindh High Court Rules (O.S.)

364.	Sale of Government Promissory Notes, how made	110
365.	Immediate sale of movable property	110
366.	Place of sale of Live-stock, etc	110
367.	Application for sale to be accompanied by abstract of title	110
368.	Contents of sale proclamation	111
369.	Publication of proclamation	111
370.	Copy of sale proclamation to be sent to collector in case of sale of land	111
371.	Place of sale of immovable property	111
372.	Sale at Court house, how conducted	111
373.	Leave to bid, Reserved price	112
374.	Sale	112
375.	Postponement of sale for want of sufficient bidding	112
376.	Postponement of sale otherwise than under rule 345	112
377.	Bidding paper to be signed by the purchaser	112
378.	Or by his agent as such	113
379.	Declaration of purchase	113
380.	Report of sale	113
381.	Time for confirming sale	113

Delivery of possession of immovable property

382.	Possession of house how delivered to decree-holder or	
------	---	--

	purchaser	113
383.	Decree-holder or purchaser to give notice to owner regarding removal of property therein	114

GENERAL

384.	Preparation and issue of processes in execution	114
385.	Procedure on stay of execution	114
386.	Recording of evidence and order in execution proceedings	114

CHAPTER XXII

Nazir's Office

387.	Nazir and Deputy Nazir to execute or to cause to execute processes	115
388.	Noting of date on processes	115
389.	Service on holidays	115
390.	Service on the firm of advocates	115
391.	Payment of money	115
392.	Notice of payment or deposit to judgment-creditor or Collector	115
393.	Delivery of securities, jewellery or other valuables into Court	116
394.	Application for payment of money, etc	116
395.	Applications to be checked	116
396.	Payment by money order, bank draft etc	116
397.	Written authority of client requisite for payment to	

Sindh High Court Rules (O.S.)

advocate	117
398. Account books to be kept	117
399. Signing of Cheques and checking of accounts	118
400. Account books to be kept in minors or lunatics' estates	119
401. Return of minors' estates under administration	119
402. Charge of property in criminal cases	119
Charge of dead stock	

CHAPTER XXIII
Testamentary and intestate Jurisdiction
Preliminary

403. Interpretation	120
---------------------	-----

Application for Probate, etc

404. Application for probate	120
405. Application for letters of administration	120
406. Application for letters of administration. C.T.A	120
407. Application for succession certificate	120
408. Address for service	121
409. Delay in application	121
410. Interlineations, alterations etc. in the will should be sworn to by the attesting witnesses	121
411. In absence of attesting witnesses with other evidence must be produced	121
412. Attempted cancellation must be accounted for	121

Sindh High Court Rules (O.S.)

413.	Unsigned or unattested will	121
414.	Production of deed, paper, etc., referred to in will	122
415.	Administration to a creditor	122
416.	Renunciation	122
417.	Grants throughout British India	122
418.	Applications for probate, etc., to be registered as miscellaneous applications	122

Citation

419.	Notice of application to be given to collector	122
420.	Notice to next-of-kin	123
421.	Citation to Official Assignee	123
422.	Form of citation	123
423.	When citation to be dispensed with	123

Proof

424.	Proof of identity	123
425.	Blind or illiterate testator	123

Limited Grants

426.	Order for limited grant	124
------	-------------------------	-----

Administration Bond

Sindh High Court Rules (O.S.)

427.	Forms of administration and succession certificate bonds	124
428.	Amount of administration bond and succession certificate bond	124
429.	Insurance Companies as sureties	124
430.	Attestation of bonds	124

Grants and extensions thereof

431.	Grants limited to Province of Sindh	124
432.	Affidavit of valuation of property to be annexed to grants	124
433.	Extension of grant to have affect throughout Pakistan	125
434.	Extension of succession certificate	125

Inventory and Accounts

435.	Form of inventory	125
	Form of register	

Contentious Proceedings

436.	Particulars in caveat	125
437.	Notice of caveat	125
438.	Affidavit supporting caveat	125
439.	Notice to caveat or to file affidavit	126
440.	Consequence of not filing affidavit	126

Sindh High Court Rules (O.S.)

441.	Procedure	126
442.	Notice in probate suit	126

Miscellaneous

443.	Certificates under section 274 (1) (b) of the Act	127
444.	Notice by executor or administrator to creditors under section 360 and 367 of the Act	127
445.	Disposal of petition for non-prosecution	127
446.	Making will	127

CHAPTER XXIV

Rules under the Oaths Act, 1873

447.	Form of witnesses	128
448.	Form of interpreters	129

CHAPTER XXV

Rules under the Transfer of Property Act, 1882

449.	Deposit of money due on mortgage	129
450.	Deposit of costs	130
451.	Order for payment of money into Court under S. 83	130
452.	Mode of service	130
453.	Costs of mortgagee	130
454.	Court's order for paying out	130
455.	Enforcement of order	131

CHAPTER XXVI

Rules under the Powers of Attorney Act, 1882

XXX

Sindh High Court Rules (O.S.)

456.	Presentation of petition to the Deputy Registrar	131
457.	If presentation by both donor and donee, it may be filed forthwith	131
458.	In other case notice to issue and order of Court to be obtained	131
459.	Filing of powers of attorney	132
460.	Power of attorney filed when returned	132
461.	Index to be kept of instruments deposited	132
462.	Deputy Registrar to dispose of application for search, copies etc	132
463.	Fees	132

CHAPTER XXVII

**Rules under the Insolvency (Karachi Division)
Act (III of 1909)
Preliminary**

464.	Interpretation of terms	133
465.	Matters to be heard in open Court	134
466.	Adjournment from Chambers to Court and vice versa	135

Proceedings

467.	Proceedings how entitled	135
468.	Publication notices	135
		XXXI

Sindh High Court Rules (O.S.)

469.	Filing, Gazetting, & etc.	135
------	---------------------------	-----

Discovery of debtor's property

470.	Applications for discovery	136
------	----------------------------	-----

Appropriation of Pay, Salary, etc.

471.	Application for an appropriation order under section 60	136
472.	Communication of order under section 60	136
473.	Review of order	136

Warrants, Arrests and Commitments

474.	To whom warrants addressed	137
475.	Production of insolvent before Court & etc	137
476.	Suspension of issue of committal order	137
477.	Committal of contumacious insolvent or witness	137

Costs

478.	Awarding costs	138
479.	Scale of costs	138
480.	Applications for costs	139
481.	Priority of costs and charges payable out of assets	139
482.	Disallowance of costs of unnecessary petition	140
483.	Apportionment of costs in cases of partnership	141

Sindh High Court Rules (O.S.)

484.	Costs out of joint or separate estates	141
485.	Public officer or agent of company	142
486.	Attestation of firm's signature	142
487.	Service on firm	142
488.	Debtor's petition by a firm	142
489.	Schedule	143
490.	Order of adjudication against a firm	143
491.	Acceptance of composition, etc., by joint and separate creditors	143
492.	Voting on composition	143
493.	Adjudication and separate committees	143
494.	Separate firms	143

Lunatics

495.	Lunatics	144
------	----------	-----

PROCEEDINGS FROM ACT OF INSOLVENCY TO DISCHARGE

Insolvency Petition

496.	Form of insolvency petition	144
497.	Insolvent to lodge all books, & etc., with the Official Assignee.	144
	Certificate of Official Assignee	144
498.	Deposit by petitioner	144

Creditor's Petition

499.	Security for costs	145
------	--------------------	-----

XXXIII

Sindh High Court Rules (O.S.)

500.	Joint petitions	145
501.	Death of debtor before service of petition	145

Hearing of Petition

502.	Adjudication order to be made forthwith on debtor's petition	145
503.	Proceedings on creditor's petition	146
504.	Several respondents	146
505.	Debtor intending to show cause	146
506.	Non-appearance of creditor	146
507.	Personal attendance of creditor when dispensed with	146
508.	Proceedings after trial of disputed question	146
509.	Application to dismiss	147

Interim Receiver

510.	Appointment of interim receiver	147
511.	Form and contents of order	147
512.	Deposit	147
513.	Further deposit, if necessary	148
514.	Repayment of deposit	148
515.	Damages if petition dismissed	148

Order of adjudication

Sindh High Court Rules (O.S.)

516.	Form and contents	148
517.	Transmission of copy to Official Assignee and service on debtor	149
518.	Stay of proceedings	149
519.	Advertisement	149
520.	Costs of petition & etc	149

Public examination of Insolvent and his failure to perform the duties imposed on him

521.	Form of notice under section 27	149
522.	Default of debtor in attending	150
523.	Service of order and notice to creditors of examination	150
524.	Adjournments sine die	150
525.	Proceedings after adjournment sine die	151
526.	Notice of proceeding after adjournment sine die	151

Annulment of Adjudication

527.	Hearing of application for revocation	151
528.	Order annulling adjudication	151
529.	Form of Security Bond	152
530.	Vesting order on annulment	152

Proceedings consequent on Order of Adjudication

531.	Insolvent's schedule	152
------	----------------------	-----

Trading account of insolvent

532.	Extension of time to file schedule	153
533.	Failure of insolvent to file schedule	153
534.	Notice of order to submit claims to the Official Assignee	153

Interim Protection

535.	Application for protection order	153
536.	Hearing of application	154
537.	Protection order	154
538.	Warrant of release	154

Meetings of Creditors

539.	Application for direction to hold meetings	154
540.	Order to call meeting	155
541.	Notice of meeting	155
542.	Copy of Resolution for Additional Registrar	155
543.	Adjournment	155

Proxies

544.	Form of proxies	155
545.	Signature of Proxy	155

Sindh High Court Rules (O.S.)

546.	Filing in when creditor blind, & etc	156
547.	Minors not to be proxied	156

Composition and Schemes

548.	Forms where proposal submitted by debtor	156
549.	Form of acceptance, application for approval to Court,	156
550.	Notice to creditors and Official Assignee	156
551.	Order approving a composition or scheme	157
552.	Correction of formal slips & etc.	157
553.	Proceedings if scheme approved	157
554.	When Official Assignee may be the trustee in composition or scheme	157
555.	Default in payment of composition	157
556.	Annulment of composition or scheme	157
557.	Dividends under composition or scheme	158
558.	Proof of debts in composition or scheme	158
559.	Application to enforce composition and order	158
560.	Application for annulment of composition or scheme and order	158
561.	Application for arrest of insolvent under section 34(1)	158

Control over Person and Property of Insolvent

562.	Order for redirection of letters	159
------	----------------------------------	-----

XXXVII

Discharge of Insolvent

563.	Application for discharge	159
564.	Fixing date for hearing of application for discharge and notice	159
565.	Official Assignee's report	160
566.	Opposed application	160
567.	Answer to report and creditor's grounds of opposition	160
568.	Form of grounds of opposition	160
569.	Hearing of application	161
570.	Order on application for discharge	161
571.	Notice of order	161
572.	Costs of application	162
573.	Conditional orders	162
574.	Execution of decree against insolvent	162
575.	Accounts of after acquired property	162
576.	Failure to apply for discharge	163
577.	Renewal of application	163

**ADMINISTRATION OF PROPERTY
Proof of Debts**

578.	Form of proof	164
579.	Wages of labourers & etc	164
580.	Transmission proofs to trustees	164

Sindh High Court Rules (O.S.)

581.	Proofs to be sent by the Official Assignee to Additional Registrar	164
582.	Proofs to be sent by trustee to Additional Registrar	164
583.	Procedure where creditor appeals	165
584.	Time for admission or rejection of proof by Official Assignee	165
585.	Time for admission or rejection of proof by trustee	165
586.	Notice of admission or rejection of proof	165
587.	Costs of appeals from Official Assignee's decision as to proof	166

Application to realize Security

588.	Application to realize security	166
589.	Report of the Official Assignee and hearing application	166
590.	Order for realization of security	166
591.	Costs of application	167

Realization of property

592.	Warrant of seizure and search warrant	167
------	---------------------------------------	-----

Disclaimer of Lease

593	Disclaimer of lease	167
-----	---------------------	-----

Distribution of Property

594.	Notice of intended dividend	169
595.	Production of bills, notes, & c	170
596.	Dividend may be sent by post	170
597.	Notice of intention to make final dividend	170
598.	Rate of interest of dividends which the Officials Assignee is ordered to pay	170
599.	Appointment of insolvent manager property or carry on trade	170

THE OFFICIAL ASSIGNEE

600.	Security by Official Assignee	171
601.	Liability for loss	171
602.	Fees, commission and percentages chargeable by the Official Assignee	171
603.	Payment of fees, percentages, etc., to Government	172
604.	Remuneration of the Official Assignee	172
605.	Deposit in bank of moneys realization	172
606.	Money how drawn	173
607.	Account of dividends declared	173
608.	Official Assignee to open Unclaimed Dividend Account	173
609.	Income form investments	174
610.	Disposal of the balance of Unclaimed Dividend Account	174

Sindh High Court Rules (O.S.)

611.	List of dividends	174
612.	Notice of unclaimed dividends	175
613.	Half yearly statement of estates	175
614.	Audit of accounts	175
615.	Fees for copy of lists	176
616.	Record book	177
617.	Duties as to debtor's schedule	177
618.	Joint and separate estate accounts	177
619.	Mode of applications to Court	178
620.	Evidence on applications by Official Assignee	178
621.	Application for direction	178
622.	Accounting by Official Assignee	178
623.	Disposal of debtor's books of account, & etc	178

Costs of Civil Proceedings

624.	Costs of Civil Proceedings	179
625.	Civil liability of Official Assignee how met	179
626.	Costs when assets not available	179
627.	Deficit how met	180
628.	Liability for costs, damages and expenses	180
629.	Books of account to be maintained by the Official Assignee	180

Special Manager

Sindh High Court Rules (O.S.)

630.	Special Manager's accounts	181
------	----------------------------	-----

COMMITTEE OF INSPECTION

631.	Control of Committee of Inspection over Official Assignee	181
------	---	-----

SMALL INSLOVENCIES

632.	Report of Official Assignee as to value of property Summary administration	181
------	---	-----

SPECIAL PROCEEDINGS

Administration of the estates of persons dying insolvent

633.	Application for administration order	182
634.	Order for administration	183
635.	Duties of legal representative	183
636.	Executor <i>de son tort</i>	183

**SUPPLEMENTAL
Access to insolvent's books**

637.	Fee for inspection	184
------	--------------------	-----

Registers

638.	Insolvency register	184
639.	Power of Court to extend time	184

CHAPTER XXVIII

Rules under The Admiralty Jurisdiction of High Court

640.	Interpretation	184
------	----------------	-----

Sindh High Court Rules (O.S.)

641.	Institution of suits	185
642.	Warrants	185
643.	Statements requisite in suits of necessities and of wages	186
644.	Warrant with Court's leave though particulars wanting	186
645.	Service of warrant, filing thereof	186
646.	Service of summons or warrant, how of effected on vessel	186
647.	Service how effected on cargo landed	186
648.	Service on cargo in custody of third person	186
649.	Suits in rem by default	187
650.	Judgment for the claim, if well founded	187
651.	Entry of appearance	187
652.	Contents of written statement	187
653.	Security	187
654.	Releases	187
655.	Release before appearance entered on application	187
656.	On payment into Registry, release of property	188
657.	Release of cargo arrested for freight, on payment	188
658.	Value of property under arrest in salvage suit	188
659.	On security or payment into Registry, property arrested released	188
660.	Released by Nazir	188

Sindh High Court Rules (O.S.)

661.	Caveat Release Book	188
662.	Penalty for delaying release	188
663.	Caveat Warrant Book	189
664.	Entry of appearance in Caveat Warrant Books	189
665.	Service of plaint on party entering Caveat Warrant	189
666.	Party entering caveat to give security of filing of plaint	189
667.	On default, suit may proceed <i>ex parte</i>	189
668.	Judgment to claim enforcement of payment	189
669.	Notwithstanding caveat property may be arrested	190
670.	Sale by order of the Court	190
671.	Procedure by Nazir on sale of property	190
672.	Audience before Taxing Officer	190
673.	Payment of moneys	190
674.	Payment out of money	190
675.	Security for latent demands	191
676.	Notice against payment Caveat payment Book	191
677.	Applications	191
678.	Signature to application	191
679.	Improperly filled up application	191
680.	Caveat to be in force for six months	191
681.	Withdrawal of caveat	191
682.	Application to overrule a caveat	191
683.	Fees by Officers and Nazir	191
684.	Forms of Admiralty Division to be followed	192

Sindh High Court Rules (O.S.)

685.	Where not provided for, rules and practice of O.C.J., to apply	192
686.	Fees to nautical assessors	192

.

CHAPTER XXIX

Rule made under Section 20 (f) of the Trusts Act, 1882

687.	Investment of trust money in government securities	192
------	--	-----

APPENDIX A.	Forms	193
APPENDIX B.	Registers	372
APPENDIX C.	Scale of Fees	379

THE SINDH HIGH COURT RULES

(ON THE ORIGINAL SIDE)

PART I

GENERAL

CHAPTER 1

PRELIMINARY

1. Short title. These rules may be cited as The Sindh High Court Rules (Original Side).

2. Commencement and repeal. (1) They shall come into operation on the expiry of thirty days from the date* of their publication in the *official Gazette* and shall apply also to all proceedings then pending.

(2) So much the rules of the Court of the Judicial Commissioner of Sindh as relates to matters provided for by under these rules is hereby annulled.

3. Interpretation. In these rules, unless there is something repugnant in the subject or context,-

(1) “High Court” means the High Court of Sindh;

(2) “Chief Justice” means the Chief Justice of High Court;

(3) “Code” means the Code of Civil Procedure, 1908, as amended from time to time;

(4) “First Hearing” includes the hearing of a suit for settlement of issues and any adjournment thereof;

(5) “Interlocutory Application” means an application in any suit, appeal or proceeding, already instituted in the High Court, not being a proceeding for execution of a decree or order;

(6) “Judge” means Judge of the High Court;

7) “Miscellaneous Application” means an application whereby any proceeding is instituted including under rules 46-A, 58, 97 and 100 of Order XXI of the Code, a proceeding under section 7 of the Insolvency (Karachi Division) Act (III of 1909), an appeal under section 8(2)(a) of that Act, and an analogous proceeding under the Companies Ordinance 1984, but does not include a suit or an appeal or a proceeding in insolvency or a proceeding in execution of a decree or order;

(8) “Additional Registrar (O.S.)” means the Additional Registrar, Original Side;

(9) “Verified” means verified in the manner provided by Order VI, rule 15 of the Code” and

(10) All other expressions used herein shall have the meanings prescribed by the Code or the General Clauses Act, 1897, as the case may be.

4. Computation of time. In all cases in which any particular number of days not expressed to be clear days, is prescribed by these rules, the same shall be reckoned exclusively of the first day and inclusively of the last day; unless the last day falls on a Sunday or other day on which the office of the High Court is closed, in which case the time shall be reckoned exclusively of that day also and of any other following day or days during which the office may continue closed.

5. Service of notice. Except where otherwise provided by these rules, any notice directed to be given to any party on any interlocutory application shall be in writing, and may be served by the party or his advocate on the other party or his advocate personally or by fax or by Courier Service or by sending the same by post in a registered prepaid cover to the address for service of the party or his advocate.

6. Use of forms in appendixes. The forms given in the appendixes with such modification as the circumstances of each case may require, shall be used for the purposes therein mentioned.

7. Alteration, etc. of rules in First Schedule to the Code. The rules contained in the First Schedule to the Code shall, so far as they

are inconsistent with or contrary to these rules be deemed to have been thereby altered or superseded.

CHAPTER II

EXERCISE OF ORIGINAL CIVIL JURISDICTION

8. Holding of Court on Original Side. A Court for the exercise of the Original Jurisdiction of the High Court on its several sides may be held before one or more Judges.

9. Jurisdiction to be exercised by a Judge. Subject to the provisions of subsection I of section 11 of the Sindh Civil Courts Ordinance, 1962, and of these rules any Judge *may* exercise all or any part of the jurisdiction vested in the High Court on its Original Side.

10. Reference to two or more Judges. If it shall appear to any Judge either on the application of the party or otherwise, that a suit or matter can be more advantageously heard by a Bench of two or more Judges, he may report to that effect to the Chief Justice who shall make such order thereon as he thinks fit.

11. Distribution of business. All suits and proceedings instituted on any of these several sides of the Civil Original Jurisdiction of the High Court shall be heard before the Chief Justice, or such Judge or Judges as the Chief Justice shall from time to time nominate for that purpose.

12. Disposal of miscellaneous matters. The Judge or, if there be more than one, one of the Judges sitting on the Original Side from time to time nominated by the Chief Justice shall ordinarily sit once every week to hear miscellaneous matters.

13. Definition of miscellaneous matters. The following matters may be disposed of as miscellaneous matters:

- (1) Rejection of plaints;
- (2) Application for arrest before judgment, for attachment before judgment and for appointment of a receiver;
- (3) Applications under rules 161, 165, 168, 170, 172, 173,

175 and 176;

- (4) Settlement of issues;
- (5) Applications to amend the plaint, petition or subsequent proceedings where the amendment sought is not formal or applications to strike out any matter therein;
- (6) Applications for commissions to examine witnesses under O.XXVI, rule 4 (1) (a) & (c) of the Code;
- (7) Applications for leave to defend under O.XXXVII of the Code;
- (8) Attachment of property of absconding witnesses;
- (9) Applications under section 30 of the Karachi Small Causes Court Act, 1929, for removing suits into the High Court;
- (10) Applications by receivers, guardians and others relating to the management and disposal of the property;
- (11) Applications in all matters arising under the Companies Ordinance 1984, Trustees Act, the Trustees and Mortgagees' Powers Act, Trusts Act, the Arbitration Act and generally in the matter of any Act, unless otherwise provided in the Act itself or by these rules;
- (12) Inquiries in lunacy ordered to be taken before a single Judge;
- (13) Inquiries directed by the Court as to the fitness of persons to act as trustees, receivers, and committees of lunatics;
- (14) Inquiries as to the persons constituting a class;
- (15) Inquiries as to a scheme for charity;
- (16) Matters referred by the Additional Registrar (O.S.) and appeals against his order passed under these rules except those in execution proceedings;
- (17) Applications for orders of production of prisoners and other under the Prisoners Act, 1900;

- (18) other interlocutory applications and any such matter as the Judge thinks fit to dispose of a miscellaneous matters, and such other applications as by these rules and directed to be so disposed of.

14. Disposal of applications by Additional Registrar (O.S.). The Additional Registrar (O.S.) shall dispose of all contested or uncontested applications or applications for consent orders of the following description:

- (1) Applications for admission of plaints;
- (2) Applications for leave to verify plaints, written statement petitions or any other proceedings in a suit or matter;
- (3) Applications for leave of the Court to file a plaint when such leave is necessary;
- (4) Applications under O.1., R.8 (i) for leave to sue or defend on behalf of, or for the benefit of, all in the same interest
- (5) Applications for leave under O. II, sub-rule (3) of rule 3;
- (6) Applications under O. II, R. 4, to join causes of action in a suit for the recovery of immovable property;
- (7) Applications for the admission or appointment of a next friend or guardian *ad litem* of a minor or a person of unsound mind or new next friends or guardians *ad litem*;
- (8) Applications for fresh summons or notice and for short date summonses and notices;
- (9) Applications for orders for substituted service of summons or notice
- (10) Applications for transmission of process for service to another Court, etc;
- (11) Applications for orders regarding issue of summons or notices and regarding service thereof;

Sindh High Court Rules (O.S.)

- (12) Applications for permission to withdraw a suit or application by consent, or where the other side, has not been served;
- (13) Applications against a party in default to compel filing of written statement or affidavit or documents;
- (14) Applications arising from the death, marriage or insolvency of parties to suits or petitions or from the assignment, creation or devolution of any interest, estate or title, *pendente lite*;
- (15) Applications to amend plaint, petition or subsequent proceedings where the amendment asked for is purely formal;
- (16) Applications for further and better statement of particulars under O. VI, R.5;
- (17) Applications for leave to file further written statements;
- (18) Applications for return of documents under O XIII, R. 9 (i) of the Code;
- (18-A) Receiving draft issues and attempting to bring about a consensus between the parties before placing the same in court U/O XXIV CPC
- (19) Applications for order for discovery and for orders concerning the admission, production and inspection of documents;
- (20) Applications for leave to deliver interrogatories;
- (21) applications for order for execution of a decree or order for arrest of a judgment-debtor when such judgment debtor does not appear on the day of hearing fixed under the notice issued or on such day as the. hearing thereof may be postponed to, or by attachment or sale with power to order issue of notice under sections 74 and 145 and under O.XXI, rules 2,16, 22, 34(2) 37 or 66(2) of the Code, or where notice is otherwise

necessary or considered desirable;

- (22) Applications for order for the transmission of a decree with the prescribed certificate, etc.
- (23) Applications for the execution of a document or for the endorsement of a negotiable instrument under O.XXI, R.34;
- (24) Applications for examination of judgment-debtor as to his property under O.XXI, R. 41;
- (25) Applications for discharge from custody, subsistence money not being paid;
- (26) Applications falling under section 52 of the Code
- (27) Applications for leave under O.XXI, R. 50, sub-rule (2) except where liability is disputed;
- (28) Applications for the issue of proclamations of sale under O.XXI, R.66, and for direction as to the publication thereof under R.67;
- (29) Applications for confirmation of sale and certificate of sale of purchaser of immovable property;
- (30) Applications for possession under O.XXI, Rules 95 and 96;
- (31) Applications for special costs in connection with the attachment and/or sale of immovable property;
- (32) Applications for special directions to the Nazir as to the service or execution of any process of the Court;
- (33) Applications for order for withdrawal of attachment or for return of a warrant;
- (34) Application for stay of execution under O.XXI, R. 26(1) and (2);
- (35) Applications for order for payment of money realized in execution or otherwise deposited in Court including

applications to share in assets realized under section 73, unless the case is on one of the cause lists for the day.

- (36) Applications for commissions to examine Witnesses under O.XXVII, Rule 1, unless the suit is on one of the lists of causes for the day, and applications for *de bene esse* examination;
- (37) Applications for extension of time under O.XXVII, R. 7, or by a party in default for further time to file written statement or affidavit or documents, and generally all applications for further time not otherwise provided for;
- (38) Applications for statement of names and disclosure of partners' addresses and residence under O.XXX, Rules 1 and 2;
- (39) Applications for leave to issue execution under O.XXX, Rule 9;
- (40) Applications for leave to sue in *forma pauper/s* and investigation as to the pauperism of petitioner for leave to sue or to appeal as a pauper;
- (41) Applications for orders of reference to arbitration unless the suit is on one of the lists of causes for the day;
- (42) Applications for order requiring a party to a suit or matter to produce and leave with the Additional Registrar any document not in the English language in his possession for the purpose of being officially translated;
- (43) Applications for return of exhibits;
- (44) applications for order for the production of records or documents in the High Court, Original Side, or accounts filed in such records, before any other Court;
- (45) Applications for an order for the issue of a precept to another Court for the production of a record of such Court or of notice or summons to a Public Officer for the production of public record or register;

- (46) Applications for the taxation and delivery of bills of costs;
- (47) Applications for production, inspection of a will or a copy thereof;
- (48) all matters affecting procedure arising out of applications under the Succession Act, 1925, the Court-fees Act, 1870, the Companies Ordinance 1984, the Arbitration Act, 1940, and generally in the later of any Act unless otherwise provided in the Act itself or by these rules:

Provided that

(1) when the Additional Registrar (O.S.) shall refuse any uncontested application under this rule, it shall, at the request of the applicant or his advocate, be referred to the Judge hearing miscellaneous matters or if the application relates to a matter in execution proceedings, to the Judge hearing such matters; and

(2) the Additional Registrar (O.S.) may refer to such Judge as aforesaid any matter which he considers to be a fit and proper one to be so referred by reason of its importance or difficulty or novelty or by reason of the order to be made thereon being appealable or for any other cause.

15. Appeal from the Additional Registrar to a Judge. Any party desiring to have any question which has been decided by the Additional Registrar (O.S.) referred to Court, may apply therefor within eight days from the date of the order complained of or within such further period as the Judge for sufficient cause may allow even after the expiry of the aforesaid period of eight days. Such application may be made by petition. Nothing in this rule applies to the provisions of Rule 147.

16. Date to be fixed for hearing reference in Court. When a matter is referred to the Court under the first and the second proviso to Rule 14 or when an application referred to in Rule 15 is made, the Additional Registrar (O.S.) shall fix a date for the hearing in Court and inform the parties or their advocates accordingly.

17. Costs of proceedings before Additional Registrar (O.S.). Unless the Judge otherwise orders or the Additional Registrar (O.S.) otherwise directs, the costs of all orders passed by and of all proceedings before the Additional Registrar (O.S.) shall be costs in the cause.

18. Additional Registrar (A.S.) to dispose of business in absence of Additional Registrar (O.S.). In the absence of the Additional Registrar (O.S.), the Additional Registrar, Appellant Side shall, unless otherwise provided by these rules perform all the functions required by these rules to be performed by the Additional Registrar (O.S.), and in such cases the words "Additional Registrar (O.S.)" in Rules 14 to 17 above shall be construed to include the Additional Registrar, Appellate Side.

19. Disposal of applications by the Deputy Registrar. The Deputy Registrar shall dispose of the following applications:

- (1) Applications to record payments out of Court under O.XXI, Rule 2(1) of the Code and also under Rule 2(2) of the Code when no cause is shown; and
- (2) Applications for transfer or filing of decrees under O XXI Rules 5, 7 and 8 of the Code.

CHAPTER III *THE ORIGINAL SIDE OFFICE* **DATES AND CAUSE-LISTS**

20. Additional Registrar, (O.S.) to fix dates on every Saturday.

(1) Every Saturday on which the office of the Court is open the Additional Registrar (O.S.) or, in his absence, the Deputy Registrar shall sit at 12 noon to fix dates in suits or matters pending on the Original Side and shall for the purpose be attended by the Assistant Registrar or one of his assistants.

Dates in interlocutory proceedings in suits or matters shall be fixed by the Assistant Registrar concerned on every Saturday as aforesaid.

(2) All matters adjourned in Court during the week without dates shall be deemed to be adjourned to the following working Saturday for the purpose of dates being fixed.

21. Day for short causes. Short causes shall be set down for final disposal on such day as the Judge sitting on the Original Side shall appoint.

22. What are short causes? The following suits or matters shall be deemed to be short causes:

- (1) *ex parte* suits;
- (2) undefended suits;
- (3) suits in which written statement filed disclose no defence;
- (4) suits under O.XXXVI (in which leave to defend has been granted);
- (5) mortgage suits, rent suits, suits on bonds or acknowledgements;
- (6) objections to commissioner's report;
- (7) such other suits or matters as may, by special order of the Judge, be directed to be tried as short causes.

Any other suit or matter shall be deemed to be a long cause.

23. Transfer of short causes to long causes. Any short cause which the Judge before whom it is set down for final disposal does not think fit to try as a short cause, may be transferred to the long Cause List.

24. Days for execution proceedings, etc. Proceedings in execution of a decree or order and proceedings under Special Acts when set down for hearing in Court shall be set down for that purpose on such days and before such Judge as the Chief Justice may from time to time by general or special order prescribe.

Explanation:- The following applications and proceedings shall be deemed to be proceedings in execution for the purpose of this Rule:

- (1) all applications and proceedings under section 47 and O.XXI of the Code
- (2) applications for leave to issue execution under O.XXX. Rule 9;
- (3) all proceedings on the returns of writs or notices issued before or after judgment requiring cause to be shown;
- (4) all proceedings in execution referred by, or in appeal from the Additional Registrar (O.S.).

25. Fixing of dates for final disposal. (1) Summary suits under O.XXXVII of the Code shall not be set down for hearing till the expiration of ten days from the date of service of summons. If an application for permission to defend is filed within the ten days, notice shall be given to the plaintiff or his advocate and the suit shall be set down for hearing of the application instead of for final disposal.

(2) Unless otherwise ordered, long causes in which the defendant has been duly served with summons but is called absent on the date fixed in the summons shall not be set down for final disposal:-

- (a) until eight clear days from the service of the summons if the defendant or any of the defendants, as the case

may be, resides outside the local limits of the High Court;

- (b) until fourteen clear days from such service if the defendant or any of the defendants, as the case may be, resides outside the local limits of the High Court but in Pakistan: and
- (c) until such time in other cases as the Additional Registrar (O.S.), may fix having regard to the place where the summons is to be served.

(3) In other long causes fifteen days at least shall ordinarily intervene between the settlement of issues and the date for final disposal.

26. Cases to be brought to trial in order of their age. Subject to Rules 21 and 24 and to any special order in that behalf, in fixing dates for final disposal the Additional Registrar (O.S.) or the Deputy Registrar, as the case may be, shall see

- (1) that cases are brought to trial in the order of their age irrespective of their length or difficulty; Provided that preference may be given so far as is reasonable to:
 - (i) matters in which Government, public servants or soldiers are parties.
 - (ii) part-heard matters:
 - (iii) all matters the lack of decision in which is delaying decision in other proceedings; and
- (2) that sufficient matters are set down for each day to secure that the day shall be fully occupied.

27. On order of transfer of Small Causes Courts suit being made, Additional Registrar (O.S.) to send for records. When after an order for removing a suit from the Karachi Small Causes Court into the High Court has been made and security has been given, the Additional Registrar (O.S.), shall send for the Court of the proceedings

from the Registrar, Karachi Small Causes and shall treat the suit as if it had been instituted on the Original Side.

28. Cause-List. (1) On the last working day in every week a list of suits, miscellaneous applications and interlocutory applications appointed to be heard on each day of the second following week shall be posted on a notice board of the Court, showing the day of the week and date, the number of suit or miscellaneous application, names of parties and the purpose for which they are fixed.

(2) Matters fixed for final disposal on any day of the week shall be entered in the list for that day according to the date of their registration, irrespective of their length or difficulty;

Provided that precedence may be given, so far as is reasonable, to,

- (i) matters in which Government, public servants or soldiers are parties;
- (ii) part-heard matters;
- (iii) commercial suits; and
- (iv) petitions in Company matters when set down for hearing in Court.

(3) The cause-list shall be prepared under the directions of the Additional Registrar (O.S.) or in his absence, of the Deputy Registrar, and signed by him.

(4) If there be more Judges than one on the Original Side, a separate cause-list for the board before each of the Judges shall be prepared and posted in the manner aforesaid.

(5) Unless the Judge otherwise orders, matters fixed for any day shall be called on the day in the order in which they stand in the cause-list.

29. General Cause List Book. (1) A General Cause List Book shall be maintained.

(2) The entries shall distinguish suits, execution applications and miscellaneous applications and shall give their numbers and years as registered.

(3) Interlocutory applications shall be entered under the number and year of the proceedings to which they relate and not as independent proceedings.

30. Sealing of summons, order, etc. The seal of the Court shall not be put to any writ of summons, warrant, order or other mandatory process unless the same is signed by the officer whose duty it is to prepare and make out the same.

31. Duties of Assistant Registrar. The Assistant Registrar shall perform the following duties:

- (1) sign memoranda and attest copies of documents filed therewith: .
- (2) cancel court-fee stamps;
- (3) grant summonses for witnesses not being summonses for the appearance of public officers or for the production of public records, and to sign all civil process;
- (4) dispose of applications for the return of documents and other material objects in civil matters after the expiry of the period or disposal of appeal;
- (5) dispose of applications by parties for copies and translation and certify copies;
- (6) sign registers and diaries and certify decisions and orders to lower Courts;
- (7) be interpreter and attend on the Judge in Court
- (8) perform such other duties as are prescribed under these rules or as the Chief Justice may, from time to time, by general or special order direct.

32. Registers. The following judicial Registers shall be kept on the Civil Original Side by such ministerial officer or officers as the Additional Registrar (O.S.) may, subject to any order of the Chief Justice direct:-

- (i) Register of Rejected Plaints;
- (ii) Register of Civil Suits;
- (iii) Register of documents filed in Civil Suits;
- (iv) Register of Miscellaneous Applications;
- (v) Register of Wills;
- (vi) Register of Decrees received for execution from other Courts; and
- (vii) Register of Execution Applications.
- (viii) Register of cases referred for Alternate Dispute Resolution (ADR)

33. Arrangement of record in pending matters. The record of a regular suit shall be divided into the following four parts:-

- (i) main file;
- (ii) interlocutory file;
- (iii) process file; and
- (iv) execution file.

34. Contents of each file. (1) In the main file shall be filed in the following order the

- (i) diary;
- (ii) plaint together with any schedule annexed thereto;
- (iii) order sheet;
- (iv) written-statement;
- (v) memorandum of issues;
- (vi) all the evidence, including the documents exhibited in

evidence;

- (vii) application for reference to arbitration, the award of arbitrators, petition of compromise and report of the Commissioner, if any:
- (viii) judgment and decree: and
- (ix) copy of the judgment and of the decree of the Appellate Court or Courts, if any.

(2) In the interlocutory file shall be filed *(i)* the index and *(ii)* all petitions, affidavits and other documents not specified as included in any other file: Provided that all documents produced in a pending suit or matter shall, until exhibited in evidence, be deposited for safe custody in the safes in charge of the Record-Keeper.

(3) The process file shall contain-

- (i) the index;
- (ii) powers of attorney;
- (iii) summons and other processes and affidavits relating thereto;
- (iv) applications for summoning witnesses;
- (v) letters, etc. calling for record, etc;
- (vi) all other miscellaneous papers.

(4) The execution file shall contain

- (i) the diary;
- (ii) the execution application;
- (iii) the order sheet;
- (iv) all processes and other papers connected with such execution proceedings.

35. Binding and title page. The splitting up of the record and the distribution of the papers into the proper files shall in all cases be done at the outset and shall be continued from time to time as and when they are received; papers in each file shall be paged separately.

The different files shall be kept together.

36. One file in miscellaneous applications. In miscellaneous applications there may be only one file with a title page prefixed to it. Immediately after the title page, shall be filed the diary, the miscellaneous application, the order sheet and then other documents.

37. Diaries. Diaries shall be kept in Form No.1 in Appendix A by the Assistant Registrar or his assistant attending in Court. They shall be written legibly. The diary in the main file shall show a concise history of the suit or matter including the substance of the order passed on all interlocutory applications therein. The diary in execution proceedings shall contain a complete record of all proceedings in execution of a decree.

38. Order sheet. (1) The order sheet shall contain all orders passed by the Court at any hearing.

(2) Orders shall be written in the order sheet in English by the Judge with his own hand, except long orders or oral orders dictated by the Judge which may be typed and placed immediately after the order sheet: Provided that formal orders may be written by the Assistant Registrar or other officer attending the Court, but they shall be signed by the Judge.

(3) The order sheet shall also contain reference to the number of the page of the application, return, report or other similar document with respect to which an order is made.

(4) Except in the case of such routine orders as "call for the record" "put up with the record" and orders made in chambers, orders shall not be written on applications, returns, reports and other similar documents.

39. Removal of record from Court-house. No member of the establishment shall remove any official paper or record whatever from the Court-house without the special sanction of the Additional Registrar (O.S.).

PART II
PROCEDURE ON THE ORIGINAL SIDE
CHAPTER IV
GENERAL PRACTICE AND PROCEDURE
Form of Proceedings

40. Proceedings how written. Every plaint, written statement, miscellaneous application, originating summons and like document presented to the Court

(1) shall be correctly written, typewritten or printed fairly and legibly on durable white foolscap paper or other paper similar to it in size and quality, with an inner margin of about an inch and a quarter wide and with at least an inch and a half of open sheet being left at the top and the bottom of each sheet;

Cause title

(2) shall be entitled "In the High Court of Sindh" and shall state the jurisdiction (whether Original Civil, Testamentary or Intestate, etc.,) in which it is presented;

Paragraphs

(3) shall be divided into paragraphs numbered consecutively, each paragraph containing as nearly as may be a separate allegation;

Dates

(4) omitted by proposed amendment.

Application for translation of vernacular documents

(5) Where vernacular documents are attached or relied on shall be accompanied with an application for translation into English.

41. Names etc., of parties. (1) The full name, residence and description of each party and, if such is the case, the fact that any party sues or is sued in a representative character, shall be set out at the beginning of the plaint or miscellaneous application, and need not be repeated in the subsequent proceedings in the same suit or matter.

(2) Names of parties shall bear consecutive numbers and a *separate* line should be allotted to the name and description of each person.

(3) These numbers shall not be changed, and in the event of the death of a party during pendency of the suit or matter, his heirs or representatives, if more than one, shall be shown by sub-numbers. Where fresh parties are brought in, they may be numbered consecutively in the particular category in which they are brought in.

42. Authority to be stated. Every proceeding shall state immediately after the cause title the Act and section of the Act or other authority under which it purports to be made.

43. Draftsman's endorsement. At the foot of every pleading and miscellaneous application there shall appear the name and signature of the person who has drafted it and if the draftsman is not the advocate of the party presenting it also the signature of his advocate, if any, in token of his acceptance of the draft and responsibility thereof.

44. Particulars to be stated in address for service. The address for service required to be filed under Rules 19 to 26 added to O. VII, Rules 11 and 12 added to O. VIII, Rule 38 added to O. XLI, Rule 8 added to O. XLVI and Rule 10 to O. XLVII shall state the following particulars:

- (i) the name of the street, lane or section and number of the house (if any);
- (ii) the name of the town or village
- (iii) the post office; and

(iv) the taluka and district.

45. Initialing alteration, etc. Every interlineations, erasure or correction in any pleading, miscellaneous application, execution application or like document shall be initialled by the party or his recognized agent or advocate presenting it.

Vakalatnama

46. Form of Vakalatnama. Vakalatnama shall be in Form No. 2 in Appendix A.

47. Execution and attestation of vakalatnama. Execution of a vakalatnama by a party shall in any case, where a party is illiterate, be by thereon and shall be attested by a person whose presence such thumb impression affixing his thumb-impression is affixed and who shall certify such fact on the vakalatnama under his signature.

48. Endorsement on Vakalatnama. (1) Every advocate filing a vakalatnama shall endorse thereon under his own signature the following particulars:

- (i) his acceptance and the date thereof
- (ii) his address for service, his license no. as assigned to him by Sindh Bar Council; and
- (iii) the name of the person from whom it is received,

(2) No Advocate shall be entitled to act under a vakalatnama which is not endorsed as herein provided.

49. Notice of change of advocate. A party desiring to obtain an order for change of his advocate on record in a suit or matter shall first give notice of his intended application for change to that advocate, and the fact of such notice having been served shall be stated in the affidavit in support of such application.

50. Notice of discharge to a client. An advocate on record in a suit or matter desiring to obtain an order for his discharge, shall first

give notice of his intended application for discharge to his client and the fact of such notice having been served shall be stated in the affidavit in support of such application.

51. Advocate-General and Government Pleader not to file vakalatnama. The Advocate-General, the Government Pleader in the High Court or any other advocate appearing on behalf of the Central Government, or the Provincial Government shall not be required to file a vakalatnama.

Affidavits

52. Ex-officio Commissioners. The Additional Registrar, Appellate Side, the Additional Registrar (O.S.), the Deputy Registrar, the Official Commissioner, the Nazir, the Deputy Nazir and the Assistant Registrar on the Original and Appellate sides shall be *ex-officio* Commissioners for taking affidavits in respect of matters and causes to be instituted or instituted in the High Court.

53. Title. Every affidavit shall be entitled in the suit or matter in which it is sworn or affirmed; but in every case in which there are more than one plaintiff or defendant, it shall be sufficient to state the full name of the first plaintiff or defendant, respectively and that there are other plaintiffs or defendants as the case may be.

54. Form. Every affidavit shall be drawn up in the first person and shall be divided into paragraphs and every paragraph shall be numbered consecutively and, as nearly as may be shall be confined to a distinct portion of the subject. No costs shall be allowed for an affidavit or part of an affidavit substantially departing from this rule.

55. Deponent's description. Every affidavit shall state the name description, place of residence and occupation, if any, of the deponent.

56. Endorsement should state on whose behalf filed. Every affidavit shall bear at the head an endorsement stating on whose behalf it is filed.

57. Source of information to be disclosed. (1) Every affidavit shall express clearly how much is a statement of the deponent's own knowledge and how much is a statement made on his information or belief and shall also state the source or grounds of the information or belief with sufficient particularity.

(2) When a particular fact is not within the deponent's own knowledge but is stated from information obtained from others, the deponent must use the expression "I am informed" and should add "and verily believe it to be true" if such be the case. He must also state the name and address of, and sufficiently describe for the purpose of identification, the person or persons from whom he received such information. When the statement rests on facts disclosed in documents or copies of documents, procured from any Court of justice or other source, the deponent shall state what is the source from which they were procured and his information or belief as to the truth of the facts disclosed in such documents.

(3) All documents referred to in such affidavit and as shall be in the possession of the deponent shall be produced in original, unless copies thereof are admissible in evidence or are permitted by the Additional Registrar (O.S.) to be produced pending production of the original and shall bear numbers or letters of identification.

58. Affidavit stating matter of opinion. Every affidavit stating any matter of opinion shall show the qualifications of the deponent to express such opinion by reference to the length of experience, acquaintance with the opinion is with the person or matter as to which the opinion is expressed or other means of the knowledge of the deponent.

59. Scandalous matters. The Court may order to be struck out from any affidavit any matter which is scandalous, and may order the costs of any application to strike out such matter to be paid as between advocate and client.

60. Alterations and interlineations. Alterations and interlineations shall, before an affidavit is sworn or affirmed, be authenticated by the initials of the Officer taking the affidavit (hereinafter in this Chapter

called the Commissioner) and no affidavit having therein any alteration or interlineations not so authenticated, or any erasure, shall, except with the leave of the Court be filed or made use of in any matter.

61. Attestation fee. (1) An attestation fee at the rate prescribed under the scale in Chapter IV in Appendix C shall be levied for each affidavit and paid to the officers making the attestation.

62. Affidavit how taken outside Court House. When an affidavit is required to be sworn or affirmed outside the Court House, a written requisition shall be made to the Additional Registrar, Original Side, along with the fee prescribed in the scale in Chapter V in Appendix C stating where the Commissioner is required to attend and for what purpose and why he is so required. On receipt of such requisition the Additional Registrar, Original Side, shall, unless he sees any reason to the contrary, require a qualified officer of the High Court to attend as Commissioner at such time as he thinks proper. Fees for attestation done without the precincts of the High Court shall ordinarily be paid to the officer making the attestation provided it is done outside office hours.

63. Reading of contents of affidavit to deponent. (1) The Commissioner shall, before the affidavit is sworn or affirmed, ask the deponent if he has read it and understood its contents. If the deponent says that he has not read the affidavit or is ignorant of the language in which it is written, or appears to the commissioner to be illiterate, blind or not otherwise able to understand the contents thereof, the Commissioner shall read and explain the affidavit to the deponent in a language which he understands.

(2) If it is necessary to employ an interpreter for this purpose, the interpreter shall be sworn to interpret truly.

(3) When an affidavit is read, translated or explained as hereinabove provided, the Commissioner shall certify in writing at the foot of the affidavit that it has been so read translated or explained by him or in his presence, as the case may be, and that the deponent appeared fully to understand the same at the time of swearing or

affirming the affidavit and made his signature or thumb-impression in his presence.

(4) Where an interpreter is employed, he shall swear or affirm an affidavit that he is thoroughly conversant with the language in which the affidavit is written and the language spoken by the deponent and that he truly and accurately interpreted and explained the affidavit.

64. Endorsement of the Commissioner. The Commissioner shall endorse at the foot of the affidavit the date on which and, in the event of the affidavit having been taken elsewhere than in the Court House, the place where the affidavit is taken, and shall sign his name and description at the end and initial each page.

65. Identification of deponent. Where the deponent of an affidavit is personally known to the Commissioner, the fact shall be stated in the attestation. Otherwise, the affidavit shall be attested by some person who knows the deponents personally and is also known to the Commissioner personally.

66. Pardanashin woman. Where the deponent is a pardanashin woman, she shall be identified by a person to whom she is known and before whom she is accustomed to appear unveiled, and such person shall, at the foot of the affidavit, certify that the deponent was identified by him and sign his name thereto, and shall also prove such identification by a separate affidavit.

67. Every exhibit to be initialed and dated. Every exhibit annexed to any affidavit shall be initialed and dated by the Commissioner.

68. Form of certificates. The endorsements on the affidavit shall be as in Form No. 3 in Appendix A.

69. What affidavit shall not be used in evidence? An affidavit not sworn or affirmed in the manner hereinbefore provided shall not be used in evidence.

70. Use of defective affidavit. The Court may receive any affidavit sworn or affirmed for the purpose of being used in any suit or matter, notwithstanding any defect due to a mis-description of parties or

otherwise in the title or jurat, or any other irregularity in the form thereof, and may make a memorandum on the affidavit that it has been so received.

NOTE:- Jurat means a memorandum as to when, where, and before whom an affidavit is sworn.

71. Special time for filing affidavit. Where a special time is allowed for filing an affidavit, no affidavit filed after that time shall be used unless by the leave of the Court obtained on an application made in that behalf.

72. Proof on affidavits. (1) Unless otherwise provided by these rules or ordered by the Court, any facts required to be proved in the following matters may be proved by affidavit:

- (a) any uncontested case under Regulation VIII of 1872, the Succession Act, 1925, and the Guardians and Wards, Act, 1890;
- (b) suits in which defendants do not appear when called on for hearing;
- (c) interlocutory application; and
- (d) proof as to the ability of the judgment-debtor to pay the decretal amount in execution applications for arrest, where the judgment-debtor does not appear at the hearing though served with notice.

Explanation:- For the purpose of this Rule, an application under Rules 58, 97, 99 or 100 of O. XXI of the Code shall be deemed to be an interlocutory application.

(2) Nothing in this rule shall be deemed to affect the provisions of section 12 of the Sindh Agriculturists' Relief Act 1879, or limit or otherwise affect the power of the Court to order or permit proof by affidavit in other cases as provided in Order XIX of the Code.

Interlocutory Proceedings

73. Form. Every interlocutory application shall be entitled in the suit or matter in which it is filed.

74. Contents thereof. (1) Except where otherwise provided by these rules or by any law for the time being in force, an interlocutory application:

- (a) shall contain only one prayer or one series of alternative prayers of the same kind;
- (b) shall not contain any argumentative matter;
- (c) shall be supported by affidavit stating clearly the grounds and the facts on which the application is based; and
- (d) Omitted by proposed amendment

(2) Every application not in accordance with this rule shall be returned for amendment.

75. Counter-affidavits, etc. (1) Unless the Court in its discretion extends or abridges the time, counter-affidavits must be filed not less than 4 days before the hearing.

(2) Not more than one affidavit in rejoinder may be filed without the leave of the Court and that not less than 2 days before the hearing unless the Court in its discretion extends or abridges the time. Such affidavit shall be confined strictly to matter of reply in response to the contents of the counter affidavit.

(3) No counter-affidavit and no affidavit in rejoinder shall be filed unless a copy thereof and copies of accompaniments thereto if any have been previously served on each party or his advocate if any parties or their advocates served with such copies shall give a receipt therefor. Copies shall be authenticated by the signature of the parties or their advocates, if any, on each page at the bottom of the left hand margin.

(4) Except by leave of the Court, no affidavit in support of an application no counter-affidavit and no affidavit in rejoinder beyond those which are filed and copies of which with accompaniments thereto are served in time as aforesaid shall be used at the hearing, or allowed on taxation.

(5) Where any affidavit, counter-affidavit or affidavit in rejoinder is not filed and served as aforesaid, it shall be filed separately in the record of the case until leave of the Court has been obtained under sub rule (4).

76. Procedure in applying for interim relief. Notwithstanding anything contained in Rule 123, the plaintiff may move the Court *ex parte* for interim relief on the ground of urgency and the Court on such application may, if it shall think fit grant interim relief on such terms as shall seem just

Receivers

77. Application for appointment of receiver to be by petition supported by affidavit. Application for the appointment of a receiver shall be made by petitioner supported by affidavit.

78. Form of order of appointment. The order appointing a receiver may be in Form No. 4 in Appendix A, or in such other form as the Court may direct.

79. Register of receivers. On an order for the appointment of a receiver being drawn up and filed, an entry shall be made in a register in Form No.1 in Appendix B, to be kept for the purpose. A copy of the order of appointment shall be sent to the receiver.

80. Receiver other than Official Receiver to give security. Where an order is made directing a receiver to be appointed, the person appointed, if not the Official Receiver, shall unless otherwise ordered, first give security to the satisfaction of the Nazir for the due performance of his duties as receiver. Unless the Court otherwise orders, the Nazir shall take the recognizance of the receiver himself and two sureties and the amount of the bond shall be double the annual rental of any immovable property, or the value of the movable property, which is likely to come into the hands of the receiver. Such annual rental or value shall be estimated after notice to the parties and the receiver, and in case of disagreement the matter shall be placed before the Additional Registrar (O.S.) for orders.

81. Surety may point out omission or neglect of duty cast on receiver. If the security mentioned in Rule 80 be furnished by the receiver by his executing a bond with a surety or sureties (including in the latter term a Guarantee.), the surety or sureties shall be entitled, by an application, to bring to the notice of the Court any act, omission or neglect of any duty cast on the receiver by law or any other circumstances, which would entitle the surety or sureties to be discharged from the obligation created by such bond and the Court may thereupon make such order and on such terms as it may think fit.

82. Notice to surety of application affecting surety's risk. The surety or sureties mentioned in Rule 81 shall be entitled to notice of any application to the Court on the part of the receiver or any party interested relating to any property in the management or under the control of the receiver which may affect the risk undertaken by the surety or sureties under the security bond furnished by the receiver and the Court upon hearing the said surety or sureties may make such order as to his or their cost of appearance in such application as it may think fit.

83. Powers of a receiver. In the absence of any order in that behalf, every receiver of immovable property shall have all the powers of an owners specified in Order XL, Rule 1 (d) of the Code except that he shall not, without the leave of the Court, (1) grant leases for a term exceeding three years, or (2) bring suits, except suits for rent, or (3) institute an appeal in any Court (except from a decree in a rent suit), where the value of the appeal is over Rs. 1,0000/-, or (4) expend on the repairs of any property in any period of two years more than half of the net annual rental of the property to be repaired, such rental being calculated at the amount at which the property to be repaired would let when in a fair state of repair.

84. Receiver's remuneration. A receiver shall be allowed such remuneration not exceeding the rates prescribed in Chapter III in Appendix C as the Court may order, and may also be allowed the necessary expenses of management.

85. Establishment and costs thereof to be detailed in the appointment order. The establishment, clerical or otherwise, required

by a receiver in addition to his ordinary establishment, if any, and the cost thereof chargeable to the estate or property of which he is appointed receiver, shall as far as possible be detailed in order of appointment or subsequent order.

86. No charge for additional establishment allowed. Unless otherwise ordered, no charge for any establishment in addition to his ordinary establishment, if any shall be allowed to the receiver.

87. Receiver, to file half-yearly accounts. Every receiver shall, unless otherwise ordered, file his half-yearly accounts in Court, the first of such accounts to be filed within one month after the expiration of six months from the date of his appointment, and every subsequent account within one month after the expiration of each succeeding period of six months, or in a case where the purpose for which the receiver was appointed has been carried out or completed before the expiry of six months from the date of appointment, within one month from the date of carrying out or completion.

88. Account to show balance in hand and how much may be paid into Court, etc., to be filed with affidavit. Form of affidavit. Unless otherwise ordered, every such account shall show what the balance in hand is, whether any, and if so what portion thereof is required for the purposes of the estate, and how much may be paid into Court or invested, and shall be filed together with an affidavit verifying the same in Form No. 5 in Appendix A.

89. Examining and vouching of accounts by officers. Every such account, before being submitted to the court, shall be examined and vouched for by the Deputy Registrar or such other officer as the Court may either generally from time to time, or particularly with reference to a particular estate or account, appoint for that purpose. Such officer shall have all the powers of the Official Commissioner of the Court and may require the attendance of the receiver or his explanation or his evidence upon oath or affirmation, or the production of any document by him and receive within such time as he may appoint and decide objections to the account and shall embody the result of his examination in a report.

90. Appointment for passing accounts-Notice thereof. After the officer shall have submitted his report to the Court under Rule 89, he

shall obtain a date from the Court for passing such accounts, of which date notice shall be given to the parties, the sureties and to the receiver.

91. Objections to report to be filed. Objections if any to the report shall be filed in Court one week before the day fixed for the passing of the accounts or within such further time as may be allowed by the Court. They shall specify in a concise form the nature of the objections and shall be signed and verified.

92. Passing of accounts by Court. Where no objections are filed, the Court shall, if otherwise satisfied, pass such accounts. Where objections have been filed, the Court shall, subject to rule 90, after hearing the objections make such order as it may think proper.

93. Procedure as to hearing of objections. The Court may, from time to time, adjourn the hearing of any objections or may refer them to an officer of the Court, or to any other person, with such directions as the Court may deem fit.

94. Auditing of difficult and complicated accounts. In any case where the accounts are difficult and complicated, the Court may order such accounts to be audited at the expenses of the State by a Registered Accountant enrolled on the Register of Accountants maintained by the Central Government under the Auditors Certificate Rules, 1932.

95. Order as to payment of balance. The Court, on the passing of the accounts, may make such order as to the payment of the balance, or any part thereof, either into Court or in such other manner as may seem proper.

96. Consequence of receiver's negligence to file accounts or pay the balance, etc. Where any receiver other than the Official Receiver neglects to file his accounts, or to pass the same or to pay the balance or any part thereof as ordered, the matter shall be reported by the officer mentioned in rule 89 to Court and the Court may, from time to time, when the accounts of such receiver are produced to be examined and passed, not only disallow the remuneration therein claimed by such receiver but also charge him

with interest not exceeding nine per cent per annum upon the balance if any, so neglected to be paid by him during the time, such balance shall appear to remain in the hands of such receiver.

97. Consequence of default by receiver. Where any receiver other than the Official Receiver fails to file any account or affidavit, or to make any payment or commits any other default, the receiver or the parties, or any of them, may be required by notice to attend before the Court to show cause why such account or affidavit has not been filed or such payment made, or any other proper proceeding taken, and thereupon the Court may give such directions as may be proper, including the discharge of any receiver and appointment of another and also the payment of costs by the defaulter.

98. Rule 84 applicable to manager or guardian. Rule 84 shall apply to a manager or guardian of the person or estate of a minor and a committee of the estate of a lunatic appointed by the Court where a Government official is appointed as such manager or guardian or a committee member.

99. Interim receiver. The provisions of Rules 77 to 97 shall apply *mutates mutandis* to orders for appointment of interim receivers.

Security Procedure

100. Security summons. Where security is ordered to be given to the satisfaction of the Nazir, the party ordered to give security shall take out a summons in Form No.6 in Appendix A and shall serve the summons upon the opposite party within 24 hours of the order if no time has been fixed by the Court for giving security, or if time has been fixed for giving security, not less than one clear day before the expiry of the time so fixed.

The summons shall state the name and address of each surety to be tendered and the description of property in respect of which each surety will offer to justify:

Provided that it shall not be necessary to take out the summons-

(1) where the Court has ordered security to be furnished forthwith and directed the parties concerned to appear before the Nazir to proceed with the taking of the security and the examination into the sufficiency of the surety or sureties tendered; or

(2) where cash or Government Promissory Notes of the amount or value of the security required have been paid into or lodged in Court to the credit of the suit or matter in which security is to be given to a separate account.

101. Production of title deeds; affidavit of justification, examination. Every person offering himself as surety shall produce before the Nazir his title deeds and vouchers and shall be examined by him on oath or solemn affirmation, touching the value of his property, and the debts and liabilities to which it is subject. After being examined and allowed, the surety shall swear or affirm and file his affidavit of justification and sign the bond and shall deposit his title deeds and vouchers:

Provided that in cases where the amount of the bond does not exceed Rs.5000/-, the Nazir, and where the amount does not exceed Rs.25,000/-, the Additional Registrar (O.S.), and in other cases the Court may, on good cause shown, dispense with the deposit of title deeds and vouchers.

102. Contents of affidavit of justification. Affidavits of justification shall be deemed insufficient unless they state that each person justifying is worth the amount required by the Nazir over and above what will pay his just debts and over and above every other sum for which he is then surety, and that his property is unencumbered.

103. More than two sureties irregular. A tender of notice of more than two sureties shall not be accepted except by order of the Court.

104. Property in respect of which a surety may justify. The title deeds may relate to immovable property situate beyond the local limits of the ordinary jurisdiction of the Court, but shall in all cases be in the name of the proposed surety. A surety may justify also in respect of movable property of which he can produce evidence satisfactory to the Nazir, such as deposit receipts, Government Promissory Notes, or other evidence of title.

105. Who are not competent sureties? An agriculturist, and unless the Court otherwise orders, and advocate practicing within the local limits of the jurisdiction of the Court, a clerk of such advocate, or a partner, assistant, clerk or other employee of any person tendering security, or of any person proposed as surety, shall not be accepted as surety to a bond.

106. Who may be present at the examination? No person other than the party giving security, the sureties and their respective advocates, the party or parties, if any, on whom notice has been served and his or their advocate or advocates, shall be present at the examination of any surety by the Nazir.

107. Reference to Court. In cases in which the security is disputed or challenged, the Nazir shall make an order in writing and shall, if so required, refer it to the Judge.

108. Security for costs. If a party is required to give security for costs; unless the Court otherwise orders, the penal sum in the bond shall be Rs.25,000/-.

109. Custody of securities and security bonds. All papers and records relating to the taking security including securities and security bonds, shall be kept by the Nazir in safe custody in his safe in the strong room after making, an appropriate entry in a register to be maintained by him in Form No. 2 in Appendix B. The Nazir should also note on the case papers, below the Court's order which has to be permanently preserved, that he has taken the required security mentioning also the names of the principal and the surety and the amount.

Miscellaneous

110. Urgent motions. Motions shall ordinarily be made to the Judge nominated for the purpose on such days as may, from time to time, be prescribed, but if urgent; they may be made on any day.

111. Oral motions. Except as otherwise expressly provided by these rules; motions may be made orally in matters of routine or indulgence or in matters wholly within the discretion of the Judge or Judges.

112. Urgent matters. Precedence shall be given to urgent matters and the officer receiving them shall forthwith enter thereon also the hour of presentation. Each ministerial officer of the Court, through whose hands such matters pass, shall in his turn put his initials and the hour of receipt and passing on by him.

113. Only one advocate to be heard for a party. No more than one advocate shall be heard on behalf of each party or set of parties, provided that the opening address and the reply may be made by different advocates.

113-A. Notice of proceedings to Advocate-General. (1) The Court may direct notice to be given to the Advocate-General in all matters coming before it, which involve a substantial question of law as to the interpretation of the Constitution of Islamic Republic of Pakistan, *or any law, rules or regulations*, and the Advocate-General may appear and take part in the proceedings.

(2) The Advocate-General may apply to be heard in any such matter before the Court and the Court may, if in its opinion the justice of the case so requires, permit him to appear and be heard, subject to such terms as to costs or otherwise, as the Court may think fit.

**CHAPTER V
INSTITUTION OF PROCEEDINGS**

114. Appearance by agent. (1) When a party appears by a recognized agent other than an advocate, the agent shall, before making or doing any appearance application or act in or to the Court, file in the Court a power-of-attorney, if it is not already filed; or, in the

case of an agent carrying on a trade or business on behalf of a party, file an affidavit stating the residence of his principal, the trade or business carried on by the agent on his behalf and the connection of the same with the subject matter of the suit or matter and further that no other agent is expressly authorised to make or do such appearance, application or act.

(2) The Additional Registrar (O.S) shall examine the power-of-attorney and, if it contains the necessary powers, shall make an entry to that effect at the foot of the proceeding and return the power-of-attorney. Provided always that a party shall, on receiving notice requiring him to do so, forthwith produce and leave such power-of-attorney at the office of the Additional Registrar (O.S) for inspection by the opposite party or his advocate.

115. Leave to verify. When application is made for the Court's permission to a plaint or an application being verified by some person other than a plaintiff or person on whose behalf the application is made, the application shall be accompanied by an affidavit of the person proposing to verify, showing clearly his connection with the facts alleged in the plaint or application.

116. Suit against corporation or a firm. Where a corporation or a firm is sued as a defendant, the plaint shall be accompanied by a separate application under O.XXIX rule 2 or O.XXX Rule 3 of the Code as the case may be, duly stamped stating where, in what manner and on whom the plaintiff wishes the summons to be served.

117. Copies to be filed of applications, etc. A party presenting a plaint or an application of which a notice is to be issued by the Court to any person, shall file with it in Court a sufficient number of copies thereof and of the affidavits in support thereof, and other documents filed therewith, if any, for service on the person concerned along with the summons or notice.

Where notice of an interlocutory application is served by a party or his advocate under Rule 5, a copy of the application and affidavits and other documents, filed therewith, if any, shall also be served along with the notice.

The aforesaid copies shall show the date of presentation of the original and the name of the advocate, if any, of such party.

118. Presentation of proceedings on Original Side. (1) Plaints and execution applications shall be presented to the Deputy Registrar (O.S). Application for leave to sue in *forma pauperis* and insolvency petitions under section 10 of the Insolvency (Karachi Division) Act, (III of 1909), shall be presented to the Additional Registrar (O.S.). All other proceedings including written statements, applications, affidavits and documents shall be presented to the Assistant Registrar concerned or to such officer as may be appointed by the Chief Justice for that purpose.

(2) The officer concerned shall forthwith enter and initial the date of receipt on the proceedings and attest documents or copies of documents filed therewith and cause the Court fee stamps to be cancelled.

119. Examination of proceedings. (1) The officer concerned shall examine the proceedings in the order in which they are presented.

Return if not in order

(2) If any proceeding is not in proper form, is not properly stamped or is otherwise defective, he shall endorse the objections thereon and return it to the person presenting it for compliance thereof within a time to be prescribed by him.

120. Admission of complaints. If a complaint filed is in order if the objections, if any thereto have been complied with

- (i) It shall be admitted with the words "Admitted this day. Issue summons," endorsed thereon and dated and initialled by the Additional Registrar, (O.S.). The Deputy Registrar (O.S) shall fix a day for the defendant's appearance and shall cause a summons to be prepared and issued upon payment by the plaintiff of the proper process fee for service of summons;
- (ii) translation fees, if any, shall be paid to the Head Translator within seven days of the date of the order admitting the complaint or within such further time as may

be allowed by an order in writing of the Additional Registrar (O.S.).

121. Complaint liable to be rejected to be submitted to Judge hearing miscellaneous matters. If a complaint is liable to be rejected under O. VII, Rule 11 of the Code, the Additional Registrar (O.S) shall note thereon the reasons for its rejection and submit it for the orders of the Judge hearing miscellaneous matters.

122. Admission or rejection of execution application. If an execution application is not in order or if it is liable to be rejected under O.XXI, Rule 17 of the Code, the Additional Registrar (O.S) shall submit it to the Court for orders after noting thereon his reasons for its rejection.

123. Notice to the other party. Except in cases in which party is entitled as a matter of right and of course to the order asked for in a petition, notice shall ordinarily be issued to the other party interested to show cause why the order asked for should not be granted. If a party making an application desires that the order asked for be made without notice to any other party interested, reasons for making the order without such notice shall be set out in the petition.

124. Registration of proceedings admitted. On the admission or rejection of complaints, miscellaneous applications and execution applications, they shall be registered in the appropriate registers and their number entered thereon and on the title page, and documents produced therewith shall be received into safe custody and registered.

125. Ex-parte amendments. Amendments in pleadings, which are made only for the purpose of rectifying some clerical error or errors in names, dates or sums, may be made on an order of the Additional Registrar (O.S.), without notice.

126. Amendments how to be made. Subject to the provisions of O.I., Rule 10 (4) of the Code, if in any amendment the new matter can conveniently be entered on the original proceeding, such proceeding shall be amended by an interlineation or if the amendment be by omitting some original matter, the same shall be struck out of the

record. Such amendment or variation shall be made in red-ink and shall be initialled by the Additional Registrar (O.S.) in all other cases an amended proceeding shall be filed and annexed to the original.

127. Attestation of amendment. The attestation of any amendment under O.II Rules 6 and 7, O.VI Rules 16 and 17, O. VII Rule 11 and O.XXI Rule 17 of the Code shall, unless otherwise ordered by Court, be done by the Additional Registrar (O.S.).

CHAPTER VI PROCESSES

128. Time for payment of process fee and consequence of non-payment. Process fees for the issue of summon, notice or other process and costs of advertisements shall be paid to the Nazir within seven days from the order directing such summons, notice, process or advertisement to issue or within such further time as may be allowed by an order in writing of the Additional Registrar, (O.S.). In default of such payment, the plaint or application shall be struck off by the Additional Registrar, (O.S.), who shall make an endorsement to that effect on the plaint or application and sign it. The plaintiff or applicant or his advocate presenting the plaint or application is expected to ascertain and shall be presumed to know the date of the order directing the issue of the process or advertisement.

129. Restoration. A plaint or miscellaneous application struck off the file under the last preceding rule may be restored to the file, as of the date on which it was originally filed; on the application of the plaintiff or applicant and on sufficient grounds being shown to the satisfaction of the Additional Registrar (O.S.).

130. Fresh plaint. When a plaint or miscellaneous application, is so struck off the file, the plaintiff or the applicant shall be at liberty subject to the law of limitation to present a fresh plaint or miscellaneous application for the same matter.

131. Parties or their advocates may file processes duly filled up. Parties or their respective advocates may, on receiving intimation of receipt of orders for issue of process, prepare correctly on forms supplied by the Court, the Court copies of processes and the

necessary copies thereof for service and enter thereon the value of the claim. They shall present them to the Assistant Registrar concerned and shall be responsible for the accuracy of the information entered therein. The Assistant Registrar shall, after scrutinizing the copies so prepared and completing them where necessary, transfer the Court copies for payment of process and traveling expenses and subsistence money if any according to the prescribed scales to the Nazir. If the amounts due have been or are paid, the Court-fee stamps shall be affixed to the copies and the copies shall be retransferred with endorsements as to payment by the Nazir. Thereupon the Court-fee stamps shall be cancelled and the necessary copies for service shall be sent for service as hereinafter prescribed, if the amount due is not paid within the time prescribed by Rule 128, the copies shall be retransferred, with endorsements to that effect, by the Nazir, and shall be filed in the record.

132. When process fee not to be levied. Process fee shall not, however, be levied in respect of process received for service from other Courts in Pakistan, where it is certified on such process that the proper process fees have been Levied according to the rules in force in such Courts; nor shall process fee be Levied in respect of process received for service from Courts outside Pakistan to which the provisions of section 29 of the Code apply, whether or not the levy of the proper process fees has been so certified by such Courts.

133. Full address to be given of persons on whom process to be served. Persons on whom processes are to be served or executed shall be described therein fully by a statement of the name, father's name and surname (if possible), occupation, address and such further particulars as well facilitate identification and service. In the case of service and execution of process in towns, the name of the street, lane or section and the number of the house (if nay), shall also be given.

134. Process for service on persons of rank and gazetted officers. (1) Processes for service on persons of high rank shall be sent to them direct in the form of a letter.

(2) Processes for service on gazetted officers shall be sent in the form of a letter addressed to the heads of their offices. But in

special cases, for reasons to be recorded in writing, they may be sent direct to them. In the latter cases, the Additional Registrar (O.S.) shall give intimation to the head of the office concerned with notice of the date for which the gazetted officer has been summoned.

135. Summons for final disposal and settlement of issues. Summons shall issue for final disposal in short causes and for settlement of issues in long causes.

136. Return able date of summons. Unless otherwise ordered, every writ of summons shall be made returnable as follows-

(1) if the defendant or all the defendants reside within the local limits of the Court, in three weeks from the date of the admission of the plaint;

(2) in all other cases, within such time as may be considered sufficient for the transmission, service and return of the summons.

137. Processes to be served or executed within jurisdiction to be addressed to Nazir. Processes for service or execution within jurisdiction shall be issued, as soon as they are ready, to the Nazir for service or execution:

Provided that processes for service under O.XVI, Rule 1 (1), shall be issued to the party for service and receipt obtained on the application for summons.

138. Endorsement on process for service outside jurisdiction. Processes for service outside jurisdiction shall be endorsed with the fact of payment of process fees according to the rules in force within jurisdiction and shall be sent with the travelling and subsistence money, if any.

139. Process to be served without identification by party. The serving officer shall serve all processes entrusted to him without the aid of the party at whose instance the process is issued and after due enquiry as to the identity of the person on whom, or the house or property where, the same is to be served:

Provided that if it appears to the Additional Registrar (O.S.) or in his absence to the Deputy Registrar that sufficient information cannot be given as to the identity and place of residence of the person on whom process is to be served, or as to the house or property where process is to be served, or if the Additional Registrar (O.S.), or in his absence the Deputy Registrar is satisfied from the affidavit of the serving officer or upon his examination on oath (if necessary) that the person or the house or property or the place of residence of the person aforesaid could not be identified after due diligence and enquiry, he may ask the party concerned to supply an identifier.

140. Endorsement of identifier on the original process. If the serving officer is not personally acquainted with the person to be served, he shall, whenever possible, obtain on the original process the endorsement by signature or thumb-impression of a respectable person of the locality identifying such person or place of residence or the house or property on which the process is served, and also obtain photo copy of CNIC.

141. Procedure where defendant refuses to accept service or cannot be found. Where the person to be served refuses to sign the acknowledgement or cannot be found, the serving officer shall whenever possible, before affixing a copy of the summons on the outer door of the house of such person, obtain on the original process the endorsement by signature or thumb-impression of at least one respectable person of the locality in support of such fact, and also obtain photo copy of CNIC.

142. Return of service. (1) Every process serving officer shall immediately after completion of any duty connected with any process, record with his own hand upon the original process at the place of execution and in the presence of witnesses (if any) his report specifying the manner of execution or the causes which prevented execution. Such report shall be sworn or affirmed before the Nazir or the Deputy Nazir and shall, together with the process, be filed in the record.

(2) Process serving officers must invariably note the date hour and exact place of service of each individual process.

(3) If the process is addressed to more than one person, the report shall describe the manner of service on each person and also the sequence in which the processes are served on different persons.

143. Service by affixing to outer door. If a process is affixed to the outer door of the house in the absence of the person to be served, the serving officer shall make an affidavit as to the following matters:

(1) the number of times and the dates and hours at which he went to the house;

(2) the attempts made by him to find the person to be served;

(3) whether he had any, and what reason to suppose that such person was within the use or in its neighbourhood, or endeavouring to evade service;

(4) whether any adult male member of the family of the person to be served was residing with him,

144. Notice where summons is affixed to outer door. If a summons to a defendant is affixed to the outer door of a house, the serving officer shall affix therewith a notice that the person so served can, upon application to the Court, obtain a copy of the plaint, and shall in his return state that he has done so and shall return the plaint to the Court. If the summons has been sent by another Court for service and the defendant does not apply for the said copy before the summons is returned to the said Court, it shall be returned to that Court along with the summons.

145. Inquiry as to sufficiency of service. The Additional Registrar (O.S.) shall hold an inquiry as to the sufficiency of service of process in all cases in which it has been returned and in which an appearance has not been entered on the day appointed therefore in such process by or on behalf of the person or persons against whom it has been issued.

Such inquiry may be adjourned, if necessary, from time to time. Affidavits and further affidavits may be received or evidence taken *viva voce* at such inquiry.

146. Fresh process not to Issue until previous one returned. Unless otherwise ordered, a second or subsequent process shall not be issued until after the one previously issued has been returned.

147. Acts of Additional Registrar (O.S) to be effectual as acts of Court. All acts which may be done by the Court under O.V., Rules 19, 20, 21 and 21-A of the First Schedule to the Code may be done by the Additional Registrar (O.S.) and service of process as may be ordered by the Additional Registrar (O.S.) shall be as effectual as if the same had been ordered by the Court.

CHAPTER VII SUITS BY OR AGAINST MINORS AND PERSONS OF UNSOOUND MIND

148. Admission of next friend to bring a suit. Order unnecessary. When a suit is brought on behalf of a minor the next friend shall make an affidavit, to be presented with the plaint in the suit, that he has no interest directly or indirectly adverse to that of the minor, and that he is otherwise a fit and proper person to act as such next friend. The age of the minor shall also be stated. No formal appointment of the person instituting the suit as next friend need be made.

149. Next friend to file address for service. (1) Unless the next friend is a public officer of a ministerial officer of the Court, he shall file along with the plaint a memorandum in writing stating his address for service. A next friend appointed under sub-rule (2) of Rule 9 or under Rule 10 of Order XXXII of the Code shall, immediately on being so appointed, file his address for service.

(2) If the next friend fails to file his address for service as aforesaid or within such further time as the Additional Registrar (O.S.) may allow, the plaint shall not be admitted or, if it has already been admitted, such failure may be deemed to be sufficient cause for removing him under Rule 9 of Order XXXII of the Code.

150. List of all likely guardians *ad litem* to be filed. (1) In suits where the defendant is a minor, the plaintiff shall file with the plaint a

list of persons (with correct addresses) who are suitable for appointment as guardian *ad litem*.

(2) A notice shall be issued in Form No. 8 in Appendix A, simultaneously on two or three such person, single process fee being levied, such persons shall be deemed to be unwilling to act as guardian *ad litem*, if they do not sign the certificate at the root or the prescribed notice, or having signed it, fail to appear, after service or notice, on the date fixed;

(3) if the person specified in the list filed under sub-rule (1) are unwilling to act as guardian *ad litem*, the Additional Registrar (O.S.) may, if there be more defendants than one and their interests are not adverse to the minor, appoint one of such defendants who may be willing to act as guardian *ad litem*; or may appoint forthwith one of the officers of the Court as such guardian *ad litem*.

151. Address for service of guardian *ad litem*. Every guardian *ad litem* other than a public officer or a ministerial officer of the Court, shall, within seven days of the order of his appointment as such or such further time as the Additional Registrar (O.S.) may allow, file in Court a memorandum in writing stating his address for service. Failure on his part to do so may be deemed sufficient ground for removing him under Rule 11 of O.XXXII of the Code.

152. Duty of the Officer of the Court appointed guardian *ad litem*. When an officer of the Court is appointed guardian *ad litem*; he shall communicate with the minor, if of an age to understand, and with the minor's relations if any, in order to ascertain what defence ought to be made; and he shall appear at the hearing and explain to the Court the steps taken.

153. Application of Rules 148 to 152 to persons of unsound mind and to appeals and applications. The provisions contained in Rules 148 to 152, so far as they are applicable, shall extend to person adjudged to be of unsound mind, and to persons who, though not so adjudge, are found by the Court on inquiry, by reason of unsoundness of mind or mental infirmity, to be incapable of protecting their interests when suing or being sued; and shall also apply to appeals and applications.

CHAPTER VIII APPEARANCE BY DEFENDANT-WRITTEN STATEMENT - COUNTER CLAIM

154. Hearing of applications. The Additional Registrar (O.S.) on being satisfied as to due service of the notice of an application on the defendant or respondent or all the defendants or respondents shall, if or as soon as the application is ripe for hearing and disposal, proceed to dispose of it, if it is one which he is empowered to deal with himself or shall set it down for hearing and disposal in Court on the next or some subsequent miscellaneous business day.

155. In default of appearance of defendant suit to be posted on short cause day. If on the day fixed for his appearance in the writ of summons the defendant does not appear and it is proved that the summons was duly served, the suit shall, whether the summons was issued for final disposal or not, be set down for final disposal on the next or some subsequent short cause day.

156. Procedure when defendant appears. If the defendant appears personally or by an advocate before or on the day fixed for his appearance in the writ of summons

(1) if the summons had been issued for final disposal, the suit shall be set down for final disposal on the next or subsequent short cause day;

(2) if the summons had been issued for settlement of issues, the defendant shall be directed to file his written statement within fourteen days of such appearance, unless the Additional Registrar, (O.S.) for sufficient reasons, allows more than fourteen days time for the purpose.

157. Ordinarily one extension allowed for filing W.S. Ordinarily not more than one extension shall be granted to the defendant for filing a written statement: Provided that a second or any further extension shall be granted only on an application made in writing setting forth sufficient grounds for such extension and supported, if so required, by an affidavit.

158. Procedure where no written statement filed by any defendant. If the defendant or all the defendants in a suit shall have failed to file his or their written statements within the time allowed under Rule 156 or any time extended by order, the suit shall be set down for final disposal by the Additional Registrar (O.S) on the next or subsequent short cause day. Should the defendant or one or more of several defendants then appear and show good cause of his or their default, he or they may be allowed to defend on payment of costs to the plaintiff not exceeding Rs.10000/- and the suit may be transferred to long causes or may be postponed.

159. Procedure if written statement; not filed by some of the defendants. If in a suit where there are more defendants than one, any defendant shall have failed to file his written statement within the time fixed under Rule 156 or any time extended by order, he shall not be allowed by the Additional Registrar (O.S) to appear and defend except with the leave of the Court upon such terms as to the filing of his written statement, giving discovery and the payment of costs of adjournment as a condition precedent to leave to defend or, otherwise, as the Court may order, or upon such other terms as the Court may think proper.

160. Service of copies of written statement and list of documents on the other side. No written statement or list of documents shall be filed without the leave of the Court unless a copy thereof has been previously served on each party or his advocate, if any. Parties or their advocates served with such copies shall give a receipt therefor. Copies shall be authenticated by the signature or initials of the parties or their advocates, if any, on each page at the bottom of the left hand margin.

Set off

161. Court may disallow set-off. Where a defendant pleads a set-off under O.VIII, Rule 6 of the Code, the Court may, on the application of the plaintiff made in that behalf at any stage of the proceedings and after hearing the defendant, make an order directing the claim for set-off may be tried separately and may make such other order as shall be just.

Counter Claim

162. Counter claim, by defendant. (1) A defendant in a suit, in addition to be right of pleading a set-off under O. VIII, Rule 6 of the Code, may set up by way of counter claim against the claims of the plaintiff any right or claim, whether such counter claim sounds in damages or not.

(2) Subject to the provisions of Rule 165, such counter claim shall have the same effect as a cross-suit so as to enable the Court to pronounce final judgment in the same suit, both on the original and on the counter claim.

163. Counter claim. Where any defendant seeks to rely upon any grounds as supporting the right of counter claim he shall; in his written statement, state specifically that he does so by way of counter claim.

164. Reply to counter claim. When a counter claim is made in a written statement, plaintiff may deliver a reply to the counter claim within the time within which he may deliver a written statement if the counter claim were a plaint.

165. Excluding counter claim. Where a defendant sets up a counter claim, the Court may, on the application of the plaintiff made in that behalf at any stage of the proceedings and after hearing the defendant, make an order directing that the counter claim may be tried separately and may make such other order as shall be just.

166. Proceeding with counter claim where action stayed. If in any case in which the defendant sets up a counter claim the suit of the plaintiff is stayed, discontinued or dismissed, the counter claim may nevertheless be proceeded with.

167. O.XX, R. 19 to apply to decree in such suits. Sub-rules (1) and (2) of Rule 19 of Order XX of the Code shall apply to the decree in a suit in which counter claim is made.

CHAPTER IX THIRD PARTY PROCEDURE

168. Third party notice

168. (1) Where in a suit a defendant claims as against any person not already a party to the suit (hereinafter in this Chapter called the third party) that he is entitled to contribution or indemnity, he may make an application to the Court for leave to have a notice (hereinafter in this Chapter called the third party notice) issued to that effect to the third party. The Court may give such leave on an *ex parte* application.

(2) The application shall state the nature and grounds of the claim and shall be supported by an affidavit.

(3) The third party notice shall be in Form No. 9 in Appendix A and shall be served together with a copy of the aforesaid application and a copy of the plaint in the manner provided for service of summons.

169. Effect of notice. Subject to the provisions of section 22 of the Limitation Act, 1908, the third party shall as from the time of the service upon him of the third party notice, be a party to the suit with the same rights in respect of his defence against any claim made against him and otherwise as if he had been duly sued in the ordinary way by the defendant.

170. Appearance of third party-default of. If a third party desires to dispute the plaintiffs claim in the suit as against the defendant on whose behalf the notice has been given or his, own liability to the defendant, the third party must enter an appearance in the suit on the day fixed therefor in the third party notice. In default of his so doing, he shall be deemed to admit the validity of, and shall be bound by the decree, obtained against such defendant, whether obtained by consent or otherwise, and shall also be deemed to admit his own liability to contribute or indemnify, as the case may be, to the extent claimed in the third party notice: Provided that a third party failing to appear on the day fixed in the third party notice or any adjourned hearing may apply to the Court for leave to appear, and such leave may be given upon such terms as the Court shall think fit.

171. Procedure on default before trial. (1) Where third party makes default in entering an appearance in the suit or deliver any pleading which he has been ordered to deliver and a decree has been passed against the defendant giving the notice of default, such defendant shall, on an application made for a motion in that behalf be entitled at any time after satisfaction of the 'decree against himself or before such satisfaction by leave of the Court, to a decree against the third party to the extent of any contribution or indemnity claimed in the third party notice.

(2) The provisions of Order IX, Rule 13 of the Code shall apply to such decree against a third party.

172. Third party directions. If the third party enters an appearance, the defendant giving the third party notice may, after serving notice of an intended application upon the plaintiff, the third party and any other defendant, apply to the Court for directions, and the Court may.

- (a) where the plaintiffs claim is admitted by the defendant giving the third party notice and the third party and the claim of such defendant for contribution or indemnity is admitted by the third party the Court may pass such decrees in favour of the plaintiff and in favour of the defendant giving the third party notice as the nature of the case may require: Provided that execution shall not be issued without leave of the Court until after satisfaction by such defendant of the decree against him;
- (b) if satisfied that there is a question or issue proper to be tried as between the plaintiff and the defendant and the third party or between any or either of them as, to the liability of the defendant to the plaintiff or as to the liability of the third party to make any contribution or indemnity claimed, in whole or in part:-
 - (i) order such question or issue to be tried in such manner before, at or after the trial of the suit as the Court may direct, or
 - (ii) give the third party liberty to defend the suit, either alone or jointly with the original defendant,

upon such terms as may be just, or to appear at the trial and take such part therein as may be just, and generally may order such proceedings to be taken, pleadings or documents to be delivered, or amendments to be made, and give such directions as to the Court shall appear proper for having the question and the rights and liabilities of the parties most conveniently determined and enforced, and as to the mode and extend in or to which the third party shall be bound or made liable by the decree in the suit; or

(c) dismiss the third party application.

173. At trial. Where the suit is tried, the Court may, at or after the trial, pass such decree as the nature of the case may require for or against the defendant giving the third party notice against or for the third party: Provided that execution shall not be issued without leave of the Court until after satisfaction by such defendant of the decree against him.

174. Costs. The Court may decide all questions of costs as between a third party and the other parties to the suit, and may order any one or more to pay the costs of any other or others, or give such direction as to costs as the justice of the case may require.

175. Fourth and subsequent parties. (1) Where a third party makes as against any person not already a party to the suit a claim that he is entitled to contribution or indemnity, the provisions of this chapter regulating the rights and procedure as between the defendant and the third party shall apply *mutates mutandis* as between the third party and such other person, and the Court may give leave to such third party to have a third party notice issued and the preceding rules of this Chapter shall apply *mutates mutandis* and the expressions “third party notice” and “third party” shall apply to and include every notice so issued and every person served with such notice respectively.

(2) Where a person served with a notice under this rule by a third party in turn makes such a claim as aforesaid against another

person not already a party to the suit, this chapter as applied by this rule shall have effect as regards such further person and any other person or persons so served and so on successively.

176. Defendant claiming against co-defendant. (1) Where a defendant claims against another defendant that he is entitled to contribution or indemnity, the defendant making the claim may make an application to that effect and may without any leave of the Court have a notice issued by the Additional Registrar (O.S.) of such application to other defendant.

(2) No appearance to such notice shall be necessary and the same procedure shall be adopted for the determination of such claim between the defendants as would be appropriate under this chapter if the defendant making a claim were a third party.

(3) Nothing herein contained shall prejudice the rights of the plaintiff against any defendant in the suit.

CHAPTER X SUMMARY SUITS

177. Written statement

177. When an order has been made giving leave to the defendant to defend a suit filed under Order XXXVII of the Code, the defendant shall, within fourteen days from the date of such order, file his written statement, unless the Judge, who grants leave, orders the affidavit of the defendant to be taken as his written statement or allows a longer time for filing the written statement. The suit may be set down for directions upon a written statement being filed or upon such order being made as aforesaid.

178. On default by defendant suit to be set down forthwith.

Where the defendant makes default in filing his written statement or in complying with any conditions which may have been imposed on him within the time limited in the order, the plaintiff shall be at liberty to

have the suit set down for hearing forthwith as if no such order had been made.

179. Ex-parte order may be set aside on application. An *ex-parte* order giving leave to defend may be set aside or varied on the plaintiff's application by petition after notice to the defendant, but the Judge shall refuse to issue the notice and reject the plaintiff's application if it appears to him that such application could not be allowed without going into the merits of the suit, or if the plaintiff has unduly delayed making such application.

180. Judgment for part of claim. If it appears that the defence set up by the defendant applies only to a part of the plaintiff's claim or that any part of his claim is admitted, the plaintiff shall have judgment forthwith for such part of his claim as the defence does not apply to or as is admitted, subject to such terms, if any, as to suspending execution, the taxation of costs, or otherwise, as the Court may think fit; and the defendant may be allowed to defend as to the residue of the plaintiff's claim.

CHAPTER XI COMMERCIAL SUITS

181. Where one defendant has good defence but other not. If it appears to the Judge that any defendant has a good defence to or ought to be permitted to defend the suit, and that any other defendant has not such defence and ought not to be permitted to defend, the former may be permitted to defend, and the plaintiff shall be entitled to judgment and decree against the latter, and may execute such decree without prejudice to his right to proceed with his suit against the former.

182. What are commercial causes? Commercial suits include suit arising out of the ordinary transactions of merchants, bankers and traders; amongst others, those relating to the construction of mercantile documents, export or import of merchandise, freight,

carriage of goods by land, insurance banking and mercantile agency and mercantile usages.

183. Complaint in such suits to be marked “commercial suits”.

Where a plaintiff at the presentation of the complaint, applies that his suit may be dealt with as a commercial suit, the Additional Registrar or other officer to whom the complaint is presented for admission, shall if satisfied that the suit is a commercial suit and has been brought with undue delay, cause the complaint to be marked with the words “Commercial Suit” in addition to the usual endorsements.

Explanation:- A suit which has been brought within six months of the cause of action having arisen has been brought without undue delay.

184. Setting down of Commercial suits. Commercial suits shall, so far as possible, be set down for hearing before the Judge appointed from time to time by the Chief Justice for that purpose and to be called the Commercial Judge, and shall be heard in priority to all other suits appearing on the board on that day, except part heard suits and other commercial suits on the same board fixed for hearing on prior dates.

185. Decision of Commercial Judge may by consent be final.

The parties may, where they so desire, agree in writing to be signed by them or their advocates, that the judgment or decision of the Commercial Judge shall be final, when such judgment or decision shall not be liable to appeal or revision.

CHAPTER XII

ALTERNATE DISPUTE RESOLUTION

186. Definition - In these rules unless the context otherwise requires:-

- i. The term alternative dispute resolution (ADR) refers to the following mode / method for the resolution of disputes.
 - a) Mediation
 - b) Conciliation
 - c) Case Evaluation
- ii. Mediation refers to the process where one or more neutral mediator facilitates a mutually acceptable resolution / settlement of dispute through negotiations and discussions with and between the parties, the mediator having no decision making power or authority to impose solutions on the parties or force settlement between the parties.
- iii. Conciliation refers to the process where the disputants with third party interventions may be guided to settlement of disputes.

- iv. Case Evolution refers to the process wherein a lawyer preferably, with expertise in the subject matter of dispute acts as evaluator of the respective claims of the parties on the basis of their submissions and materials placed before him, thereby assists in narrowing down the differences and provide a basis for settlement.

187 Reference by Courts - (i) cases of civil or commercial or matrimonial nature if at any stage of the case preferably at the initial stage, before or after the recording of admissions and denials under rule I of order X of Civil Procedure Code, the court considers the dispute / case is likely to be successfully resolved under one of the alternative dispute resolution (ADR) methods the court shall require the parties to have resort to such methods.

(ii) In cases of civil or commercial or matrimonial nature if all the parties consider the dispute involved to be such as is likely to be resolved by alternative dispute resolution (ADR) mode, the court shall on the request of the parties, refer the matter to a registered institution specializing in alternative dispute resolution or to any

person professionally trained and accredited in mediation/conciliation skills or any of the persons mentioned in rules 189 or 190 below.

(iii) The court, while nominating any person as mediator or conciliator shall consider his suitability for resolving the particular class of dispute involved in the case and may give preference to a person who has proven record of successful mediation/conciliation or who has special qualification/expertise or experience of mediation/conciliation in similar matters.

(iv) Where a case/dispute has been referred by the court under section 89-A CPC or under any provision of these rules or otherwise, for disposal / resolution by ADR mode but could not be resolved within a period of 60 days of its reference or such extended period, not exceeding 30 days, as the court may allow, the case/dispute shall be returned to the court with direction to the parties to appear before the court on a date to be specified in the direction.

188 Reference by Parties - In respect of any dispute of civil or commercial or matrimonial nature the disputant parties may resort to mediation and/or conciliation method for its resolution/settlement before legal proceedings are commenced in any court and in that event, if as a result of such mediation and/or conciliation a settlement is reached between the parties, the mediator and/or the conciliator shall record such settlement which shall be duly signed by him and all the disputant parties and the same shall be submitted to the appropriate court having jurisdiction in the subject matter of the dispute and registered as a “Judicial Miscellaneous” matter and thereupon the court shall-

- a) if all the disputant parties are present before the court, proceed to pass consent decree in terms of the settlement;
- b) if all the disputant parties are not present before the court, the court shall issue 7 days notice to the parties for their presence in court and for filing of objection, if any, to the settlement and where the notice is served and
 - i. objection is filed, the court shall after expiry of the notice period proceed to pass consent decree in terms of the settlement,
 - ii. if any party files objection, the court shall adopt such summary procedure for its disposal as the

court considers appropriate in the circumstances.

189 Qualification of persons/organizations for appointment as mediator / conciliator - Inter alia the following persons and organizations/institutions etc. are eligible to act as mediator:

- (i) Institutions having specialized in ADR methods and having available persons professionally trained/accredited in mediation or conciliation skills and such institutions having been recognized as such by the High Court;
- (ii) Person, who are certified by institutions referred at clause (i) above to be professionally trained/accredited mediators/conciliators;

- (iii) Retired Judges of superior judiciary, retired District and Sessions Judges or Judges of Civil Court or Courts of equivalent status who have substantial experience in mediation/conciliation;
- (iv) Legal practitioners with at least seven year's standing at the Bar at the level of District Courts or Civil Courts and having attended skills-based trainings in mediation/conciliation;
- (v) Experts or other professionals with at least ten years standing with documented experience in mediation/conciliation or retired senior bureaucrats or retired senior executives who have served in law and administrative related fields and have substantial experience and skills in mediation/conciliations ;

190 Panel of mediators / conciliators - (i) The High Court may prepare and maintain list/panel of such individuals as the court considers to be competent, suitable and qualified to render services as mediators and/or conciliators and of such law firms and other organizations as are competent to render or are engaged in rendering services of mediation and/or conciliation directly or through qualified persons affiliated to or registered with them; the

High Court may from time to time review, revise or update such list/panel.

- (ii) The list/panel referred to in sub-rule (i) to contain the particulars and details of those listed therein including educational and other qualifications, professional and technical experience etc.

191 Duty of mediator/conciliator to disclose certain facts -

- (i) Where a person is approached in connection with his possible appointment as a mediator/conciliator, he shall disclose in writing to the parties any circumstances likely to give rise to a justifiable doubt as to his/her independence or impartiality.
- (ii) Every mediator/conciliator shall, from the time of his appointment and throughout the continuance of the mediation/conciliation proceedings, without delay, disclose to the parties in writing, about the existence of any of the circumstances referred to in the procedure clause.

192. Cancellation of appointment: Upon information furnished by the mediator/conciliator under Rule 191 or upon any other

information received from the parties or other persons, if the court in which the case is pending, after conducting such inquiry as it deems fit, and after giving a hearing to the mediator/conciliator, is satisfied that the said information has raised a justifiable doubt as to the mediator's/conciliator's independence or impartiality, it, shall cancel the appointment of such mediator/conciliator by a reasoned order and replace him by another appropriate person.

- 193. Procedure of Mediation -** (i) The parties may agree to the procedure to be followed by the mediator / conciliator in the conduct of the mediation / conciliation proceedings and where the proceedings are in an organization / institution referred to in rule 190(i) , the rules of such organization / institution will apply;
- (ii) Where the parties do not agree on any particular procedure to be followed by the mediator/conciliator, the mediator/conciliator shall generally follow the procedure hereinafter mentioned, namely:

- (a) he shall fix, in consultation with the parties, a time schedule, the dates and the time of each mediation/conciliation session, where all parties have to be present;
- (b) he shall hold the mediation/conciliation at any convenient location agreeable by him and the parties, as he may determine;
- (c) he may conduct joint or separate meetings with the parties;
- (d)** each party shall, ten days before the first session, provide to the mediator/conciliator a brief memorandum setting forth the issues, which according to it, need to be resolved, and its position in respect of those issues and all information reasonably required by the mediator / conciliator to understand the issues; such memoranda shall also be mutually exchanged between the parties;
- (e)** each party shall furnish to the mediator/conciliator such other information as may be required by him in connection with the issues to be resolved;

194. Mediator/conciliator not bound by Qanun-e-Shahadat

Order 1984 or Code of Civil Procedure, 1908: The mediator / conciliator shall not be bound by the Qanun-e-Shahadat Order, 1984 or the Code of Civil Procedure, 1908, but shall be guided by the principles of fairness and justice, have regard to the rights and obligations of the parties, usages of trade, if any, and the circumstances of the dispute.

195. Non-attendance of parties at sessions or meetings on due dates:

- (i) The parties shall be present personally and/or through their counsel or representative holding power of attorney at the meetings or sessions notified by the mediator/conciliator.
- (ii) if a party fails to attend the session or the meeting notified by the mediator / conciliator, other parties or the mediator/conciliator may apply to the Court which referred the case for disposal through mediation / conciliation mode, for appropriate directions to that party to attend before the mediator/conciliator and if the Court finds that the party has

absented before the mediator / conciliator without sufficient reason, the Court may take action against the said party by imposing costs or by taking action for contempt.

(iii) The parties not resident in Pakistan may be represented at the sessions or the meetings by their representative holding power of attorney or by counsel..

196. Administrative Assistance - In order to facilitate the conduct of mediation/conciliation proceedings, the parties or the mediator/conciliator with the consent of the parties, may arrange for administrative assistance by a suitable organization / institution or person.

197. Offer of settlement by parties - Any party to a dispute may, “without prejudice”, offer a settlement to the other party at any stage of the proceedings, with notice to the mediator / conciliator, and such offer shall normally be considered as confidential and will have no legal or evidentiary value unless accepted by all the parties.

198. Role of Mediator/Conciliator - The mediator/conciliator shall act to facilitate voluntary resolution of the dispute by the parties and communicate the views of each party to the other, assist them in identifying issues, reducing mis-understandings, clarifying priorities, exploring the real cause of conflict and generating options in an attempt to solving the dispute, emphasizing that it is the responsibility of the parties to take decisions which affect them; the parties must understand that the mediator / conciliator only facilitates in arriving at the decision to resolve disputes and that he will not and cannot impose any settlement nor does he give any warranty that the mediation/conciliation will result in a settlement. The mediator/conciliator shall not impose any decision on the parties nor force a settlement.

199. Representation of Parties - Parties may be present before the mediator / conciliator personally or may be represented through their Counsel or representative holding power of attorney.

200. Confidentiality, disclosure and in-admissibility of information:

- (i) When the mediator/conciliator receives factual information concerning the dispute from any party, he shall disclose the substance of that information to the other party, so that the other party may have an opportunity to present such explanation as it may consider appropriate, provided that, when the party gives information to the mediator / conciliator subject to the condition that it will be kept confidential, the mediator shall not disclose that information to the other party.
- (ii) Receipt or perusal, or preparation of records or reports or other documents by the mediator/conciliator, while serving in that capacity, shall be confidential and the mediator / conciliator shall not be compelled to divulge information regarding those documents nor as to what transpired during the mediation / conciliation;
- (iii) Parties shall maintain confidentiality in respect of evidence produced or relied upon by the parties or what transpired during mediation / conciliation and shall not rely on or introduce the said information in any other proceedings as to:

- a. views expressed by a party in the course of the mediation/conciliation proceedings;
- b. documents obtained or other notes, drafts or information given by parties or mediators/conciliators during the mediation/conciliation which were expressly required to be treated as confidential;
- c. proposals made or views expressed by the mediator/conciliator;
- d. admission made by a party in the course of mediation/conciliation proceedings;
- e. as to whether any party had or had not indicated willingness to accept a proposal;

(iv) There shall be no stenographic or audio or video recording of the mediation proceedings.

201. Privacy - Mediation / conciliation sessions and meetings are private and only the concerned parties or the Counsel or representative holding power of attorney can attend. Other persons

may attend only with the permission of all the parties and with the consent of the mediator/conciliator.

202. Immunity - No mediator/conciliator shall be held liable for anything bona fide done or omitted to be done by him during the mediation/conciliation proceedings nor shall he be summoned by any party to appear in a Court of law or any other forum to testify in regard to information received by him or action taken by him or in respect of drafts or records prepared by him or shown to him during the proceedings.

203. Communication between mediator/conciliator and the Court:

- (i) In order to preserve the confidence of parties in the Court and the neutrality of the mediator/conciliator, there should be no communication between the mediator/conciliator and the Court, except as is stated in sub rules (ii) and (iii) of this rule.

- (ii) if any communication between the mediator/conciliator and the Court is necessary, it shall be in writing and copies of the same shall be given to the parties or their counsel or representative holding power of attorney.
- (iii) Communication between the mediator/conciliator and the court shall be limited to communication by the mediator/conciliator:
 - (a) with the Court about the failure of parties to attend,
 - (b) with the Court with the consent of the parties,
 - (c) regarding his assessment that the case is not suitable for settlement through mediation/conciliation,
 - (d) that the parties have settled the dispute or disputes.

204. Settlement / Agreement - (i) Where an agreement is reached between the parties whether in regard to all the issues involved in the dispute or only to some of the issues, the same shall be reduced to writing and signed by the parties or the representative holding power of attorney and if any counsel has represented the

parties, the counsel shall attest the signature of their respective clients.

(ii) The agreement of the parties so signed, shall be attested by the mediator/conciliator who shall, with a covering letter signed by him, forward the same to the court in which the case is pending.

(iii) Where no agreement is reached between the parties, within the time provided under rule 187 (iv), or where, the mediator is of the view that no settlement is possible, he will return the case to the Court in writing in the manner provided under rule 187 (iv).

205. Court to fix a date for recording settlement and passing decree -

(i) Within seven days of the receipt of any settlement, if all the parties are not present before the court, the court shall issue notice to the parties fixing a day for recording the settlement, such date not being beyond a further period of fourteen days from the date of receipt of settlement, and on such date the Court shall record the settlement and,

(a) if the settlement disposes of all the issues involved in the case/dispute the court shall pass a decree in accordance with the settlement so recorded, and

(b) if the settlement disposes of only some of the issues involved in the case/dispute, the Court shall record the settlement on the date fixed for recording the settlement and shall include the terms of the said settlement in its final judgment, while disposing of the other issues not disposed of by the settlement.

206. Fee of Mediator / Conciliator and cost - (i) At the time of referring the dispute for mediation / conciliation, the Court may, after consulting the mediator / conciliator and the parties, fix the fee for the mediator/conciliator, costs of administrative assistance and all other ancillary and related expenses and such fee, costs and expenses shall, unless otherwise directed by the Court, be borne equally by the various contesting parties.

(ii) Where any dispute / case is referred to some recognized institution mentioned in rule 189 for mediation/conciliation the

parties shall pay fee and all other expenses as required by such institution.

(iii) Each party shall bear the costs of production of its witnesses, experts, and/or documents.

(iv) If the expenses of mediation/conciliations including fee, are not paid by the parties, the court shall, on the application of the mediator / conciliator or any party recover the said amount from the defaulting parties and direct its payment to the mediator/conciliator or to the person to whom it is due.

207. Ethics to be followed by the Mediator/Conciliator - The Mediator / Conciliator shall -

- (i) at all times act, and endeavour to be seen to act, independently, fairly and with complete impartiality towards the parties in mediation / conciliation without any bias in favour of any party or any discrimination against any party;

- (ii) not carry on any activity or conduct which could reasonably be considered as conduct unbecoming of a mediator/conciliator;
- (iii) provide accurate information about his or her education, background, mediation/conciliation training and experience, in any representation, biographical or promotional material and in any oral presentation / explanation.
- (iv) uphold the integrity and fairness of the mediation/conciliation process;
- (v) have an obligation to acquire and maintain professional skills and abilities required to uphold the quality of the mediation/conciliation process;
- (vi) conduct himself/herself professionally at all times, and shall not engage in behaviour that will bring disrepute to the mediator / conciliator or the system,
- (vii) provide information to the parties at the commencement of and during the proceeding about the procedural

aspects of the mediation / conciliation process and about his or her role in the mediation / conciliation and that authority for decision making rests with parties and not the mediators / conciliators;

- (viii) recognize and respect the principle that parties in mediation/conciliation have the right to make their own voluntary, non-coerced decision regarding the possible resolution of any issue in dispute;
- (ix) not to provide any legal or professional advice to the parties in mediation / conciliation.
- (x) disclose any interest or relationship likely to affect his impartiality or which might give rise to an appearance of partiality or bias;
- (xi) disclose to the parties, any matter which could be regarded as involving a conflict of interest (whether apparent, potential, or actual) in the mediation / conciliation, such disclosure shall be made in writing to all parties as soon as the mediator / conciliator becomes aware of it and in that event he will not act or continue to

act as the mediation / conciliation unless all the parties specifically acknowledge the disclosure and agree, in writing, to his acting or continuing to act as mediator / conciliator;

(xii) not to act for any of the parties individually in connection with the dispute which is the subject of mediation / conciliation while acting as the mediator or at any time thereafter, without the written consent of all the other parties;

(xiii) not to disclose to anyone informations and / or documents that have come to his knowledge and / or exchanged between the parties during the mediation / conciliation process except,

- i. with the express consent of the parties involved in mediation / conciliation,
- ii. when required to do so by law,
- iii. when the information/documentation discloses an actual or potential threat to human life,

- iv. any report or summary that is required to be prepared by the mediator/conciliator, or
- v. where the data about the mediation / conciliation is for research and education purposes, and where the parties and the dispute are not, nor may reasonably be anticipated to be, identified by such disclosure.

(xiv) maintain confidentiality in the storage and disposal of mediation / conciliation notes, records and files.

(xv) refrain from making promises or giving guarantees about the results in the mediation / conciliation proceedings;

(xvi) withdraw from the mediation / conciliation proceedings, if he / she -

- a) is required to do so by any of the parties,
- b) is in breach of these rules,

- c) is required by the parties to do something which would be in material breach of these rules,

(xvii) withdraw from the mediation / conciliation at his / her own discretion if-

- a) any of the parties is in breach of the mediation / conciliation agreement,
- b) any of the parties is, in the mediator's / conciliator's opinion, acting in an unconscionable or criminal manner,
- c) the mediator / conciliator decides that continuing the mediation/conciliation is unlikely to result in settlement, or
- d) any of the parties allege that the mediator / conciliator is in material breach of these rules.

CHAPTER XIII DIRECTIONS

208. Setting down for directions. (1) When the pleadings have been closed, the suit shall be set down before the Additional Registrar (O.S.) for directions; Provided that any party may apply to the Additional Registrar, (O.S.), before the closing of the pleadings for directions, and the Additional Registrar (O.S.) may grant or refuse such application as he thinks fit.

(2) On the suit coming before him for directions, the Additional Registrar (O.S.) shall, so far as practicable, make such orders as may be proper with respect to the following matters:-

Pleadings, particulars, admissions, discovery, interrogatories inspection of documents or of movable or immovable property and the mode by which particular facts may be proved.

209. Any party may apply for directions at the hearing. Upon the hearing for directions the plaintiff or any of the defendant who has appeared and is contesting the suit shall, so far as practicable, apply for any order or directions with respect to any of the matters set out in sub-rule (2) of Rule 215.

210. Subsequent application must be by petition to Court. Any application subsequent to the hearing for directions as to any interlocutory matter by any party shall be made by petition, three clear days' notice whereof shall be given to the other party or parties stating the grounds of the application. Such application must be to the Court.

211. Costs of subsequent application. Any application by any party which might have been made at the hearing for directions shall, if granted on any subsequent application, be granted at the costs of the party applying unless the Judge is of the opinion that the application could not properly have been made at the hearing for directions.

212. Appeal from Additional Registrar to a Judge. Rule 15 shall apply in the event of any party wishing to have any matter, on which directions have been given by the Additional Registrar (O.S.), under Rules 215 and 216 of this Chapter referred to the Court.

Discovery

213. Agent may make affidavit of documents when none of the parties reside in Karachi. Notwithstanding anything contained in Rule 13 of O. XI of the Code, where the transactions which form the subject matter in a suit have been carried on wholly or principally in Karachi and any of the parties are not residing in Karachi at the time, an affidavit of documents is required to be filed, such affidavit may be made by the agent in Karachi of such absent party on his behalf.

214. Procedure where the affidavit is required to be made by the absent parties. If in the case provided for by the last preceding rule any party desires to have such affidavit made by all or any of the absent parties personally, he shall be at liberty to apply for an order to that effect to the Additional Registrar. (O.S.) setting forth the grounds for making such order and the Additional Registrar, after hearing the opposite party may, if he thinks it, right and just, make such order; but the party obtaining such order shall deposit in Court on account of the costs of such order and affidavit a sum of not less than Rs.1500/-. Such costs shall be dealt with by the Judge who tries the case.

Issues

215. Date for settlement of issues by Court. After the pleadings have been closed and the directions given, if any have been duly complied with, a date shall be fixed for settlement of issues by the Court.

CHAPTER XIV COMMISSIONS

COMMISSIONS FOR EXAMINATION OF WITNESSES

216. Parties to notify commission. (1) When a party to a suit or matter intends to apply for a commission to examine a witness, he shall notify his intention to do so at the first hearing, and thereupon, unless otherwise ordered by the Court, the suit or matter shall not be set down for final disposal.

(2) No application for the issue of such commission as aforesaid shall be entertained after the suit or matter has been set

down for final disposal in default of such intimation unless the Court is satisfied that the application could not have been made earlier, and in that case the court may make such orders as to costs as it deems fit.

217. Commission on interrogatories. (1) Applications for the issue of commissions to examine witnesses on interrogatories shall be made by a party within the time allowed by the Court, and shall be supported by an affidavit and be accompanied by interrogatories. Copies of such application, affidavit and interrogatories shall be served on the opposite party.

(2) If the opposite party objects to the issue of the commission, he shall, within 7 days of the service on him of the aforesaid documents, file his objections.

(3) If the objections to the issue of the commission are disallowed by the Court or if the opposite party does not object to the issue of the commission, such party, shall, within 7 days of the dismissal of the objections or of the service on him of the interrogatories, as the case may be, file cross interrogatories, and serve copies thereof on the other party, who shall, within 7 days thereafter, file re-interrogatories if any. The objections, if any, to the cross interrogatories and re-interrogatories will then be heard and disposed of by the Court.

218. Commission for viva voce examination. Application for issue of commission for *viva voce* examination shall be made by a party within 7 days of notifying his intention under Rule 223, and shall be accompanied by an affidavit disclosing the nature of the evidence sought for from the witness.

219. Final hearing may be fixed after return of commission. If the application referred to in Rule 224 or 225 is granted, the matter may not be set down for final disposal before the return of the Commission except by order of the Judge.

220. Preparation etc., of commission. Commission shall be prepared by the Additional Registrar (O.S.) who shall seal the same and annex thereto the interrogatories, cross-interrogatories, re-interrogatories and documents, if any, and shall enclose them with

directions that the same be returned to him when executed in a sealed envelope.

221. Commission executed by Official Commissioner. Commission for examination of a person within the local limits of the court shall ordinarily be executed by the Official Commissioner appointed by High Court.

222. Examination *de bene esse*. Commissions for examination of witnesses *de bene esse* may be issued at any time notwithstanding anything herein before contained in cases where it is not possible for the examination to be conducted by the Judge. Such examination shall be *viva voce*.

COMMISSIONS FOR TAKING ACCOUNTS AND FOR LOCAL INVESTIGATION AND PARTITION OF IMMOVABLE PROPERTY

223. Official Commissioner to execute Commissions for accounts. The Official Commissioner appointed by High Court, shall ordinarily be the Commissioner for taking accounts, making local investigations and effecting partition of immovable property, unless the Judge directing the commission to issue, for reasons recorded in writing, otherwise orders.

224. Additional Registrar, (O.S.) to send necessary proceedings to Commissioner. The Additional Registrar (O.S.) shall furnish the Commissioner with such part of the proceedings as may be necessary.

225. Commission for taking accounts how executed. (1) The Commissioner shall direct which party shall file a statement of accounts before him and which party shall file a statement of objections and surcharge. He shall also fix the period within which the statements of accounts, objections and surcharge are to be filed.

(2) The statement of account shall be in the form of a debtor and creditor account and shall be verified by the accounting party or his agent. The items on each side of the account shall be numbered consecutively and a balance shall be shown.

(3) The statement of objections shall specify the items to which objections are taken by reference to their numbers in the statement of account.

(4) The statement of surcharge shall specify the amount with the receipt of which it is sought to charge the accounting party, the date when the person from whom and the particular account on which, the same was received by him. The items of surcharge shall be numbered consecutively.

(5) The statement of objections and surcharge shall also state (a) the grounds of each objection and surcharge and (b) the balance, if any, admitted or claimed to be due, and it shall be verified by the affidavit of the party concerned or his agent.

(6) If any party fails to file his statement of account or objections or surcharge within the period allowed, the Commissioner shall report the fact to the Court.

(7) When the case before him is ready for hearing the Commissioner shall, after reading the statements filed before him and after examining the parties, if necessary, ascertain the points on which the parties are at issue and require them to produce their oral and documentary evidence on such points.

(8) After the evidence has been duly taken and the parties have been heard, the Commissioner shall submit his report together with a statement in the form of a diary of the proceedings had before him. The report shall state (a) the contested items allowed or disallowed by the Commissioner, (b) and reasons for allowing or disallowing them, (c) the amount found due, (d) the name of the party to whom it is due and (e) the name of the party by whom it is due.

226. Deposit of commission fees. (1) Commission fees shall be payable according to the scale prescribed in Chapter V in Appendix C.

(2) The Court or the Additional Registrar (O.S.), as the case may be, may order that such amount as it or he considers proper be deposited in Court in advance towards the Commissioner's fees together with the Costs of issue of the commission within seven days of the grant of the commission or Letters of Request or within such

further time as may be allowed. In default, the matter shall be set down for final disposal in due course, unless otherwise ordered for reasons to be recorded in writing.

(3) If at any subsequent time the Court is satisfied that the deposit made under sub-rule (2) is not sufficient to cover the remuneration of the Commissioners, it may, after notice to the parties or their advocates, order that such further amount as it considers proper be deposited in Court within 7 days from the date of such order or within such further time as the Court may allow. In default, the procedure prescribed in sub-rule (2) shall be followed.

(4) No fees shall be paid to the Commission without an order in writing of the Court or the Additional Registrar (O.S.). Except for special reasons recorded in writing such payment shall not be ordered until the commission has been executed and the objections, if any, to the Commissioner's report have been disposed of.

(5) Commission fees in the case of Commissioners being the members of the regular establishment shall be credited to Government.

227. Return of commission. (1) Every order for the issue of a commission or Letter of Request shall appoint a date allowing sufficient time for its execution and return.

(2) If the Commissioner is unable to return the commission duly executed within the time fixed by the Court, he shall apply to the Court for extension of the time and the Additional Registrar (O.S.), may extend the time or the Court may cancel the commission and may appoint another commissioner in his place.

228. Procedure in examination of witnesses. (1) The Commissioner shall follow the provision of the Qanun-e-Shahadat Order 1984 and shall, in case the person examining the witness presses question which the Commissioner shall have disallowed, record such question and the answer thereto unless the Commissioner is satisfied that any such question is put for the purpose of obstruction or delay. He shall also record any objection to the production of a document by or through the witness.

(2) Where times or dates according to any other than the Christian era are mentioned, the Commissioner shall add the times or dates of the Christian era corresponding thereto.

229. Deposition to be read over to and signed by the witness. After the deposition of any witness shall have been taken down and before it is signed by him, it shall be distinctly read over and, when necessary, translated to the witness in order that mistakes or omissions may be rectified or supplied.

The deposition shall then be signed by the witness and left with the Commissioner who shall sign his name and write the date of the examination.

230. Notice of filing of report. Filing objections thereto. (1) On receipt of the report of the Commissioner other than the report forwarding the deposition of a witness recorded by him, the Additional Registrar (O.S.) shall give notice to the parties to the suit or matter of the filing of the report.

(2) Any party desiring such report to be discharged or varied shall, unless the Additional Registrar (O.S), otherwise directs, within ten days from the date of the service of such notice on him, file his objections thereto, and serve a copy of the same on the other parties to the suit or matter. After the objections have been filed as aforesaid, the suit shall be set down for hearing of such objections. If any party, after having filed objections, abandons or does not proceed with them any other party in the same interest shall be all at liberty to proceed with such objections.

CHAPTER XV WITNESSES

231. Summons to witnesses. (1) An application for calling witnesses before the court or a Commissioner appointed to take evidence, shall set forth a list of the witnesses and state, in addition to the particulars required by Rule 133, whether they are required to give evidence as experts or otherwise or to produce any document, and, in the latter case, shall specify the date and description of the document so as to identify it.

(2) If the applicant desires to serve the witnesses or any of them personally under O. XVI, Rule 1-A of the Code, the fact shall be stated in the application.

(3) Upon the grant of process, the process fee, travelling expense and subsistence money chargeable, if any, in respect thereof shall be calculated forthwith.

232. Summoning public officers as witnesses. (1) No application for summons for the appearance of public officers whose absence from duty may be detrimental to the public service shall be granted, unless it is shown by affidavit that their examination on commission will not answer the required purpose.

(2) Except in urgent cases or as otherwise ordered for reasons recorded in writing, a summons requiring a public officer to give evidence or produce documents shall be served on the head of his office or, as the case may be, on the witness directly under Rule 134 at least seven days before the date when the witness is required to attend or the document is required to be produced.

(3) When public officers are summoned, they shall be examined promptly and if necessary, *de bene esse*.

233. Summoning Finger Print expert. When an opinion is desired on documents bearing finger prints the documents shall be sent to the Officer in charge, Finger Print Bureau, Karachi, for opinion.

If it is necessary subsequently that an officer of the Bureau should appear to give evidence in Court, the officer-in-charge may be requested to send a suitable officer, but no particular officer should be summoned by name. Care shall be taken that all the documents concerning to an opinion if required are available in Court on the day on which the officer is summoned.

234. Payment of expenses to witnesses who are public officers.

(1) A Government servant or an employee of the Railway whose salary does not exceed Rs. 6000/- per month whether he is or is not entitled to travelling allowances under the rules regulating the conditions of his service, shall, when summoned as a witness in his

official capacity to give evidence or to produce a document before a Court, be paid travelling expenses in accordance with the prescribed scale.

Any Government servant or the employee of the Railway, whose salary exceeds Rs. 6000/- per month but who is not entitled to travelling allowances under the rules regulating the conditions of his service by reason of the fact the Court is situated not more than five kilometers from his headquarters, shall be paid travelling expenses in accordance with the prescribed scale.

Any sum payable to such servant on account of subsistence allowance shall be credited to the Central or the Provincial Government or the State Railway, as the case may be.

(2) Where the expenses of such servant whose salary exceeds Rs. 6000/- per month and who is summoned as a witness in his official capacity and is entitled to traveling allowance under the rules regulating the conditions of his service, have to be deposited in advance by a private party, the term 'expenses' shall be interpreted to mean the travelling and halting allowances admissible under the rules regulating the conditions of his service (but not subsistence allowance), and the sum so deposited shall be credited to Government.

(3) A Government servant or the employee of Railway, who has not been paid travelling expenses under sub-rule (1) and who is entitled to receive travelling allowances under the rules regulating the conditions of his service shall obtain from the Court a certificate that he has attended in his official capacity for the purpose of giving evidence of facts which had come to his notice or of facts with which he had to deal in his official capacity or of producing a document from public records, stating the date of his appearance, the period for which he has been detained, and that he has received no payment from the Court.

235. Payment of expenses to other witnesses and issue of certificate to Railway servants. Subject to the provisions of Rule 241, witnesses shall be paid their expenses at the rate prescribed in Chapter II in Appendix C daily during attendance. Certificates showing

the number of days and attendance shall, if required, be granted in the case of Railway servants.

236. Re-attendance of witnesses on adjourned hearing. When the hearing is adjourned, re-attendance of the witnesses present may be secured by payment to them of travelling and subsistence allowances at the prescribed rates and by service upon them of an order of re-attendance in Form No. 10 in Appendix A.

PRODUCTION OF PUBLIC DOCUMENTS

237. Production of public documents. (1) Every application for summons for production of public documents shall be supported by an affidavit stating

- (i) the document or documents, the production of which is required,
- (ii) the relevancy of the document or documents,
- (iii) why the production of a certified copy of the same would not serve the purpose, and
- (iv) in cases where the production of a certified copy would serve the purpose, whether application was made to the proper officer for a certified copy and the result of such application.

(2) The Additional Registrar (O.S.) shall not issue such a summons unless he considers the production of the original necessary or is satisfied that the application for a certified copy has been duly made and has not been granted. The Additional Registrar (O.S.) shall in every case record his reasons in writing.

(3) Nothing in this rule shall apply to an application under Order XIII Rule 10 of the Code for production of the record of any other suit or proceeding from the record of the High Court.

238. Return of original public record after its production in evidence. When public records are produced and put in evidence in

original, the Court, unless it thinks it necessary to retain the original, shall direct a copy to be made at the expense of the applicant and shall return the original.

239. Power of Courts to summon public records suo motu.

Nothing in Rule 244 shall prevent the Court of its own motion from sending for public records or other documents in the custody of a public officer or Court if it thinks it necessary for the ends of justice. Costs in such a case of summoning and of production of such evidence shall be paid by such party as the Court directs.

Note:- In making an order for production of official documents, the instructions contained in the Sindh Government Resolution Home Department, No. 1693-H/39, dated 7th December 1939, with respect to procedure to be followed regarding production of official documents in Courts should be followed.

CHAPTER XVI ADJOURNMENTS

240. Adjournments to be to a day certain. All adjournment shall be to a day certain. No suit or matter shall be adjourned *sine die* except for reasons recorded in writing.

241. Adjournment granted only on good cause. No adjournment shall be granted except on good cause which shall be shown in the order granting adjournment. The consent of parties shall not of itself be a good cause for adjournment.

242. Costs of adjournment. (1) If an adjournment is rendered necessary by the conduct of a party, the Court, when granting it, shall impose such terms as to costs and expenses as it thinks proper and may, as a condition precedent, require the party applying to pay forthwith or within such time as the Court may allow to the opposite party such sum as in its opinion will cover all such costs and expenses as are incurred by him by reason of the adjournment.

(2) The Court may forthwith on the application of the party to whom costs are awarded enforce the payment of such costs by attachment and sale of the property of the defaulting party, and may direct that the suit or matter shall proceed as if the application for adjournment had been refused.

243. Notice of antedating of hearing. (1) Any party, who desires that the hearing may be antedated, may apply therefor by interlocutory application of which notice shall be given to the other party or his advocate.

(2) The party served with notice may give to the other party or his advocate notice in writing that he consents to or will oppose such intending.

(3) On the day appointed for hearing of such application the Court will pass necessary orders granting or refusing the application.

CHAPTER XVII ORIGINATING SUMMONS

244. Who may take out originating summons and in respect of what matters. The executors or administrators of a deceased person or any of them, and the trustees under any instrument or any of them, and any person claiming to be interested in the relief sought as creditor, devisee, legatee, heir, or legal representative, or as *cestui qui* trust under the trusts of any deed or instrument, or as claiming by assignment or otherwise, under any such creditor or other person as aforesaid, may take out, as of course, an originating summons for such relief of the nature of kind following as may by the summons be specified and the circumstances of the case may require that is to say, the determination without an administration of the estate or trust of any of the following questions or matters:

- (1) any question affecting the rights or interest of the person claiming to be creditor, devisee, legatee, heir, or legal representative, or *cestui qui* trust;
- (2) the ascertainment of any class of creditors, devisees

legatees, legal representatives or others;

- (3) the furnishing of any particular accounts by the executor administrators or trustee, and the vouching (where necessary) of such accounts;
- (4) the payment into Court of any monies in the hands of the executors, administrators or trustees;
- (5) directing the executors, administrators or trustees to do or abstain from doing any particular act in their character as such executors, administrators or trustees;
- (6) the approval of any sale, purchase, compromise or other transaction;
- (7) the determination of any question arising in the administration of the estate or trust.

245. Order for administration of estate or of the trust. Any of the persons named in the last preceding rule may, in like manner, apply for and obtain an order for-

- (1) the administration of the estate of the deceased;
- (2) the administration of the trust.

246. Persons to be served with summons. The persons to be served with the summons under the last two preceding rules in the first instance shall be the following, that is to say.

- (1) where the summons is taken out by an executor or administrator or trustee-
 - (a) for the determination of any question under sub-rules (1), (5) (6) or (7) of Rule 251, the persons or one of the persons whose rights or interests are sought to be affected;
 - (b) for the determination of any question under sub-rule (2) of Rule 251, any member of alleged member of the class;

- (c) for the determination of any question under sub-rule (3) of Rule 251, any person interested in taking such accounts;
- (d) for the determination of any question under sub-rule (4) of Rule 251, any person interested in such money;
- (e) for relief under sub-rule (1) of Rule 252, the residuary devisees, legatees or heirs or legal representatives or some of them;
- (f) for relief under sub-rule (2) of Rule 252 the *cestui qui* trust or some of them;
- (g) where there are more than one executor or administrator or trustee and they do not all concur in taking out the summons, those who do not concur.

(2) where the summons is taken out by any person other than the executors, administrators or trustees, the said executors, administrators or trustees.

247. Vendor or purchaser may take out summons. A vendor or purchaser of immovable property or their representatives respectively may, at any time or times and from time to time, take out an originating summons for the determination of any question which may arise in respect of any requisitions or objections or any other question arising out of or connected with the contract (not being a question affecting the existence of validity of the contract or any claim for compensation).

248. Persons to be served with such summons. The summons under the last preceding rule shall be served upon such person as under the existing practice would be the proper defendants to a suit for the specific performance of the contract out of which the question to be settled arises.

249. Mortgagee or mortgagor may take out such summons. Any mortgagee or mortgagor, whether legal or equitable, or any person

entitled to or having property subject to a legal or equitable charge, or any person having the right to foreclose or redeem any mortgage, whether legal or equitable, may take out, as of course, an originating summons for such relief of the nature or kind following as may be the summons be specified and as the circumstances of the case may require, that is to say, sale, foreclosure, delivery of possession by or recovery of any deficiency from the mortgagor; redemption, reconveyance and delivery of possession by the mortgagee.

250. When may a partner take out such summons. Where the existence of the partnership or the right to or the fact of the dissolution thereof is not in dispute, any partner in a firm or his representatives may take out an originating summons against his partners or former partners or their representative (*if any*) for the purpose of having the partnership dissolved (if it be still subsisting) and for the purpose of taking the accounts of, and winding up, such partnership, and for the determination of any question arising in such partnership whether to be dissolved or wound up or not.

251. Persons interested under will, etc., may take out such summons. Any person claiming to be interested under a deed, will, or other written instrument, may apply by originating summons, for the determination of any question of construction arising under the instrument, and for a declaration of the rights of the person interested.

252. Court not bound to determine question of construction. The Court shall not be bound to determine any such question of construction if in its opinion it ought not to be determined on originating summons.

253. Persons to be served with such summons. The summons under either of the Rules 257 or 258 shall be served upon the person who would be proper defendants under the existing practice if the same relief were sought in a suit.

254. Service on other person by direction. The Court may, in all cases, direct such other person to be served with an originating summons as it may think fit.

255. Complaint and document alone to be filed. An originating summons shall be in Form No. 11 in Appendix A. The person entitled to apply shall present with it to the Additional Registrar (O.S.) a complaint, setting forth concisely the facts upon which the relief sought by the summons is founded. The complaint shall specify at the end but not in the form of a prayer the relief which is sought by the summons. No documents shall be annexed to the complaint unless greater brevity or clearness would be gained by reference to annexed documents as opposed to setting out in the complaint itself the contents of documents which are not annexed thereto.

256. O.S. complaint how to be marked. The complaint when accepted shall be filed and numbered as an ordinary suit, and entered in the Register of Civil Suits, but after the serial number the letters "O.S.", shall be placed to distinguish it from complaints filed in ordinary suits.

257. Service of originating summons. Originating summons shall be signed by the Additional Registrar (O.S.) and shall, together with a copy of the complaint, be served in the manner provided for the service of summons on a defendant, and the summons after service shall be filed in the proceedings.

258. Returnable date of originating summons. Originating summons shall, in ordinary cases, be made returnable in fourteen days from the date of the admission of the complaint, but the Additional Registrar (O.S.) may fix such longer period as to him may seem proper.

259. Entry of appearance. A party served with an originating summons shall appear before the Additional Registrar (O.S.) on the day fixed for his appearance in the summons and shall present a written statement of his defence, if he so desires. The Additional Registrar (O.S.) shall then fix a date for the hearing of the summons in Court.

260. When may be supported by evidence. On the hearing of the summons, if the parties thereto do not agree to the correctness of the facts set forth in the complaint, the Court may order the summons to be supported by such evidence as it may think necessary; and may give such directions as it may think just for the trial of any question arising

therefrom. The Court may make such amendment in the plaint and summons as may seem to it, to be necessary to make them accord with the existing state of facts, so as properly to raise the questions in issue between the parties.

261. What may be done on bearing originating summons. If it appears to the Court that the matters in respect of which relief is sought cannot be disposed of in a summary manner on originating summons, it may refuse to pass any order on the summons, may dismiss, the same and refer the parties to a suit in the ordinary course; and in such case may make such order as to costs already incurred as may seem to it to be just.

In dismissing the summons the Court may, instead of referring the parties to a suit in the ordinary course, direct that the plaint filed in support of the summons with necessary amendments shall be admitted as the plaint is an ordinary suit. Upon such direction being given, the letters "0.8." placed in pursuance of Rule 263 against the entry of the case in the Register of civil Suits shall be struck off and the suit shall proceed on the amended plaint in all respects as an ordinary suit, and the defendant shall be required to file a written statement if no written statement has been previously filed by him.

262. Costs in originating summons. In originating summons advocates' fees shall ordinarily be taxed in accordance with clause 2 of Chapter VI in Appendix C.

263. Order made on originating summons to be drawn up as decree of Court. If the Court is of opinion that the matter is fit to be dealt with on an originating summons, it may pronounce such judgment as the nature of the case may require, and any order made by it shall be a decree of the Court and shall be drawn up as such; provided that if the Court dismissed the summons under rule 268, it shall be sufficient for it to sign an order to that effect, which shall be filed in the proceedings.

264. Direction as to carriage or execution of decree. The Court may give any special directions touching the carriage or execution of

such decree, or the service thereof upon persons not parties, as it may think fit.

265. Subsequent summons about same estate. When any summons under Rules 251 and 252 has been taken out, every subsequent summons relating to the same estate or trust shall, so far as possible, be heard by the Judge who heard the original summons.

266. O.II, R.2 of the Code not to apply to plaints filed in support of originating summons. Nothing in O.II, Rule 2 of the Code shall apply to plaints filed to support an originating summons or to any proceedings there under.

267. When costs of originating summons shall be allowed in a suit. Where at the hearing of a suit it shall appear to the Court that the party instituting the suit might have obtained the desired relief by originating summons, it may direct that such party shall be allowed on taxation only such costs as would have been incurred in an originating summons.

CHAPTER XVIII

PROCEEDINGS AT THE HEARING OF SUITS, AND UP TO AND INCLUSIVE OF DECREES

268. Evidence, how taken. Upon the hearing of any suit the evidence of witnesses shall be taken down by, or in the presence and under the superintendence of the Judge or one of the Judges or Additional Registrar/Commissioner delegated with Judicial duties u/s 128(i) CPC, not ordinarily in the form of question and answer, but in that of a narrative. The evidence so taken shall be signed by the Judge and shall form part of the record.

269. Any particular question and answer may be taken down. The Judge/Additional Registrar/Commissioner may, of its own motion or on the application of any party or his advocate take down or cause to be taken down any particular question and answer, or any objection to any question, if there appears to be any special reason of so doing.

270. Question objected to and allowed by Court. Where any question put to a witness is objected to by party or his advocate and

the Court allows the same to be put, the Judge/Additional Registrar/Commissioner may take down or may cause to be taken down the question, the answer, the objection and the name of the person making it together with the decision of the Court thereon.

271. Remarks on demeanour of witnesses. The Judge/Additional Registrar/Commissioner may record such remarks as it thinks material respecting the demeanour of any witness while under examination.

272. Assistant Registrar to bring to Judge's notice erasures, etc., and documents tendered in evidence. The Assistant Registrar or other officer in Court shall examine all documents produced or offered in evidence and bring any apparent erasures or interpolations or any apparent insufficiency of the Court-fee or other stamps to the notice of the Judge/Additional Registrar/Commissioner for orders. He shall endorse all documents admitted in evidence and all documents rejected with the particulars required by law and sign or initial such endorsements.

273. Exhibits how marked. Depositions recorded of witnesses of both sides and documents admitted in evidence shall be numbered with cardinal numbers 1, 2, 3 and the following numbers, in one continuous series.

274. Numbering lines of depositions, etc. The Assistant Registrar shall cause every tenth line of all depositions, judgments and orders to be numbered consecutively 10, 20, and 30, and so on for convenience of reference.

275. Proceedings in another suit, how put in evidence. When any proceedings in a suit in the Court are necessary as evidence in another suit in the Court, they shall not be removed from the file of the former suit unless true copies thereof are substituted in the file of the former suit, unless the Judge shall otherwise direct.

276. Witnesses not to be present in Court during hearing of the suit. Witnesses other than the parties shall not except by consent of parties, be present during the hearing of the suit or other matter in Court before their deposition have been recorded.

277. Exhibits to be officially translated. No document, not in the English language, shall be read or received in evidence without an official translation thereof, except by leave of the Judge.

278. No compromise without leave of Court in pauper suits. Where a plaintiff has been permitted to sue in *forma pauperis*, the suit shall not be compromised without leave first had and obtained from the Court.

279. Judgment how delivered. (1) Judgments may be either oral or written.

(2) When the Court delivers a written judgment, no further record of such judgment shall be necessary.

(3) When the Court delivers an oral judgment, it shall be taken down by the shorthand writer. A transcript shall then be prepared for correction by the Judge or Judges who delivered the judgment. A fair copy of the transcript so corrected shall be signed by the Judge or Judges and dated with the date of delivery and shall be the record of the judgment.

280. Written judgment of two or more Judges how pronounced. When any suit or matter is heard by two or more Judges.

(1) If they have agreed to a written judgment and signed it, one of them may pronounce the judgment in the absence, for any reason, of the other or others;

(2) If each one of them has written a separate judgment and signed it, one of them may pronounce the judgment written and signed by the other or others in his or their absence.

281. Payment of costs a condition precedent in order for withdrawal. When a suit is allowed to be withdrawn with liberty to bring a fresh suit on the same matter, unless the Court shall otherwise direct, the order shall be drawn up so as to make the payment of the costs of the suit a condition precedent to the plaintiff bringing a fresh suit.

282. Setting of draft of decree. (1) Advocates shall give notice at the time of judgment if they desire to examine and sign the draft decree before submission to the Additional Registrar (O.S.) and shall

in such cases and in all complicated cases, but not otherwise, be given notice as soon as the draft decree is prepared. They shall within three days from the date of service of such notice examine and sign the draft decree if found correct or file objections thereto, if any.

(2) If the objections filed are such that in the opinion of the Additional Registrar, (O.S.) the other party ought to be heard concerning them, he shall fix a day for hearing them and direct that the other party shall be served with a notice of such hearing together with a copy of the objections filed.

(3) If the Additional Registrar (O.S.) allows the objections, the necessary correction or alteration shall be made in the draft decree and initialed by the Additional Registrar (O.S.) and the decree shall be drawn up accordingly and signed by the Assistant Registrar and submitted to the Judge for signature.

(4) If the Additional Registrar (O.S.) disallows the objections or if no objections are filed within the prescribed time, the decree shall be signed by the Assistant Registrar and submitted to the Judge for signature.

283. Directions under rule 289(3) and (4) liable to be referred to Court. Any matter on which directions have been given by the Additional Registrar (O.S.) under sub-rules (3) and (4) of rule 289 shall, at the request of a party or his advocate be referred to the Court. Such matter shall ordinarily be heard by the Judge who passed the decree.

284. Date of signing decree to be also endorsed. The Judge when signing the decree shall write below his signature also the date, month and year on which the decree is actually signed by him.

285. Copies of decrees to D.O. Revenue. (1) The Deputy Registrar shall cause copies of decrees to be prepared without delay for communication to the D.O. Revenue in cases in which pauper costs are recoverable by Government and in cases affecting immovable property coming within the scope of S. 135-H of the Sindh

Land Revenue Code, 1879, and shall append to the judgment a copy of the communication.

**Certificate under S.11, Court Fees Act to be sent to D.O.
Revenue**

(2) The Deputy Registrar shall also cause the certificate mentioned in section 11 of the Court Fees Act, 1870 as amended by Sindh Act X of 1939, to be sent without delay to the D.O. Revenue.

286. Errors how rectified after decree sealed. After a decree or order has been sealed, any application to rectify any inaccuracy, or clerical or arithmetical error or otherwise, to make it in accord with the judgment, shall be made to the Judge who passed the decree or order, or in the event of his absence on leave or retirement, to any other Judge, and he may (in his discretion) after notice to the parties, when the Judge deems it necessary, amend the same so as to bring it into conformity with the judgment, or rectify such inaccuracy or error. Save as aforesaid no alteration or variation shall be made without a review of judgment and rehearing under the provisions of section 114 and O. XLVII of the Code.

**CHAPTER XIX
TAXATION OF COSTS**

287. What bills of costs are to be taxed by the Deputy Registrar? The Deputy Registrar shall tax all bills of costs on every side of the Court and in the insolvency Court.

288. Time for filing bill of costs. Each party shall within five days from date of a judgment or order submit his bill of costs.

289. Receipt and advocate's certificate to accompany bill of costs. The bill of costs shall be accompanied by the Nazir's receipt for process fees expenses of witnesses and all other monies paid into the Court. It shall also be invariably accompanied by a certificate from the advocate concerned that he had not agreed to receive less than the amount of advocate's fees entered in the bill of costs or to return any part of the same. In default of such certificate advocate's fees shall not

be allowed under the decree on taxation of costs. In the event of any advocate having agreed to receive less, the amount actually agreed to be received shall be certified and entered in the bill of costs and that amount shall be allowed on taxation of costs.

390. Notice for taxation. When a bill of costs has been duly lodged before taxation of posts, two days' notice shall be given to the opposite party: Provided that no-notice shall be necessary in any case when the defendant has not appeared in person or by his advocate or guardian.

391. What expenses of witnesses may be included in costs. No expenses of witnesses other than those paid through the Nazir shall be included in the costs allowed.

392. Condition for taxing expenses of copies of documents. All copies of documents required by any party in whose favour costs have been awarded must be applied for and all charges therefore paid before taxation of costs and no expenses of procuring such copies shall be allowed after taxation.

393. Taxation of costs. (1) Except as otherwise provided in rule 480, advocate's fee shall be taxed according to the scale prescribed in Chapter VI in Appendix C. other costs shall be taxed according to the charges necessarily and actually incurred. The charges shall be included in addition to other costs allowable under the rule, the cost of mediation, cost of typing according to the ordinary scale or where the cost of printing is shown, cost of printing, pleadings for the use of the Court, the fee paid at the Registration Office for searching and for obtaining copies of the necessary documents filed in Court, and the cost of preparation of process taxed according to the scale prescribed in Chapter VII in Appendix C.

(2) Costs Consequences of Failure to Accept offer to settle.

(I) When a plaintiff makes an offer to settle, that is not accepted by the defendant, the court may award the

plaintiff an amount not exceeding twice the cost of the action, if the following conditions are met:

- (i) The plaintiff obtains a judgment as favourable as or more favourable than the terms of the offer.
 - (ii) The offer was made at least seven days before the trial.
 - (iii) The offer was not withdrawn and did not expire before the trial.
- (II) When a defendant makes an offer to settle that is not accepted by the plaintiff, the court may award the defendant an amount not exceeding twice the costs awardable to a successful party, from the date of the offer was served, if the following conditions are met:
- (i) The plaintiff obtains a judgment as favourable as or less favourable than the terms of the offer.
 - (ii) The offer was at least seven days before the trial.
 - (iii) The offer was not withdrawn and did not expire before the trial.
- (3) Unless the court expressly directs otherwise, the following costs shall not be deemed to have been incurred *necessarily* within the meaning of sub-rule (1) and shall not be taxed;-
- (i) Court-fee stamps on all applications dismissed, or not allowed or not pressed;
 - (ii) Court-fee stamps on all unnecessary or defective applications or applications to suit the convenience of a party such as for adjournment of hearing, for time to file written or other statements or to take some step for showing cause in case of any default or omission, for withdrawing a claim or for amendment of any pleading

or petition;

- (iii) Expenses of affidavits improperly or unnecessarily incurred;
- (iv) Expenses of filing and proving unnecessary documents or documents which the other party was not previously called upon to admit by notice (O. XII, r. 2), or of exhibiting interrogatories unreasonably, vexatiously or at improper length (O.XI, r. 3);
- (v) Process-fee for serving persons found by the Court to have been unnecessarily impleaded or the suit against whom has been dismissed, withdrawn or not prosecuted; and
- (vi) Charges incurred in procuring the attendance of unnecessary witnesses.

- (3) At the time of passing an order disposing of an application, the Court or the Additional Registrar (O.S.) shall direct whether or not the costs of it shall be costs in the cause.

393-A. If in a Suit or other proceeding including Execution Proceeding Court, at the time of passing final order, for the reason to be recorded in written, can award in addition to cost under Rule 300, compensatory Cost not exceeding rupees one lac if claim or defence is false or vexatious to knowledge of the parties asserting it or party approach the Court with ulterior motive or concealed material facts.

394. Review of taxation only on notice to the opposite side. No application for review of taxation, unless the taxation was *ex parte*, shall be made except on notice to the opposite side.

395. No review of taxation of costs if bill of costs not filed in time. If the bill of costs is not filed within the time fixed under Rule 295, the bill will be prepared by the taxing officer and no application for review of taxation shall be allowed, unless made before the decree is signed.

396. What costs allowed after taxation. The only costs which shall be allowed after taxation shall be the costs of execution or of transmission of the decree to another jurisdiction. Such subsequent costs shall be entered on the face of the decree.

397. Meaning of “proportionate costs”. Where “proportionate costs” or “costs in proportion” are allowed, such costs shall bear the same proportion to the total costs as the successful part of the claim bears to the total claim.

398. Application to Court for review of taxation. Any party who may be dissatisfied with the decision of the Deputy Registrar as to any item or part of any item may, not later than fourteen days from the date of the decision or within such further time as the Court may allow, apply to the Court for an order to review the taxation as to the said item or part of any item, and the Court may thereupon after notice to the other side, if necessary, make such order as to it may seem just; but the taxation of the Deputy Registrar shall be final and conclusive as to all matters which shall not have been objected to in manner aforesaid.

399. Hearing of such application. Such application shall be heard and determined by the Court upon the evidence which shall have been brought in before the Deputy Registrar, and no further evidence shall be received upon the hearing thereof, unless the Court shall otherwise direct.

CHAPTER XX ARBITRATION

Proceedings under Chapters III and IV of the Arbitration Act, 1940

400. Proceedings under Chapters III and IV how entitled. (1) Every application under section 20(1) of the Arbitration Act, 1940 (hereinafter in this rule and rules 308 to 322 called the Act) shall be verified, numbered and registered as a suit. All subsequent applications shall be entitled in such suit.

(2) All applications under Chapter IV of the Act shall be entitled in the suit in which they are filed.

SPECIAL CASE

401. Form. A special case shall be submitted in Form No. 12 in Appendix A. It shall set out clearly and distinctly the questions of law on which the opinion of the Court is required and shall state concisely, in paragraphs numbered consecutively, such facts and refer shortly to such documents as may be necessary to enable the Court to decide the said questions and shall be signed by the arbitrators or umpire.

402. Special case to be forwarded to Additional Registrar (O.S.).

(1) A special case shall be forwarded to the Additional Registrar (O.S.) accompanied by the documents or copies of the documents therein referred to. The Additional Registrar (O.S.) shall fix a day for the appearance of the parties before him and issue a notice accordingly to the parties.

Hearing in Court

(2) The Additional Registrar (O.S.) on being satisfied as to the service of the notice on the parties shall, as soon as the special case is ripe for hearing, fix it for hearing on the next or some other miscellaneous business day.

Awards

403. Form of award. (1) An award shall so far as possible be in Form No. 12-A in Appendix A.

Award in form of special case

(2) Where the arbitrators or umpire state on award wholly or in part in the form of a special case, they shall follow the provisions of Rule 308 and shall also, so far as it is practicable, state the award on various points of law in the alternative. Where it is not practicable to do

so, they shall state the award according to the view they take of the law.

404. Award how filed in Court. (1) The arbitrators or umpire shall cause the award or a signed copy of it to be filed in Court by forwarding the same under a sealed cover addressed to the Additional Registrar (O.S.) with a petition in Form No. 12-B in Appendix A requesting the same to be filed. The arbitrators or umpire shall state in the petition the name of the party or of any person claiming under him at whose request the award copy of it is being filed and the amount of fees and charges received, if any. The arbitrators or umpire shall also send together with the award or copy of the arbitration agreement and the reference, if in their possession, the depositions and documents which may have been taken and proved, the opinion pronounced by the Court on a special case, submitted by them, if any, and also a copy of the notice given to the parties together with receipts or acknowledgements thereof.

(2) If the Court makes an order under section 38 of the Act directing the award to be delivered, it shall further direct that the arbitrator or umpire shall also deliver the documents mentioned in sub-rule (1), if in their possession, to the applicant who shall cause the award to be filed in Court by forwarding the same together with the aforesaid documents under a sealed cover to the Additional Registrar (O.S.) with a petition in Form No.12-B in Appendix A.

(3) When an award made without intervention of a Court has been so filed, the accompanying petition shall be numbered and registered as a suit between one or more of the parties interested or claiming to be interested under the reference as plaintiff or plaintiffs and the remainder as defendant or defendants.

An award made and a special case stated in arbitration under Chapter III and IV of the Act shall be entitled in such suit.

405. Service of notice of filing of award in Court. (1) The Additional Registrar (O.S.) shall issue notice to the parties other than the party referred to in Rule 311 (2) of the filing of an award in Form No. 12-C in Appendix A. If a special case is stated in the form of an award, the provisions of Rule 309 shall also be followed, so far as may be, for hearing the special case.

(2) The arbitrators or umpire or the party referred to in rule 309 (2) shall deposit Rs.50/- in the first instance in Court to meet the cost of such notice.

406. Form of application to modify, correct or set aside award.

An application to modify, correct or set aside an award, or to remit an award to the arbitrators or umpire for reconsideration shall be made by a verified petition which shall set out the grounds on which the application is made. Such petition shall be entitled in the suit in which it is filed. A notice of such petition shall be served on the opposite party.

Interim Orders

407. Applications for interim orders to be by interlocutory applications. (1) All applications under section 18 of the Act shall be by interlocutory applications, which shall, so far as may be and subject to the provisions of section 18 of the Act, be-regulated by Rules 73 and 74.

(2) The affidavit filed with such application must among other things show that the provisions of Rule 311 have been duly complied with, that the arbitration agreement, the reference and the award passed thereon are *prima fade* free from objection and that delay in granting the application pending the service of notice under Rule 312 or pending expiry of the Act, as the case may be, is likely to prejudice him.

408. Service of notice of interim order on opposite party. (1) A copy of an interim order passed under section 18 (1) of the Act together with a copy of the application made and affidavit filed in support of it shall be served on the person against whom such interim order has been passed.

(2) If the party to whom notice has issued wished to show cause, the provisions of Rule 75 shall, so far as may be, be followed.

Applications

409. Form of other applications under the Act and their registration. (1) Save as aforesaid, all applications under the Act shall be made by petition entitled in the matter of the Act and the arbitration.

(2) There shall be annexed to every such petition the documents, if any, relating to the subject matter of such application.

(3) Every such petition shall be supported by affidavit and, unless otherwise ordered by the Court, the provisions of Rules 74 to 76 shall, so far as may be apply.

The person making an application shall be the petitioner and the person served therewith, the respondent.

(4) Every petition or copy thereof shall specify the persons affected thereby and upon whom notice must be served as hereinafter provided.

(5) Every such petition and every special case in a arbitration without intervention of a Court (not being a special case stated in the form of an award) shall be numbered and registered as a miscellaneous application: Provided that if more applications are made in the same arbitration for extension of time under section 28 of the Act, subsequent applications shall bear the number and title of the first such application.

(6) This rule shall not apply to an application under section 34 of the Act.

410. Notice to persons concerned. Notice shall be served upon all person specified in the application under Rule 316 (4), upon the arbitrator, arbitrators or umpire against whom an application under section 11 of the Act is made and upon such other person as may appear to the Court or the Additional Registrar (OS.) to be affected by or concerned with the application.

Stay of Proceedings

411. Title of applications, etc., under section 34. (1) Applications, affidavits and proceedings under section 34 of the Act shall be entitled in the suit or the proceeding which the applicant seeks to have stayed.

Notice to issue before ordering stay of proceedings

(2) No proceeding shall be stayed under section 34 of the Act without notice to the opposite party, except where it appears that the object of granting a stay would be defeated by the delay occasioned by the notice, when an interim stay may be granted.

Fees

412. Advocates' fees. Advocates fees shall be calculated at the rates laid down in clause 2 of Chapter VI in Appendix C except, if the Court so thinks fit, in the case of an application to set aside an award when the fees shall be calculated at half the rates laid down in clause 1 of the said Chapter.

General

413. Notice of appointment of arbitrator. A notice of appointment of the arbitrators or umpire, as the case may be, under sections 8(2), 12, 20, or 23 of the Act shall be in Form No. 12-D in Appendix A. Such notice shall be served at the cost of the party making the application.

414. Mode of service of notice. (1) Unless otherwise ordered, all notices under this Chapter.

- (a) shall be served in the manner prescribed by or under the Code for the service of summons, or
- (b) if the Additional Registrar so directs, may be addressed, whether they reside within the jurisdiction of the Court or not to the parties, arbitrators or umpire, as the case may be, at the place where they reside and sent to them by registered post prepaid for acknowledgement, provided that at such place there is a regular postal service.

(2) When notices are served on the arbitrators or umpire under clause (a) of sub-rule (1), they shall be served on, them personally.

415. Award includes interim award. The foregoing provisions relating to an award shall apply, so far as may be, to an interim award: Provided that in the case of arbitration without intervention of a Court an award or awards subsequent to the first interim award shall bear the same title and number as the first interim award.

RECOGNITION AND ENFORCEMENT (ARBITRATION AGREEMENTS AND FOREIGN ARBITRAL AWARDS)

416. Title of applications, etc. Applications, affidavits and proceedings for the enforcement of arbitration agreement and foreign arbitration awards etc. shall be entitled in the suit or matter which the applicant seeks to have stayed.

417. Applications for stay of Arbitration Proceedings to be disposed of as miscellaneous matters. Applications for the stay of Arbitration Proceedings shall be made by petition and shall be disposed of as miscellaneous matters.

418. Contents of petition. Every petition shall be divided into paragraphs, numbered consecutively, and shall contain in a summary form a statement of the material facts relied on and the nature of the relief asked for, and shall specify the persons liable to be affected thereby.

419. Stay of Foreign Arbitration proceedings. (1) Upon an application for stay of proceedings, the Court shall direct notice to be given to the party or parties to the proceeding, other than the applicant, requiring him or them to show cause, within the time specified, why the order should not be made, unless the Court is satisfied that the object of the application would be defeated by the delay occasioned by the notice.

(2) Any order for stay made under sub-rule (1) may be varied or set aside by the Court on application made thereto by any party dissatisfied with such order.

420. Documents to be produced with petition. (1) The Party seeking to enforce a foreign award shall produce with his petition-

- (i) the original award or a copy thereof duly authenticated in manner required by the law of the Country in which it was made;
 - (ii) evidence proving that the award is a foreign award;
 - (iii) an affidavit or affidavits showing (a) that the said agreement was valid under the law by which it was governed, (b) that the award was made by the tribunal provided for in the agreement or constituted in the manner agreed upon by the parties, (c) that it was made in conformity with the law governing the arbitration procedure, and (d) that it has become final in the country in which it was made; and
 - (iv) other document or documents in support of his application.
- (2) Where any document requiring to be produced is in a foreign language, the party seeking to enforce the award shall produce a translation into English certified as correct by a diplomatic or consular agent of the country to which that party belongs or certified as correct in such other manner as may be sufficient according to the law in force in Pakistan.

Procedure to be followed in case of non-production of documents with petition

(2) If the application is presented without the document specified in Rule 327, it shall forthwith be returned to the party presenting it. If such application is unaccompanied by the documents specified Rule 327, the Court may allow time within which such documents must be filed.

421. Presumption as regards certain copies. (1) The Court shall presume that a copy of an agreement for arbitration or of an award required to be produced under sub-rule (1) of Rule 327 is duly authenticated in manner required by the law of the country in which it was made if it is certified on the face of such copy by a diplomatic or consular agent of the country and it was made that the authentication is in the manner commonly used in that country for the authentication of copies of such documents.

(2) The Court shall presume that any document purporting to be a copy of the arbitration proceeding relating to the award is genuine and accurate if it is certified on the face of such document by a diplomatic or consular agent of the country in which the arbitration proceedings took place that the document is authenticated in manner commonly in use in that country for the authentication of copies of such documents.

422. Execution of decree and orders. The provisions of the Code and the Rules and Forms of this Court relating to execution of decrees and orders shall, *mutatis mutandis*, be applicable to the execution of decrees for enforcement of award.

423. Advocates fees. The advocates' fees shall be calculated at the rates laid down in clause 2 of Chapter VI in Appendix C except, if the Court so thinks fit, in the case of an application to set aside an award when the fees shall be calculated at half the rates laid down in clause 1 of the said Chapter.

CHAPTER XXI PROCEEDINGS IN EXECUTION

424. Interpretation. In this chapter the word “decree” includes order.

APPLICATION FOR TRANSMISSION

425. Transmission of decree for execution. (1) An application for the transmission of a decree to another Court for execution shall be entitled in the suit, shall specify the Court to which the transmission of the decree is sought and be supported by an affidavit stating the grounds. It shall be accompanied by a certified copy of the decree or an application for the same.

(2) If the application is granted, the applicant shall within 3 days thereafter deposit in Court the expenses for preparing a certified copy of the decree, if it is not filed with the application.

(3) The Additional Registrar (O.S.) shall transmit by registered post, at the cost of the applicant, the certified copy of the decree together with the other documents mentioned in Order XXI, rule 6 of the Code to the Court to which the transmission is sought in accordance with the provisions of rules 4 and 5 of O.XXI of the Code.

426. Stay of execution on transmission. When a decree is sent to another Court for execution, execution of the decree will not be stayed in the proceedings in this Court unless this Court shall, on such terms as it thinks fit, otherwise, direct.

427. Transmission of decree in two or more districts simultaneously. When a person against whom execution is sought has property in two or more districts, the Additional Registrar (O.S.) may, on being satisfied of the necessity cause a copy of the decree obtained against such person to be transmitted for execution in some or all of such districts, contemporaneously. In the certificate of non-satisfaction, to be sent therewith to the Court of each of such districts it shall be stated to what other Courts a copy of the decree or order has been sent for execution. At the same time a letter shall be sent to the Judge of one of such Courts requesting him to attach and sell the property in his district (hereinafter mentioned as district A), or a

sufficient portion thereof, and certify the result to this Court, and with such letter shall be sent a copy of the letter sent to the Judge of each of the other Courts. A letter shall also be sent to the Judge of each of the other Courts, requesting him to attach the property in his district, but not to sell the same until furnished by this Court with information as to the result of the sale of the property in district A.

428. When insufficient amount realized in first district. If the amount realized in district A shall not be sufficient to satisfy the decree, a certificate stating the result of the sale shall be sent to the Judge of another of such Courts with a letter requesting him to sell the property under attachment in his district (hereinafter mentioned as district B), or a sufficient portion thereof, and certify the result to this Court.

429. Also in second or succeeding districts. If the amount realized in execution in district B shall not be sufficient to satisfy the balance payable under the decree, the proceedings indicated in the last preceding rule shall be followed, and so, on as to each of the other districts successively.

430. When sufficient amount realized in execution. If the amount realized in execution in district A. or district B or any other district except the last, shall be sufficient to satisfy the decree, a certificate that such case shall be sent to the Court of each district, in which property shall at the time be under attachment in execution of the decree.

431. Notice of execution of foreign Court decree to issue to judgment-debtor. Unless the Court otherwise directs, notice of the decree of another Court transmitted to this Court for execution shall issue to the judgment-debtor.

432. Register of decrees received from other courts. Decree received for execution from other Courts shall be entered in the Register of Decrees received for execution from other Courts; whether they be decrees of Courts within Pakistan or of Courts outside Pakistan covered by section 43, 44 and 44-A of the Code.

433. Return of decree to the transmitting Court. If, after a decree has been sent to the High Court for execution, the decree-holder does

not within six months from the date of the transfer apply to the Court for the execution of his decree, the Additional Registrar (O.S.), shall certify to the Court which passed the decree the fact that no application for execution has been made to this Court and shall return the decree.

APPLICATION FOR EXECUTION

434. Application under O. XXI, r. 15 to be supported by affidavit.

An application under rule 15 of O.XXI of the Code shall be supported by an affidavit stating the grounds.

435. Checking and admission of execution petition. The applications for execution shall ordinarily be checked in the order in which they have been filed as reference to the execution proceedings and to the Register of Civil Suits and all objections thereto, if any, shall be noted thereon. They shall then be submitted to the Additional Registrar (O.S.), for orders. All applications for execution, when admitted, shall be entered in the Register of Execution Applications.

436. Procedure in execution application under O.XXI, r 15. When an application is made by one or more of several joint decree-holders, unless a written authority signed by the other decree-holders for the applicant to execute the decree and to receive the money or property recovered, is filed in Court, the Court or the Additional Registrar (O.S.), may give notice of the order, if any, passed for the execution of the decree to all the decree-holders who have not joined in the application and may also give notice of any application for payment or delivery to the applicant of any money or property recovered in execution.

437. Procedure when cause not shown. Where execution is for the arrest of a judgment-debtor, if the judgment-debtor does not appear on the day of hearing fixed under the notice issued or on such day as the hearing thereof may be postponed to the notice and the affidavit of service thereof shall be filed and the Additional Registrar (O.S.), after being satisfied that it is a fit case for a warrant of arrest to issue, shall make an order for the issue of warrant of arrest.

438. Additional Registrar, (O.S.), not to issue execution simultaneously against person and property. The Additional

Registrar (O.S.) shall not issue execution against the property of a judgment-debtor at the same time that he or the Court has issued execution against his person. But a judgment-creditor desiring to proceed against both at once, must apply specially to the Court on affidavit, and in case of such application being refused, shall not be allowed to include the costs thereof in his costs as against the debtor without the special order of the Court. But when a warrant for the arrest has not been executed, the Additional Registrar (O.S.), may, at the request of the judgment-creditor, forthwith issue a warrant for the attachment.

439. Application for receiver in execution of decree. An application for the execution of a decree by the appointment of a receiver under section 51 and Order XL, rule 1 of the Code to realize or otherwise deal with property under attachment shall be made to the Court, and such receiver shall, unless otherwise ordered, be subject to the rules of this Court applicable to persons appointed receivers of property, the subject-matter of a suit.

MODE OF EXECUTION

Execution of documents

440. Decree-holder to file in Court the draft and fees for service. The decree-holder shall file two copies of the draft referred to in Order XXI, rule 34(l) of the Code and two copies of the Notice in Form No.15 in Appendix A together with the prescribed process fee for service thereof. One of the copies of the draft shall be served on the person directed to execute the document in the manner prescribed for service of summons on the defendant to a suit.

441. Execution of document under O. XXI, rule 34(5). Unless otherwise ordered by the Court, a document shall be executed or negotiable instrument endorsed under Order XXI, rule 34 (5) of the Code by the Additional Registrar (O.S.).

Arrest

442. Deposit with warrant of arrest. With every warrant of arrest before or after judgment there shall be deposited with the Nazir a sum

of Rs.2000/- for the intermediate subsistence of the judgment-debtor pursuant to Order XXI, rule 39 (1) to (4) of the Code.

443. Production of persons arrested after sunset. Every person arrested after sunset shall be immediately lodged in the jail and brought before one of the Judges at the opening of the Court on the next working day. If such day be a Sunday or other holiday, he shall be brought before one of the Judges at his place of residence.

444. Superintendent to keep in custody. The Superintendent of the Jail, Karachi, shall receive and keep in his custody any person arrested till the said person can be placed before a Judge for an order of committal or otherwise; provided that on committal an order of committal shall be lodged with the Superintendent.

445. Production before Judge under fresh warrant of persons already in custody. When a warrant is received to arrest a person already in custody of the Superintendent of the Jail, Karachi, on civil process, the Superintendent shall forthwith cause the person to be brought before a Judge for an order of committal. The Judge may then apportion the subsistence allowance between the detaining creditors in such manner as he thinks just.

Attachment

446. Application of encumbrancer to be made a party to the suit or to join in the sale. An encumbrancer, not a party to the suit, may at any time before the sale apply to the Court to be made a party or for leave to join in the sale; and such order shall be made thereon and in protection of his rights and as to costs as to the Judge shall deem fit.

447. Inquiry before the Additional Registrar, (O.S.) as to matters specified in O.XXI, rule 66. (1) If the judgment-debtor appears before the Additional Registrar (O.S.), pursuant to the notice issued under Order XXI, rule 66(2) of the Code, the Additional Registrar (O.S.), shall examine him on any matter affecting his title to the attached property. The judgment creditor may also examine him on any matter relating thereto. If the judgment-debtor fails to attend, the Additional Registrar (O.S.) shall proceed *ex parte*.

(2) The Additional Registrar (O.S.) may also exercise powers under order XXI, rule 66 (4).

(3) Documents produced (if any) shall be left with the Additional Registrar (O.S.), and shall be subject to his directions both as to their custody pending the sale and their ultimate disposal, such directions being subject to appeal to the Court.

448. Receipt of attached property to be given. A bailiff attaching movable property shall, if required, furnish to the judgment-debtor or other person, from whose possession the movable property is attached, a receipt in the form of a list of the said property signed by the said bailiff.

449. Procedure where property is already under attachment by revenue authorities. When property to be attached is already under attachment by the revenue authorities, the bailiff shall require the Makthiarkar or, in his absence, the Head Munshi of the place to give him a certificate to that effect stating also the amount of the Government demand. On such certificate being issued to him, the bailiff shall refrain from attaching the property and shall report to the Nazir.

450. Removal of property attached under O.XXI, Rule 43 to the Court. All live-stock and other movable property attached under Order XXI, rule 43 of the Code shall ordinarily be removed and conveyed by the attaching officer or by his subordinate or by persons specially engaged by him for the purpose to the Court premises or other appointed place and there kept under due custody till sold or otherwise disposed of according to law:

Provided that if the property attached consists of cash, Government or other securities, jewels or other valuable articles of small bulk, the Nazir may send the same for safe custody to the Government Treasury.

451. Removal to Court by judgment-creditor on executing bond. In cases where it is found more convenient so to do, the property may be handed over to the judgment-creditor for removal and conveyance to the Court premises or other appointed place for the purpose specified in the next succeeding rule, provided such person enters into a bond in Form No. 17 in Appendix A.

452. Procedure where removal impracticable or costly. (1) When the property is of such a nature that, in the opinion of the attaching officer, its removal to the Court premises or other appointed place is impracticable or can only be effected at a cost out of proportion to its value, the attaching officer shall report his opinion to the Additional Registrar (O.S.), and, pending receipt of his order, shall arrange for its proper maintenance, guarding and custody at or near the place at which it has been attached.

(2) The Additional Registrar (O.S.), on receipt of such a report as is mentioned in sub-rule (1), may either order the removal of the property to the Court premises or other appointed place or sanction its detention at the place at which it has been attached or elsewhere under such conditions as to its maintenance, guarding and custody as he thinks fit.

(3) Nothing in this rule affects the power of the attaching officer under the provisions of Order XXI, rule 43 of the Code to sell such property at once if it is subject to speedy and natural decay.

453. Deposit of cost for removal or maintenance of property. Before making any order for the attachment of live-stock or other movable property, or at any time after any such order has been passed, the Court or the Additional Registrar (O.S.), may require the person at whose instance the order of attachment is sought or has been made to deposit in Court such sum of money as the Court or the Additional Registrar (O.S.) may consider necessary-

- (a) for the removal of the property to the court premises or other appointed place and its maintenance, guarding and custody till arrival thereat.
- (b) for the maintenance, guarding and custody of the property at the Court premises or other appointed place till it is sold or otherwise disposed of; and
- (c) for the maintenance, guarding and custody of the property at the place at which it was attached or elsewhere.

In case of failure to deposit such sum within the time prescribed by the Court or Additional Registrar (O.S.), the Court or Additional

Registrar (O.S.) may either refuse to issue or may cancel the order of attachment, as the case may be.

454. Account to be rendered on demand. An account of the expense actually incurred shall, on demand being made on or before the date of the sale, be furnished to the attaching creditor and to the person whose property was attached and the amount that the Additional Registrar (O.S.), after hearing their objections to the account, if any, made within three days after furnishing the same, finds to be properly due, shall be deducted as a first charges from the proceeds of the sale of the property and paid to the attaching creditor along with any balance that there may be of the deposit.

455. Restoration of attached property on payment of costs incurred. (1) If in consequence of the cancellation of the order of attachment or for any other reason the person whose property has been attached becomes entitled to receive back the live-stock or other movable property attached, he shall be given a notice by the Additional Registrar (O.S.), that he should take delivery of it within the time prescribed by the Additional Registrar (O.S.) on payment by him of all charges, if any, found by the Court or the Additional Registrar (O.S.) to have been properly incurred and which have not been defrayed or for the defrayal of which no money has been deposited by the attaching creditor.

(2) If he commits default in taking delivery of the property by failure to pay the requisite charges or otherwise, the Additional Registrar (O.S.) may order that the property be sold by public auction and that after defraying the charges referred to in sub-rule (1), if any, and the expenses of the sale, the balance of the sale-proceeds be credited to his account.

Sale of attached property

456. Notice regarding sale of guns and other arms, etc., attached. Whenever guns or other arms in respect of which licenses have to be taken by purchasers under the Arms Act XI of 1878 or any other articles in respect of which Licenses have to be taken under any law in force, are sold by public auction in execution to decrees, the Additional Registrar (O.S.), shall give due notice to the District Magistrate/DCO, Karachi, or other appropriate officer of the names

and addresses of the purchasers and of the time and place of the intended delivery to the purchaser of such arms or other articles.

457. Sale of Government Promissory Notes, how made.

Government Promissory Notes attached in execution of a decree, which have to be disposed of in satisfaction of the decree, shall be sent by the Additional Registrar (O.S.), to the Controller Sindh, with instructions regarding the disposal of the sale-proceeds of the notes.

458. Immediate sale of movable property. In the case of property to be sold under the proviso to rule 43 of Order XXI of the Code:

- (i) if such property is in the Court premises in the custody of the Nazir, the Additional Registrar (O.S.) , may authorize him to sell the same by public auction and may give such directions as to the date and place of sale and the manner of publishing the same as the circumstances of the particular case admit;
- (ii) in other cases the sale shall be made by public auction and after such publication and notice as the circumstances of the particular case admit.

459. Place of sale of Live-stock, etc. Save as provided by the last preceding rule and rule 74 of Order XXI of the Code and unless the Court otherwise orders, all sales of live-stock, articles of local manufacture, and other things commonly sold at country markets, which have not been brought to Court shall be held at such market in the neighbourhood of the place where the goods were attached as may appear to be for the greatest advantage of the debtor, regard being had to the prospect of good prices and to the saving of expenses in carriage.

460. Application for sale to be accompanied by abstract of title.

An application for sale of immovable property attached shall be accompanied by an abstract of the title of the judgment-debtor so far as it can be ascertained and if the original title deeds are in the hands of the decree holder, they shall be produced in Court.

461. Contents of sale proclamation. In addition to the particulars specified in sub-rule (2) of rule 66 of Order XXI of the Code the proclamation shall contain a notice that only the right, title and interest

of the judgment-debtor is to be sold that purchasers must satisfy themselves as to the judgment-debtor's title to the property, and that the title deeds or an abstract of the judgment debtor's title will be open for inspection at the office of the Nazir.

The proclamation shall, whenever such information is available also state in whose possession and occupation the property is and the tenancy or terms on which any person is in occupation or possession.

462. Publication of proclamation. Whenever the sale of land or of a house or houses exceeding Rs.1,00,000/- in value or of movable property exceeding Rs.1,00,000/- in value is ordered, the Nazir shall, with the permission of the Court, advertise such sale in a local newspaper or newspapers as may be ordered by the Additional Registrar (O.S.).

463. Copy of sale proclamation to be sent to D.O. Revenue in case of sale of land. When any land or share of land is ordered to be sold in execution of a decree, the Court shall send a copy of the proclamation of sale issued under Order XXI, rule 67 of the Code to the D.O. Revenue of Karachi, or as the case may be, to the DCO, City District Government of Karachi.

464. Place of sale of immovable property. As regards all sales of immovable property, the Additional Registrar (O.S.) in fixing the place of sale will consult the wishes of the parties, preference being given to those of the judgment-debtor. In the absence of any expressed wish on the subject by the parties, the sale shall be held where the property is situated except in cases in which in the opinion of the Additional Registrar (O.S.), some particular advantage is to be obtained by holding it at the Court house.

465. Sale at Court house, how conducted. All such sales when held at the Court-House shall be conducted by the Nazir or other responsible officer of the Court and shall take place on some fixed day of each week and at such hours of such day as the Court shall make generally known.

466. Leave to bid. Reserved price. (1) An application for leave to bid at the sale shall be supported by an affidavit giving reasons why the applicant should be permitted to bid.

(2) In cases in which the Additional Registrar (O.S.) considers that the applicant should not be allowed to bid for less than a sum to be fixed, it shall be competent to the Additional Registrar (O.S.) to give leave to bid at the sale only on condition that the applicant's bid shall not be less than the amount so *fixed*, which amount shall so far as practicable, be determined with reference to the probable market value of the property or of the lot or lots into which the property is divided for sale.

467. Sale. On the day and at the time and place appointed for the sale, the proclamation of sale shall be read out before the property is put up for sale.

468. Postponement of sale for want of sufficient bidding. If there be no bid or the highest bid be below the reserved price (if any) or be deemed insufficient by the Nazir or other officer conducting the sale he shall postpone the sale and record the reason for such postponement in the bidding paper.

=====RAHEEL=====

469. Postponement of sale otherwise than under rule 375. The Nazir or other officer conducting the sale may postpone it if he is unable to attend on the appointed day or for other sufficient cause or with the consent of the Parties. The costs of a postponement rendered necessary by the absence of the Nazir or other officer conducting the sale shall be costs in the cause. The costs of a postponement made at the request of the party or by reason of his conduct shall be borne by him or as shall be consented to by the parties.

470. Bidding paper
To be signed by the purchaser

The name of each bidder at the sale of property shall be noted on a paper to be called "the bidding paper" and the amount of the bid shall be entered opposite his name. If there be no bid, the words "no bidding" shall be written in the bidding paper opposite the property or, as the case may be, the number of the lot. If the highest bid be deemed insufficient, the words "not sold" shall be written opposite the property or the number of the lot. If the property be sold, the highest bid shall be inserted opposite the property or the number of the lot and the purchaser shall write his full name opposite such entry and shall add his address and occupation. All notices thereafter served at the address so given shall be deemed to have been duly served on the purchaser.

471. Or by his agent as such. A person purchasing as duly authorized agent for another shall sign the bidding paper as such giving the full name, address and occupation both of himself and his principal. All notices thereafter served at either of the addresses given shall be deemed to have been duly served.

472. Declaration of purchase. If the highest bid be equal to or higher than the reserved price (if any), the Nazir or other officer conducting the sale shall, make an entry in the bidding paper to the following effect:

“I declare _____ to have been the highest bidder for the purchase of the property above set forth (or of lot No.....) for the sum of Rs.....”

473. Report of sale. Upon the completion of the sale the Nazir or other officer conducting the sale shall file in Court his report of the sale.

474. Time for confirming sale. A sale of immovable property shall not be confirmed until after the expiration of 30 days from the date of such sale.

Delivery of possession of immovable property

475. Possession of house how delivered to decree-holder or purchaser. When immovable property of which possession is to be given under Order XXI, rules 35 or 95 of the Code is found locked, notice shall be issued by the officer executing the warrant for delivery of possession to the person bound by the decree and in possession of the house requiring him to unlock it within a given time. If on the day so appointed it is still locked, it may be broken open in the presence of two respectable persons of the locality and given into the possession of the judgment-creditor or the purchaser; as the case may be.

476. Decree-holder or purchaser to give notice to owner regarding removal of property therein. When there is movable property in a judgment-debtor's immovable property of which the decree-holder or purchaser has been put in possession, it is for the decree-holder or purchaser to give notice to the owner, if he is known to remove such property; and if the owner fails to do so, to take such steps as he may be advised.

GENERAL

477. Preparation and issue of processes in execution. No process in execution shall be prepared unless process fee and, in the case of warrants of arrest, subsistence money at the prescribed rates have been paid within seven days or such extended time as may be allowed by the Additional Registrar (O.S.). No process in execution shall be issued until the requisite Court-fee stamps have been affixed

and cancelled and the process has been signed and sealed by the proper officer of the Court.

478. Procedure on stay of execution. When execution of a decree is stayed by a competent Court, the application for execution of the decree shall not, unless withdrawn by the applicant, be struck off the file but shall be adjourned pending the final order of the Court staying execution.

479. Recording of evidence and order in execution proceedings. In proceedings in execution other than those in which proof is given on affidavit in accordance with these rules or under an order of the Court or the Additional Registrar (O.S.), evidence shall be recorded and exhibits admitted in evidence shall be marked in accordance with the provisions of Order XVIII of the Code and these rules, so far as they are applicable.

CHAPTER XXII NAZIR'S OFFICE

480. Nazir and Deputy Nazir to execute or to cause to execute processes. The Nazir and, subject to his directions, the Deputy Nazir shall execute or cause to be executed through the officers of the Court all processes including all warrants or orders for the delivery, attachment or sale of property in execution, or for the arrest or custody of any person, which may be entrusted to the Nazir for execution. They shall return all warrants and orders within the time prescribed, with an endorsement specifying the manner of execution or the causes which prevented execution. Such warrants and orders shall be filed in the record. A Process Service Register shall be kept in Form No. 3 in Appendix B.

481. Noting of date on processes. The Nazir or the Deputy Nazir shall note on every process the date on which it was delivered to him.

482. Service on holidays. No process shall be served or executed and no sale shall be held in execution on Sundays or during holidays

or vacation of the High Court, except by leave of the Court or the Additional Registrar (O.S.).

483. Service on the firm of advocates. Where the service is affected on a firm of Advocates, such service may be on any one or more of the partners of such firm.

484. Payment of money. (1) The Nazir and, subject to his directions, the Deputy Nazir shall receive all monies paid under due authority into the Court and shall pay out all monies duly ordered to be paid out of Court.

(2) Money may be paid or deposited in Court by postal money order. In that case the person making the payment shall send to the Nazir a statement containing full particulars regarding the intended payment or deposit.

485. Notice of payment or deposit to judgment-creditor or D.O. Revenue. (1) A person paying money into or depositing property in the Court in part payment or full satisfaction of a decree shall give notice through the Court of such payment or deposit to the judgment-creditor.

(2) Where the decree orders payment of Court fees to Government under O.33, Rule 10 of the Code, no order shall be made on the application, for payment of such money or delivery of such property without giving notice thereof to the D.O. Revenue at the expense of the applicant.

486. Delivery of securities, jewellery or other valuables into Court. When jewellery or other valuables are brought into Court, two copies of a descriptive list thereof shall be presented and shall be checked and signed by the Nazir in the presence of the depositor. The jewellery or other valuable shall be placed in a box furnished with a lock and key to be provided by the depositor. The box shall then be locked and sealed with the seal of the Court and forwarded by the Court to the Treasury Officer together with one of the copies of the said list and the key shall be retained by the Nazir. On the return of the counterfoil receipt by the Treasury Officer, a receipt shall be given to the depositor.

*Note.-*The provisions of this rule are subject to rules 9 (a) and 341 (b) and (c) of the Financial Rules.

487. Application for payment of money, etc. Every application for payment of money or delivery of property deposited in Court shall be entitled in the suit or matter and shall also show the number of the execution application, if any, is pending showing the right and interest of the party applying and the amount claimed.

488. Applications to be checked. Applications to make or receive payments shall be duly checked by reference to the record of the suit or matter and to the Nazir before submission for orders to the Additional Registrar (O.S.), or, as the case may be, the Additional Registrar, Appellate Side.

489. Payment by money order, bank draft etc. On the application of the decree holder or other person entitled to any money deposited in court and not expended for the purpose for which it was deposited, if there is no objection to the payment of money on the ground of attachment or otherwise, the Additional Registrar (O.S.) may order that the amount, after making all necessary and lawful deductions, be sent to the applicant at his risk;

- (i) by money order if the amount does not exceed Rs.10,000/-.
- (ii) by bank draft by registered post acknowledgement due, or
- (iii) in any other, manner specified by the applicant, which the Additional Registrar (O.S.) approves:

Provided that, before payment is ordered to be made under clause (ii) or (iii) the applicant shall submit a duly stamped receipt for the amount due in the form given below:

FORM OF RECEIPT

Received the sum of Rs. (rupees only)
from the High Court of Sindh at Karachi being the amount deposited in
the said Court in connection with

Date: (Stamp)
(Signature of the Payee)

490. Written authority of client requisite for payment to advocate. Unless otherwise ordered by the Court, no payment in a suit or matter, save and except when it is in respect of costs, shall be made to an advocate on behalf of his client without a written authority of the client signed by him for such payment:

Provided that if an advocate has been adjudged insolvent or if an application to adjudge him insolvent is pending, no such payment as aforesaid shall be made to him until he is discharged or the application to adjudge him insolvent is dismissed.

491. Account books to be kept. The following account books shall be kept in the form and in the manner prescribed for the Civil Courts subordinate to the High Court:-

- A. Book of receipts for money paid into Court.
- B. Process fee receipt book.
- C. Register of deposit receipts, viz., register of sums received in Court in connection with suits or, judicial proceedings and deposited with Government (to be kept in duplicate).
- D. Register of deposit payments, viz., register of payments from sums received into Court in connection with suits or judicial proceedings and deposited with Government (to be kept in duplicate).
- E. Files of applications for refund of lapsed deposits and of statements of lapsed Civil Courts deposits.
- F. Register of attached property.
- G. Register of money received on account of subsistence money of civil prisoners, expenses of witnesses and miscellaneous petty items required for immediate disbursement.
- H. Register of payments on account of subsistence money

of civil prisoners, expenses of Witnesses and miscellaneous petty items required for immediate disbursement.

- I. Cash book.
- J. Ledger.
- K. Bank or Treasury pass book.
- L. Bank or Treasury cheque book.

492. Signing of Cheques and checking of accounts.

The Additional Registrar, Appellate Side or in his absence the Additional Registrar, Original Side is authorized to sign cheques. He shall at least once a month call for the Registers and accounts and satisfy himself that the entries have been carefully and properly made. When such inspection is made, he should note the fact with his own hand on the register or account inspected.

493. Account books to be kept in minors or lunatics' estates.

The Nazir shall in connection with minors' or lunatics' estates under his administration keep the following account books in the manner prescribed for the Civil Court subordinate to the High Court:-

- (1) day book,
- (2) ledger,
- (3) counterfoil receipt book, and
- (4) such other account books as the Chief Justice may from time to time prescribe.

The record of each estate should be kept in separate file papers being arranged in chronological order, with an index for the same.

494. Return of minors' estates under administration. The Nazir shall prepare in the month of April of each year a history sheet in such form as the Chief Justice may from time to time prescribe showing the minors estates still under his administration. The history sheet shall be

examined by the Additional Registrar, (O.S) and submitted to the Chief Justice for such order as may be necessary.

495. Charge of property in criminal cases. (1) The Nazir shall take charge of all property sent to the Court in connection with sessions trials and criminal appeals, references, and revisions, and shall keep thereof, in the form now in use, a Criminal Property Register.

Charge of dead stock

- (2) The Nazir shall have charge of all dead stock and shall keep a dead stock Register in Form No. 4 in Appendix B.
- (3) All amounts deposited under orders of the court with the Nazir shall be invested forthwith in govt. securities.

**CHAPTER XXIII
TESTAMENTARY AND INTESTATE JURISDICTION**

Preliminary

496. Interpretation. In this Chapter

- (i) “Act” means the Succession Act, 1925; and
- (ii) “Will” includes a “codicil”

Application for Probate, etc

497. Application for probate. Application for probate shall be made by petition in Form No. 21. in Appendix A and shall be accompanied by-

- (a) affidavit of one of the attesting witnesses, if procurable, in Form No. 22 in Appendix A;
- (b) valuation of the property prepared strictly in the form set forth in the third schedule to the Court Fees Act, 1870;

- (c) a deposit of the amount payable upon grant of probate under the Court Fees Act, 1870; and
- (d) affidavit of proof or certificate of death.

498. Application for letters of administration. Application for letters of administration shall be made by petition in Form No. 23 in Appendix A, and shall be accompanied by the annexures (b) and (d) and the deposit mentioned in the last preceding rule.

499. Application for letters of administration. C.T.A. Application for letters of administration with the will annexed shall be made by petition in Form No.24 in Appendix A and shall be accompanied by the annexures (a) (b) and (d) and the deposit mentioned in Rule 404.

500. Application for succession certificate. Application for succession certificate shall be made by petition in Form No. 25 in Appendix A and shall be accompanied by the Deposit of a sum equal to the fee payable under the Court fees Act; 1870 in respect of the certificate.

501. Address for service. Every application for probate, letters of administration with or without the will annexed or succession certificate shall also state the address for service of the petitioner.

502. Delay in application. In any case where probate or administration or succession certificate is for the first time applied for after the lapse of three years from the death of the deceased, the reason for delay shall be explained in the petition. Should the explanation be unsatisfactory, the Court may require such further proof of the alleged cause of delay as it may deem fit.

503. Interlineations, alterations etc. in the will should be sworn to by the attesting witness. When interlineations, alterations erasures or obliterations appear in the will (unless delay executed as required by the Act, or recited or otherwise identified by the attestation clause) a statement must, if possible, be made in the affidavit of the attesting witness whether they existed in the will before its execution or not.

504. In absence of attesting witnesses with other evidence must be produced. If no affidavit by any of the attesting witnesses is

procurable, an affidavit shall be procured (if possible) from some other person (if any) who may have been present at the execution of the will; but if no affidavit of such person can be obtained, evidence on affidavit must be produced, of that fact and of the handwritings of the deceased and of the attesting witnesses, and also of any circumstances which may raise a presumption in favour of due execution.

505. Attempted cancellation must be accounted for. Any appearance of an attempted cancellation of a testamentary writing by burning, tearing, and obliteration or otherwise, and every circumstance leading to a presumption of abandonment or revocation of such writing or part thereof must be accounted for.

506. Unsigned or unattested will. In cases in which it is not necessary that a will should be signed by the testator or attested by witnesses to constitute a valid testamentary disposition of the testator's property, the testator's intention that it should operate as his testamentary disposition must be clearly proved by affidavit.

507. Production of deed, paper, etc., referred to in will. If a will contains a reference to any deed, paper, memorandum or other document of such a nature as to raise a question whether it ought not to form a constituent part of the will, such deed, paper, memorandum or other document shall be produced with a view to ascertain whether it is entitled to probate and if not produced, its non-production must be accounted for.

508. Administration to a creditor. In all applications by a creditor for letters of administration, it shall be stated particularly how the debt arose.

509. Renunciation. No person, who renounces probate of a will or letters of administration of the property of a deceased person in one character, shall, without leave of the Court, take out representation to the same deceased in another character.

510. Grants throughout Pakistan. In all cases under the Act, in which it is sought to obtain a grant of probate or letters of administration with or without the will annexed to have effect

throughout Pakistan, such grant must be expressly asked for, and it must be further stated in the petition that, so far as the petitioner has been able to ascertain or is aware, there are no property and credits other than what are specified in the schedule attached to his affidavit of valuation.

511. Applications for probate, etc., to be registered as miscellaneous applications. Applications for probate, letters of administration with or without the will annexed and for succession certificate, when admitted, shall be registered and numbered as miscellaneous applications.

Citation

512. Notice of application to be given to D.O. Revenue. The Additional Registrar (O.S.) shall give notice of all applications for probate or letters of administration to the D.O. Revenue or the EDO (Revenue), as the case may be, in Form No. 26 in Appendix A.

513. Notice to next-of-kin. When administration or succession certificate is applied for by one or some of the next-of-kin only, there being another or other next-of-kin equally entitled thereto, the Additional Registrar (O.S.), may direct notice of such application to issue to such other next-of-kin.

514. Citation to Official Assignee. No grant of letters of administration, other than letters of administration *pendente lite*, shall issue to a creditor, or to a legatee, other than a universal legatee; or to a friend of the deceased until citation has first issued to the Administrator-General of Sindh.

515. Form of citation. A citation under section 283 and a notice of an application under section 373 of the Act shall be issued in Form No. 27 in Appendix A.

516. When citation to be dispensed with. In all applications for probate or for letters of administration with or without will annexed where the gross value of the estate is Rs. 5,00,000 or less: the

Additional Registrar (O.S.), may, if he thinks fit, allow publication of citation in one or more newspapers only or may dispense with it altogether.

Proof

517. Proof of identity. The Court may in case where it is deemed necessary, require proof, in addition to the usual statement required to be made in the application, of the identity of the deceased or of the party applying for the grant.

518. Blind or illiterate testator. The Court shall not grant probate of the will or administration with the will annexed of any blind or obviously illiterate or ignorant person unless it or he has, satisfied itself or himself that the said will was read over to the testator before its execution, or that the testator had at such time knowledge of its contents.

Limited Grants

519. Order for limited grant. Except by order of the Court, no, person entitled to a general grant of administration of the property, of the deceased will be permitted to take a limited grant.

Administration Bond

520. Forms of administration and succession certificate bonds. An Administration bond shall be in form No. 28 in Appendix. A. A. Succession certificate bond shall be in Form No. 29 in Appendix A.

521. Amount of administration bond and succession certificate bond. Unless otherwise ordered by the Court, an administration bond or succession certificate bond shall be given with two or more sureties, approved by the Nazir, for the amount of the value of the property for which the grant is made or succession certificate issued:

Provided that, if the value is under Rs.50000/-, one surety only may be taken.

522. Insurance Companies as sureties. A bond from an approved Insurance Company may be accepted in lieu of a bond from two sureties.

523. Attestation of bonds. Administration bonds shall be attested by the Deputy Registrar or by such other two officers of the Court as may be nominated by the Additional Registrar (O.S.)

Grants and extensions thereof

524. Grants limited to Province of Sindh. All grants of probate or letters of administration (with or without the will annexed) shall, unless otherwise ordered be drawn up so as to have effect only throughout the province of Sindh.

525. Affidavit of valuation of property to be annexed to grants. A copy of the affidavit of valuation of the property of the deceased accompanying an application for probate or letters of administration shall be annexed to the grant of probate or letters of administration.

526. Extension of grant to have effect throughout Pakistan. An order for the extension of a grant limited to the Province of Sindh to have effect throughout Pakistan shall be made on an interlocutory application filed for that purpose supported by an affidavit stating where the additional property and credits are situate and accompanied by the annexure (b) and the deposit mentioned in Rule 404 in respect thereon Provided that in case of a grant of letters of administration with or without the will annexed the petitioner shall give a further bond before the grant may be extended, as aforesaid.

527. Extension of succession certificate. An application for the extension of a succession certificate shall be by interlocutory application stating the particulars of the additional debt or security and accompanied by a deposit of a sum equal to the fee payable under the Court, Fees Act, 1870, in respect of such extension. Before the certificate is extended, the petitioner shall give a further bond, if so required.

Inventory and Accounts

528. Form of inventory. (1) The inventory and the account required by section 317 of the Act to be exhibited shall be in Forms Nos.30 and 31 respectively in Appendix A.

Form of register

(2) A register shall be kept in Form No. 5 in Appendix B and the particulars therein prescribed shall be entered from time to time as occasion requires.

Contentious Proceedings

529. Particulars in caveat. A caveat shall, in addition to the particulars prescribed by section 284 (4) and schedule V of the Act, state the address for service of the caveator.

530. Notice of caveat. Notice of the filing of a caveat shall be given to the petitioner or his advocate.

531. Affidavit supporting caveat. Where a caveat is entered after an application has been made for a grant of probate or letters of administration with or without the will annexed, affidavit or affidavits in support of the caveat shall be filed within eight days of the caveat being lodged. Such affidavit shall state the right and interest of the caveator and the grounds of the objections to the application. No such affidavit shall be filed after the expiration of the said eight days without the order of the Court.

532. Notice to caveator to file affidavit. Where an application for grant of probate or letters of administration with or without the will annexed is presented after a caveat has been filed, notice shall forthwith be issued to the caveator calling upon him to file his affidavit or affidavits in support of his caveat within eight days from the service of such notice.

533. Consequence of not filing affidavit. Where the caveator fails to file any affidavit in support of his caveat in compliance with Rule 438 or in compliance with the notice issued under Rule 439, the caveat may be discharged by an order of the Court.

534. Procedure. Upon the affidavit in support of the caveat being filed (notice whereof shall immediately be given by the caveator to the petitioner), the proceedings shall be numbered and registered as a suit in which the petitioner for probate or letters of administration shall be the plaintiff and the caveator shall be the defendant, the petition for

probate or letters of administration being registered as and deemed a plaint filed against the caveator and the affidavit filed by the caveator being treated as his written statement in the suit. The procedure in such suit shall be, as nearly as may be, according to the provisions of the Code. The decree shall be in Form No. 32 in Appendix A.

535. Notice in probate suit. In a probate suit the party opposing a will may, with his affidavit, give notice to the party setting up the will that he merely insists upon the will being proved solemn form of law and only intends to cross-examine the witnesses produced in support of the will and he shall thereupon be at liberty to do so and shall not, in any event, be liable to pay the costs of the other side, unless the Court shall be of opinion that there was no reasonable ground for opposing the will.

Miscellaneous

536. Certificates under section 274 (1) (b) of the Act. With every certificate to be sent to a High Court under the provisions of section 274 (1)(b) of the Act the Additional Registrar, (O.S.) shall send to the other High Courts a copy of so much of the affidavit as aforesaid as relates to the state within the jurisdiction of such High Court.

537. Notice by executor or administrator to creditors under sections 360 and 367 of the Act. Where an executor or administrator has given notice to creditors and others in Form No. 33 in Appendix A, such notice shall be deemed to satisfy the requirements of sections 360 and 367 of the Act.

538. Disposal of petition for non-prosecution. Any testamentary application in which grant or certificate has not been issued owing to non-prosecution of the petition for a period of one year, shall be treated as disposed of and no action shall be taken on such petition unless a fresh petition is filed or an order obtained from the Court giving permission to the petitioner to proceed with the petition already filed.

539. Making will. Every will, copy of a will, or other testamentary paper to which an executor or administrator is sworn or affirmed, shall be marked by the person before whom he is sworn or affirmed.

**CHAPTER XXIV
RULES UNDER THE OATHS ACT, 1873.**

540. Form for witnesses. The following forms of oaths and affirmations are prescribed under section 7 of the Oaths Act, 1873.

(1) Muhammadans shall be required to repeat the following words:-

“ I swear by Almighty Allah that the evidence, I shall give before the Court in this case shall be the truth, the whole truth, and nothing but the truth, and that I shall conceal nothing from the Court and that if I say anything which is untrue or conceal anything, the wrath of Allah may fall on me”.

(2) Hindus shall be required to repeat the following words:-

“I swear in the presence of Almighty God that what I shall state, shall be the truth, the whole truth and nothing but the truth.”

(3) Parsis shall be required to repeat with shoes on their feet and the right hand on the open Zend Avesta the following words:-

“I swear in the presence of Almighty God that what I shall state shall be the truth, the whole

truth and nothing but the truth. Manasni, Gavasni, Kunasni”.

(4) Jews shall be required to hold the Hebrew Testament in the right hand and to repeat the following words:-

“ I swear that what I shall state shall be the truth, the whole truth and nothing but the truth. So help me God.” And shall be required to kiss the book.

(5) Christian shall be required to hold the New Testament in the right hand and to repeat the following words:-

“I swear that what I shall state shall be the truth, the whole truth, and nothing but the truth. So help me God.” And shall be required to kiss the book.

541. Form for interpreters. Oaths and affirmations shall be administered to interpreters in similar forms with substitution of the words:

“I will well and truly interpret and explain all questions put to and evidence given by the witness”.

CHAPTER XXV

RULES UNDER THE TRANSFER OF PROPERTY ACT, 1882

542. Deposit of money due on mortgage. Every deposit under section 83 of the Transfer of Property Act, 1882 (hereinafter in this Chapter called the Act), shall be accompanied by a verified petition stating the facts in connection with the mortgage and the amount due

for principal and interest. Such petition shall be registered as a miscellaneous application and the petition by a mortgagee under section 83 of the Act shall be entitled in such miscellaneous application.

543. Deposit of costs. Unless otherwise ordered, there shall be paid into Court, in addition to the sum deposited under section 83 or any subsequent section, a sum sufficient to provide for the issue and service of notices by the Court and for the mortgagee's costs of obtaining payment out of Court and also when such payment is made under section 83 and a re-transfer of the property is required a further sum to provide for the mortgagee's costs of transferring the property and causing such transfer to be registered.

544. Order for payment of money into Court under S. 83. Every order for payment of money into Court under section 83 of the Act shall specify the sums to be paid and the purpose for which each sum is intended.

545. Mode of service. Subject to the provisions of sections 102 and 103 of the Act, notice under section 83 of the Act shall be served in one of the modes prescribed for service of summonses by the Code or by sending it by registered post to the address for service of the person to be served.

546. Costs of mortgagee. Where it shall appear that previous to any payment into Court under section 83 a sufficient tender was made to and refused by the mortgagee, he shall not be allowed to obtain payment of the amount deposited in Court to meet his claim without deduction of the fees and charges which the mortgagor may have incurred by reason of his payment of the money into Court nor shall he be allowed the cost of drawing out the money paid in. Except as aforesaid or when otherwise ordered, the mortgagee shall be allowed all costs properly incurred by him.

547. Court's order for paying out. On an application for payment of money out of Court under section 83 by a mortgagee who has complied with the orders of the Court and the provisions of the Act and of the rule, made in this behalf, so far as they relate to him or apply to his case, and who has, when required so to do, transferred the

property and possession free from encumbrances and caused such transfer to be registered and has accounted for the document of title which were held by him, the Court shall make such order or orders as to it shall deem fit for the disposal of the capital sum and interest thereon, and of the fund for costs and expenses

548. Enforcement of order. Every enforceable order made under section 83 may be enforced under the provisions of the Code and shall for that purpose be deemed to have been made in a suit instituted under that Code.

CHAPTER XXVI

RULES UNDER THE POWERS OF ATTORNEY ACT, 1882.

549. Presentation of petition to the Deputy Registrar. An application to deposit a power of attorney shall be made by a petition signed by the applicant. The petition and the power of attorney and the affidavit or declaration, if any, shall be presented to the Deputy Registrar either by the petitioner in person or by an advocate of the High Court.

550. If presentation by both donor and donee, it may be filed forthwith. If the power of attorney be presented by or on behalf of both the donor and the donee, the Deputy Registrar may forthwith order it to be deposited.

551. In other cases notice to issue and order of Court to be obtained. (1) If the power of attorney is presented by or on behalf of the donor or the donee only, the Deputy Registrar shall receive it and issue a notice to the donee or the donor, as the case may be, to show cause within the time fixed therein why it should not be deposited.

(2) The cause shall be heard by, or if no cause be shown, the Deputy Registrar shall obtain the orders of the Chief Justice or such Judge as the Chief Justice shall appoint either generally or specially in this behalf.

(3) If the Chief Justice or such Judge as aforesaid is satisfied as to the due execution of the power of attorney, he shall make an order directing the power of attorney to be filed. He may require further evidence of such execution.

(4) If the Court is not satisfied as to the due execution of the power of attorney, it shall be returned to the petitioner.

552. Filing of powers of attorney. (1) On the order for deposit being made, the power of attorney shall be numbered and endorsed with a certificate in Form No. 34 in Appendix A and placed on the file of instruments deposited under the Powers of Attorney Act, 1882; and a receipt shall be given for it.

(2) The files shall be kept in a safe.

553. Power of attorney filed when returned. (1) No power of attorney which has been filed shall be returned or otherwise allowed to pass out of the custody of the Deputy Registrar, except in pursuance of an order of the Court.

(2) For every power of attorney ordered to be removed from the file a certified copy shall be substituted at the expense of the person to whom the original is to be delivered and a receipt for the original shall be taken from such person and filed.

554. Index to be kept of instruments deposited. The Deputy Registrar shall keep an alphabetical index in Form No. 6 in Appendix B of the powers of attorney ordered to be deposited in the Court.

555. Deputy Registrar to dispose of application for search, copies, etc. Applications for permission to search the Index or to inspect powers of attorney, and applications for copies or for the stamping or making of copies as certified copies shall be made to, and be disposed of by the Deputy Registrar.

556. Fees. The following fees shall be paid in Court-fee Tables:-

	Rs.
(1) For application to deposit a power of attorney	100

(2) For filing a power of attorney	200
(3) For application for search	100
(4) For a certified copy or for authentication of a copy presented as under:-	
(a) For copying or comparing per folio of 90 words.	50
(b) Sealing	100

CHAPTER XXVII
RULES UNDER THE INSOLVENCY
(KARACHI DIVISION) ACT (III of 1909)

Preliminary

557. Interpretation of terms. (1) In this Chapter unless the context or subject matter otherwise requires,

- (i) “Act” means the Insolvency (Karachi Division) Act (III of 1909);
- (ii) “Court” includes the Additional Registrar (OS) when exercising the powers of the Court pursuant to the Act or these rules;
- (iii) “Creditor” includes a corporation and a firm of creditors in partnership;
- (iv) “Debtor” includes a firm of debtors in partnership and includes any debtor proceeded against under the Act, whether adjudged insolvent or not;
- (v) “Judge” means the Judge for the time being assigned under section 4 of the Act for the exercise of the original Jurisdiction of the Court in insolvency proceedings;
- (vi) “Additional Registrar” means Additional Registrar (O.S), and includes in his absence the Additional Registrar, Appellate Side, and includes also the Deputy Registrar

and other officer of the Court appointed to exercise one or any of the powers mentioned in section 6 of the Act and to perform the functions assigned to the Additional Registrar (O.S.) , under this Chapter;

- (vii) “Scheme” means scheme of arrangement pursuant to the Act;
- (viii) “These rules” means rules in this Chapter;
- (ix) “Writing” includes type-writing and print, and “written” includes typed or printed.

(2) The provisions of section 2 of the Act shall apply to these rules and any other terms and expressions defined by the Act shall, in these rules, have the meanings thereby assigned to them.

COURT PROCEDURE

Court and chambers

558. Matters to be heard in open Court. The following matters and applications shall be heard and determined in open Court, namely:

- (a) the public examination of debtor;
- (b) applications to approve a composition or scheme;
- (c) applications for orders of discharge or certificates of removal of disqualification.
- (d) applications to set aside or avoid any settlement, conveyance, transfer, security or payment or to declare for or against the title of the Official Assignee to any property adversely claimed;
- (e) applications for committal of any person to prison for contempt;
- (f) appeals against the rejection of a proof or applications to expunge or reduce a proof.

Any other matter or application may be heard and determined in Chambers.

559. Adjournment from Chambers to Court and vice versa.

Subject to the provisions of the Act and these rules, any matter or application may, at any time, if the Judge (or, as the case may be, the Additional Registrar) thinks fit, be adjourned from Chambers to Court or from Court to Chamber; and if all the contending parties require any matter or application to be adjourned from Chambers into Court it shall be so adjourned.

Proceedings

560. Proceedings how entitled. (I) Every proceeding in Court under the Act shall be entitled Insolvency Jurisdiction with the name of the Court and of the matter to which it relates.

(2) All applications and orders shall be entitled *ex parte* the applicant.

(3) The first proceeding in every matter shall have a distinctive number assigned to it by the Additional Registrar, and all subsequent proceedings in the same matter shall bear the same number.

(4) Form No. 35 in Appendix A shall be used.

561. Publication notices. In every case in which the Act or these rules require any notice to be published, the publication shall be made in the Office Gazette and in a daily newspaper or advertiser having circulation in Karachi, unless otherwise provided by these rules or ordered by the Judge.

562. Filing, Gazetting, & etc. (I) Whenever the Sindh Govt. Gazette, contains any advertisement relating, to any matter under the Act, the Additional Registrar shall file with the proceedings in the matter a memorandum (which shall be in Form No. 36 in Appendix A) referring to and giving the date of such advertisement.

(2) In the case of an advertisement in a local newspaper, the Additional Registrar shall in like manner file a copy of the paper

and a memorandum (which shall be in Form No. 36 in Appendix A) referring to and giving the date of such advertisement.

Discovery of debtor's property

563. Applications for discovery. Every application to the Court under section 36 of the Act shall be in writing and shall state shortly the grounds on which it is made and shall, unless it is made by or on behalf of the Official Assignee or a Special Manager, be verified by affidavit.

Appropriation of Pay, salary, etc.

564. Application for an appropriation order under section 60. Where the Official Assignee or any creditor who has proved his debt applies to the Court for an appropriation order under section 60 of the Act, notice of the application shall be given to the insolvent. Such notice shall specify the time and place fixed for hearing the application and shall state that the insolvent is at liberty to show cause against such order being made. The notice shall be in Form No. 37 in Appendix A.

565. Communication of order under section 60. Where an order is made under sub-section (1) of section 60 of the Act, a copy thereof shall be sent by the Additional Registrar to the head of the department under which the pay or salary is enjoyed. In case of an order under subsection (2) of that section, the Additional Registrar shall give to the Official Assignee a copy thereof for communication to the person under whom such salary or income is enjoyed. (Form No. 38 in Appendix A).

566. Review of order. Where an order has been made for the payment by an insolvent or by his employer for the time being, of a portion of his income or salary, the insolvent may upon his ceasing to receive a salary or income of the amount he received, when the order was made, apply to the Court to rescind the order or to reduce the amount ordered to be paid by him to the Official Assignee.

Warrants, Arrests and Commitments

567. To whom warrants addressed. A warrant of seizure or a search warrant or any other warrant issued under the provisions of the

Act shall, unless it is addressed to a Police Officer, be addressed to the Nazir of the Court.

568. Production of insolvent before Court & etc. When an insolvent is arrested under a warrant issued under section 34 of the Act within the local limits of the original civil jurisdiction of the Court, he shall be produced with all convenient speed before the Court: if such arrest has been effected outside such local limits, he shall be given into custody of the officer-in-charge of the Karachi Jail, who shall produce such insolvent before the Court as it may from time to time direct and shall safely keep him until such time as the Court shall otherwise order, and any books, papers, moneys, goods and chattels in the possession of the insolvent which may be seized, shall forthwith be lodged with the Official Assignee.

569. Suspension of issue of committal order. Where an order of committal is made against a debtor or against a receiver or special manager for disobeying any order of the Court to do some particular act or thing, the Court may direct that the order of committal shall not be issued, provided that the insolvent, receiver or special manager, as the case may be, complies with the previous order within a specified time.

570. Committal of contumacious insolvent or witness. (1) If an insolvent or a witness examined before the Additional Registrar refuses to answer to the satisfaction of the Additional Registrar any question which he may allow to be put the Additional Registrar may report such refusal in a summary way to the Judge and upon such report being made, the insolvent or witness in default shall be put in the same position and be dealt with in the same manner as if he had made default in answering before the Judge.

(2) The report of the Additional Registrar shall be in writing but without affidavit and shall set forth the question put and the answer (if any) given by the debtor or witness.

(3) The Additional Registrar shall before the conclusion of the examination of which the default in answering is made, name the time when and place where the default will be reported to the Judge; and upon receiving the report, the Judge may take such action thereon

as he shall think fit. If the Judge is sitting at the time when the default in answering is made, such default may be reported immediately.

(4) The report of the Additional Registrar may be in Form No. 46 Appendix A.

Costs

571. Awarding costs. (1) The Court in awarding costs may direct that the costs of any matter or application shall be taxed and paid as between party and party or as between advocate and client or that full costs, charges and expenses shall be allowed or the Court may fix a sum to be paid in lieu of taxed costs.

(2) In the absence of any express direction, costs of an opposed motion shall follow the event and shall be taxed as between party and party.

(3) The fees, costs and expenses of and for issue and service processes, traveling and diet expenses of witnesses, the court-fees payable on appeals and applications and all other matters in the Court's Insolvency. Jurisdiction, whether original or appellate shall, unless otherwise expressly provided by these rules or ordered by the Judge or Judges hearing the application or appeal, those prescribed for or actually payable for like matters in the Court's original or appellate civil jurisdiction, as the case may be, and shall be deposited and paid in accordance with the rules and practice of the Court by the party whose application necessitates them.

(4) For all summonses and notices sent by registered post, actual postal charges shall be charged for each cover in substitution of process fee payable under the rules.

572. Scale of costs. (1) Fees to advocates may be allowed in the discretion of the Court. Generally one or the other of the following scales shall be observed:

	Scale		
	1	2	3

	Rs.	Rs.	Rs.
Taking instructions and preparing petitions, schedule accounts, etc., of an insolvent preliminary to hearing application for discharge.	10,000	50,00	1,000
Taking instructions and preparing petitions, etc., from and on behalf of a creditor preliminary to hearing application for discharge.	5,000	1,500	1,000
Attendance in Court at an effective hearing of the case, <i>per diem</i>	3,000	1,500	1000

(2) Subject to express provisions in these rules as to costs of certain matters, the Judge may direct that the costs of an insolvent or of a creditor, either generally or in respect of any particular matter, shall be paid out of the insolvent's estate prior to any distribution of the estate amongst the creditors.

573. Applications for costs. Where any party to or person affected by any proceeding desires to make an application for an order that he be allowed his costs or any part of them incident to such proceeding and such application is not made at the time of the proceeding--

(1) Such party or person shall serve notice of his intended application on the Official Assignee;

(2) The Official Assignee may appear on such application and object thereto;

(3) No costs of or incident to such application shall be allowed to the applicant unless the Court is satisfied that the application could not have been made at the time of the proceeding.

574. Priority of costs and charges payable out of assets. The assets in every matter remaining after payment of the actual expenses incurred in realizing any of the assets of the debtor shall, subject to any order of the Court, be liable to the following payments which shall be made in the following order of priority, namely:-

- (i) the actual expenses incurred by the Official Assignee in protecting the property or assets of the debtor or any part thereof expenses or outlay incurred by him or by his authority in carrying on the business of the debtor;
- (ii) the commission of the Official Assignee, and any other fees payable to or costs, charges' and expenses incurred or authorized by the Official Assignee;
- (iii) the deposit or deposits lodged by the petitioning creditor pursuant to these rules;
- (iv) the deposit or deposits lodged on any application for the appointment of an interim receiver;
- (v) the remuneration of the Special Manager, if any;
- (vi) the taxed costs of the petitioner, except such as have been spent out of the deposit made by him and which are repaid to him as such;
- (vii) the remuneration and charges of the person (if any) appointed to assist the debtor in the preparation of his schedule;
- (viii) any allowance made to the debtor by the Official Assignee under an order of the Court;
- (ix) the Official Assignee's necessary disbursements other than actual expenses of realization heretofore provided for;
- (x) the costs of any persons properly employed by the Official Assignee with the sanction of the Committee of Inspection or of the Court;
- (xi) the actual out-of-pocket expenses necessarily incurred by the Committee of inspection subject to the approval of the Court.

575. Disallowance of costs of unnecessary petition. In any case in which after a petition for an order of adjudication has been

presented by a creditor against a debtor and before the hearing of such petition the debtor files a petition and a vesting order is made on the petition of the debtor, unless in the opinion of the Court the estate has benefited thereby or there are special circumstances which make it just that such costs should be allowed, no costs shall be allowed to the debtor or his advocate out of the estate.

576. Apportionment of costs in cases of partnership. In the case of a petition for adjudication against a partnership, the costs payable out of the estates up to and inclusive of the vesting order shall be apportioned between the joint and separate estates in such proportion as the Official Assignee may in his discretion determine.

577. Costs out of joint or separate estates. (1) Where the joint estate of any co-debtors is insufficient to defray any costs or charges properly incurred before the vesting order, the Official Assignee may pay such costs or charges out of the separate estate of such co-debtors or one or more of them in such proportion as in his discretion the Official Assignee may think fit. The Official Assignee may also, as in his discretion he may think fit, pay any costs or charges properly incurred as aforesaid for any separate estate out of the joint estate or out of any other separate estate and any part of the costs or charges of the joint estate properly incurred as aforesaid which affects any separate estate out of that separate estate.

(2) Where the joint estate of any Co-debtors is insufficient to defray any costs or charges properly incurred after the making of the vesting order, the Official Assignee, with such consent as is hereinafter mentioned, may pay such costs or charges out of the separate estate of such co-debtors or one or more of them. The Official Assignee with the said consent may also pay any costs or charges properly incurred as aforesaid for any separate estate out of the joint estate, and any part of the costs or charges of the joint estate incurred after the making of the vesting order which affects any separate estate out of that separate estate. No payment under this rule shall be made out of a separate estate or joint estate by the Official Assignee without the consent of the Committee of Inspection of the estate out of which the payment is intended to be made, or without an order of the Court.

Proceedings by Company or Co partnership

578. Public officer or agent of company. An insolvency petition against any debtor to any company or corporation duly authorized to sue and be sued in the name of a public officer or agent of such company or corporation may be presented by or sued out by any such public officer or agent as the nominal petitioner for and on behalf of such company or corporation on such public officer or agent filing an affidavit stating that he is such public officer or agent and that he is authorized to present or sue out such petition of insolvency and on his producing his power-of-attorney, if any for the Additional Registrar's inspection.

Proceedings by or against firm

579. Attestation of firm's signature. Where any notice, petition or other document is signed by a firm of creditors or debtors in the firm's name, the partner signing for the firm shall add also his own signature, e.g., "B and Co. by A.B. a partner in the said firm."

580. Service on firm. (1) Any notice of petition or other proceeding shall be deemed to be duly served if it is served upon any one or more of the partners or at the principal place at which the partnership business is carried on within Pakistan or upon any person having at the time of service the control or management of the partnership business there; and such service shall be deemed good service upon the firm whether all or any of the partners are within or without Pakistan.

(2) Where a notice to or petition against a firm is served in the manner provided by sub-rule (1) every person upon whom it is served shall be informed by notice in writing given at the time of such service whether he is served as a partner or as a person having the control or management of the partnership business or in both characters, and in default of such notice, the person served shall be deemed to be served as a partner.

581. Debtor's petition by a firm. Where a firm of debtors files an insolvency petition, the same shall contain the names in full of the individual partners; and if such petition is signed in the firm's name the petition shall be accompanied by an affidavit made by the partner who signs the petition, showing that all the partners concur in the filing of the same.

583. Schedule. The debtors shall submit a schedule of their partnership affairs and each debtor shall submit a schedule of his separate affairs.

584. Order of adjudication against a firm. (1) An order of adjudication made against a firm shall operate as an order of adjudication individually against such of the adult partners of the firm as have been duly served individually with the notice of the application for the adjudication of the firm or have applied to be so adjudicated.

(2) Subsequent proceedings shall continue in the name of the firm so far as is practicable but applications for discharge must be made by the partners individually.

585. Acceptance of composition, etc., by joint and separate creditors. The joint creditors and each set of separate creditors may severally accept compositions or schemes. So, far, as circumstances allow, a proposal accepted by joint creditors may be approved in the prescribed manner, notwithstanding that the proposals or proposal of some or one of the debtors made to their or his separate creditors may not be accepted.

586. Voting on composition. Where proposals for compositions or schemes are made by a firm and by the partners therein individually, the proposals made to the joint creditors shall be considered and voted upon by them apart from every set of separate creditors; and the proposals made to each such separate set of creditors shall be considered and voted upon by such separate set of creditors apart from all other creditors. Such proposals may vary in character and amount.

587. Adjudication and separate committees. Where a partnership is adjudged insolvent each set of separate creditors may appoint its own Committee of Inspection; but if any set of separate creditors do not appoint a separate committee, the committee, (if any) appointed by the joint creditors shall be deemed to have been appointed also by such separate creditors.

588. Separate firms. If any two or more of the members of a partnership constitute a separate and independent firm, the creditors of such last mentioned firm shall be deemed to be a separate set of

creditors and to be on the same footing as the separate creditors of any individual member of the firm. And where any surplus shall arise upon the administration of the assets of such separate or independent firm, the same shall be carried over to the separate estates of the partners in such separate and independent firm according to their respective rights therein.

Lunatics

589. Lunatics. Where a debtor or creditor is a lunatic not so found by a Civil Court, the Court may appoint such person as the Court shall think to do any act required by the Act or these rules to be done by such debtor or creditor.

PROCEEDINGS FROM ACT OF INSOLVENCY TO DISCHARGE *Insolvency Petition*

590. Form of insolvency petition. A debtor's insolvency petition shall be in Form No. 47 in Appendix A and a creditor's insolvency petition shall be in Form No. 48 in Appendix A.

591. Insolvent to lodge all books, & etc., with the Official Assignee. (1) Every debtor, who files a petition, shall lodge forthwith in the office of the Official Assignee in addition to any books produced before the Court under section 15 (3) (a) of the Act all papers, writings and vouchers relating to his estate with a list thereof signed by himself and also a statement of his movable and immovable property; if the debtor is in jail such list and statement as aforesaid shall be forwarded by the jailer.

Certificate of Official Assignee. (2) On the debtor complying with the provisions of sub-rule (1) of this rule, the Official Assignee shall give to, the debtor a certificate certifying the same, and no order of adjudication shall be made on the petition unless such certificate is produced.

592. Deposit by petitioner. (1) Upon the presentation of a petition either by the debtor or by a creditor, the petitioner shall deposit with the Nazir the sum of Rs.5,000/-, if debtor, or the sum of Rs.7,500/-, if creditor and such further sum as the Nazir may, from time to time, require to cover the fees and expenses to be incurred by the Nazir,

and no petition shall be received unless the receipt of the Nazir for the deposit payable on the presentation of the petition is endorsed thereon.

(2) The Nazir shall account for the money so deposited to the creditor, or as the case may be, to the debtor's estate, and any sum so paid by a petitioning creditor shall be repaid to such creditor, so far as circumstances will permit, out of the proceeds of the estate in the priority prescribed by these rules.

Creditor's Petition

593. Security for costs. A petitioning creditor who is resident abroad or whose estate is vested in a trustee, Official Assignee, Official Receiver or interim receiver under any law relating to bankruptcy or insolvency, or against whom a petition is pending under the Act, or who has made default in payment of any costs ordered by any Court to be paid by him to the debtor, may be ordered to give security for costs to the debtor.

594. Joint, petition. Where a petition is presented, by two or more creditors jointly, it shall not be necessary that each creditor shall depose to the truth of all the statements which are within his own knowledge; but it shall be sufficient that each statement in the petition is deposed to by some one within whose knowledge it is.

595. Death of debtor before service of petition. If a debtor against whom an insolvency petition has been filed dies before service thereof, the Court may order service to be effected on the legal representative of the debtor or on such other persons as the Court may think fit.

Hearing of Petition

596. Adjudication order to be made forthwith on debtor's petition. Where a petition is filed by a debtor, the Court shall forthwith make an adjudication order thereon.

597. Proceedings on creditor's petition. A creditor's petition shall not be heard until the expiration of eight days from the service thereof: Provided that where it is proved to the satisfaction of the Court that the debtor has absconded or in any other case for good cause shown the Court may, on such terms if any, as the Court may think fit to impose, hear the petition at such earlier date as may be deemed expedient.

598. Several respondents. Where there are more respondents than one to a petition, the rules as to service shall be observed with respect to each respondent; but where all the respondents have not been served, the petition may be heard separately or collectively as to the respondent or such of the respondents as has or have been served, and separately or collectively as to the respondents not then served or as ordered by the Court..

599. Debtor intending to show cause. Where a debtor intends to show cause against a petition he shall file a notice with the Additional Registrar specifying the statements in the petition which he intends to deny or dispute and deliver or transmit by post or otherwise to the petitioning creditor or his advocate a copy of the notice three days before the date on which the petition is to be heard. (Form No. 50 in Appendix A).

600. Non-appearance of creditor. If the creditor neglects to appear on his petition; no subsequent petition against the same debtor or debtors, or any of them either alone or jointly with any other person, shall be presented by the same creditor in respect of the same act of insolvency without the leave of the Court.

601. Personal attendance of creditor when dispensed with. The personal attendance of the petitioning creditor and of the witnesses to prove the debt and act of insolvency and other material statements, upon the hearing of the petition, may, if the Court shall think fit, be dispensed with.

602. Proceedings after trial of disputed question. Where proceedings on a petition have been stayed for the trial of the question of the validity of the petitioning creditor's debt (Form No. 51 in Appendix A) and such question has been decided in favour of the validity of the debt, the petitioning creditor may apply to the Additional Registrar to fix a day on which further proceedings on the petition may

be had, and the Additional Registrar, on production of the decree of the Court in which the question was tried, or a certified copy thereof, shall give notice to the petitioner or his advocate by post or otherwise of the time and place fixed for the hearing of the petition, and a like notice to the debtor at the address given in his notice to dispute, or to his advocate.

603. Application to dismiss. Where proceedings on a petition have been stayed for the trial of the question of the validity of the petitioning creditor's debt and such question has been decided against the validity of the debt, the debtor may apply to the Additional Registrar to fix a day on which he may apply to the Court for the dismissal of the petition with costs, and the Additional Registrar, on the production of the decree of the Court in which the question was tried, or a certified copy thereof, shall give notice to both the petitioner, and debtor or to their respective advocates by post or otherwise of the time and place fixed for the hearing of the application.

Interim Receiver

604. Appointment of interim receiver. An application for the appointment of interim receiver under section 16 of the Act may be made by a creditor or by the debtor himself, and shall, as far as practicable, contain full particulars of the property which is intended to be taken possession of by the interim receiver and upon proof by affidavit of sufficient grounds for the appointment the Court may, if it thinks fit and upon such terms as may be just, appoint the Official Assignee as interim receiver of the property of the debtor or any part thereof. Such appointment shall, unless the Court otherwise directs, carry full powers under Order XL. Rule 1 of the Code.

605. Form and contents of order. The order appointing the Official Assignee as interim receiver shall be in Form No. 53 in Appendix A and shall state particulars of the property, or any part thereof, of which he is ordered to take possession.

606. Deposit. Before any such order is drawn up, if the person who has made the application is a creditor, he shall deposit with the Official Assignee a sum of Rs.8,500/- towards the prescribed fee for the Official Assignee and such further sum as the Court shall direct for the expenses which may be incurred by him.

607. Further deposit, if necessary. If the sum of Rs.8,500/- and such further sum to be deposited for the expenses which may be incurred by the Official Assignee, is proved to be insufficient, the creditor on whose application the order has been made shall, from time to time, deposit with the Official Assignee such additional sum as the Court may, on the application of the Official Assignee, from time to time, direct, and such sum shall be deposited within twenty-four hours after the making of the order therefor.

If such additional sum shall not be so deposited, the order appointing the interim receiver may be discharged by the Court.

608. Repayment of deposit. If an order appointing an interim receiver is followed by an order of adjudication, the deposits made by the creditor on whose application such interim receiver was appointed shall be repaid to, him except and so far as such deposits may be required by reason of insufficiency of assets for the payment of the costs, charges and expense incurred by the interim receiver out of the proceeds of the estate in the order of priority prescribed by these rules.

609. Damages if petition dismissed. Where after an order has been made appointing an interim receiver the petition is dismissed, the Court shall, upon application to be made within twenty-one days from the date of the dismissal thereof, adjudicate with respect to any damages or claim thereto arising out of the appointment, and shall make such order as the Court thinks fit; and such decision or order shall be final and conclusive between the parties, unless the order be appealed from.

Order of Adjudication

610. Form and contents. (1) An order of adjudication on a debtor's petition under section 15 of the Act shall be in Form No. 54 and an order of adjudication on a creditor's petition under section 13 of the Act shall be in Form No. 55 in Appendix A.

Appendix A

(2) Every order of adjudication shall contain at the foot thereof a notice requiring the debtor to attend the Official Assignee forthwith on the service thereof at the place mentioned therein. When

the order of adjudication is made on a creditor's petition, there shall be stated in it the nature and date or dates of the act or acts of insolvency upon which the order has been made.

611. Transmission of copy to Official Assignee and service on debtor. (1) A copy of every order of adjudication, and order for the appointment of the Official Assignee as interim receiver of the debtor's property, sealed with the seal of the Court, shall forthwith be sent by the Additional Registrar to the Official Assignee.

(2) A copy of the order of adjudication, sealed with the seal of the Court, shall be delivered to or served on the debtor or each of the debtors as soon as possible either personally or by affixing it on a conspicuous part of, his last known place of business or residence or by sending it by registered post to such place of business or residence.

612. Stay of proceedings. There may be included in an order of adjudication an order under section 18 of the Act staying any suit or other proceedings against the debtor.

613. Advertisement. (1) Upon an order of adjudication being made, the Additional Registrar shall forthwith cause notice to be published in accordance with the provisions of section 20 of the Act in one or more issues of the Sindh Government Gazette and such other newspaper or newspapers as the Court may direct.

(2) The notices shall be in the Form No. 57 or No. 58 Appendix A.

614. Costs of petition & etc. All proceedings under the Act down to and including the making of an order of adjudication shall be at the cost of the party prosecuting the same; but when an order of adjudication is made, the cost of the petitioning creditor shall be taxed and be payable out of the proceeds of the estate in the order of priority prescribed by these rules.

Public examination of Insolvent and his failure to perform the duties imposed on him

615. Form of notice under section 27. The notice under section 27 of the Act shall be in Form No. 59 in Appendix A.

616. Default of debtor in attending. If the debtor fails to attend the public examination at the time and place appointed by any order for holding or proceeding with the same, and no good cause is shown by him for such failure, the Court may, upon its being proved to the satisfaction of the Court that the order requiring the debtor to attend the public examination was duly served and without any further notice to the debtor, by warrant cause him to be arrested and committed to prison for contempt of Court under section 33 of the Act. The warrant of arrest may be in Form No. 60 and the warrant of commitment may be in Form No. 61 in Appendix A.

617. Service of order and notice to creditors of examination. A sealed copy of the order appointing the time and place for holding his public examination shall be delivered to or served upon the debtor in the manner provided by Rule 518 (2) and notice thereof in Form No. 62 in Appendix A shall be served on the creditors whose names appear in the insolvent's schedule or upon petitioning creditor and such other creditors, if any as have filed an appearance in the case. Such notices may be served by sending, them by registered post addressed to the creditors at their respective residences as set out in the schedule or otherwise appearing on the record of the case. A list of all such notices dispatched by post shall be made in Form No. 63 and list of those sent to the Nazir shall be made in Form No. 64. The details required by the headings in the said Forms shall be entered up before the hearing.

A notice of such order in Form No. 65 in Appendix A shall, if it has not been published with notice of the order of adjudication, be also published by the Additional Registrar in one or more issues of any local newspaper or papers as the Additional Registrar deems fit.

618. Adjournments sine die. Where the Court is of opinion that the debtor is failing to disclose his affairs or where the debtor has failed to attend the public examination or any adjournment thereof or where the debtor has not complied with any order of the Court in relation to his accounts, conduct, dealings and property, and no good cause is shown by him for such failure, the Court may adjourn the public examination sine die, and may make such further or other order as the Court shall think fit.

619. Proceedings after adjournment sine die. Where an examination has been adjourned sine die and the debtor desires to have a day appointed for proceeding with the public examination, the expense of advertising and giving notice to creditors of the day to be appointed for proceeding with such examination shall, unless the Official Assignee consents to such costs being paid out of the estate be at the cost of the debtor, who shall, before examination, any day is appointed for proceeding with the public examination, deposit with the Nazir of the Court such sum and furnish Court-fee Stamps of such value as the Additional Registrar may require to be deposited and furnished.

620. Notice of proceeding after adjournment sine die. In any case in which a public examination has been adjourned sine die, and the Court afterwards makes an order for proceeding with such public examination, notice to creditors of time and place appointed for proceeding with such public examination shall be sent by the Additional Registrar by post or otherwise, and notice shall also be inserted in the Official Gazette and such other newspaper as the Additional Registrar may direct, at least seven days before the day appointed (Form No. 66 in Appendix A).

Annulment of Adjudication

621. Hearing of application for revocation. In the event of the debtor or any person interested in the matter of the insolvency of a debtor applying to the Court under section 21(1) of the Act for annulment of the order of adjudication, the hearing of such application shall be fixed for as early a date as possible, consistent with the other business of the Court, and with notice of the application being served upon the creditor on whose petition the order of adjudication shall have been made and on such other person or persons as the Court shall think fit.

622. Order annulling adjudication. (1) An order annulling adjudication may be in form No. 67 in Appendix A.

(2) Notice of such annulment shall be published in Form No. 68 in Appendix A.

623. Form of Security Bond. The Security Bond to be entered into by the debtor under section 21(2) of the Act may be in Form No. 69 in Appendix A.

624. Vesting order on annulment. (1) A vesting order made by the Court pursuant to the provisions of section 23 (1) of the Act may be in Form No. 70 in Appendix A.,

(2) A warrant of arrest and warrant of recommitment of the debtor under section 23(2) of the Act shall be in Forms Nos. 71 and 72 in Appendix A respectively.

Proceedings consequent on Order of Adjudication

625. Insolvent's schedule. (1) The schedule required to be filed by the debtor under section 24 of the Act shall be in Form No. 75 in Appendix A and shall be made out and submitted in duplicate to the Additional Registrar, one copy being verified by affidavit. The verified copy shall be filed in Court with the record of the case and the other copy shall be forthwith sent to the Official Assignee.

(2) The schedule of a debtor or debtors who has or have carried on business in partnership shall, when his or their firm is in insolvent circumstances, be in two parts; one part shall contain a full and true description as to all matters and things required to be set forth in the schedule relative to the joint creditors, debtors and property: the other shall contain a full and true description as to all matters and things required to be set forth in the schedule relative to his or their separate creditors, debtors and property.

Trading account of insolvent. (3) The insolvent shall, on the request of the Official Assignee, furnish him with trading and profit and loss account and such other accounts for a period not exceeding two years prior to the date of the order of adjudication as the Official Assignee may require: Provided that the insolvent shall, if ordered by the Court so to do, furnish such accounts as the Court may order for any longer period. If the insolvent fails to comply with the requirements of this rule, the Official Assignee shall report such failure to the Court and the Court shall take such action on such report as the Court shall think just.

626. Extension of time to file schedule. Where any debtor requires any extension of time for the filing of his schedule, he shall apply to the Court therefore on a certificate of the Official Assignee or an affidavit setting forth the cause of his inability to file his schedule within the time prescribed by section 24 of the Act or within such further time as the Court may have allowed him.

(2) Where the debtor fails to file his schedule or answers to the interrogatories referred to in Forms Nos. 75 and 56 within the time provided by these rules or such further time as may be extended by the Court, and no good cause is shown by him for such failure, the Court may, upon its being proved to the satisfaction of the Court that the order requiring the debtor to file his schedule or his answers to the interrogatories was duly served and without any further notice to the debtor, by warrant cause him to be arrested for contempt of Court under section 33 of the Act.

627. Failure of insolvent to file schedule. If the insolvent fails to prepare and submit his schedule in obedience to the order of adjudication, the Additional Registrar shall submit the case for an order upon creditors to submit their claims, duly verified by affidavit to the Official Assignee.

628. Notice of order to submit claims to the Official Assignee. The Official Assignee shall publish notice of such order in Form No 76 in Appendix A. After the date fixed for submitting claims the Official Assignee shall cause a schedule to be prepared as nearly as possible in accordance with Form No. 75 in Appendix A (save that verification by affidavit shall not be necessary) and shall deliver it to the Additional Registrar to be filed with the record of the case.

Interim Protection

629. Application for protection order. The application of the insolvent for protection under section 25 of the Act shall contain a statement by him as to whether any warrant for his arrest has been issued or applied for, and if so, the name and address of the creditor who has taken out or applied for such warrant shall be set out. The application may be in Form No.77 in Appendix A, and shall be verified. The application shall be accompanied by a certificate of the Official Assignee under section 25(4) of the Act; and if the insolvent has not

filed his schedule, he shall either annex to the application a certificate of the Official Assignee that in the opinion of that Officer it is necessary in the interests of the creditors that a protection order should be made before the insolvent has submitted his schedule, or state therein that such certificate was asked for but was not granted.

630. Hearing of application. Upon such application being filed as aforesaid, the Court may, in the exercise of its discretion, either make an order for the protection of the insolvent from arrest or detention for all the debts mentioned in the schedule or for such of the debts (to be mentioned in the order) as the Court thinks fit, or it may direct notice of the application to be served upon the creditors mentioned in rule 624 in addition to or in substitution for a notice in Form No.78 in Appendix A to be published once in a daily newspaper on the insolvent depositing the necessary costs therefor: Provided that when a creditor has given notice of his intention to oppose the grant of a protection order, the Court shall fix a day for the hearing of the application and cause notice thereof to be served upon that creditor. The hearing of every such application is business of the Court and with notice of the application, if any being served and / or published as may be directed.

631. Protection order. A protection order shall be in Form No. 79 in Appendix A and a copy thereof under the seal of the Court shall be given to the insolvent upon his application therefor.

If such order is revoked, the insolvent shall be bound forthwith to deliver up to the Additional Registrar any copy of the protection order, which he may have received.

632. Warrant of release. A warrant for the release of an insolvent imprisoned for debt upon his obtaining a protection order shall be in Form No. 80 in Appendix A.

If any insolvent, who has been brought in custody from the jail, is released in the Court-house, notice of such release shall be sent to the Officer in charge of the Jail in Form No. 81 in Appendix A.

633. Application for direction to hold meetings. An application for directions to the Official Assignee under section 26 of the Act to hold a meeting of creditors may be made by motion at a sitting of the Court or by petition in writing. When made by a creditor, it shall be supported

by an affidavit of the creditor or some person on his behalf setting out the circumstances which render the holding of a meeting of creditors necessary or desirable. Notice of a creditor's application or a copy of the affidavit filed in support of an intended motion shall be served on the Official Assignee at least three days before the date fixed for the hearing of the application or the date of the intended motion.

634. Order to call meeting. (1) When the Court makes an order (Form. No.82 in Appendix A) directing the Official Assignee to hold a meeting on the application, of a creditor, the provisions of rule 7 of the First Schedule to the Act as to the costs and expenses of the meeting shall apply.

(2) A sealed copy of the order shall be forthwith sent to the Official Assignee by the Additional Registrar.

635. Notice of meeting. A notice of meeting to a creditor under rules 2 and 3 of the First Schedule to the Act shall be in Form No.83 in Appendix A and a notice to the debtor under rule 4 of the said First Schedule shall be in Form No. 84 in Appendix A.

636. Copy of Resolution for Additional Registrar. The Official Assignee shall send to the Additional Registrar a copy, certified by him, of every resolution of a meeting of creditors.

637. Adjournment. Where a meeting of creditors is adjourned, the adjourned meeting shall be held at the same place as the original place of meeting, unless in the minutes or the proceedings of the adjourned meeting another place is specified (Form No.85 in Appendix A).

Proxies

638. Form of proxies. A general proxy shall be in Form No. 88 and a special proxy shall be in Form No. 89 in Appendix A.

639. Signature of Proxy. A proxy given by a creditor, resident out of Sindh, shall be deemed to be sufficiently executed if it is signed by

his duly constituted attorney or agent, whose power of attorney shall be produced before the Official Assignee, if required.

640. Filing in when creditor blind & etc. The proxy of a creditor, blind or incapable of writing, may be accepted if such creditor has attached his signature or mark thereto in the presence of a witness who shall add to his signature his description and residence: Provided that all insertions in the proxy are in the hand-writing of the witness and such witness shall have certified at the foot of the proxy that all such insertions have been made by him at the request of the creditor and in his presence before he attached his signature or mark.

641. Minors not to be proxide. No person who is a minor shall be appointed a general or special proxy.

Composition and Schemes

642. Forms where proposal submitted by debtor. (1) A proposal for composition or a proposal for a scheme of arrangement of his affairs intended to be submitted by a debtor, under section 28 (1) of the Act shall be submitted to the Official Assignee in Form No. 90 or 91 in Appendix A.

(2) Notice of the day and time fixed for the meeting of creditors to consider a proposal for a composition or scheme shall be in Form No. 92 and the report of the Official Assignee on any such proposal and voting letter expressing a creditor's assent to or dissent from the proposal shall be in Form No.93 in Appendix A.

643. Form of acceptance, application for approval to Court, & etc. A resolution accepting a proposal for a composition or a scheme may be in Form No. 94 or No. 95, and an application to the Court to approve a proposal accepted by the creditors with order appointing a day for the hearing of the application shall be in Form No. 98 in Appendix A.

644. Notice to creditors and Official Assignee. Notice of the date fixed for hearing the application to be given to creditors under section 29 (1) of the Act shall be in Form No. 99 in Appendix A. When the

applicant is the insolvent, such notice shall also be given to the Official Assignee:

645. Order approving a composition or scheme. An order approving of a composition or scheme shall be in Form No. 100 in Appendix A.

646. Correction of formal slips & etc. At the time a composition or scheme is approved of the Court may correct or supply any accidental or formal slip, error or omission therein, but no alteration in the substance of the composition or scheme shall be made.

647. Proceedings if scheme approved. When a composition or scheme is approved of the official Assignee shall, on payment of all proper costs charges and expenses of and incidental to the proceeding and his own commission, forthwith put the debtor or, as the case may be, the trustees under the composition or scheme, or other person or persons to whom under the composition or scheme to property of the debtor is to be assigned, into possession of the debtor's property.

648. When Official Assignee may be the trustee in a composition or scheme. In every case of a composition or scheme in which a trustee is not appointed or, if appointed, declines to act or becomes incapable of acting or is removed, the Official Assignee shall, unless and until another trustee is appointed by the creditors; be the trustee for the purpose of receiving and distributing the composition or for the purpose of administering the debtor's property and carrying out the terms of the composition or scheme, as the case may be.

649. Default in payment of composition. Where a composition or scheme has been approved and default is made in any payment either by the debtor or by the trustee, if any, no action to enforce such payment shall lie, but the remedy of any person aggrieved shall be by application to the Court.

650. Annulment of composition or scheme. Where a composition or scheme is annulled, the trustee under the composition or scheme shall account to the Official Assignee for any money or property of the debtor which has come to his hands, and pay or deliver to the Official

Assignee any money or property which has not been duly administered.

651. Dividends under composition or scheme. Where under any composition or scheme provision is made for the payment of any moneys to creditors entitled thereto, and any claim in respect of which a proof has been lodged is disputed, the Court may, if it shall think fit direct that the amount which would be payable, if established, shall be secured in such manner as the Court shall direct until the determination of the claim so disputed, and on the determination thereof the sum so secured shall be paid as the Court may direct.

652. Proof of debts in composition or scheme. Every person claiming to be a creditor under any composition or scheme, who has not proved his debt before the approval of such composition or scheme, shall lodge his proof with the trustee there under, if any or, if there is no such trustee, with the Official Assignee who shall admit or reject the same. No creditor shall be entitled to enforce payment of any part of the sums payable under a composition or scheme unless and until he has proved his debt and his proof has been admitted.

653. Application to enforce composition and order. An application to the Court to enforce the provisions of a composition or scheme under section 30(2) of the Act shall be supported by an affidavit. An order on such application shall be in Form No. 101 in Appendix A.

654. Application for annulment of composition or scheme and order. An application to annul a composition or scheme under section 31(1) of the Act shall likewise be supported by affidavit. An order annulling a composition or scheme shall be in Form No.102 in Appendix A.

655. Application for arrest of insolvent under section 34(1). An application to the Court under section 34 (1) of the Act shall set forth particularly the acts or omissions on the part of the insolvent relied upon as justifying an order under clause (a), (b) or (c) of that section and the sources of knowledge or belief on the part of the declarant as to such acts or omissions. Every such application other than that by Official Assignee shall be supported by affidavit.

Control over Person and Property of insolvent

656. Order for redirection of letters. An order to the postal authorities in Pakistan, under section 35 of the Act for redirection of post letters, & etc., shall be in Form No. 104 in Appendix A.

Discharge of Insolvent

657. Application for discharge. An application by an insolvent for an order for discharge under section 38(1) of the Act shall have annexed thereto a list, certified by the Official Assignee to be correct, of all the creditors who have proved up to the date of the application and their respective addresses.

658. Fixing date for hearing of application for discharge and notice. (1) Upon the application being presented and the necessary process fees being furnished, the Additional Registrar shall appoint a date for the hearing of the application, and notice thereof in Form No.106 in Appendix A. shall be published and sent to the Official Assignee and to each creditor who has proved at least one month before the day so appointed. Such notice shall be served as provided in Rule 524 and the lists prescribed by that rule shall be prepared.

(2) The day which shall ordinarily be fixed for the hearing of the application shall be:-

- (a) when all the creditors are resident or have agents in the town of Karachi, the first of second insolvency Court day after the date on which the petition was presented;
- (b) when some of the creditors are not resident in and have no agents in the town of Karachi but all are resident or have agents in Pakistan, the second or third Insolvency Court day after the date on which such petition was presented;
- (c) when some of the creditors reside out of Pakistan and have no agent, resident therein, the third or fourth Insolvency Court day after the date on which such petition is presented.

659. Official Assignee's report. In every case of an application by an insolvent for his discharge the Official Assignee shall hold an investigation into the insolvent's conduct and affairs, and shall, at least seven days before the time fixed for hearing the application, file with the Additional Registrar his report under sub-section (2) (a) of section 79 of the Act. The Official Assignee shall also furnish a copy of the report to the insolvent on his application.

660. Opposed application. An application by an insolvent of his discharge upon which the Official Assignee reports to the Court any fact, matter or circumstance which would under the Act justify the Court in refusing an unconditional order of discharge, shall be deemed to be an opposed application for the purposes of section 6(2) (d) of the Act.

=====NAVEED

570. Answer to report and creditor's grounds of opposition. (1) An insolvent who intends to dispute any statement with regard to his conduct and affairs contained in the Official Assignee's report shall, not less than two days before the hearing of the application for discharge, give notice in writing to the Official Assignee specifying the statements in the report, if any, which he proposes at the hearing to dispute.

(2) Any creditor who intends to oppose the discharge of the insolvent on grounds other than those mentioned in the Official Assignee's report, shall give to the Additional Registrar not less than four days before the hearing of the application, notice of the intended opposition stating the grounds thereof. A copy of such notice, hereinafter called, "grounds of opposition" shall be furnished by him to the Official Assignee, and another copy shall be sent to the insolvent's advocate, if any, or furnished to the insolvent on his application.

571. Form of grounds of opposition. (1) Grounds of opposition shall be framed as far as possible to the form of specific charges of acts or omissions on the part of the insolvent on which the creditor

relies and on proof of which the Court would be either required to refuse a discharge or be justified in refusing an unconditional order of discharge under section 39 of the Act, and shall contain such particulars as are reasonably sufficient to give the insolvent notice of the specific matters alleged against him.

(2) Unless a creditor files grounds of position framed as above within the time aforesaid, he shall not be entitled, without the special leave of the Judge, to be heard in opposition to the insolvent's application for his discharge: Provided that if any creditor who has filed such grounds of opposition abandons them or does not proceed thereon, any other creditor may proceed on such grounds.

572. Hearing of application. At the hearing of the insolvent's application for his discharge, the Official Assignee and any creditor may cross-examine the insolvent and offer evidence in support of the grounds mentioned in the Official Assignee's report, and any creditor who has filed grounds of opposition or any other creditor who is entitled to proceed on such grounds of opposition may cross-examine the insolvent and offer evidence in support of such grounds of opposition, and the insolvent may offer evidence in his defence, and the Court may hear such arguments as may be offered in support of and in opposition to such grounds respectively. No matters which are not specifically included in such grounds and grounds of opposition respectively as aforesaid shall, without the special leave of the Judge, be entered into or considered at the instance of any creditor.

573. Order on application for discharge. The order of the Court made on an application, for discharge shall be dated the day on which it is made and shall take effect from the day on which the order is drawn up and signed; but except in the case of an unopposed application, such order shall not be delivered out or published until after the expiration of the time allowed for appeal, or if an appeal is preferred; until after the decision of the Court of Appeal thereon. The order shall be in one of the Forms Nos. 107 to 110 in Appendix A, as the case may require.

574. Notice of order. When the time for appeal has expired or, the case may be, when the appeal has been decided by the Court of Appeal, on payment of the necessary advertising charges by the insolvent the Additional Registrar shall publish notice of the Order of discharge once in the Official Gazette, and in a local daily newspaper or advertiser in Form No.111 in Appendix A.

575. Costs of application. An insolvent shall not be entitled to have any of the costs of or incidental to his application for his discharge allowed to him out of his estate.

576. Conditional orders. (1) When the Court grants an order of discharge conditionally upon the insolvent consenting to a decree being passed against him in favour of the Official Assignee for any balance or part of any balance of the debts provable under the insolvency which is not satisfied at the date of his discharge, the order of discharge shall not be signed, completed or delivered out until the insolvent has given the required consent in the Form No. 112 in Appendix A. The decree shall be recorded in the *Original Jurisdiction of the High Court of Sindh* and shall be in the Form No. 113 in Appendix A.

(2) If the insolvent does not give the required consent within one month of the making of the conditional order, the Court may, on the application of the Official Assignee, revoke the order or make such other order as the Court may think fit.

577. Execution of decree against insolvent. An application by the Official Assignee for leave to execute the decree passed against the insolvent pursuant to a conditional order of discharge shall be in writing, and shall state briefly the grounds on which the application is made. On presentation of the application, the Additional Registrar shall fix a day for the hearing and shall give notice thereof to the insolvent not less than eight days before the day appointed for the hearing, and shall at the same time furnish him with a copy of the application.

578. Accounts of after acquired property. (1) When an insolvent is discharged subject to the condition that a decree shall be passed against him in favour of the Official Assignee or subject to any other condition as to his future earnings or after acquired property, it shall be his duty until such decree or condition is satisfied from time to time to give the Official assignee such information as he may require with respect to his earnings and after acquired property and income, and not less than once a year to file in the court a statement verified by affidavit, showing the particulars of any property or income he may have acquired subsequent to his discharge.

(2) The Official Assignee may require the insolvent to attend before the Court to be examined on oath with reference to the statement contained in such affidavit or as to his earnings, income after-acquired property, or dealings. When an insolvent neglects to, file such a statement or to attend the Court for examination when required so to do or properly to answer all such questions as the Official Assignee; revoke the order of discharge. The affidavit shall be in Form No.114 in Appendix A.

579. Failure to apply for discharge. If an insolvent fails to apply to the court for an order of discharge within eighteen months after the date of the order of adjudication or six months after the conclusion of his public examination, if any, whichever is the later period, the Additional Registrar shall set down the case with notice to the insolvent and the official Assignee of not less than seven days of the date on which it will be set down for the orders of the Court under section 41 of the Act.

580. Renewal of application. After expiration of two years from the date of an order absolutely refusing a discharge, the Court may, on sufficient grounds being shown such as subsequent good conduct of the debtor and on a certificate of the Official Assignee that the insolvent has furnished and rendered so far as he could such information and assistance as were required of him, permit him to renew his application for discharge.

ADMINISTRATION OF PROPERTY

Proof of Debts

581. Form of proof. A creditor's proof shall be in Form No. 115 in Appendix A.

582. Wages of labourers & etc. In any case in which it shall appear from the debtor's schedule that there are numerous claims for wages by labourers and others employed by the debtor, it shall be sufficient if one proof for all such claims is made either by the debtor or his foreman, or head assistant, or some other person on behalf of all such creditors. Such proof shall be in Form No. 116 in Appendix A and shall have annexed thereto, as forming part thereof, a schedule setting forth the names of the labourers and others and the amounts severally due to them. Any proof made in compliance with this rule shall have the same effect as if separate proofs had been made by each of the said labourers and others.

583. Transmission proofs to trustees. Where a trustee is appointed in any matter, all proofs of debts that have been received by the Official Assignee shall be handed over to the trustee. But the Official Assignee shall first make a list of such proofs and take a receipt therein from the trustee for such proofs.

584. Proofs to be sent by the Official Assignee to Additional Registrar. The Official Assignee where no other trustee is appointed, shall forthwith after the final payment has been made in a composition or scheme duly approved by the Court or after a final dividend has been declared in an insolvency send to the Additional Registrar all proofs tendered in the proceeding with a list thereof certified to be correct, distinguishing in such list the proofs which were wholly or partly admitted, and the proofs which were wholly or partly rejected.

585. Proofs to be sent by trustee to Additional Registrar. Every trustee under a composition or scheme other than the Official

Assignee shall on the first day of every month send to the Additional Registrar a certified list of all proofs, if any, received by him from the Official Assignee or otherwise tendered during the month next preceding, distinguishing in such lists the proofs admitted, those rejected and such as stand over for further consideration, and in the case of proofs admitted or rejected, he shall transmit the proofs themselves for the purpose of being filed.

586. Procedure where creditor appeals. The Official Assignee, or as the case may be, the trustee appoint under a composition or scheme shall, within three days after receiving notice from a creditor of his intention to appeal against a decision rejecting a proof, file such proof, with the Additional Registrar with a memorandum thereon of his disallowance thereof. After the appeal has been heard by the Court, the proof, unless wholly disallowed, shall be given back to the Official Assignee or trustee, as the case may be.

587. Time for admission or rejection of proof by Official Assignee. Subject to the power of the Court to extend the time and not later than fourteen days from the latest date specified in the notice of his intention to declare a dividend as the time within which such proofs must be lodged, the Official Assignee shall in writing either admit or reject wholly or in part every proof lodged with him or require further evidence in support thereof.

588. Time for admission or rejection of proof by trustee. Subject to the power of the Court to extend the time, the trustee under a composition or scheme other than the Official Assignee, within twenty eight days after receiving a proof which has not previously been dealt with by the Official Assignee, shall in writing either admit or reject it wholly or in part or require further evidence in support thereof.

589. Notice of admission or rejection of proof. Where a creditor's proof has been admitted, the notice of dividend shall be sufficient notification to such creditor of such admission. Where a proof has been rejected, the Official Assignee shall forthwith deliver or send by

prepaid post letter or otherwise notice of the rejection to the creditor concerned in Form No. 117 in Appendix A.

Explanation.- Where any claim for interest after the date of adjudication has been erroneously included in the affidavit and is disallowed by the Official Assignee, it shall not be deemed to be a rejection of the claim or part thereof and it shall not be necessary for the Official Assignee to give notice of the disallowance thereof.

590. Costs of appeals from Official Assignee's decision as to proof. The Official Assignee shall in no case be personally liable for costs in, relation to an appeal from his decision rejecting any proof wholly or in part.

Application to realize Security

591. Application to realize security. Upon application by a person claiming to be a mortgagee of any part of the insolvent's freehold or leasehold property or by the Official Assignee with the consent of such person claiming to be a mortgagee as aforesaid under rule 18 of the Rules in the Second Schedule to the act or by a creditor who holds any other security over the insolvent's property to have such mortgage or security realized, a day shall be fixed for hearing the application, and notice thereof shall be given to the Official Assignee, if he is not the applicant, and shall be published in Form No. 118 in Appendix A.

592. Report of the Official Assignee and hearing of application. The Official Assignee shall inquire into every such claim and shall report to the Court thereon, and before granting the application the Court shall take into consideration the report of the Official Assignee and shall hear any objections which may be made by or on behalf of a creditor or other person interested in the matter.

593. Order for realization of security. If the Judge orders the mortgage or other security mentioned in Rule 589 to be realized, the order shall be in Form No. 119 in Appendix A.

Unless otherwise ordered, notice of the time, place, & etc., of the sale shall be published in the Official Gazette and one local newspaper.

594. Costs of application. If the claimant succeeds in proving his claim; the Court may order the creditor or person, who opposed the same, to pay the claimant's costs of the application. If the claimant fails to prove his claim, the Court may order him to pay the opposing party's costs in opposing the same.

Realization of property

595. Warrant of seizure and search warrant. Warrant of seizure and search warrants under section 59 of the Act shall be in Forms Nos. 120 and 121 in Appendix A and when granted to the Nazir of the Court they may be executed personally either by the Nazir or by the Deputy Nazir of the Court All other processes may be endorsed by the Nazir for service to any bailiff working under him.

Disclaimer of Lease

596. Disclaimer of lease. (1) A lease may be disclaimed without leave of the Court in any of the following cases viz: .

- (i) where the insolvent has not sub-let the demised premises or any part thereof or created a mortgage or charge upon the lease, and
 - (a) the rent reserved of the property leased is less than Rs.50000/- per annum or.
 - (b) the estate is administered under section 106 of the Act, or the Official Assignee serves the lessor with notice of his intention to disclaim and the lessor does not, within seven days after the receipt of such notice, give notice to the Official Assignee requiring the matter to be brought before the Court;

- (ii) where the insolvent has sub-let the demised premises or created a mortgage or charge upon the lease and the Official Assignee serves the lessor and the sub-lessee or the mortgagees with notice of his intention to disclaim, and neither the lessor nor the sub-lessee or the mortgagees or any of them, within fourteen days after the receipt of such notice, require or requires the matter to be brought before the Court.
- (2) The notices shall be in Forms Nos. 122 & 123 Appendix A.
- (3) Except as provided by this rule, the disclaimer of a lease without the leave of the Court shall be void.
- (4) Where the Official Assignee disclaims a leasehold interest, he shall forthwith file the disclaimer with the proceedings in the Court; and the disclaimer shall contain particulars of the interest disclaimed, and a statement of the persons to whom notice of the disclaimer has been given. Until it is filed by the Official Assignee, the disclaimer shall be inoperative (Forms Nos. 124 to 126 in Appendix A).
- (5) Where in pursuance of notice by the Official Assignee of his intention to disclaim a leasehold interest, the lessor, sub-lessee or mortgagee requires the Official Assignee to apply to the Court for leave to disclaim, the costs of the lessor, sub-lessee or mortgagee shall not be allowed out of the estate of the insolvent except in cases in which the Court is satisfied that such application was necessary in order to do justice between the parties.
- (6) A disclaimer made without the leave of the Court under this rule shall not be void or otherwise affected on the ground only that the notice required by this rule has not been given to some person who claims to be interested in the demised property.
- (7) Where any person claims to be interested in any part of the property of the insolvent, burdened with onerous covenants, he

shall, at the request of the Official Assignee furnish a statement of the interest so claimed by him.

Distribution of Property

597. Notice or intended dividend. (1) Not less than a month before declaring a dividend the Official Assignee shall publish notice of his intention to do so in Form No. 130 in Appendix A and shall at the same time send notice thereof in Form No. 131 to each of the creditors mentioned in the insolvent's schedule who has not proved his debt. Such notice may be delivered personally or sent by prepaid post letter, as may be convenient and shall specify the latest date up to which proofs must be lodged, which shall not be less than fourteen days from the date of such notice.

(2) Where any creditor, after the date mentioned in the notice of intention to declare a dividend as the latest date upon which proofs may be lodged, appeals or intends to appeal against the decision of the Official Assignee rejecting a proof he shall give notice of his appeal or intended appeal to the Official Assignee within seven days from the date mentioned in the notice of intention to declare a dividend or from the date of the notice of the decision against which the appeal has been or is to be made whichever is the later date; and the Official Assignee shall in such case make provision for the dividend upon such proof as if it was a disputed proof within the meaning of section 71(1) (c) of the Act.

(3) Immediately after the expiration of the above mentioned period of seven days, the Official Assignee shall proceed to declare a dividend and shall send in the manner prescribed in sub-rule (1) of this rule a notice of dividend to each creditor who has proved in Form No. 132 in Appendix A.

(4) On declaring a dividend the Official Assignee shall send to the Additional Registrar for filing with the record of the case a copy of the statement mentioned in sub-section (5) of section 69 of the Act,

signed by him, as to the particulars of the estate, which shall be in Form No. 133 in Appendix, A.

598. Production of bills, notes & etc. Subject to any law for the time being in force and subject to the power of the Court on special grounds being shown to order production to be dispensed with every bill of exchange hundi, promissory note, or other negotiable instrument or security upon which proof has been made, shall be exhibited to the Official Assignee for payment of dividend thereon, and the amount of dividend paid shall be endorsed on the instrument.

599. Dividend may be sent by post. The amount of the dividend may, at the request and risk of the creditor, be transmitted to him by cheque by Post (Form No. 156) in Appendix A in a period, cover or by money order after deducting the money order commission. No postal or other charges shall be levied.

600. Notice of intention to make final dividend. The notice to be given by the Official Assignee under section 73(1) of the Act shall be in Form No. 134 in Appendix A and may be delivered personally or sent by prepaid post letter as may be convenient to the addressees at the addresses given in the insolvent's schedule or such other address as may be otherwise known to the Official Assignee. Such notice may also be published in any newspaper or advertiser, if in the discretion of the Official Assignee he considers it fit to do so.

601. Rate of interest on dividends which the Official Assignee is ordered to pay. When the Court makes an order under section 74 of Act for the payment of a dividend by the Official Assignee, the amount ordered to be paid shall carry interest at the rate of six per cent or as prescribed by the State Bank of Pakistan at the relevant time, per annum (Form No. 135 in Appendix A).

602. Appointment of insolvent to manage property, or carry on trade. The Power of the Official Assignee to appoint the insolvent under the provisions of section 75(1) of the Act to superintend the management of his property or to carry on his trade shall be subject to

the consent in writing of the Committee of inspection, if any or of the majority in number and three fourths in value of all the creditors whose debts are proved or to previous sanction of the Court being obtained to such appointment.

THE OFFICIAL ASSIGNEE

603. Security by Official Assignee. The Official Assignee shall give security for the due and faithful execution of his duties to the amount of Rs. 15,000/- in the form of a bond for that amount to the Governor of Sindh for the time being with two sureties to be approved by the Chief Justice. If, either surety dies or becomes insolvent, the Official Assignee shall, immediately after such event has become known to him, give notice thereof to the Chief Justice, and shall execute a fresh bond with two sureties forthwith.

604. Liability for loss. The Official Assignee and his sureties shall be responsible under their bond for any and every loss of or deficiency in the funds of the Official Assignee as such which may be occasioned by his negligence or default, or by the negligence or default of any person officiating for him during his tenure of the office.

605. Fees, commission and percentages chargeable by the Official Assignee. The Official Assignee shall be entitled to charge for the duties to be performed by him as Official Assignee or as interim receiver-

- (a) such fees and percentages as may be chargeable by him under the Act and these rules;
- (b) a commission at the rate of 7 per cent on the gross amount or value of assets realised or collected by him in each estate;
- (c) a commission at the rate of 7 per cent on the amount realized by the Official Assignee on sale of mortgaged property under the provisions of the Second Schedule

to the Act;

- (d) a commission at the rate of 7 per cent on the amount paid or payable in pursuance of a composition or scheme of arrangement; and when an application is made under section 21 of the Act on the ground that the debts of the insolvent are paid in full, a commission at the rate of 7 per cent on the total of such debts (the same to be paid before an order is made under that section):

Provided that with reference to clauses (c) and (d) the Court may, in its discretion, fix a sum less than the sum payable at the rate of 7 per cent as Official Assignee's commission; provided further where the order of adjudication is annulled or petition is withdrawn and assets have not been realized either in whole or in part, it shall be competent for the Court to fix such remuneration for the duties performed by the Official Assignee in respect of such part of the said assets as has not been realized by the Official Assignee before the date of the order of annulment or withdrawal of petition.

606. Payment of fees, percentages, etc., to High Court. The fees, percentages and commission realized by the Official Assignee under the provisions of the Act and these rules shall be paid by him to the account and credit of the High Court in the first week of the month following the month in which the said fees, percentages and commission are realized or received by the Official Assignee or as soon thereafter as may be convenient.

607. Remuneration of the Official Assignee. The Official Assignee shall be paid on the time-scale equivalent to the scale of District Judge.

608. Deposit in bank of moneys realized. Unless the Court shall otherwise order, the proceeds of sale and other moneys received in respect of insolvent's estates shall, after deducting his commission and such amount as may be required by him for immediate payment of

costs, charges and expenses, be deposited by the Official Assignee in any approved bank to the credit of an account in the name of the Official Assignee, and all interest accruing on the amounts in the Saving account shall be credited, from time to time, to the unclaimed Dividend Revenue Account.

All such sums as may not be required for immediate use may: from time to time, with the sanction of the Judge, be deposited by him in any approved bank in fixed deposit or invested in any security of the Government of Pakistan in the name of the Official Assignee, and for such period as the Judge may deem fit. The Official Assignee shall however be entitled to retain in his hands for petty expense a sum not exceeding Rs.10,000/- in all.

609. Money how drawn. When any money is required to be drawn from such account the same shall be drawn by cheque signed by the Official Assignee.

610. Account of dividends declared. Every dividend declared in respect of a claim admitted or established in the Court shall be placed in the accounts of the Official Assignee to the credit of the creditor to whom it is due and shall, subject to the provisions of section 122 of the Act, stand to his credit in such accounts until claimed by him or on his behalf by or on behalf of his representatives unless the Court shall otherwise direct.

611. Official Assignee to open Unclaimed Dividend Account. The Official Assignee shall open an account called "The Unclaimed Dividend Account" and shall from time to time transfer to the said account all dividends unclaimed within one year from the date of the declaration of such dividends except such sum as may be required for payment of dividends together with all sums standing to the credit of the insolvents' estates in which no further recovery is anticipated and in which no dividend can be declared, and all such other unclaimed balances whatsoever as may be in his hands by virtue of proceedings under the Provincial Insolvency Acts of 1907 and 1920 and, with the

sanction of the Judge, invest in the name of the Official Assignee all moneys standing to the credit of the account in any security of the Government of Pakistan or in fixed deposit with any approved bank.

612. Income from investments. (1) The Official Assignee shall transfer the interest accruing from all such investments to an account called 'The Unclaimed Dividend Revenue Account'. The amount in such account shall be devoted to payment of the cost of advertising and administering small estates in which funds are not sufficient and the cost of civil proceedings, etc., mentioned in Rules 625 and 626 and interest as mentioned in Rule 599 and the remuneration of any clerk, *meita* or other person employed temporarily with the sanction of the Chief Justice.

(2) At the end of every year all sums and securities standing to credit of the Unclaimed Dividend Revenue Account less than sum of Rs. 5,000/- shall be transferred to the account and credit of the High Court after the completion of the audit of the Official Assignee's account for the year: Provided that if at any time the amount standing to the credit of the Unclaimed Dividend Revenue Account is less than Rs. 5,000/-, the deficit shall be paid by the High Court to the credit of the said account in order to make up the sum of Rs. 5,000/-.

613. Disposal of the balance of Unclaimed Dividend Account. At the end of every year all sums and securities standing to the credit of the Unclaimed Dividend Account less the sum of Rs.10000/- shall be transferred to the account and credit of the High Court after the completion of the audit of the Official Assignee's accounts for the year: Provided that if at any time the amount standing to the credit of the said account is less than Rs.1000/-, the deficit shall be paid by the High Court to make up the said sum of Rs. 10000/-

614. List of dividends. The Official Assignee shall keep suspended in a conspicuous position in his office, a list of all dividends due to creditors which have been unclaimed for six months which list shall be

opened to the inspection of all persons claiming to be interested in the estate of any insolvent.

615. Notice of unclaimed dividends. The Official Assignee shall, after the expiration of one year from date of declaration of every dividend, publish in the *Officials Gazette*, in two consecutive issues thereof, a list of all dividends remaining unclaimed in respect of every estate which has come into his possession.

616. Half yearly statement of estates. The Official Assignee shall publish half-yearly in the Official Gazette, namely, in the Gazette first published after 31st day of March and the 30th day of September in each year for the half-year ending on the 31st December or 30th June preceding, a statement of each estate not then wound up and fully distributed, that is to say, of the whole receipts, of the whole disbursements (distinguishing dividends from other payments), of the balance remaining of the mode in and securities on which such balance is actually invested, and of the probable out-turn of dependencies and, at the foot thereof; shall specify the amount of commission received by him during the half year.

617. Audit of accounts (1) The accounts of the Official Assignee shall be audited once in every year, that is to say up to 31st December in every year, by the Controller, Sindh, or any auditor deputed by him for that purpose. The auditor shall be directed to ascertain that the accounts have been properly and accurately kept and that all moneys received and disbursed have been accounted for.

(2) The auditor shall examine the accounts of the Official Assignee including the statement of the half year ending 31st December preceding and report thereon to the Chief Justice, and if during such audit any questions or matter of difference shall arise between the auditor and the Official Assignee in respect, of any payment, receipt voucher or otherwise, such questions or matter of difference shall be referred to the Chief Justice or to such Judge as he may appoint to decide the same.

(3) For defraying the costs of the audit, the Official Assignee shall deduct from the assets in each estate a percentage of 25% on the amount realized by him and credit the same to the Unclaimed Dividend Revenue Account.

618. Fees for copy of lists. The Official Assignee shall levy the following fees in addition to such other fees as are prescribed by these rules:-

	Rs.
For each copy of the list of creditors and the debts due to each of them required to be furnished RS.100/-plus such copying charges as are payable to copyists under the Sindh High Court Rules (A.S.)	100
For every certificate	100
For each copy of vesting order plus such copying charges as are payable to copyists under the Sindh High Court Rules (AS.).	100
For each search in his office in answer to inquiry.	100
For every attendance before the High Court with books or papers from his Office by order of the Court or at the request of any party.	300
For every attendance at any Court other than the High Court with papers from his Office by order of such Court or at the request of any party.	1000
At a Criminal Court no fee but only such reasonable expenses as may be actually incurred shall be charged.	
For every transmission by post or by messenger to any Court other than the High Court of papers from his office by order of such Court or at the request of any party.	1000
For the execution by the Official Assignee of any conveyance of immovable property when no portion of the purchase money is received by him for the benefit of the creditors at large, a fee at the rate of 75% per cent, upon the amount of the purchase money payable by the party requiring such execution, provided that such fee in the whole shall never exceed.	10000

For affixing the seal of creditors, except in respect of
certified copy of the list creditors. 100

Certified copies issued by the Official Assignee shall be signed by him or by his Head Clerk and shall be served with the seal of his office.

Such fees shall be credited to the Provincial Government.

619. Record book. The Official Assignee shall keep a book to be called the “Record Book” in which he shall record all minutes of all proceedings had and all resolutions passed at any meeting of creditors or of the committee of Inspection, but he shall not be bound to insert in the record any document of a confidential nature (such as the opinion of counsel on any matter affecting the interest of the creditors), nor need to exhibit such document to any person other than a member of the Committee of inspection.

620. Duties as to debtor’s schedule. (1) As soon as the Official Assignee receives a copy of an order of adjudication, he shall, on the debtor’s application, furnish him with a copy of instructions for the preparation of his schedule. The instructions shall be in Form No. 75 in appendix A.

(2) The Official Assignee shall also forthwith hold a personal interview with the debtor for the purpose of investigating his affairs and determining whether the estate should be administered under section 106 of Act.

621. Joint and separate estate accounts. When an order of adjudication has been made against debtors in partnership, distinct accounts shall be kept of the joint estate and of the separate estate or estates and no transfer of a surplus from a separate estate to a joint estate on the ground that there are creditors under such separate estate shall be made until after notice of the intention to make such transfer has been published once in a local newspaper or advertiser in Form No. 136 in Appendix A.

622. Mode of application to Court. Application by the Official Assignee to the Court may be made personally and without notice or other formality; but the Court may in any case order that an application be renewed in a formal manner and that such notice thereof be given to any person likely to be an affected thereby as the Court may direct.

623. Evidence on application by Official Assignee. Where for the purpose of any application to the Court by the Official Assignee for directions, or to adjudge a debtor insolvent, or for leave to disclaim a lease or for an extension of time to apply for leave to disclaim a lease, or for an order to take criminal proceedings against an insolvent, or to commit an insolvent it is necessary that evidence be given by him in support of such application, such evidence may be given by a report of the Official Assignee to the Court and need not be given by affidavit, and any such report of the Official Assignee to the Court shall be received by the Court as *prima facie* evidence of the matters reported upon.

624. Application for direction. In any case of doubt or difficulty or in any matter and provided for by the Act or these rules relating to any proceeding in Court the Official Assignee may apply to the Court for direction.

625. Accounting by Official Assignee. (1) Where a composition or scheme is sanctioned by the Court, the Official Assignee shall account to the debtor, or, as the case may be, to the trustee under the composition or scheme.

(2) If the debtor, or, as the case may be, the trustee is dissatisfied with the account or any part thereof, he may report the matter to the Court which shall take such action, if any, thereon as it may deem expedient.

626. Disposal of debtor's books of account & etc. The Court may on the application of the Official Assignee direct that the debtor's

books of account and other documents given up by him may be sold, destroyed or otherwise disposed of.

Costs of Civil Proceedings

627. Costs of Civil proceedings. Where the Official Assignee has been directed by the Court in the matter of any insolvency to institute legal proceedings of any kind whatsoever, he shall be entitled, so far as the assets in his hands relating to such insolvency are insufficient to meet the costs and expenses of such proceedings, to pay such deficiency out of the Unclaimed Dividend Revenue account.

628. Civil liability of Official Assignee how met. Where the Official Assignee while acting under the order and direction of the Court or otherwise acting in his official capacity in the matter of any insolvency shall incur any civil liability and the assets in his hands relating to such insolvency are insufficient to meet such liability, he shall be entitled to apply to the Court for leave to pay any deficiency out of the Unclaimed Dividend Revenue Account, and such leave shall be granted. Provided that the Official Assignee, while so acting, shall have complied with the order and direction of the Court and in the absence of any order and direction of the Court, he shall have acted *bona fide* in the discharge of his duties.

629. Costs when assets not available. Where an insolvent has no available assets, the Official Assignee shall not be required to incur any costs, charges or expenses in relation to his estate without the express direction of the Court:

Provided that he shall be at liberty to apply any moneys not exceeding Rs.5000/- in, any one matter out of the moneys standing to the credit of the Unclaimed Dividend Revenue Account in defraying any necessary court fees, costs, charges and expenses in administering estates in which he has no funds in his hands and shall repay, in priority to all other claims or charges, the amount so applied, out of the recoveries, if any, made by him.

630. Deficit how met. In all cases in which the Official Assignee is entitled to discharge any civil liability from, or to pay any costs, charges or, expenses out of, the Unclaimed Dividend Revenue Account and there is a deficit in the said account, the said deficit shall be made good out of the revenues of the Provincial Government.

631. Liability for costs, damages and expenses. The following provisions shall apply to every case in which proceedings are taken either by action, motion or in any other manner against the Official Assignee in respect of anything done or default made by him when acting or in the *bona fide* and reasonable belief that he is acting in pursuance of the Act, or in execution of the powers given to the Official Assignee by the Act:

- (1) subject to the provisions of the next following subsection, the costs, damages and expenses which the Official Assignee may have to pay or to which he may be put under such proceedings, shall be paid out of the estate of the insolvent. If such estate is insufficient, the deficit shall be paid from the Unclaimed Dividend Revenue Account;
- (2) as soon as any such proceedings are commenced, it shall be the duty of the Official Assignee to report the same to the Court, which shall determine whether or not such proceedings shall be resisted or defended, and unless the Court shall otherwise determine, no such costs, damages or expenses shall be paid out of the estate unless the Court has determined that such proceedings shall be resisted or defended.

632. Books of account to be maintained by the Official Assignee. The Official Assignee shall maintain the books of account mentioned in Form No.145 in Appendix A, of which the first column contains the names of the several books and the second column specifies the entries to be made therein, respectively.

Special Manager

633. Special Manager's accounts. Every special manager shall account to the Official Assignee and such special manager's accounts shall be verified by affidavit in Form No. 137 in Appendix A, and when approved by the Official Assignee, the total of the receipts and payments shall be added to the Official Assignee's accounts.

COMMITTEE OF INSPECTION

634. Control of Committee of Inspection over Official Assignee.

(1) The Official Assignee shall submit the Record Book prescribed by Rule 617, his books of account together with any other requisite books and vouchers to the Committee of Inspection, if any, as and when required.

(2) The Committee of inspection, if any, shall be consulted by the Official Assignee on all matters of importance affecting the general body of creditors, and in particular on questions relating to the valuation, redemption and realization of securities, and disclaimer of leases or property burdened with onerous covenants; and the proceedings had on such consultations, together with any resolutions of the Committee passed there at, shall, subject to the restrictions mentioned in Rule 617, be duly recorded in the record book.

SMALL INSOLVENCIES

635. Report of Official assignee as to value of property. (1) A report of the Official Assignee and an order for summary administration of an insolvent's estate under section 106(1) of the Act shall be in Forms Nos. 138 and 139 in Appendix A, respectively.

Summary administration. (2) When an order of summary administration of an insolvent's estate is made by the Court, the

provisions of the Act and these rules shall, subject to any special directions of the Court be further modified as follows:

- (i) there shall be no advertisement of any proceedings in a local paper unless the Court otherwise directs;
- (ii) the title of every document in the proceedings subsequent to the making of the order for summary administration shall have inserted thereon "Summary Case";
- (iii) there shall be no Committee of Inspection;
- (iv) on an application by an insolvent for his discharge, the list certified by the Official Assignee shall not include nor shall notices be sent to creditors whose debts do not exceed Rs.3000/-
- (v) notices of meetings or of sittings of the Court shall only be sent to creditors whose debts or claims exceed Rs.3000/-
- (vi) such sheets from A to H in Form No. 75 in Appendix A, will have to be returned blank shall be omitted from the schedule, the insolvent enumerating such sheets in the deficiency statement.

SPECIAL PROCEEDINGS

Administration of the estates of persons dying insolvent

636. Application for administration order. (1) A creditor's petition under section 108 of the Act shall, be in Form No. 140 in Appendix A, and shall be verified by affidavit, which shall state the source or sources of the deponent's knowledge or belief as to the statement or statements verified or deposed to by him.

(2) Notice of the petition to the legal representative of the deceased debtor shall be in Form No. 141 in Appendix A.

637. Order for administration. (1) An order for the administration in insolvency of deceased debtor's estate under section 108(2) of the Act shall be in Form No. 142 or 143 in Appendix A.

(2) Notice of the order shall be published in Form No. 144 in Appendix A.

638. Duties of legal representative. When an administration order under section 108 of the Act has been made, it shall be the duty of the legal representative of the deceased debtor to file with the Official Assignee forthwith an account of the dealings with and administration, if any, of the deceased's estate by such legal representatives and such legal representative shall also furnish forthwith a list of the creditors, and a statement of the assets and liabilities and such other particulars of the affairs of the deceased debtor as may be required by the Official Assignee. Every account, list and statement to be made under the rule shall be made and verified as nearly as may be in accordance with the practice for the time being of the Court in its original civil jurisdiction.

639. Executor de son tort. In any case in which an administration order under section 108 of the Act has been made and it appears to the Court, on the report of the Official Assignee, that no legal representative of the debtor exists, the account, list and statement mentioned in Rule 554 shall be made, verified and filed by such person as in the opinion of the Court, upon such report, may have taken upon himself the administration of or may otherwise have intermeddled with the property of the deceased, or any part thereof.

SUPPLEMENTAL

Access to insolvent's books

640. Fee for inspection. Notwithstanding anything contained in Rule 162 of the Sindh High Court Rules, Appellate Side, the fee payable to the Official Assignee for inspection of an insolvent's books under section 124 (2) of the Act shall be Rs.2000/- if the inspection lasts for a day or part of a day; and if the inspection lasts for more than a day; Rs.2000/- for the first day and Rs. 1000/- for every subsequent day or part thereof. Such fees shall be credited to the Provincial Government.

Registers

641. Insolvency register. The Additional Registrar shall keep a register of insolvency petitions cases and proceedings in Forms Nos. 7, 8 and 9 in Appendix B. He shall submit half-yearly returns in Form No.10 in Appendix B to the Chief Justice.

642. Power of Court to extend time. The Court may, under special circumstances and for good cause shown, extend or abridge the time appointed by these rules or fixed by any order of the Court for doing any act or taking any proceeding.

CHAPTER XXVIII

RULES UNDER THE ADMIRALTY JURISDICTION OF HIGH COURT

643. Interpretation. In the construction of the rules in this chapter the following terms shall (if not inconsistent with the context or subject matter) have the respective meaning hereinafter assigned to them; that is to say:-

“Affidavit” shall, in addition to its ordinary meaning, include a statement in writing on solemn affirmation, wherever by law a person may make a solemn affirmation instead of an oath.;

“Code” shall mean the Code of Civil Procedure or other law in force for the time being, regulating the procedure of the Court;

“the Court” shall mean the High Court of Sindh;

“Judge” shall mean a Judge of the High Court of Sindh;

“the Nazir of the Court” shall mean the Nazir of the High Court and all processes of the Court shall be executed by him or by one of the officers subordinate to him;

“party” shall include for purposes of Court procedure not only the party himself but his legal representative (Barrister, Solicitor or Advocate) duly admitted to practice before the Court under the rules in force for the time being as to the admission of advocates to practice in the Court;

“Additional Registrar” shall mean the Additional Registrar, Original Side, appointed to be Admiralty Registrar of the Court;

“Registry” shall mean the office of the Admiralty Registrar;

“Suit” shall mean any suit, action or other proceeding instituted in the Court in its jurisdiction under the Admiralty Jurisdiction of High Courts Ordinance, 1980.

644. Institution of suits. A suit shall be commenced by a plaint drawn up, subscribed and verified according to the provisions of the Code and the practice throughout shall, as far as is compatible with these rules, be that laid down in the Code.

645. Warrants. When a suit is instituted in *rem*, any party may, on filing an affidavit, obtain from the Court a warrant for the arrest of the property proceeded against.

646. Statements requisite in suits of necessities and of wages.

In a suit of necessities and in a suit of wages the national character of the vessel proceeded against shall be stated in the plaint; and in a wages suit against a foreign vessel, notice of the institution of the suit shall be given to the Counsel of the State to which vessel belongs. And if there be no such Counsel in Pakistan, an affidavit to this effect shall be annexed to the plaint.

647. Warrant with Court's leave through particular wanting.

When it seems advisable, the Court may allow the warrant to issue through the affidavit or plaint may not contain all the required particulars and in a suit of wages may also waive the service of the notice.

648. Service of warrant, filling thereof. Every warrant shall be served by the Nazir or his bailiff. The Nazir or his bailiff shall, within six days from the service thereof, file his affidavit or other evidence necessary to prove the service thereof in the registry.

649. Service of summons or warrant, how effected on vessel. In suits in rem service of summons or warrant against ship, freight or cargo on board is to be effected by pasting the original summon or warrant on the hull or control room of the vessel and on taking off the process, by leaving, the copy of it issued under the provisions of the Code pasted in its place. The concerned Port and Customs Authorities to be notified not to issue Port clearance till further orders of the Court.

650. Service how effected on cargo landed. If the cargo has been landed or transshipped, service of the summons or warrant to arrest the cargo and freight shall be effected by placing the summons or warrant for a short time on the cargo and on taking off the process, by leaving the true copy aforesaid upon it.

651. Service on cargo in custody of third person. If the cargo be in the custody of a person who will not permit access to it, service of the summons or warrant may be made upon the custodian under the

usual rules as to the service of a summons or corresponding order in execution proceedings contained in the Code.

652. Suits in rem by default. If on the date fixed for hearing no appearance is made for the defendant in the suit, the Court may proceed *ex parte* and if appearance is made, the Court will proceed in the usual manner under the Code.

653. Judgment for the claim, if well founded. If the suit proceed *ex parte* and the Judge is satisfied that the plaintiffs claim is well founded, he may pronounce for the claim and may order the property to be sold with or without previous notice and the proceeds paid to the Nazir or may make such order as he shall think just.

654. Entry of appearance. A party desiring to enter an appearance in any suit shall file a written statement before the day set down for the first hearing or settlement of issues.

655. Contents of written statement. The written statement shall contain, besides the name of the party, an address in Karachi at which it shall be sufficient to leave all instruments and documents in the suit, in addition to the details required in written statements by the Code.

656. Security. If security is to be given in the registry, it shall be given according to the rules and practice of the Court as to security in the case of an attachment before judgment in an ordinary civil suit.

657. Releases. Property arrested, by warrant shall only be released in the authority of an order in writing issued by the Court to be called a release.

658. Release before appearance entered on application. A party at whose instance any property has been arrested the release thereof by filing an application to withdraw the warrant.

659. On payment into Registry, release of property. A party may obtain the release of any property by paying to the Nazir the sum in which the suit has been instituted.

660. Release of cargo arrested for freight, on payment. Cargo arrested for the freight only may be released by an order of the Judge in Chambers upon proof by affidavit of the value of the freight and on payment of the amount of the freight to the Nazir.

661. Value of property under arrest in salvage suit. In a suit of salvage the value of the property under arrest shall be agreed to or proved by affidavit to the satisfaction of the Judge in Chambers before the property is released.

662. On security or payment into Registry, property arrested released. Where security shall have been given in the sum in which the suit has been instituted or such sums shall have been paid into Court and, if the suit be one to salvage, when the value of the property arrested shall have been proved to the satisfaction of the Judge in Chambers, he shall grant release for the property arrested, unless there be a caveat against the release thereof outstanding in the Caveat Release Book.

663. Release by Nazir. The order of release shall be sent to the Nazir to whom the party on whose application the order of release was made shall pay all costs charges and expenses attending the care and custody of the property while so under arrest and the Nazir shall thereupon release the property.

664. Caveat Release Book. A party in a suit, desiring to prevent the release of any property under arrest, shall file an application to that effect duly supported by affidavit and thereupon a *caveat* against the release of the property shall be entered in a book to be kept in the registry called the 'Caveat Release Book'.

665. Penalty for delaying release. A party delaying the release of any property by the entry of a caveat shall be liable to be condemned in costs and damages, unless he shall show, to the satisfaction of the Court, good and sufficient reason for having so done.

666. Caveat Warrant Book. A person desiring to prevent the arrest of any property may cause a caveat against the issue of a warrant for the arrest thereof to be entered in the registry.

667. Entry of appearance in Caveat Warrant Books. For this purpose he shall cause to be filed in the registry a notice, duly signed by himself or his legal representative, undertaking to enter an appearance in any suit that may be instituted against the said property, and to give security in such suit in a sum not exceeding an amount to be stated in the notice or to pay such sum into the registry, and a caveat against the issue of a warrant for the arrest of the property shall thereupon be entered in a book to be kept in the registry called the "Caveat Warrant Book".

668. Service of plaint on party entering Caveat Warrant. A party instituting a suit against any property in respect of which a caveat has been entered in the Caveat Warrant Book shall, before filing the plaint, serve a copy thereof upon the person on whose behalf the caveat has been entered and shall annex to the plaint an affidavit of such service.

669. Party entering caveat to give security of filing of plaint. Before departure of the vessel and not later than three days from the filing of the plaint the person on whose behalf the *caveat* has been entered shall give security in the sum in which the suit has been instituted or pay the same to the Nazir.

670. On default, suit may proceed *ex parte*. After the expiration of three days from filing of the plaint, if the party on whose behalf the *caveat* has been entered shall not have given security in such sum or paid the same to the Nazir, the plaintiff may ask the Court to proceed with the suit by default and to pass judgment: provided that the Court may, on good cause shown and on such terms as to payment of costs as it may impose, extend the time for giving security or payment of the money to the Nazir.

671. Judgment to claim enforcement of payment. When the suit comes before the Court it is satisfied that the claim is well founded, it shall pronounce for the amount which appears to be due and may enforce the payment thereof by order and attachment against the

party, on whose behalf the *caveat* has been entered, and by the arrest of the property, if it then be, or thereafter come, within the jurisdiction of the Court.

672. Notwithstanding caveat property may be arrested. The preceding rules shall not prevent a party from taking out a warrant for the arrest of any property notwithstanding the entry of a *caveat* in the *Caveat Warrant Book* but the party, at whose instance any property in respect of which a *caveat* is entered shall be arrested, shall be liable to be condemned in costs and damages, unless he shall show, to the satisfaction of the Court, goods and sufficient reason for having so done.

673. Sale by order of the Court. Every sale under the decree of the Court shall, unless the Judge shall otherwise order, be made by the Nazir in like manner as a sale of movable property in execution of a decree in an ordinary civil suit subject to the rules as to Court-fees and other fees in force at the time.

674. Procedure by Nazir on sale of property. The Nazir shall pay into Court the gross proceeds of sale of any property sold by him and shall at the same time bring into the registry the amount of sale with vouchers in support thereof for taxation by the taxing officer of the Court, to whom the same shall be transmitted for the purpose.

675. Audience before Taxing Officer. Any person interested in the proceeds may be heard before the taxing officer on the taxation of the account of expenses and an objection to the taxation shall be decided by the Judge of the Court.

676. Payment of moneys. All money paid into Court shall be paid to the Nazir.

677. Payment out of money. Money paid into Court shall not be paid out of Court, except in pursuance of an order of the Court.

678. Security for latent demands. Security for latent demands shall not unless the Judge shall otherwise order, be required on the payment of money out of Court.

679. Notice against payment Caveat Payment Book. A party desiring to prevent the payment of money out of Court shall file a notice; duly supported by affidavit, and thereupon a caveat shall be entered in a book to be kept in the registry called the "Caveat Payment Book."

680. Applications. Forms of application to be filed in the, registry or the Nazir's office may be obtained on application in the registry. They may be varied or altered by the Judge at his discretion.

681. Signature to application. Every application shall be signed by the party.

682. Improperly filled up application. If an application be not properly filled up, the Additional Registrar or the Nazir may refuse to receive the same or to act thereon without an order of the Judge to whom he shall refer the matter if, the party desires this to be done.

683. Caveat to be in force for six months. A caveat, whether against the issue of a warrant, the release of property or the payment of money out of Court, shall not remain in force for more than six months from the date thereof.

684. Withdrawal of caveat. A caveat may be withdrawn by the party on whose behalf it has been entered.

685. Application to overrule a caveat. Application may be made to the Court or to the Judge in Chambers to overrule any *caveat*.

686. Fees by Officers and Nazir. The fees to be paid in all proceedings, whether in Court fees or in money shall be regulated by the table of fees and rules sanctioned from time to time for proceedings under the original civil jurisdiction of the Court.

687. Forms of Admiralty Division to be followed. The forms used in the Admiralty Division of the Supreme Court in England under the Rules of the Supreme Court Act, 1883, shall be followed as nearly as the procedure laid down in the Code and by these rules and the circumstances of each case will allow.

685. Where not provided for, rules and practice of O.C.J., to apply. The other proceedings in suits brought in the Court in the exercise of its jurisdiction under the Admiralty Jurisdiction of High Courts Ordinance, 1980, not provided for by these rules, shall be regulated by the rules and practice of the Court in suits brought in it in the exercise of its original civil jurisdiction.

686. Fees to nautical assessors. Nautical assessors shall be entitled to fees according to the scale prescribed in Chapter II in Appendix C.

CHAPTER XXIX

Rule made under Section 20(f) of the Trusts Act, 1882

687. Investment of trust money in government securities. Trust property consisting of money may, until further order, be invested in Government Securities or as ordered by the Court.

Note:- This is in addition to the securities already recognized under section 20 of the Trust Act, 1882.

APPENDIX A

FORMS

FORM No.1

Diaries

(Rule 37)

In the High Court of Sindh,

Diary of No. of 200

Date	No. of exhibit	Page	Description of exhibit, substance or motion & etc.	Date of which Hearing is adjourned
1	2	3	4	5

FORM No. 2

Vakalatnama

(Rule 46)

(Cause title)

I/We _____, the _____ in the above,
do hereby appoint _____ to appear and act for me/us as
my/our advocates) in _____ the above,

Signature.

Advocate's Endorsement

**(Rule 48)*

Received by me on _____ from _____
Accepted. My/Our address for service is as under:

Signature (s) of Advocate (s)

* The name of the person actually handing over the vakalatnama to the advocate or when it is received by post, the fact that it has been so received shall be entered here.

FORM No. 3

Affidavit

(Rule 68)

(Cause title)

I, A. B. S/o C.D. (caste (Age)
(Occupation) residing at do solemnly affirm/or make oath and say as follows:-

- 1.
- 2.
- 3.

(Sd.) A.B.

Form of attestation when the deponent is not personally known to the Commissioner. (Rule 65)

The deponent A.B. is personally known to me and is identified by me to the Commissioner.

(Sd.)

Endorsement of the Commissioner, (Rule 64)

Solemnly affirmed/sworn at..... (State place) this
day of 20 , before me by A.B. who is known to me
personally/known to who is known to me personally.

(Sd.)

Commissioner for taking affidavits

Endorsement under rule 63 (3)

Sindh High Court Rules (O.S.)

The contents of this affidavit and the documents therein referred to were truly and audibly read over to the deponent by me (or in my presence by) in (state language), he being

illiterate

ignorant of the language in which it is written

Blind

not otherwise able to understand the contents

and appeared perfectly to understand the same, and made his signature in my presence.

thumb impression

(Sd.)

Commissioner for taking affidavits

FORM No. 4

Order of appointment of receiver

(Rule 78)

(Cause title)

It is ordered that be and he is hereby appointed the receiver of the movable property and of the rents, issues and profits of the immovable property in the pleadings in this suit/appeal named with power, to get in and collect the outstanding debts and claims due to the estate and with all the powers of the owner specified it; O.XL r.1 (d) of the Code of Civil Procedure, 1908, except that he shall not, without leave of the Court, (1) grant leases for a term exceeding three years or (2) bring suits except suits for rent or (3) institute an appeal in any Court (except from a decree in a rent suit) where the value of the appeal is over Rs.1,00000/- or (4) expend on the repairs of any

property in any period of two years more than half of the net annual rental of the property to be repaired, such rental being calculated at the amount at which the property to be repaired would let when in a fair state of repair.

And it is further ordered that the defendant and all persons claiming under them do deliver up quite possession of the said property; movable and immovable together with all leases, agreements for lease, account books memoranda and writings relating thereto to the said receiver.

And it is further ordered that the said receiver do take possession of the said property, moveable and immovable, and collect the rents, issues and profits of the said immovable property and that the tenants and occupiers do pay their rents in arrear and growing rents to the said receiver.

And it is further ordered that the said receiver shall have power to bring and defend suits in his own name and shall also have power to use the names of the who are to be indemnified out of the estate.

And it is further ordered that the receipt or receipts of the said receiver shall be a sufficient discharge for all such sum or sums of money or property as shall be paid or delivered to him as such receiver is aforesaid.

And it is further ordered (where a special officer's establishment is required) that the said receiver shall be allowed to charge to the estate (in addition to, his own office establishment, if any) the following further establishment at the following rates:-

And it is further ordered that the receiver do file half-yearly accounts in the office of the Additional Registrar (A.S) or Additional Registrar (O.S), the first of such accounts to be filed within one month after the expiration of six months from the date of his appointment, and every subsequent account within one month after the expiration of

each succeeding period of six months, or within one months from the completion of the propose for which the receiver was appointed if the purpose for which the receiver has been appointed is completed before the expiry of six months from the date of appointment.

FORM No 5

Receiver's affidavit of account

(Rule 88)

(Cause title)

I, ofthe receiver
suit
appointed in this appeal make oath (or solemn affirmation) and
proceeding
state as follows:-

1. (a) The account hereto annexed and marked with the letter A is my account of the rents and profits of the property of.....
suit
in this appeal from the day of.....19....., to the day of 20,
proceeding
both inclusive, and contains a true account, of all and every sum of money received by me or by any other person or persons by my order or, to my knowledge or belief, for my use, on account or in respect of the said rents and profits accrued due on or before the saidday of..... 20.... , and of all sums paid and allowed by me in respect of the said property and of the purposes for which such sums were paid and allowed, except what is included as received or paid and allowed, in my former account (or accounts) sworn (or affirmed) by me.

(b) To the said account is appended a Statement B specifying the property of of which I have taken possession in the period above mentioned; and a Statement C, showing the property of not recovered or taken possession of by me.

(c) The balance in hand is Rsout of which a sum of Rs..... is required for the purposes of the estate.

2. (a) The several sums of money mentioned in the said account hereby verified to have been paid and allowed have been actually and truly, so paid and allowed for the several purposes mentioned in the said account.

(b) To the said account is appended a Statement D showing the investment or disposal of the property of

3. The said account and statements are just and true in all and every items and particulars therein contained according to the best of my knowledge and belief.

4. W.X. and Y.Z.the sureties named in the bond gives by me dated theday of20...., are both alive and neither of them has become insolvent.

FORM No. 6.

Security summons

(Rule 100)

(Cause title)

Let all parties concerned attend before the Nazir in Court to proceed with the taking of security in pursuance of the Court's order made herein on the day of..... and to examine into the sufficiency as sureties mentioned.

Dated: the day of20....

Nazir

Name	Address	Description of property of surety
------	---------	-----------------------------------

Sindh High Court Rules (O.S.)

--	--	--

FORM No. 7

Notice under order XXX. r. 5 of the Code of Civil Procedure

(Cause Title)

To

Take notice that summons served herewith is served on you as a partner in the defendant firm of _____ or as a person having the management or control of the partnership business of the firm of _____

Dated this _____ day of _____ 20....

Assistant Registrar

N.B:- Where the person served is both a partner and manager, use the following form:-

Take notice that the summons served herewith is served on you as a partner in the defendant firm of _____ and also as a person in control of the business.

FORM No.8

Notice to persons proposed as Guardians ad litem of a minor defendant

[Rule 150(2)]

(Cause title)

To

Whereas an application has been made to this Court by the above mentioned

stating that you are the guardian of the minor defendant and praying that your name be entered as guardian of the said minor:

This is to give you notice that the above application is fixed for hearing on theday of 20... ; and to enable the Court to dispose of it on that date, or any subsequent date to which the hearing may be postponed, you are hereby requested to inform the bailiff who serves this notice on you, whether you are willing or not to act as guardian for the suit for the said minor and, in the event of your being willing so to act, to certify the fact by signing the certificate at the foot of this notice.

Given under my hand and the seal of the Court this day of 20

Seal

(Signature)

CERTIFICATE

I hereby certify that I am willing to act as guardian for the suit in
the above for the minor.....

AFFIDAVIT OF BAILIFF

I hereby depose on solemn affirmation that the said signed
the above certificate in my presence at on the I was
previously acquainted with the said

(Signature of attesting Officer)

(Signature)

**AFFIDAVIT OF PERSON (IF ANY) WHO POINTED OUT GUARDIAN
TO BAILIFF**

I hereby depose on solemn affirmation that I know the said and
appointed out to the bailiff and that the said signed the above
certificate in the presence of the said bailiff and in my presence at on
the

(Signature)

(Signature of attesting Officer)

FORM NO. 9

Third Party Notice

[Rule 168(3)]

(Cause title)

To,

Take Notice that this suit has been brought by the plaintiff against the defendant for (here state concisely the nature of the plaintiffs claim). A copy of the plaint is delivered herewith.

The defendant claims against you (here state concisely the nature the claim against the third party, as for instance, to be indemnified against the plaintiffs claim and the costs of this suit or contribution to the extent of the plaintiffs claim). A copy of the application of the defendant is delivered herewith.

And take notice that if you wish to dispute the plaintiffs claim against the defendant or the defendant's claim against you, you must appear in this Court in person or by an advocate duly instructed and able to answer all material questions relating to such claim or who shall be accompanied by some person able to answer all such

questions; on the _____ day of _____ 20..... at _____ O'clock in the noon, to answer the claim.

In default of your entering such appearance, you will be deemed admit the plaintiffs claim against the defendant and defendant's claim against you and your liability to (indemnify the defendant or to contribute) to the extent herein claimed and the validity of any decree that may be passed in the suit and you will be bound by such decree and such decree may be enforced against your pursuant to Chapter IX, of the Sindh High Court Rules.

Assistant Registrar

FORM NO.10

Order for re-attendance of a witness

(Rule 243)

(Cause title)

To the witness _____ resident of _____

Whereas you have been summoned (or brought) to give evidence today in the above suit but on account of _____ the hearing has been adjourned till day the _____ day of _____ next:

You are hereby required to appear in this Court on the said date at A.M. to give evidence in the said suit.

Dated this _____ day of _____ 20

Seal

Assistant Registrar

FORM NO.11

Form of Originating Summons

(Rule 262)

(Cause title)

(N.B:- The defendant shall be the person to be served with the Originating Summons under Rules 253, 255, 260 or 261 as the case may be.)

Whereas upon reading the Complaint herein and upon hearing Advocates for the plaintiff, it is ordered that the defendant above named do attend the Court for the determination of the following question:

(Here set out the question which the plaintiff desires to have determined)

Take notice, therefore, that you are required to attend in person or by Advocate before me on the day of 20

at A.M. and to present a written statement of your defence, if you so desire. In default of your appearance at the time and place abovementioned, such order will be made and proceeding taken as the Court may think just and expedient.

Dated the

Additional Registrar (O.S)

FORM NO.12

Special Case

(Rule 308)

IN THE HIGH COURT OF SINDH

ORIGINAL CIVIL JURISDICTION

[1. In an arbitration without intervention of the Court]

Miscellaneous Application No. of 20

In the matter of the Arbitration Act. 1940, and an arbitration
between A. B, of and C. D. of

[2. In an arbitration under Chapter III or IV.]

SUIT NO. OF 20

A.B.....Plaintiff

versus

C.D Defendant

In the matter of arbitration between

The following special case is, pursuant to the provisions of
section (b) of the Arbitration Act, 1940, stated for the opinion of the
High Court Sindh:-

(Here state the facts concisely in numbered paragraphs)

The questions of law for the opinion of the said Court are:-

Sindh High Court Rules (O.S.)

First whether.....

Secondly, whether:

Dated 20

(Signed) X.Y.

Arbitrator

FORM NO. 12-A

Award

(Rule 310)

IN THE HIGH COURT OF SINDH

ORIGINAL CIVIL JURISDICTION

In the matter of arbitration between

Whereas in pursuance of an arbitration agreement dated the
day of 20 between the parties above named, the
said parties have by reference dated referred to us/me,
X.Y. the matters in difference between them concerning

(Or as the case may be)

Now we/I, the said X.Y., having duly considered the matters
submitted to us/me, do hereby make our/my award as follows:

We/I award-

(1) that

(2) that

Dated: 20

(Signed) X.Y.

Arbitrators/Umpire

FORM NO 12-B

Petition accompanying Award

(Rule 311)

I (Case Title is in Form No. 12)

Pursuant to the provisions of section 14 (2) of the Arbitration Act, 1940, and rule 282(I) of the Sindh High Court, Rules, and at the request of A.B. we the said X.Y. who were appointed arbitrators beg to forward herewith the accompanying award together with the documents mentioned below and request that the award be filed in Court.

2. A.B. (or C.D., as the case may be,) has made payment to us under:

Arbitration fees Rs

Arbitration charges Rs

Cost and charges of filing award Rs

3. The Nazir's receipt regarding deposit of Rs. 5 in Court in pursuance of the provisions of rule 283(2) of the said rules is herewith submitted.

Dated: 20

(Sd.) Petitioners.

Documents accompanying the petition:

- (1) The arbitration agreement dated
- (2) The reference dated.....
- (3) The depositions of.....
- (4) The documents proved
- (5) The opinion pronounced by the Court on a special cause submitted, if any.
- (6) Copy of notice given to the parties under section 14 (1) of the said Act together with receipts or acknowledgements thereof.

II

(Title as above)

Pursuant to the provisions of rule 282 (2) of the Sindh High Court Rules, the petitioner above named begs to forward herewith the act accompanying award together with the documents mentioned below which have been delivered to him in pursuance of an order of this Court dated the day of 20 in Miscellaneous Application No. of 20 and requests that the award be filed in Court.

The Nazir's receipt regarding deposit of Rs. 5 in Court in pursuance of the provisions of rule 283 (2) of the said rules is herewith submitted.

Dated the 20 (Sd.) Petitioner.

Documents accompanying the award [same as in No: 1]

FORM NO. I 2-C

Notice of filling of Award

(Rule 312)

(Case title as in Form No, 12)

To

Arbitrators

Take notice that the award of the ----- appointed in the above
umpire
matter was filed in this Court on the day of 20 and
that this Court will proceed to pass judgment according to the award
unless an application is duly made under sections 15, 16 or 30, as the
case may be, of the Arbitration Act, 1940.

(Sd.) Assistant Registrar.

FORM NO.12-D

Notice of appointment of arbitrator

(Rule 320)

I

(Case title as in Form No. 12)

Appointment under section 8 (2)

Take notice that on an application made in the above matter under sub-section (2) of section 8 of the Arbitration Act, 1940, the Arbitrators Court has appointed you an ----- umpire

You are thereof, required to make an award in accordance with the provisions of the said Act.

Assistant Registrar

To

II

(Case title as in Form No. 12)

Appointment under section 12

Take notice that on an application made in the above matter under section 12 of the Arbitration Act, 1940, the Court has appointed
Arbitrator
you an Arbitrators (or, as the case may be, to act as sole arbitrator) in
umpire
the place of (here mention the name of the person) displaced.

You are, therefore, to make an award in accordance with the provisions of the said act.

Assistant Registrar

To

III

(Case title as in form No. 12)

Appointment under Section 20

Take notice that on an application made in the above suit, under Section 20 of the arbitration Act, 1940, the Court has ordered

Sindh High Court Rules (O.S.)

the arbitration agreement between the above parties to be filed and
has further made an order or reference to you as Arbitrators
umpire
appointed by Parties the Court.

A copy of the arbitration agreement is forwarded herewith.

You are, therefore, required to make an award in accordance
with the provisions of the said Act.

Assistant Registrar.

To

IV

(Case title as in Form No. 12)

(Appointment under Sections 22 and 23)

Take notice that on an application made in the, above suit
under section 21 of the Arbitration Act, 1940, the Court has made an
order of reference to you as an Arbitrator
umpire appointed by the above
parties (or, as the case may be, the Court has appointed you an
arbitrator) to determine the following matters in difference between the
above parties.

(Set out the difference here)

Sindh High Court Rules (O.S.)

You are, therefore, required to make an award in accordance with the provisions of the said Act by the day of 20

Assistant Registrar.

Dated the day of 20

(Seal of the Court)

To

Sealer:

Advocate for plaintiff.

Advocate for Defendant;

INSTRUCTIONS

In case of your requiring the attendance of any person whom, you may desire to examine you may apply to the Court for process; and persons filing to attend in accordance with such process, or making any other default, or refusing to give their evidence on oath or solemn affirmation administered under section 13 of the said Act or being guilty of contempt to you during the investigation of the reference will on your representation, be deal with according to law (section 43).

You may for good and sufficient cause apply to the Court to enlarge making the award (section 28)

Unless different intention appears in the arbitration agreement, you may, if you think fit, make an interim award (section 27).

When you have made the award, you shall submit the same to the Court, under your signatures, together with the arbitration agreement and the reference, if in your possession, the depositions and exhibits and the opinion pronounced by the Court on a special case submitted by you, if any, and a copy of the notice given to the parties together with receipts or acknowledgements thereof (section 14 and Rule 311 of the Sindh High Court Rules).

Unless a different intention is expressed in the arbitration agreement, it shall be lawful for you, if you think fit, to state a special case for the opinion of the Court on any question of law involved, or state the award, wholly or in part, in the form of a special case of such question for the opinion of the Court (section 13).

FORM NO 13

Security under Order 21, Rule 26 of the Code of Civil Procedure
(Cause title)

Whereas in the Court of the _____ of _____ (hereinafter referred to as "the said Court") a decree was passed against the said _____ adjudging to the said _____ the sum of Rs _____ in a suit bearing the number of _____ on the file of the said Court; and whereas a copy of the same decree has been transmitted by the said Court to this Court for execution within limits of this Court and on application made by the said _____ the _____ of this Court has ordered that execution of the said decree shall be stayed until the _____ or until such further time as may be extended by order; if the said find good and sufficient security in the sum of Rs _____ for the due

Sindh High Court Rules (O.S.)

performance of the decree or of any other order that may be passed against him in the said suit (or by the Appellate Court);

Therefore, I _____, inhabitant of _____, have voluntarily become security and do hereby bind myself, my heirs and executors to this Court that he, the said _____, shall obey and fulfill the order passed against him in the said suit and all such orders as may be given against the said _____ in the said suit (or by the Appellate Court), and in default of his so doing I bind myself, my heirs and executors to pay at the order of this Court all such sums as the said Court shall to the extent of Rs _____ aforesaid adjudge against me.

Witness my hand at this _____ day of _____ 20 _____.

(Signature)

Witnesses

FORM NO. 14

Security of judgment-debtor that he will apply to be declared an insolvent and for his appearance when called upon

[Section 55(4) of the Code of Civil Procedure]

(Cause title)

Whereas in the execution of the decree in the above suit the said _____ has been arrested under a warrant and brought before this Court; and whereas the said _____ has applied for his discharge on the ground that he undertakes, within one month, to apply to be declared an insolvent and this Court has ordered that the said _____ shall be released from custody if the said _____ furnish good and sufficient security in the sum of Rs _____ that he

Sindh High Court Rules (O.S.)

will within one month from this date apply to be declared on insolvent and that he will appear when called upon in any proceedings upon the application or upon the decree in execution of which he was arrested.

Therefore I, _____ inhabitant of _____ have voluntarily become security and do hereby bind myself, my heirs and executors to this Court, that the said _____ will apply in the manner and within the time hereinbefore set forth and will appear at any time when called upon by this Court in any proceedings upon the application or upon the decree in execution of which he was arrested and, in default of such application or such appearance, I bind myself, my heirs and my executors to pay to this Court, at its order, the sum of Rupees _____

Witness my hand at this _____ day of _____ 20_____

(Signed)
Security.

Witnesses.

FORM NO. 15

Notice under Order XXI, Rule 34 (2) of the Civil Procedure Code.

(Rule 347)

(Cause title)

(Residence and description)

To

Take notice that on the _____ day of _____ the _____ above named Plaintiff presented an application to this Court that the Court may execute on your behalf a document or endorse on your behalf a negotiable instrument a draft whereof is hereunto annexed and that the day of _____ is appointed for the hearing of the said

Sindh High Court Rules (O.S.)

application and that you are at liberty to appear on the said day in person or by Advocate and to state any objection thereto of which you have given not less than two days' notice in writing the Plaintiff or his Advocate.

(Signed.)

FORM NO. 16

Notice under Order XXI, Rule 40-A of the Code of Civil Procedure

(Cause title)

To

Take notice that you are hereby required on or before the day of 20 , to pay in this Court the sum of Rs. (or, as the case may be, deliver in this Court the property) attached in your hands by order dated the day of 20 , or otherwise to appear in person or by advocate in this Court at 11 in the forenoon on the day aforesaid and show cause to the contrary, in default whereof an order for payment or for delivery of the property may be made against you.

Dated this day of 20 .

Assistant Registrar

FORM NO.17

*Bond for safe custody of moveable property attached and left in
charge of any person and sureties*

(Rule 358)

(Cause title)

Whereas the moveable property, livestock specified in the schedule hereunto annexed has been attached under a warrant from this Court dated the day of 20 , in execution of a decree in favour of in suit No of 20 and whereas the said property has been left in the charge of the said I.J.

Therefore we, I.J. of etc., and K.L. of etc., and M.N. of etc., bind ourselves jointly and severally to the Court in the sum of Rupees to be paid to this Court, for which payment well and truly to be made we bind ourselves, and each and every of us jointly and severally, our and each and every of our heirs, executors and administrators firmly by these presents.

Now the condition of this obligation is that if the above bounden I.J. shall duly account for and produce when required before this Court all and every the property livestock aforesaid (and shall properly maintain and take due care of the livestock aforesaid) and shall obey any further order of this Court in respect thereof; their this obligation shall be void; otherwise it shall remain in full force and be enforceable against the above bounden I.J. in accordance With the procedure laid down in section 145 of the Code of Civil Procedure, 1908, as if the

aforesaid I J Were a surety, for the restoration of property taken in execution of a decree.

I.J.

K.L.

M.N.

Signed and delivered by the above bounden in the presence of

Schedule

FORM NO. 18

Security under order XXXII, Rule 8 of the Code of Civil Procedure

(Cause title)

Whereas the said Plaintiff in the above suit has become insolvent and the suit is one which the assignee may maintain for the benefit of the creditors.

And whereas for the continuance of the said suit the said assignee has been required to find good and sufficient security for the costs thereof:

Therefore I, , inhabitant of , have voluntarily become security and do hereby bind myself, my heirs and executors to this Court, that the said assignee shall, whenever called on by this Court, pay all costs of the said suit and in default of such payment, I bind myself, my heirs and executors to ply all such costs to this Court at its order.

Sindh High Court Rules (O.S.)

Witness my hand at this day of 20 .

(Signed)

Security.

Witnesses:

FORM NO.19

Security under Order XXV Rule 1(1) and (3) of the Code of Civil Procedure

(Cause title)

Where a suit has been instituted in this Court by the said plaintiff to recover from the said defendant, _____, the sum of Rupees _____ and the said _____ are residing out of Pakistan all the plaintiffs does not and _____ possess any sufficient immovable property within Pakistan Independent of the property in suit: no one of such plaintiffs does

Therefore I, _____, inhabitant of _____, have voluntarily become security and do hereby bind myself my heirs and executors to this Court, that the said _____ plaintiff his -----, ---- heirs and plaintiffs their executors shall, whenever called on by this Court, pay all costs that

may have been or may be incurred by the said defendant,
, in the said suit and in default of such payment I bind myself, my heirs
executors to pay all such costs to this Court at its order.

Witness my hand at this day of 20 .

(Signed)

Security.

Witnesses.

FORM NO. 20

Security under Order XXXIX, Rule 2 of the Code of Civil Procedure

(Cause title)

Whereas in the above suit instituted by the said Plaintiff,
to restrain the said Defendant, , from *(here State
the breach of contract or other injury)*, this Court has, on the
application of the said Plaintiff, granted an injunction to restrain the
said Defendant from the repetition *(or the continuance)* of the said
breach of contract *(or wrongful act complained of)* and required
security from the said Defendant against such repetition *(or
continuance)*:

Therefore, I, , inhabitant of , have
voluntarily become security and do hereby bind myself, my heirs and
executors to this Court, that the said defendant, , shall
abstain from the repetition *(or continuance)* of the breach of contract
aforesaid (or wrongful act or from the committal of any breach of
contract or injury or a like kind arising out of the same contract or
relating to the same property or right) and in default of his so
abstaining I bind myself, my heirs and executors to pay into Court, at

Sindh High Court Rules (O.S.)

the order of this Court, such sum to the extent of Rupees as
this Court shall adjudge against the said Defendant.

Witness my hand at this day of 20 .

(Signed)

Security.

Witnesses

FORM NO.21

Petition for probate of a Will

(Rule 404)

In the High Court of Sindh

(Testamentary and Intestate Jurisdiction)

MISCELLANEOUS APPLICATION NO. of 20

‘Insert name in full and profession if deceased was a bachelor or spinster that should be stated

Petition for probate of the will of*

Petitioner

The Petitioner above named states as follows: -

(a) Insert name of the deceased.

1. That the above named (a) died on or about the day of
(b) or had a fixed placed of abode at.

2. That the said deceased at the time of his death left property at (b)

(c) To be added where that is the fact. See section 276(3) Succession Act.

Within the jurisdiction of this Court (c) and also other assets which are likely to come to the petitioner's assets which are likely to come to the petitioner's hands, situated in other provinces and within the jurisdiction of District Judges as shown in the Annexure C here to.

3. That the writing hereunto annexed and marked is his last will and testament.

(d) State where

4. That the same was duly executed at (d) the day of

(e) or one of the executor

5. That the petitioner is the executor (e) named in (f) the said will.

(f) Or according to the tenor of

6. That the petitioner has truly set forth in Annexure A to his affidavit of valuation filed herewith all the property and credits which the deceased died possessed of or entitled to at the time of his death which have or are likely to come to his hands.

(g) Full particulars of debts due by the estate including name of creditor, amount of claims and the dates when they became due must be given in the schedule.

7. That the petitioner has also truly set forth in Annexure B to his affidavit aforesaid all the items that by law he is allowed to deduct (g)

8. That the said assets exclusive of what the deceased may have been possessed of or entitled to as a trustee for another and not beneficially or with power to confer a beneficial interest and also exclusive of the items mentioned in the said Annexure B but inclusive of all rents, interest and dividends and increased value since the date of his death are under the value of Rupees

(h) Here insert what law

9. That the said deceased left him surviving as his only next-of-kin according to (h) law.

(i) Or if made state to what Court, by what person and what proceedings have been had

10. That no application has been made to any District Court or Delegate or to any High Court (i) for probate of any will of the said deceased or Letters of Administration with or without the Will annexed to his property and credits.

(j) Or throughout Pakistan

The petitioner prays that probate may be granted to him having effect throughout Sindh (f)

(Sd.) Advocate for Petitioner. (Sd.) Petitioner

I , the petitioner in the above petition, declare that what stated therein is true to the best of my information and belief

I son of (state also description and residence) one of the witnesses to the last will and testament of the testator mentioned in the above petition, declare that I was present and saw said testator affix his signature (or mark) thereto (or that the said testator acknowledged the writing annexed to the above petition to be his last will and testament in my presence).

(Sd.)

Address for service of the petitioner is as follows:

ANNEXURES A AND B

(See Schedule III to the Court Fees Act, 1870)

ANNEXURE C

Assets.	Province in which situated	District within whose jurisdiction situated

FORM NO. 22

AFFIDAVIT OF ATTESTING WITNESS

(Rule 404)

(Cause title)

I make oath (solemnly affirm) and say as follows: -

1. That I knew and was well acquainted with the deceased above named.

2. That on the day of I was present at the house of and I did then and there see the said deceased set and subscribe his name or (mark) at foot of the testamentary paper hereunto annexed and marked with the letter in the language and character (or that the said deceased acknowledged to me the writing hereunto annexed and marked with the letter to be his last will and testament).

3. That thereupon I this deponent did at the request of the said deceased and in his presence set and subscribe my name and signature at foot of the said testamentary paper as witness thereto.

4. That the name and signature subscribed at foot of the testamentary paper as of the party executing the same is in the hand writing of the said deceased and the name, signature and additions "also subscribed and written at foot of the said testamentary paper as of one of the parties attesting execution of the same are in the hand writing of this deponent.

5. That at the time the said deceased so subscribed his name and signature to the said will or made his acknowledgment thereto as aforesaid, he was of sound disposing mind, memory and understanding.*

* Note 1. --The endorsement on the affidavit shall be in the manner prescribed by rule 68 Chapter IV Part II of these Rules.

FORM NO. 23

Petition for Letters of Administration

(Rule 405)

In the High Court of Sindh

(Testamentary and Intestate Jurisdiction)

***Insert name in full and profession, if deceased, was a bachelor or spinster that should be sated:**

Miscellaneous Application No. _____ of 20 _____ Petition for
letters of administration of the property and credits of
Deceased
Petitioner

Insert name of the deceased

The Petitioner above named states as follows:

(a) Or had a fixed place of abode at

1. That the above-named _____ died at _____ on or
about the day of _____

**(b) To be inserted where that is the fact. See section 276 (3)
Succession Act**

2. That the said deceased at the time of his death left
property at (a) within the jurisdiction of this Court (b) and also other

* Note 2. --If the testator made a mark or signed in a language other than the will is written in the affidavit should state whether the will was read over and explained to the testator. If there are any scorings, alterations insertions, it should be stated whether they attested at the time of the execution of the will.

assets which are likely to come to the, petitioner's hands, situated in other provinces and within the jurisdiction of District Judges as shown in the Annexure C here to

3. That the said deceased died intestate and that due and diligent search has been made for a Will but none has been found.

(c) Here state what law

4. That the said deceased left him surviving as his only next-of-kin or the following legal representatives according to (c) law residing at

(d) State the relationship to the deceased

5. That the petitioner as (d) of the deceased claims to be entitled to a share of his estate.

6. That the petitioner has truly set forth in Annexure A to his affidavit of valuation filed herewith all the property, and credit which the deceased died possessed of or entitled to at the time of his death which have or are likely to come to the petitioner's hands.

(e) Full particulars of debts due by the estate including names of creditors' amounts of claims and the dates when they became due must be given in the schedule

7. That the petitioner has also truly set forth in Annexure B to his affidavit aforesaid all the items that by law he is, allowed to deduct (e).

8. That the said assets exclusive of what the deceased may have been possessed of or entitled to as a trustee for another and not beneficially or with power to confer a beneficial interest and also exclusive of the items mentioned in the said Annexure B but inclusive of all rents, interest and dividends and increased value since the date of his death are under the value of Rs.

(f) Or if made state to what Court, by what person and what proceedings have been had

9. That no application has been made to any District Court or Delegate or any High Court (f) for probate of any will of the said

deceased or letters of administration with or without the will annexed to his property and credits.

(g) Or throughout Pakistan

10. The petitioner therefore prays that letters of administration may be granted to him having effect throughout the Province of Sindh (g)

(Sd/-) Advocate for Petitioner. (Sd/-) Petitioner.

I , the petitioner in the above petition, declare that what stated therein is true to the best of my information and belief.

(Sd/-) Petitioner.

Address for service of the petitioner is as follows:

ANNEXURES AS IN FORM NO. 21

FORM NO. 24

Petition for Letters of Administration with the Will Annexed

(Rule 406)

In the High Court of Sindh

(Testamentary and Intestate Jurisdiction)

*** Insert name in full and profession. If deceased was a bachelor or spinster that should be stated**

Miscellaneous Application No. of 20

Petition for letters of administration with the will annexed of the property and credits of*

Deceased
Petitioner

(a) Insert name of the deceased

The petition above-named states as follows: -

1. That the above-named (a) died at on or about the day of

(b) Or had a fixed place of abode at

2. That the said deceased at the time of his death left property at (b) within the jurisdiction of this Court (c) and also other assets which are likely to come to the petitioner's hands situated in other provinces and within the jurisdiction of District Judges as shown in the Annexure C hereto.

(c) To be added where that is the fact. See section 276(3) Succession Act

3. That the writing hereunto annexed and marked is his last will and testament.

(d) State where

4. That the same was duly executed at (d) the day of

(e) Or no executor, as the case may be.

5. That by the said will the deceased appointed sole executor thereof, (e) but he has since died, to wit, on the day of without having proved the said will, and that the petitioner is the of the deceased.

6. That the petitioner has truly set forth in Annexure A to his affidavit of valuation filed here with all the property and credits

which the deceased died possessed of or entitled to at the time of his death which have or are likely to come to his hands,

(f) Full particulars of debts due by the estate including name of creditors; amounts of claims and the dates when they became due must be given in the schedule.

7. That the petitioner has also truly set forth in Annexure B to his affidavit aforesaid all the items that by law he is allowed to debit (f).

8. That the said assets exclusive of what the deceased may have been possessed of or entitled to as a trustee for another or others and not beneficially or with power to confer a beneficial interest and also exclusive of the items mentioned in the said Annexure B but inclusive of all rents, interest and dividends and increased value since the date of his death are under the value of Rupees.

(g) Here insert what law

9. That the said deceased left him surviving as his only next-of-kin according to (g) law

(h) Or if made state to what Court, by what person and what proceedings have been had.

10. That no application has been made to any District Court or Delegate or to any High Court (h) for probate of any will of the said deceased or Letters of Administration with or without the Will annexed to his property and credits.

(i) Or throughout Pakistan

The petitioner prays that letters of administration with the said will annexed may be granted to him as the _____ of the said deceased having effect throughout the Province of Sindh (i).

(Sd/-) Advocate for Petitioner.

(Sd/-) Petitioner

I _____, the petitioner in the above petition, declare that what is stated therein is true to the best of my information and belief.

(Sd/-) Petitioner

I son of (state also
description and residence) one of the witnesses to the last will and
testament of the testator mentioned in the above petition; declare that I
was present and saw the said testator affix his signature (or mark)
thereto (or that the said testator acknowledged the writing annexed to
the above petition to be his last will and testament in my presence).

(Sd/-)

Address for service of the petitioner is as follows:

ANNEXURES AS IN FORM NO.21

FORM NO. 25

Petition for Succession Certificate

(Rule 407)

In the High Court of Sindh

Testamentary and Intestate Jurisdiction)

Sindh High Court Rules (O.S.)

Miscellaneous Application No. _____ of petition for
Succession Certificate in respect of certain Securities ----- belonging to
deceased. debts

Petitioner

*** Insert name of the deceased**

The Petitioner above named states as follows:-

1. That the above named* died at _____ on or
about the _____ day of _____ .

2. That the said deceased ordinarily resided at the time of
his death (or left property mentioned in the Annexure A) at within the
jurisdiction of this Court.

(a) State law

3. That the said deceased at the time of his death left
him surviving the following persons as his next-of-kin according to
(a) law.

(1) son of residing at _____

(2) son of residing at _____

(b) State relationship to the deceased

4. That the petitioner as _____ (b) of the deceased
claims to be entitled to a _____ share of the estate.

5. That the said deceased died intestate and that due and
diligent search has been made for a will but none has been found.

or

(c) State here how the case is excepted by section 213(2) of the Succession Act

The said deceased died leaving a will dated _____ and executed at _____ a copy of which is hereto annexed and marked "A" (c).

6. That no application has been made to any Court for, and no grant has been made of, any certificate, probate or letters of administration in respect of the debts, securities or estate of the said deceased and there is no impediment under section 370 or under any other provisions of the Succession Act, 1925, or of other enactment to the grant of the certificate or the validity thereof if it were granted.

7. That the petitioner has truly set forth In Annexure B here to the debts, and securities in respect of which the certificate is applied for. The petitioner therefore prays that a succession certificate may be granted to the petitioner in respect of the debts and securities set forth in Annexure B hereto with power to

(Sd.) Advocate (or petitioner

(Sd.) Petitioner.

I _____ the petitioner above named hereby, declare this _____ day of _____ 20 _____ at _____ that what is stated in paragraphs remaining paragraphs is true to the best of my information and belief and I believe the same to be true.

(Sd.) Petitioner

Address for service of the petitioner is as follows:-

FORM NO.26

Notice under Section 19-H, Court Fees Act, 1870

(Rule 419)

In the High Court of Sindh

(Testamentary and Intestate Jurisdiction)

Miscellaneous Application No. _____ of 20____

Probate of the will
In the matter of ----- of deceased.
Letters of administration of the estate

To

The D.O.Revenue of

The E.D.O.Revenue Sindh

Notice is hereby given that application has been made to this Court for grant of probate of the will (and a codicil thereto), dated (respectively) the day of and the day of (or letters of administration of the property and credits, or letters of administration with the will dated the day of annexed, of the property, and credits) of A.B. late of (address and description) who died on the day of at to C.D. of (address and description) one of the executors named in the said will (or the brother and one of the next-of-kin of the said deceased or as the case may be).

The amount of assets which are likely to come into the petitioner's hands is stated by the petitioner to be Rs. _____ Copies of annexures relating to the property are attached herewith.

Dated: _____ (Sd.) Assistant Registrar.

FORM NO.27

Notice required by Sections 283 and 373 of Act XXXIX of 1925

(Rule 422)

In the High Court of Sindh

(Testamentary and Intestate Jurisdiction)

Miscellaneous Application No. _____ of 20____

Probate of the will of

In the matter of letters of administration of the estate of
the succession to

deceased

ordinarily residing

or at Taluka

having property

District

This is to give notice (to

Inhabitant of

Taluka District) as follows:

(I)

Taluka District

inhabitant of
has made application

under the Succession Act, 1925, for

Probate of the will, dated the

letters of administration (with copy of the will dated the

----- annexed) of the estate of

a succession certificate in respect of the estate.

deceased setting forth that the said deceased
ordinarily resided (or had property) at Taluka

District and died on the day of and that the said

* To be inserted in special Notice under Section 373(1)(a) only.
To be inserted in notice under Section 283 only.

Sindh High Court Rules (O.S.)

Probate
claims letters of administration
a succession certificate
in right of
(Relationship to deceased or other ground set forth in the application
to be inserted here)

(2) The District Court of _____ has fixed the
day of _____ 20____ for hearing the said application

*This is to give notice to all persons claiming to have any
interest in the estate of the deceased

to come and see the proceedings before the

Probate
grant of -----
letters of administration

Also take notice that in default of our filing an address for
service on or before the date mentioned you are liable to have your
defence struck out.

Assistant Registrar

FORM NO.28

I

Administration Bond

(Rule 427)

(Cause title)

Probate of the will

In the matter of -----
letters of administration of the estate of

***State here the names of the petitioner and surety or sureties**

Know all men by these presents that we* _____ are _____ held
and firmly bound, jointly and severally unto the Judge of this Court for
the time being or his successors in office or assigns in the sum or

Rupees to be paid to the said Judge, his successors in office or assigns, for which payment well and truly to be made we do bind ourselves, and each and every of us jointly and severally, our and each and every of our heirs, executors and administrators, firmly by these presents Dated this day of

Now the condition of this obligation is such that if the above bounden administrator of the property and credits of deceased:

(1) do make or cause to be made a true and perfect inventory of all and singular the property and credits of the said deceased which have or shall come to the hands, possession or knowledge of the said administrator to the hands or possession of any other person or persons,

(2) do exhibit or cause to be exhibited the same so made in this Court on or before the day of, or within such further time as the court may from time to time appoint,

(3) do well and truly administer according to law all the property and the credits of the deceased at the time of his death, or which at any time afterwards shall come to the hands or possession of the said or to the hands or possession of any other person or persons.

(4) do make or cause to be made a true and Just account of the said administration on or before the day of in the year one thousand nine hundred and or within such further time as the Court may from time to time appoint, and

(5) do deliver and pay unto such person or persons respectively as shall be lawfully entitled thereto all the rest and residue of the said property, and credits which shall be found remaining upon the said administrator's account, the same being first examine and allowed by this Court.

Then this obligation shall be void and of no effect or otherwise it shall remain in full force.

Signed, sealed and delivered at _____ by _____ in the
presence of _____

II

RULE 427 ADMINISTRATION BOND BY A CONSTITUTED ATTORNEY
(Cause title)

***State here the names of the petitioners and the surety or
sureties with their description and residence.**

Know all men by these presents that we _____ are held
and firmly bound, jointly and severally, unto the Judge of this Court for
the time being or his successors in office or assigns in the sum of
Rupees to be paid to the said Judge, his successors in office or
assigns, for which payment well and truly to be made we do bind
ourselves and each and every of us jointly and severally, our and each
and every of our heirs, executors and administrators, firmly by these
presents.

Dated this _____ day of _____

Now the conditions of this obligation is such, that if the above
bounden _____ administrator of the property and credits of
deceased:-

(1) _____ do make or cause to be made a true and perfect
inventory of all and singular the property and credits of the said
deceased which have or shall come to the hands, possession or
knowledge of the said administrator or to the hand or possessions of
any either person or persons.

(2) _____ do exhibit or cause to be exhibited in this Court on or
before the day of _____ or within such further time as the Court
may from time to time appoint:

(3) do well and truly administer according to law all the property and the credits of the said deceased at the time of his death or which at any time afterwards shall come to the hands or possession, of the said or to the hands or possession of any other person or persons for the use and benefit of him the said and limited until he shall obtain administration (or probate, as the case may be) granted to him by this or any Court in Pakistan having jurisdiction in that behalf and having effect in the Province of Sindh, by paying such lawful claims as he knows of and so far as the said assets will extend,

(4) do make or cause to be made a true and just account of said administration on or before the day of in the year two thousand four and or within such further time as the Court may from time to time appoint, and

(5) do transfer all the rest and residue of the said property and credits which shall be found remaining upon the said administrator's count to the administrator (or the executor as the case may be) appointed under the grant of administration (or probate as the case may be) in the country in which the said had his domicile at the time of his death for distribution by such administrator (or executor as the case may be) to the Persons residing out of Pakistan who are entitled thereto, the same being first examined and allowed by this Court.

Then this obligation shall be void and of no effect or otherwise it shall remain in full force.

Signed, sealed and delivered at by in the presence of

FORM NO.29

Succession Certificate Bond
(Rule 427)
(Cause title)

(a) Names of the petitioner and the surety or sureties with their description and residence

Know all men by these presents that we (a) are held I firmly bound jointly and severally, unto the Judge of this Court for the time being or his successors in office or assigns in the of sum Rupees to be paid to the said Judge, his successors in office or assigns for which payment well and truly to be made we do bind ourselves, and each and every of us jointly and severally our and each and every of our heirs executors and administrators, firmly by these presents.

Dated this day of

(b) Name of petitioner

Now the condition of this obligation is such, that if the above bounden (b) holder of the succession certificate in respect of the debts and securities mentioned in this petition solemnly declared on the day of Two thousand four and and belonging to the estate of deceased shall,

(c) Insert as the case may be

well and truly (c) (receive interest or dividends on, negotiate or transfer or recover) the debts and securities and further shall make or cause to be made a true and just account of his said dealing on or before the day of in the year one thousand nine hundred

and the same being first examined and allowed by this Court, shall deliver and pay unto such person or persons respectively as shall be lawfully entitled to the balance of such debts and securities.

Then this obligation is to be void and of no effect or otherwise shall remain in full force.

Signed, sealed and delivered at by in the presence of

FORM NO. 30

to be filed within six months from grant of probate or Administration

[Rule 435 (1)]

Property in possession of Executor or Administrator						Credits			Debts			Property bequeathed by will of deceased	
Immovable property				Movable property		Amount due to estate	From whom due	Nature of security (if any)	Amount due	To when due by to estate	On what account	Amount of value	To whom be - queathed
Description	Government revenue payable (if any)	Recorded rental (if any)	Estimated market value	Description	Estimated Value								
1	2	3	4	5	6	7	8	9	10	11	12	13	14

I, the Executor (Administrator) named in the above Inventory, do hereby declare that the said Inventory is in every respect true, perfect and correct to the best of my knowledge and belief, and that the same contains a full, true and perfect inventory of all the property in the possession of the deceased at the date of his death, and of all credits owing to him, and of all debts owing by him.

FORM NO. 31

Accounts to be filed within the year from grant of Probate or Letters of Administrations.

[Rule 435 (1)]

Assets					Application of disposal of assets			
Property in possession of Executor under the inventory	Income from such property	Credits realized out of those entered in the Inventory	Other assets or credits recovered or realized	Total assets which have come into the hands of Executor or Administrator up to date of filing the accounts	Debts paid out of those entered in the Inventory	Legacies paid out of those entered in the Inventory	Other payments made	Total Payments
1	2	3	4	5	6	7	8	9

I, _____ the Executor (Administrator) named in the above Inventory, do hereby declare that the said account is true, perfect and correct, to the best of my knowledge, information and belief, and that it gives a full, true and perfect accounts of all the estate and effects of the deceased _____ which has or have come into my hands, possession, power, control, custody or knowledge, and of the disposition of the same.

1. An executor or administration shall within six months from the grant of probate or letters of administration, or with such further time as the Court which granted the probate or letters may from time to time appoint, exhibit in that Court an inventory containing a full and true estimate of all the property in

Sindh High Court Rules (O.S.)

possession, and all the credits, and also the debts owing by any person to which the executor or administrator is entitled in that character, and shall in like manner, within one year from the grant or within such further time as the said Court may from time to time appoint, exhibit and account of the estate, showing the assets which have come to his hands and the manner in which they have been applied or disposed of.

2. The High Court may from time to time, prescribe the form in which an inventory or account under this Section is to be exhibited.

3. If an executor or administrator, on being required by the Court to exhibit an inventory or account under this section, intentionally omits to comply with the requisition, he shall be deemed to have committed an offence under section 176 of the Pakistan Penal Code.

4. The exhibition of an intentionally false inventory or account or under this section shall be deemed to be an offence under section 193 of that Code.

FORM NO.32
Form of Decree.

In the High Court of Sindh
Suit No. _____ of 20____

In the matter of _____

Petitioner
Between: Plaintiff

_____ and _____

Defendant

This suit coming on this day before this Court _____ for ____
in the presence of Mr. _____ for the Plaintiff and
of Mr. _____ for the Defendant and upon reading the petition
presented on the _____ day of _____ 20_____, and filed on the
_____ day of _____ 20___; the last Will and Testament of the above
named deceased, dated the _____ day of _____ 20__ marked with the
letter "A" and annexed thereto and the caveat filed by the Defendant
on the day of _____ 20__, and upon hearing what was alleged
by the advocates for the parties here to and the evidence adduced
herein, it is ordered and decreed as follows:

(1) That the caveat filed by the Defendant,
herein on the day of 20, do stand dismissed;

(2) That, upon _____, the Plaintiff herein complying with the rules of this Court in this behalf, Probate of the last Will and Testament of the said _____, deceased, dated the _____ day of _____ 20____, or Letters of Administration to the property and credits of deceased, with the Will, dated the _____ day of _____ 20____, of the said deceased annexed thereto _____ to _____ have effect throughout the whole of Pakistan.

(3) That _____, the Defendant, do pay to the Plaintiff herein the costs of this suit when taxed and noted in the margin hereof with interest thereon at the rate of six per cent. per annum from the date of taxation to the date of payment.

Assistant Registrar.

Plaintiff's costs taxed on the day of 20 , at sum
of Rupees.
(Rs.)

Assistant Registrar.

FORM NO.33

Notice under Sections 360 and 367 of the Succession Act XXXIX of 1925

(Rule 444)

Estate of deceased.

Notice is hereby given that all persons claiming debts or liabilities affecting the estate of the above named deceased who died at on or about the day of 20 , and the 'Probate of whose Will [or the Letters of Administration (with copy of the said Will annexed) of whose estate] having effect throughout British India

----- was (or were) granted on the day of
Province of Sindh
20 , to executor of Sindh, are hereby required to send in their
Executor
claim to the said ----- at the office of his advocates
administrator
within one calendar month from the executor hereof at the expiration
executor
of which time the said ----- will hand over the assets to the
administrator
persons entitled thereto having regard only to claim of which he shall
then have notice,

Dated day of 20

Executors

----- Advocates.

Administrators

Sindh High Court Rules (O.S.)

Address:

FORM NO.34

Certificate endorsed on Power of Attorney deposited

(Rule 459)

Filed in the High Court of Sindh at Karachi, under Section 4 of
the Powers of Attorney Act, 1882, as No. of 20
, on the day of 20

Deputy Registrar.

FORM NO.35

Form of Case title

(Rule 467)

In the High Court of Sindh
Insolvency Jurisdiction
Case No. of 20

Before

In the matter of (a) Insolvent/Debtor.

Ex parte (here insert "the debtor" or "the Insolvent or "J.S. a
creditor", or "The Official Assignee".)

Petition/Application under Section/rule

Sindh High Court Rules (O.S.)

FORM NO.36

Memorandum of Advertisement

(Rule 469)

In the High Court of Sindh

(Insolvency Jurisdiction)

Case No. _____ of 20____

In the matter of

Insolvent/Debtor.

Name of paper	Date of issue	Date of filing	Nature of order, & etc.

Dated

20____

Additional Registrar

FORM NO.37

Notice to insolvent

(Rule 471)

(Case title as in form No. 35)

To

Insolvent.

Take notice that the Official Assignee (or a creditor) has made application (cop whereof is hereto annexed) to this Court for an order under Section 60 of the Presidency town Insolvency, Act, 1909,

Sindh High Court Rules (O.S.)

for the payment of a part of your salary (or income) to me/ the Official Assignee, for the benefit of the creditors under your insolvency and that the hearing of the application fixed for the day of 20 , at 11 a.m. when you may appear and show cause against such order being made.

Dated this day of 20

Assistant Registrar

FORM NO.38

Order appropriating pay, salary, etc., under Section 60

(Rule 472)

(Case title as in form No. 35)

Whereas it appears to the Court that the insolvent above named is in receipt of pay (or salary or income of Rs. as
(here state what the insolvent is or the circumstances under which the salary or in come is received)). And whereas upon the application of The official assignee

----- and upon hearing the insolvent, it appears go the
a creditor

Court just and reasonable that the sum of Rs. portion of the said pay (salary or income) ought to be paid to the Official Assignee by monthly (or quarterly) payment (according as the insolvent receives his pay, & c.), during the insolvency, in order that the same may be applied in payment of the debts of the said insolvent, and that the first of such payments ought to be made on the day of 20 , and be continued monthly (or quarterly) until this Court shall make order to the contrary, it is ordered that the said sum or such other sum as is equal to *(state fraction)* portion of the insolvent pay (or pay or salary or income) he paid by *(here insert the official designation of the disbursing officer or the name employer or employers)* in the manner aforesaid out of the insolvent's said pay (salary or income).

Sindh High Court Rules (O.S.)

Dated this day of 20

By the Court
Additional Registrar

FORM NO.39

Form of notice on application for an order of committal

(Case title as in form No. 35)

Whereas has filed an application in this Court (a copy of which, together with the affidavit filed in support is hereto annexed) for an order for your committal to person for contempt of this Court on the ground that

Take notice that you are required to attend the Court on day of 20 , at 11 O'clock in the forenoon to show cause as to why an order for your committal should not be made.

Dated this day of 20

Assistant Registrar

FORM NO: 40

Order of committal under Section 30 (2)

(Case title as in Form No. 35)

Whereas by an order of this Court made on the day of 20 (*here recite the order*). Now upon the application of upon hearing A.B. (*or as the case may be*), (*or if he does not appear*) and reading the affidavit of (*here insert name and description of person by whom the order was served on A.B.*) and upon reading the affidavit of (enter evidence) the Court being of opinion that the said A.B. has been guilty of a contempt of this Court by his disobedience of

Sindh High Court Rules (O.S.)

the said order, it is ordered that the said A.B. do stand committed to the Karachi Central Jail for his said contempt.

Dated this day of 20

Additional Registrar

FORM NO.41

Order of committal under Section 33
(Case title as in Form No. 35)

Upon the application of the Official Assignee (or Special Manager) of the estate of the insolvent above named and upon hearing the insolvent (or if he does not appear) and reading the affidavit of *(here insert name and description of person by whom the notice to show cause was served)* and upon reading the affidavit of *(enter evidence)*, the Court being of opinion that the insolvent is guilty of contempt of this Court by having failed to *(here follow the notice)* it is ordered that the said insolvent do stand committed to the Karachi Central Jail for his said contempt.

Dated this day of 20

By the Court,
Additional Registrar

FORM NO.42

Order of committal under Section 58(S)

(Case title as in Form No. 35)

Upon the application of the Official Assignee of the estate of the insolvent above named and upon hearing L. M. *(or. if L.M does not appear)* and reading the affidavit of *(here insert name and description of person by whom the*

Sindh High Court Rules (O.S.)

notice to show cause was served) and upon reading the affidavit of (enter evidence) the Court being of opinion that L.M. has been guilty of a contempt of this Court having failed to pay, and deliver to the Official Assignee certain money (*and securities*) (*here follow the notice*) it is rendered that the said L. M. do stand committed to the Karachi Central Jail for the said contempt.

Dated this day of 20

By the Court,

Additional
Registrar

FORM NO.43

Warrant of committal for contempt

(Case title as in Form No. 35)

To

THE NAZIR OF THIS COURT AND THE OFFICER IN CHARGE OF THE KARACHI CENTRAL JAIL.

Whereas by an order of this Court bearing date the day of 20 it was ordered that the above named insolvent (or L.M. of) should stand committed for contempt of this Court:

These are therefore to require you the said *Nazir* to take the said (a) (or L.M.) and to deliver him to the Officer in charge of the Karachi Central Jail, and you, the said Officer in charge to receive the said (a) (or L.M.) and him safely to keep in the said Jail and in your custody until such time as this Court shall order; and you the said Officer in charge shall, while the said (a) (or L.M.) is in your custody at all times when the Court shall so direct, produce the said (a) (or L.M.) before the Court.

Dated this day of 20

Sindh High Court Rules (O.S.)

By the Court,

Additional Registrar

FORM NO.44

Order for discharge from custody for contempt

(Case title as in Form No. 35)

Upon application made this _____ day of 20 for
(a) _____ who was committed to prison for contempt
by warrant of this Court, dated the _____ day of
20 and upon reading, his affidavit showing that he has cleared
(or is desirous or clearing) his contempt and has paid the costs
occasioned thereby, had upon hearing the Official Assignee (or of _____),
it is ordered that the *Officer in charge of the Karachi Central Jail* do
discharge the said

(a) out of custody, as to the said contempt.

Dated this day of 20

By the Court,
Additional Registrar

FORM NO.45

Order for production of persons in prison for examination before the court

(Case title as in Form No. 35)

To

THE OFFICER IN CHARGE OF THE KARACHI CENTRAL
JAIL

Sindh High Court Rules (O.S.)

Upon application made this day of 20 by for an order for the production of who was committed to prison for contempt, by warrant of this Court, dated the day of 20 , for examination before this Court, it is Ordered that the *Officer in charge of the Karachi Central Jail* do cause the said to be ought in custody before the Court at O'clock in the noon on the day of 20 , for examination before the Court and afterward to be taken back to the said Jail to be there safely kept pursuant to the said warrant.

Dated this day of 20

By the Court,
Additional
Registrar.

FORM NO.46

Report of Additional Registrar where debtor or witness refuses to answer to his satisfaction.

[(Rule 477 (4))]
(Case title as in Form No. 35)

At the public examination of (a) held before me this day of 20 the following question was allowed by me to be put to the said

Q, (b)

The (a) refused to answer the said question.

(or) The (a)

answered the said question as follows:

Sindh High Court Rules (O.S.)

A. (c)
I therefore named the _____ day of _____ at _____ as
the time and place for such (refusal to) answer to be reported to
Mr. Justice (d)

Dated this day of 20

Additional Registrar

FORM NO.47

Debtor petition

(Rule 496)

(Case title as in Form No. 35)

I (a) (having ordinarily resided or had a dwelling within
in person
the limits of this Court or, having carried on business -----
through an agent
at (b) within the limits of this Court, within a year before the date of
the presentation of this petition) (or personally working for gain within
the limits of this Court) (or being imprisoned to execution of the decree
of a Court for the payment of money to the Prison) and being unable to
pay my debts, which are Rs. hereby petition the Court that I may be
adjudged an insolvent.

Here state whether any previous petition has been presented to Court either by or against him with particulars of any such petition and the manner in which it was disposed of.

(Signature)

Signed by the debtor in my presence.

Signature of witness

Address

Description.

Filed the day of 20

Sindh High Court Rules (O.S.)

Note 1.- When the debtor resides at a place other than his place of business both addresses should be inserted.

Note 2.- If at the time a petition is presented, the debtor resides or carries on business at an address other than the address at which the debts and liabilities which at the date of the petition remain unpaid or unsatisfied are incurred, the latter address should also be stated.

FORM NO.48

Creditor's insolvency petition under Section 12

(Rule 496)

(Case title as in Form No. 35)

I.C.D., of (or we C.D. of and E.F. of
state:

1. That the said A.B. (state debtor's full name, address and occupation or description) was committed to prison to execution of the
This Court
decree of ----- for the payment of money obtained against
The Court of
him by in suit No. of 20 and is now a prisoner in the
Central Jail within the limits of the Original Civil Jurisdiction of this
Court *(or, as tile case may be, following the terms of Section 11).*

2. That the said A.B. is justly and truly indebted to me
(or us) in the aggregate sum of Rs. (set out amount of
debt or debts and the consideration)

3. That the said A.B. within three months before the date of
the presentation of the petition has committed the following act (or
acts) of insolvency, namely, *(here set out the nature and the date or
dates of any act or acts of insolvency enumerated in Section. 9 that is or
are relied on,).*

Sindh High Court Rules (O.S.)

4. That I (or we) do not, nor does any person on my (or our) behalf hold any security on the said debtor's estate, or on any part thereof for the payment of the said sum.

or

That I hold security for the payment of (or of part of) the said sum but that I will give up such security for the benefit of the creditors of the said A.B. in the even of his being adjudged insolvent (or and I estimate the nature of such security at the sum of Rs.).

or

that I, C.D. one the petitioners, hold security for the payment of, & etc.

that I, E.F. another one of the petitioner, hold security for the payment of, & etc.

Wherefore I (or we) hereby petition the Court for an order adjudging the said A.B. an insolvent.

Date this day of 20.

(Signed) C.D.

E.F

Signed in my presence.

Signature of witness.

Address.

Description.

Sindh High Court Rules (O.S.)

Endorsement

This petition have been presented to the Court on the
day of 20 , it is ordered that this petition shall
be heard at on the day of 20 , at
O'clock in the noon.

And you, the said A.B. are to take notice in that if
you intend dispute the truth of any of the statements contained in the
petition you must file with the Additional Registrar, Original Side, of
this Court a notice showing the grounds upon which you intend to
dispute the same and deliver to transmit by post or otherwise to the
petitioner or his advocate a copy of the notice three days before the
date fixed for hearing.

Dated this day of 20

Additional Registrar

FORM NO.49

Substituted service of petition

NOTICE IN SINDH GOVERNMENT GAZETTE & etc

In the High Court of Sindh
INSOLVENCY JURISDICTION
Case No. of 20

In the matter of A.B. debtor, and of an insolvency
petition dated the day of 20 , presented by
of claiming to be a creditor of the above named debtor.

To

of

Take notice that an insolvency petition has been presented
against you to this Court by C.D. of and the Court has ordered that the
publication of this notice in the *Sindh Government Gazette* and in the

Sindh High Court Rules (O.S.)

newspaper

----- shall be deemed to be service of the petition upon you;
advertiser

and further take notice that the said petition will be heard at this Court
on the day, of 20 at O'clock in the noon, on
which day you are required to appear, and if you do not appear the
Court may make an order of adjudication against you in your absence.

The petition can be inspected by you on application at this
Court.

Dated this day of 20

Assistant Registrar

FORM NO.50

Notice by debtor of intention to oppose petition
(Rule 505)
(Case title as in Form No. 35) of

I, the above do hereby give you notice that I intend to
oppose the making of an order of adjudication as prayed, and that I
act
intend to dispute the petitioning creditor's debt (for the ---- act of
acts
insolvency alleged, or as the case may be).

Dated this day of 20

(Signed)

To

and the Additional Registrar Original Side of the Said Court.

FORM NO.51

Order to stay Proceedings on petition, Section 13 (6)
(Rule 508)
(Case title as in Form No. 35)

Upon the bearing of this petition this day, and the said A.B. appearing and denying that he is indebted to the Petitioner (*where petition presented by more than one creditor, add the name of the creditor whose debt is denied*) in the sum stated in the petition (or that he is indebted to the petitioner in a sum of less amount than Rs. 50,000/), (or that he is indebted to C.D. one of the petitioners, in a sum less than in the sum stated to be due from him in the petition), it is ordered that the said A.B. shall within days enter into a bond in the penal sum of (*the Amount of the alleged debt and probable costs or such other sum as the Court may direct*) with such two sufficient sureties as the Court shall approve of to pay (or deposit with the Additional Registrar the sum of security for the payment of) such sum or sums as shall be recovered against the said A.B. by C.D. the petitioner (or one of the petitioners) in any proceedings taken or continued by him against the said A.B. together with such costs as shall be given by the Court in which the proceedings are had.

And it is further ordered that upon the said A.B. entering into the bond aforesaid, all proceedings on this petition shall be stayed until after the Court which the proceedings shall be taken shall have come to a decision thereon.

Dated this day of 20

By the Court
Additional
Registrar.

FORM NO.52

Bond on stay of proceedings; Section 13 (6)

(Case title as in Form No. 35)

Know all men by these presents that we, A.B of & etc. and CD. of & etc., and E.F. of & etc., are jointly and severally held and firmly bound to L.M. of & c., in Rs. to be paid to the said L.M. or his certain attorney or attorneys, executors, administrators, or assigns for which payment well and truly to be made we bind ourselves and each and every, of us, our and each of our heirs, executors and administrators, jointly, and severally, firmly by these presents.

Dated this day of 20

Whereas in insolvency petition against the said A.B having been resented to the Court, he did appear at the hearing of the said petition and deny that he was indebted to the petitioner (or to one or more of the petitioners), (or allege that he was indebted to the petitioner in the sum of Rs. only).

Now, therefore, the condition of this obligation is such that if the above-bounden A.B. or the said C.D. or E.F. , shall on demand well and truly pay or cause to be paid to L.M. , his attorney, or agent such sum or sums as shall be recovered against the said A.B. by any proceedings taken or continued within days from the date hereof in any competent Court by the said L.M. for the payment of the debt claimed by him in the said 'petition together with such costs as shall be given to the said L.M. by such Court, this obligation shall be void, otherwise it shall remain in full force.

Signed and delivered by the above-bounden.

A.B.

Sindh High Court Rules (O.S.)

C.D.

E.F.

In the presence of

Note. If a deposit of money be made, the memo shall follow the terms of the conditions of the bond.

FORM NO.53

Order appointing interim receiver

(Rule 511)

(Case title as in Form No. 35)

Upon reading the application of dated the day of
20 and the affidavit therein referred to, and hearing Mr.
for the applicant it is ordered that the Official
Assignee of this Court be, and he is, hereby appointed *interim*
Receiver of the property of the said or the part of the property of the
said herein below mentioned, and it is ordered that he do take
possession of the said property namely, *(insert description and locality*
and directions, if any)

Dated this day of 20

By the Court.
Additional Registrar

FORM NO.54

Order of Adjudication on debtor's petition

(Rule 516)

(Case title as in Form No. 35)

Sindh High Court Rules (O.S.)

Whereas the above named (insert full name, & etc. as in petition) being indebted and unable to pay his debts has presented their petition to this Court for relief under provisions of the Insolvency Karachi Division Act (III of 1909).

Upon reading the said petition and upon hearing for the petitioner, this Court doth hereby adjudge the said, an insolvent (and doth order and direct that he do file his schedule and his answers to questions in Form No. 30 with the Official Assignee within 30 days from this date)*

Dated this day, of 20

By the Court,
Additional Registrar

Note. The above named insolvent is required immediately after the service of this order upon him to attend on the Official Assignee of the Court at his office at (a).

The Official Assignee's offices are open (except on holidays) every Week-day from 11 a.m. to 5 p.m. except on Saturdays, when they close at p.m.

Endorsement on order.

The name and address of the Advocate (if any) to the debtor are.

FORM NO.55

* Omit if schedule and answer are held.

Sindh High Court Rules (O.S.)

Order of Adjudication on creditor's petition.

(Rule 516)

(Case title as in Form No. 35)

Whereas claiming to be a creditor of the said
has presented a petition to this Court, praying that the said
may be adjudged an insolvent pursuant to the provisions of
the Insolvency Karachi Division Act (III of 1909).

Upon reading the said petition and the affidavit filed therewith
and upon hearing Mr. for the petitioner and
 and it appearing to the Court that the following
act or acts of insolvency has or have been committed viz:- (a) this
Court doth hereby adjudge the said an insolvent and doth order and
direct that he does file his schedule and answers to questions in Form
No. 80 with the Official Assignee within thirty days from the date of the
service upon him of a copy of this order.

Dated this day of, 20

By the Court,

Additional Registrar.

Note. The above named insolvent is required immediately after
the service of this order upon him to attend on the Official Assignee of
the Court at this office at (b).

The Official Assignee's offices are open (except on holidays)
every Week-day from 11 a.m. to 5 p.m. except on Saturdays, when
they close at 2 p.m.

Endorsement on order

The name and address of the Advocate (if any) to the debtor are-

FORM NO.56

(Rule 532)

Questions to debtor

1.	What is your full name?
2.	At what place or places have you carried on business during the last six years?
3.	Where has been your occupation?
4.	What has been your occupation?
5.	When did you commence business?
6.	What capital had you at the time (or on 1 st of January 20)?
7.	Have you been in partnership with any one during the three years preceding your insolvency? If so, state with whom, and if the partnership is dissolved, when did the dissolution take place? Under

Sindh High Court Rules (O.S.)

	what circumstances and what were the terms? What liabilities (if any) are you now under in respect thereof?
8.	What books of account have you kept during the three years preceding your insolvency, and where are
9.	To what date are they posted.
10.	What money had you in hand or at your Banker's at the date of the petition?
11.	Have you any bills of exchange, promissory notes or other negotiable securities, belonging to your estate, which are not specified in the schedule of your affairs?
12.	Have you produced to or delivered up to the Official Assignee, or to his officer all moneys, negotiable securities, bonds, deeds and other property belonging to your estate and under your control, and which are capable of delivery?
13.	Is your life insured? If so, in what office or offices? State dates, amounts and annual premiums of policies. Are the policies in your possession? If not, where are they deposited, and under what circumstances?

Sindh High Court Rules (O.S.)

14.	Have you any lease of your premises? If so, which was if granted? For what term? Act what rent?
15.	Are your premises insured against fire? If so, in what office? For what amount? Where is the policy?
16.	Have you underlet any premises or portion of premises of which you are the tenant or lessee? If so, state particulars.
17.	What is the nature of your stock-in-trade. Is it insured against fire? If so, in what office and for what amount? Where is the policy?
18.	Have you any assets beyond those you have already shown?
20.	Is any rent, rate or tax due in respect of the premises occupied by you? If so, state amount and the date at which the same became payable.
20.	What do you believe to be the total amount of your indebtedness?
21.	Is there any judgment against you in respect of any matter? If so, state particulars and whether execution has issued, or the judgment creditor is in a position to issue execution. Are there any proceedings against

Sindh High Court Rules (O.S.)

	you pending in any Court, with the exception of those under the present receiving order? If so, state particulars.
22.	Have you hypothecated any bills of lading, dock warrants, or other securities of any kind? If so, state particulars.
23.	Have you sold, mortgaged, assigned, gifted or created any charge on any property within 2 years of the date of the petition? If so, state the particulars as to the date of transfer, name and address of the transfer, name and address of the transferee and the amount of consideration received and mentioned in the deed.
24.	Have you executed any bill of sale upon your stock in trade, furniture, or other personal effects? If so, state particulars, date of bill of sale, and whether registered or not.
25.	Have you within the last three months given any charge on your property or made any special or preferential payments to any creditors? If so, state names and amounts paid.
26.	Have you within the last twelve months pledged any property? If so,

Sindh High Court Rules (O.S.)

	state particulars of such property, the date when pledged, the amount obtained, and how disposed of. Where are the pledge tickets? What did the pledged property cost, and what do you believe to be its present value? Has the pledged property been paid for? If so, when? If not, state the name of the creditor from whom it was obtained.
27.	When did you suspend payment of your debts?
28.	Has any meeting of your creditors been held since you suspended payment? If so, was any statement of your affairs, presented to such meeting, and where is it?
29.	State the cause or causes of your insolvency?
30.	When did you first become aware that you?
31.	Have you contracted any debts since you became aware of your insolvency? If so, what expectation had you of being able to pay such debts?
32.	Have you within the last three years prepared any statement of your affairs? If so, at what date and what

Sindh High Court Rules (O.S.)

	results did the statement show?
33.	Where are the statements?
34.	When did you last take stock? Where is the stock account?
35.	Are you aware of having committed any act of bankruptcy prior to that on which the order of adjudication against you was made? If so, state act and date.
36.	Have you within the last twelve months incurred any losses other than losses in trade? If so, state particulars and dates.
37.	Have you drawn or accepted or endorsed any accommodation bills? If any such bills are now running, state particulars.
38.	Have you any accounts showing your income and your household and personal expenditure during the last three years?
39.	What has been the approximate amount of your income during that period?
40.	What has been the approximate annual amount of your household and personal expenditure during that period?

Sindh High Court Rules (O.S.)

41.	Have you made any marriage or post nuptial settlement of property within the last three years? If so, State date, Particulars, names of trustees and of the persons taking any benefit there under.
42.	In the case of such a settlement (if any) have you evidence that, at the time of making it, you were able to pay all your debts without the aid of the property thereby settled?
43.	Was any statement of your affairs prepared at the date of such settlement, and if so, where is it?
44.	Who holds the deed or deeds of settlement and can you produce a copy of copies?
45.	Have you now disclosed the whole of your estates and effects?
46.	Have you previously been bankrupt or insolvent or made any assignment for the benefit of your creditors, or any statutory or other arrangement or composition? if so, state the date, the amount of the dividend paid, and whether you obtained a release or discharge.
47.	Is it your intention to make any proposal to your creditors for the

Sindh High Court Rules (O.S.)

	satisfaction of your indebtedness either by a composition or scheme of arrangement, or otherwise?
48.	Can you state the nature and terms of the proposals you intend to make.

Additional questions to be answered by a Hindu debtor

1	Do you form a member of Hindu joint family with others? If so, give the names of all the persons who form members of the joint family <i>with</i> you with their particulars in the form of a Genealogical Tree.
2	Are you interested in any property or properties as a member of a joint Hindu family and, if so, give the full particulars of such property, showing the names of the person or persons who are in possession of such property or properties? What rent, if any, such property or properties yield, the taxes payable in respect thereof and the person who recovers the rents and pays the taxes?
3	Was there any severance of the joint family tie, or any partition between you and any person or

Sindh High Court Rules (O.S.)

	persons who formed members of a joint Hindu family during 2 years preceding the date of the insolvency petition and, if so, state (a) what property was possessed by the joint family at the date of such severance or partition (b) how it was divided, (c) what has become of it since, and (d) produce any document or documents or copies thereof which may have been executed by you or in your favour in respect of such property?
--	--

Witness

The foregoing
answers are to the
best of my
knowledge,
information and
belief, correct.

20

Debtor.

FORM NO.57

Sindh High Court Rules (O.S.)

Notice of order of adjudication (on debtor's petition) for the Sindh,

Government Gazette

(Rule 519)

(Case title as in Form No. 35)

Notice is hereby given that on a petition for the benefit of the Presidency-Towns Insolvency Act, 1909, presented by (a) on the day of 20 , an order of adjudication of insolvency was made by the High Court of Sindh on the day of 20 , against said (b)

Dated Karachi, this day of 20

Assistant Registrar

FORM NO.58

Notice of order of adjudication (on creditor's petition)

(Rule 519)

(Case title as in Form No. 35)

Notice is hereby given that on a petition presented by of a creditor of (a) on the day of 20 , an order of adjudication of insolvency pursuant to the provisions of the Town Insolvency Act, 1909, against the said (b) was the High Court of Sindh, on the day of 20

-
- (a) Insert full name, address and description of debtor.
 - (b) Insert name of debtor.
 - (a) Insert full name and description of debtor.
 - (b) Name of debtor.
 - (a) full name of debtor.

Assistant Registrar

FORM NO.59

Form of notice under section 27

(Rule 521)

(Case title as inform No. 35)

The said (a) having, been adjudged an insolvent under the provisions of Section 10 of the Insolvency (Karachi Division) Act (III of 1909), on a petition filed by him

----- on the day of 20 , it is ordered

(b) a creditor

that the public examination of the above named insolvent be held in the Court-house of this Court on the day of 20 , at in the noon.

And it is further ordered that the said do attend at the place and time abovementioned.

Dated Karachi, this day of 20

By the Court
Additional Registrar

Note:- Notice is hereby given that if you, the above named debtor, fail without reasonable excuse to attend at the time and place aforesaid, you will be liable to be committed to prison without further notice.

(b) Name of petitioning creditor.

Sindh High Court Rules (O.S.)

FORM NO.60

Warrant of arrest (General Form)

(Rule 522)

(Case title as in Form No. 35)

To

The Nazir of this Court.

Whereas this Court did by an order dated the day of
20 order the insolvent above named to be arrested.

These are to command you to arrest the said insolvent and to
bring him before this Court with all convenient speed.

You are further commanded to return this warrant on or before
the day of 20 , with an endorsement certifying
the day and the manner in which it has been executed, or the reason
why it has not been executed.

Dated Karachi, this day of 20

By the Court

Additional Registrar

FORM NO.61

Warrant of Commitment

(Rule 522)

(Case title as in Form No. 35)

To

The Officer in charge of the Karachi Central Jail.

Sindh High Court Rules (O.S.)

Whereas this Court did by an order made this day order the above named insolvent to be imprisoned for (a) pursuant provisions of Section _____ of the Insolvency (Karachi Division) Act (III of 1909), for a period of _____

These are to command you to receive the said (b) _____ into the Karachi Central Jail and there to keep him in _____ imprisonment for the date hereof, unless he shall be sooner discharged by order of this Court.

Dated Karachi, this _____ day of _____ 20____

By the Court
Additional Registrar

FORM NO.62

Notice to creditor of time for public examination of insolvent

(Rule 523)

(Case title as in Form No. 35)

To _____

Take notice that the _____ day of _____ 20____ at _____
O'clock in the noon has been fixed for the public examination in
the Court-house of this Court at Karachi of (a) adjudged _____ an
insolvent on the petition of _____
himself
(b) creditor

-
- (a) Specify offence committed and Section under which warrant is issued.
(b) Full name of insolvent

Sindh High Court Rules (O.S.)

Any creditor who has tendered a proof of his debt in due form advocate of this Court on his behalf may appear and question the insolvent on his public examination concerning his affairs and the causes of his failure.

Dated Karachi, this day of 20

Assistant Registrar.

FORM NO.63

List of notice issued for service of registered post

(Rule 523)

(Case title as in Form No. 35)

No.	Name of creditor	When dispatched	When acknowledged or returned
1	2	3	4

FORM NO.64

-
- (a) Full name of Debtor
(b) Name of Creditor,

Sindh High Court Rules (O.S.)

List of notice issued for service by the Nazir

(Rule 523)

(Case title as in Form No. 35)

No.	Name of creditor	When dispatched	When acknowledged or returned
1	2	3	4

FORM NO.65

Notice of public examination of Insolvent

(Rule 523)

(Case title as in Form No. 35)

To

Notice is hereby given that the public examination of the insolvent above named is fixed for the day of 20 at O'clock in the noon at the Court-house of this Court at Karachi.

Dated Karachi, this day of 20

Assistant Registrar.

FORM NO.66

Notices of day of proceeding with public examination

(Rule 526)

(Case title as in Form No. 35)

To

Notice is hereby given that the above named Court has appointed the day of 20 at O'clock in the noon, for proceeding with the public examination of the above named insolvent which on the day of 20 was adjourned *sine die*.

Dated Karachi, this day of 20

Assistant Registrar.

FORM NO.67

Order of annulling adjudication

[Rule 528 (1)]

(Case title as in Form No. 35)

On the application of of and on reading and hearing it is ordered that the order of adjudication dated the day of 20 , against (a) of be and the same is hereby annulled.

Dated Karachi, this day of 20

(a) Insert full name, address and description of debtor.

(a) Full name of debtor.

Sindh High Court Rules (O.S.)

By the Court,
Additional Registrar

FORM NO.68
Notice of annulment of adjudication
[Rule 528 (2)]
(Case title as in Form No. 35)

Notice is hereby given that the order of this Court adjudging the
said (a) an insolvent pursuant to the provisions of the Insolvency
Karachi Division Act (III of 1909), was annulled by the order made on
the day of 20

Dated Karachi, this day of 20

Additional Registrar

FORM NO.69

Security bound under Section 21(2)

[Rule 529]

(Case title as in Form No. 35)

Know all men by these presents that we (a) of and (b) of are held and firmly bound to (c) of in the Rs. to be paid to the said (c) or his certain attorney, or attorneys, executors, administrators or assigns for which payment well and truly to be made we bind ourselves and each and every of us, our and each of our heirs, executors, and administrators jointly and severally, firmly by these presents.

Dated this day of 20 .

Whereas by an order of the said Court dated the day of 20 in case No. of 20 the above bounden was adjudged an insolvent pursuant to the provisions of Insolvency Karachi Division Act (III of 1909).

And whereas one (c) claims to be a creditor of the said (d) who disputes such claim. And whereas an application has been to this Court for annulment of the said order of adjudication and the , (d) is required to enter into a security bond pursuant provisions of Section 21(2) of the said Act in manner hereunder mentioned.

Now, therefore, the condition of this bond is that if the above bounden (d) or the said (b) shall on demand well and truly pay or cause to be paid to (c) his attorney or agent such

-
- (a) Enter full name and address of debtor.
(b) Enter name or names of surety or sureties.
(c) Enter name or petitioning creditor or creditors to whom disputed debt is due.

sum or sums as shall be recovered against the said (d) by any proceedings taken or continued within days from the date hereof in any competent Court by the said (c) of the payment of the disputed debt hereinabove mentioned, together with such costs shall be given to said (c) by such Court, this obligation shall be void, otherwise same shall remain in full force debt hereinabove mentioned, together with such costs shall be given to said (c) by such Court, this obligation shall be void, otherwise same shall remain in full force.

Signed by the said in the presence of

Additional Registrar

FORM NO.70

Vesting Order on annulment of adjudication

[Section 23(1)]

[Rule 530(1)]

(Case title as in Form No. 35)

The order of adjudication, dated the day of 20 , made against the said (a) having this day been annulled by Court, it is ordered that the property of the said (b) which would have been divisible among his creditors if the said order of adjudication not been annulled shall be and is hereby vested in subject to the provisions of the Insolvency Karachi Division Act (III of 1909).

Dated Karachi, this day of 20

By the Court,
Additional Registrar

-
- (d) Enter name of debtor.
(a) Insert full name, address and description of debtor.
(b) Enter full name of debtor.

FORM NO.71

Warrant of arrest for recommitment under
[Section 23(2)]

[Rule 530(2)]
(Case title as in Form No. 35)

To

The Nazir of this Court.

Whereas the above named debtor was released from custody under an order of this Court, dated the day of 20 , and whereas by order, dated the day of 20 , this Court has ordered the said to be arrested and recommitted to his former custody pursuant to Section 23(2) of the Insolvency Karachi Division Act (III of 1909). These are to command you to arrest the said and to bring him before the Court with all convenient speed.

You are further commanded to return this warrant on or before the day of 20 , with an endorsement certifying the day on and the manner in which it has been executed, or the reason why it has not been executed.

Dated Karachi, this, day of 20

By the Court,
Additional Registrar

Sindh High Court Rules (O.S.)

FORM NO.72

Warrant of Recommitment of insolvent under

[Section 23(2)]

[Rule 530(2)]

(Case title as in Form No. 35)

To

The Officer-in-Charge of the Karachi Central Jail

Whereas the above named debtor, who was, imprisoned under a warrant (a) was released from custody by order of this Court dated the day of 20 , pursuant to the provisions of the Insolvency Karachi Division Act (III of 1909). And whereas the order adjudication made against the said debtor having been annulled, this Court did by order dated the day of 20 , order the said debtor' to be recommitment to his former custody under Section 23 (2) of the said Act.

These are to command you to receive the said (b) back into your custody in the Karachi Central Jail and there to keep him according to the tenor of the warrant aforesaid. And you the Officer-in charge of the said Jail will take note that upon receipt of the said (b) in your custody under this recommitment, all processes which were in for against the person of the said (b) at the time of such release aforesaid shall be deemed to be still in force against him as if such order release had not been made.

Given under my hand and the seal of the Court, this day
of 20 .

(a) Give full particulars.

(b) Full name of debtor.

Judge

Note.- Subsistence allowance of prisoner for days at the
rate of Rs. per mensem sent herewith Rs.

FORM NO.73

Warrant against insolvent about to abscond, & etc., (Section 34)

(Case title as in Form No. 35)

To

1. The Nazir of this Court
2. The Officer-in-Charge of the Karachi Central Jail.

oath

Whereas by evidence taken upon----- it has
solemn affirmation
been made appear to the satisfaction of the Court that there is
probable reason believing that the above named insolvent has
absconded or is about to abscond with a view of avoiding examination
in respect of his affairs, or of otherwise avoiding, delaying or
embarrassing the proceeding in insolvency against him.

Or

That there is probable reason for believing that the above
named insolvent is about to remove his property with a view to
preventing or delaying possession being taken of it by the Official
Assignee (or has concealed, is about to conceal or destroy any of his
property or any books, documents or writings which might be of use to
his creditors in the course of his insolvency).

Sindh High Court Rules (O.S.)

Or

That the above named insolvent has removed certain of his property above the value of Rs. 5000/- without the leave of the Official Assignee, that is to say (*here describe the property*)

These are therefore to rewire you the said *Nazir* to take the said and to deliver him to the Officer in charge of the Karachi Central Jail and you the said Officer in charge of the said Jail to receive the said and him safely to keep in the said Jail until such time as this Court may order.

Dated Karachi, this day of 20

By the Court,
Additional Registrar

FORM NO.74

Warrant to apprehend a person summoned under Section 36

(Case title as in Form No. 35)

To

The Nazir of this Court.

Whereas by summons or *subpoena*, dated the day of 20 , and directed to the said A.B. of (or to F.M. of) he was required personally to be and appear on the day of at O'clock in the noon at this Court to be examined, and which said summons or *subpoena* was afterwards on the day of 20 , as has been proved upon oath, duly served upon the said and a reasonable sum was tendered him for his expenses. And whereas the said having no lawful impediment made known to or allowed by this Court has not appeared before me as by the said summons or *subpoena* he was required, but therein has wholly made default:

Sindh High Court Rules (O.S.)

These are therefore to will, require and authorize you to whom this warrant is directed, immediately upon receipt hereof, to take the said and bring him before this Court on the day of 20, in order to his being examined as, aforesaid, and for your so doing this shall be your sufficient warrant.

Dated Karachi, this day of 20

By the Court,
Additional Registrar

FORM NO.75

Schedule

(Rules 531,532,534,617 & 632)

(Case title as in Form No. 35)

To the insolvent.- You are required to fill up, carefully, and accurately, this sheet and the several sheets A, B, C, D, E, F, G and H, showing the state of your affairs on the day on which the order of adjudication was made against you, viz., the day of 20

Such sheets, when filled up, will constitute your schedule, and must be verified by oath or declaration.

Gross Liabilities			Liabilities (as stated and estimated by debtor).	Expect to rank			Assets (as stated and estimated by debtor)	Estimated to produce.		
Rs.		.	Unsecured creditors as per list (A)	Rs.		.	Property as per list (E), viz:-	Rs.		

Sindh High Court Rules (O.S.)

			Rs				(a) Cash at bankers			
			Creditors fully secured as per list (B).				(b) Cash in hand			
			Estimated value of securities.				(c) Cash deposited with solicitor, pleader or advocate for costs of petition.			
			-----				(d) Machinery			
			Surplus				(f) Trade fixtures, fittings, utensils, & etc.,			
			Less amount thereof carried to Sheet (C)				(g) Furniture			
			Balance thereof the contra.				(h) Life policies			
			-----				(j) Other property, viz.			
			Creditors partly secured as per list (c)				Total as per list (E)			
			-----				Book debts as per list (F) viz.			
			Less estimated value of securities				Good			
			-----				Rs:			
			Creditors for rent, rates, taxes, wages, & etc, payable in full as per List (D)				Doubt ful			
			-----				-----			
			Deducted Contra.				Bad			
			-----				Total Rs.			
			Total Rs.				-----			
							Estimated to produce.			
							Bills of exchange or other similar securities on hand as per list (G).			
							Rs.			
							Estimated to produce			
							Surplus from securities in the hands of creditors fully secured (per contra).			
							Deduct creditors for preferential rent, rates taxes, wages & etc. (per contra Rs.			
							Deficiency explained in statement (H) Rs.			

I, _____ of _____, of _____, made oath and say that the above statement and the several lists here unto annexed marked A, B, C, D, E, F, G and H, are, to the best of my knowledge and belief, a full, true and complete statement of my affairs on the date of the abovementioned order of adjudication made against me.

Sindh High Court Rules (O.S.)

Sworn
----- at this day of 20,
affirmed

Signature

before me.

A.

Unsecured creditors

No.	Name	Address and occupation	Amount of debt.			Date when contracted		Consideration
						Month	Year	
			Rs.					

Date 20 Signature

Notes.- 1 When there is a contra-account against the creditor, less than the amount of his claim against the estate, the amount of the creditor claim and the amount of the contra-account should be shown

Sindh High Court Rules (O.S.)

in the third column, and the balance only be inserted under the heading
“Amount of debt,” thus:

Total amount of claim

Rs.

Less contra-account

No such set-off should be included in sheet "F".

2. The particulars of any bills of exchange and promissory notes held by a creditor should be inserted immediately below the name and address of such creditors.

B.

Creditors fully secured

[illegible]

Date

20

Signature

Sindh High Court Rules (O.S.)

C.

Creditors fully secured

No.	Name of creditors	Address and occupation	Amount of debts	Date when contracted		Consideration	Particulars of security	Date when given	Estimated value of security	Estimated surplus form security
				Month	Year					

Date 20 Signature

D.

Preferential Creditors for rent, rates, taxes and wages

No.	Name of creditors	Address and occupation	Nature of claim	Period during which claim accrued due	Date when due	Amount of claim	Amount payable in full.	Difference ranking for dividend (to be carried to List A)

Sindh High Court Rules (O.S.)

Date 20 Signature

E

Property

Full particulars of every descriptions of property in possession and in reversion, not in any other list, are to be set forth in this list:-

Full statement of nature of property		Estimated to produce		
(a)	Cash at bankers	Rs.		
(b)	Cash in hand			
(c)	Cash deposited with solicitor, pleaders or advocate for costs of petition.			
(d)	Stock – in- trade at (Cost Rs.)			
(e)	Machinery at			
(f)	Trade fixtures, fittings, utensils, & etc, at			
(g)	Household furniture and effects at			
(h)	Life Policies			
(i)	Other property (state particulars), viz.			

Date 20 Signature

F

Debts due to the Estate

No.	Name of Debtor	Residence and occupation	Amount of debts			Folio of ledger or other book where particulars to be found	When contracted ---		Estimated to produce	Particular of any securities held for debts
			Good	Doubtful	Bad		Month	Year		

Sindh High Court Rules (O.S.)

			Rs			Rs			Rs						Rs			
--	--	--	----	--	--	----	--	--	----	--	--	--	--	--	----	--	--	--

Dated

20

Signature

Note.- If any debtor to the estate is also a creditor, *but for a less amount than his indebtedness*, the gross amount due to the estate and the amount of the contra-account should be shown in the third column, and the balance only be inserted under the heading "Amount of debt" thus:

Rs.

Due to estate

Less contra-account

No such claim should be included in sheet "A"

Bills of Exchange, Promissory Notes, & etc., available as assets

G

No.	Name of Acceptor of Bill or Note	Address & etc.	Amount of Bill or Note	Date when due	Estimated to produce	Particulars of any property held as security for payment of Bill of Note

Date 20 Signature

H

Deficiency Statement

(The Insolvent should here explain the cause for the deficiency)

Date 20 Signature

FORM NO. 76

Notice for Claims

(Rule 534)

(Case title as in Form No. 35)

On the day of 20 , it was ordered that the creditors of the said insolvent do on or before the day of 20 , submit to the Official Assignee of this Court statements in writing of their respect claims against the insolvent with the particulars thereof, duly verified by affidavit, and that after such last mentioned date the Official Assignee do frame a schedule of the creditors, debtors and property of the insolvent.

Dated this day of 20

Official Assignee

FORM NO.77

Application for protection order under Section 25.

(Rule 535)

(Case title as in Form No. 35)

I, the insolvent above named, state as follows:

1. That I filed my petition in this Court for the benefit of the Insolvency Karachi Division

Act (III of 1909) on the day of 20

Sindh High Court Rules (O.S.)

Or

That I was adjudged an insolvent by this Court on the petition of creditor, pursuant to the provisions of the Insolvency Karachi Division Act (III of 1909), on the day of 20

2. That I submitted my schedule on the day of 20 , that I am preparing my schedule and expect to be able to submit the same to the Court by the day of 20

3. That no warrant for my arrest has been issued or applied for.

Or

That a warrant for my arrest has been issued ----- by of in applied for execution of the decree in suit No. of 20 and by Mr. of 20 , of the Court of and by Mr. of & etc.

4. That hereto annexed and marked A is a certificate of the Official Assignee that I have so far conformed, to the provisions of the Insolvency (Karachi Division) Act (III of 1909).

5. That (a) hereto annexed and marked B is a certificate of the Official Assignee that in his opinion it is necessary in the interest of the creditors that a protection order should be made by the Court before I have submitted my schedule (b).

-
- to be omitted.
 - (a) Here state any special circumstances that would justify a protection order under Section 25(5) of the Act).
 - (b) If certificate is refused, state here that the certificate was applied for but has not been granted.

Sindh High Court Rules (O.S.)

Therefore I hereby apply to the Court for an order for my protection from arrest or detention for all the debts mentioned in my schedule (or if schedule is not filed) for the following debts:

No.	Name of creditors	Address and occupation.	Amount of debts			Nature of debt or No. or suit in which decree has been obtained if any
			Rs.			

I, _____, the insolvent above named, do declare that statements in the above paragraphs numbered _____ and are true to my own knowledge and the statements in the paragraphs numbers _____ and _____ are made

on information.

or partly of my own knowledge _____ and I believe them to be true.

and partly on information

Dated this _____ day of _____ 20

Signature

Signed in my presence.

Witness.

Address.

Description.

FORM NO. 78

Notice of Application for Protection order

(Rule 536)

(Case title as in Form No. 35)

To

Notice is hereby given that an application for *interim* protection order has been made by the insolvent above named and that such application will be heard in this Court on the day of 20 , at o'clock in the noon. Any creditor of the said insolvent desirous of opposing such application may appear before and be heard by this Court on the day and at the time aforesaid.¹

Additional Registrar.

Karachi, dated this day of 20

FORM NO. 79

Protection Order

(Rule 537)

(Case title as in Form No. 35)

Upon reading the application of the insolvent above named praying for an order for his protection from arrest and detention and the certificate of the Official Assignee under Section 25(4) of the Insolvency Karachi Division Act (III of 1909, and upon hearing this day Mr. for the insolvent:

It, is ordered that the insolvent (a) be and he is hereby granted protection from arrest and detention in custody until the final

¹ Delete if issued for advertisement.

(a) Full name.

Sindh High Court Rules (O.S.)

disposal of the matter of his insolvency unless in the meantime this order shall be revoked, and that, such protection shall commence and take effect from the date hereof, and shall be in respect of the dues and liabilities entered in the insolvent's schedule with the exception of the debts due to (b)

Karachi, dated this day of 20

By the Court,

Additional Registrar.

FORM NO. 80

Warrant of release on Protection Order

(Rule 538)

(Case title as in Form No. 35)

To

The Officer In-charge of the Karachi Central Jail.

Whereas the insolvent above named, now in your custody as a prisoner for diet under a warrant issued by the Court

Suit

of in ----- No. of 20, at the instances of has
execution case

obtained an order for his, protection from arrest and detention under Section 25 of the Insolvency Karachi Division Act (III of 1909).

* Where schedule is not filed and the order applies to any specified debts, and here "following" and specify the debts, omitting "entered, & etc.".

(b) Enter full name, description and address of creditor.

Sindh High Court Rules (O.S.)

There are to command you to release the said from
custody forthwith.

Karachi, dated the day of 20

By the Court;

Additional Registrar.

FORM NO. 81

Notice of release of Insolvent do Protection Order

(Rule 538)

(Case title as in Form No. 35)

To

The Officer in-charge of the Karachi Central Jail.

Notice is hereby given to you that the insolvent above named,
who was produced by you in this Court under order, dated the
day of 20 , was released from custody in the Court-house
by and under the direction of the Court on the day of
20.

Karachi, dated this day of 20

Additional Registrar.

FORM NO. 82

Sindh High Court Rules (O.S.)

Order to Summon Meeting of Creditors

(Rule 540)

(Case title as in Form No. 35)

Upon reading the application affidavit of _____ and _____
upon hearing Mr. _____ for the
applicant _____ Official Assignee:

It is ordered that the Official Assignee do hold a meeting of the
creditors of the insolvent as soon as possible.

Karachi, dated this _____ day of _____ 20____

By the Court,

Additional Registrar.

FORM NO. 83

Notice to Creditor of Meeting of Creditors

(Rule 541)

(Case title as to Form No. 35)

To

Take notice that, meeting of creditors in the above matter will
be held at _____ on the _____ day of _____ 20____ at _____ o'clock
in the _____ noon.

AGENDA

Sindh High Court Rules (O.S.)

(Here insert purpose for which meeting called)

*To enable you to vote thereat, your proof must be lodged with me, as also any proxies to be used at the meeting, not later than o'clock in the noon on the day of 20 A form of proof and forms of general and special proxy are enclosed herewith.

Karachi, dated the 20.

Official Assignee

FORM NO. 84

Notice to Debtor of Meeting of Creditors

(Rule 541)

(Case title as in Form No. 35)

To

Take notice that a meeting of your creditors will be held on the day of 20 at o'clock in the noon at and that you are required to attend thereat and submit to such examination and give such information as the meeting may require. And further take notice that if you fail to comply with the requirements of this notice you will be guilty of a contempt of Court, and may be punished accordingly pursuant to the provisions of Section 33 of the Insolvency Karachi Division Act (III of 1909).

AGENDA

(Here insert purpose for which meeting called)

Karachi, dated the day of 20

* Omit these paragraphs if notice is for insertion in the Sindh Government Gazette, local newspaper of advertiser.

Official Assignee

FORM NO. 85

Notice to Creditors of Adjourned Meeting

(Rule 543)

(Case title as in Form No. 35)

To

Take notice that the meeting of the creditors in the above matters held on the day of 20 at was adjourned to the day of 20 and will accordingly be held at on the said day at o'clock in the noon.

AGENDA

(Insert here nature of business to be transacted)

Karachi, dated the day of 20

Official Assignee

(Address)

FORM NO. 86

Affidavit of Posting of Notices

(Case title as in Form No. 35)

I, a clerk in the Office of the Official Assignee, make oath/solemn affirmation and say as follows:

1. That I did on the day of 20, send to each creditor mentioned in the insolvent's schedule, a notice of the time and place of the meeting of creditors called for the day of 20, in the form hereunto annexed marked A.

Sindh High Court Rules (O.S.)

2. That such notices were addressed to such of the said creditors as have proved their debts according to the addresses given in their respective proof; and to such as have not proved according to their respective names and addresses appearing in the insolvent's schedule, excepting the creditors mentioned in the list hereto annexed and marked B to whom notices were sent at the respective addresses shown against their names; such addresses being the actual correct addresses known to the Official Assignee of the said last named creditors.

3. That I sent the said notices being putting the same into the Karachi post office before the hour of o'clock in the noon on the said day.

4. That I did on the said day of 20 , send by registered post notice of the time and place of the said meeting to the said insolvent, and that such notice was sent to the following address:

Sworn/Solemnly affirmed.

(Signed)

Before me.

Dated this day of 20

Commissioner for taking affidavits.

FORM NO. 87

Certificate under paragraph 6 of first schedule

(Case title as in Form No: 35)

I, Official Assignee of the above Court, do hereby certify that the notices mentioned in the affidavit of my clerk hereto annexed were duly caused to be given by me to the creditors of

Sindh High Court Rules (O.S.)

the above named insolvent and such notices were to the best of my knowledge and belief sent in the manner deposed to by my said Clerk in his said affidavit.

Karachi, dated this day of 20.

Official Assignee.

FORM NO. 88

General Proxy

(Rule 544)

(Case title as in Form No. 35)

I, ^(a) of a creditor, hereby appoint (b) to be
(c) general proxy in the above matter [excepting as to the receipt of
dividend (d)].

Dated at this day of 20

Signature (e)

Signature of witness

Address

Description

Notes.- 1. When the creditor desires that this general proxy should receive dividend he should strike out the words "excepting as to the receipt of dividend," putting his initials thereto ^(f).

-
- (a) If a firm, write "we" instead of "I" and set out the full name of the firm.
(b) Here insert "Mr." of a manager, clerk, & etc., in my regular employ" or "the Official Assignee of the above Court." The relation in which the proxy stands to the creditor must be clearly set out.
(c) "My" or "our".
(d) See Note I.
(e) If a firm, sign the firm's trading title and add "by A.B. a partner in the firm."
As to signature by agent see notes 2 and 3.

Sindh High Court Rules (O.S.)

2. The authorized agent of a corporation may fill up blank and sign for the corporation thus:

For the

Company

J. S. (duly authorized under the seal of the Company).

3. A proxy given by a creditor may be filled up and signed by his attorney or agent. Such person shall sign.

J.S. Attorney of [name of creditor (g)]

Certificate to be signed by person other than creditor filling up the above proxy.

I, _____ of _____ being a (h) hereby certify that all insertions in the above proxy are in my own handwriting, and have been made by me at the request of the above named and in his presence before he attached his signature (or mark) thereto.

Dated this _____ day of _____ 20.

Signature

(The proxy must be deposited with the Official Assignee at least on, clear day before the time appointed for the meeting at which it is to be used)

-
- (f) It is not intended that the Official assignee shall in any case receive dividends on behalf of a creditor.
- (g) The Official Assignee may require the power of attorney to be produced for his inspection.
- (h) Here state whether clerk or manager in the regular employment of creditor, or a justice of the Peace, Notary Public, Graduate of a University or Advocate or Pleader of High Court.

FORM NO. 89

Special Proxy

(Rule 544)

(Case title as is Form No. 35)

I, (a) of a creditor hereby appoint (b) as
(c) proxy at the meeting of the creditors to be held on the day
of 20 , or at any adjournment thereof to vote. (d)

Dated at , this day of 20

Signature of witness Signed

Address

Description

Notes.- 1. A creditor may give a special proxy to any person to vote at any special meeting or adjournment thereof on all or any of the following matters:

- (a) For or against any specific proposal for a composition or scheme of arrangement.

-
- (a) If a firm, write "we" instead of "I" and set out the full name of the firm.
(b) Here insert "Mr." of a manager, clerk, & etc., in my regular employ" or "the Official Assignee of the above Court." The relation in which the proxy stands to the creditor must be clearly set out.
(c) "My" or "our".
(d) Here inset the word "for" or the word "against" as the case may require, and specify the particular resolution or name of proposed special manager, remuneration or other matter.
(e) If a firm, sign the firm's trading title and add "by A.B. a partner in the firm." As to signature by agent see notes 2 and 3.

Sindh High Court Rules (O.S.)

- (b) For or against the appointment of any specified person as special manager at a specified rate of remuneration, or as member of the committee of inspection or for or against the continuance in office of any specified person as special manager, or member of a Committee of Inspection.
- (c) On all questions relating to any matter, other than those above referred to; arising at any specified meeting or adjournment thereof.

2. The authorized agent of a corporation may fill up blanks, and sign for the corporation, thus:

For the company

J.S. (duly authorized under the seal of the Company)

3. A proxy given by a creditor may be filled up and signed by his attorney or agent. Such person shall sign

J.S. attorney of (Name of creditor) (f)

Certificate to be signed by persons other than creditor filling up the above proxy

I, _____ of _____ being a _____ (g) hereby certify that all insertions in the above proxy are in my own, hand writing, and have been made by me at the request of the above named and in his presence before he attached his signature (or mark) thereto.

Dated this _____ day of _____ 20____

-
- (f) The Official Assignee may require the power of attorney to be produced for his inspection.
 - (h) Here state whether clerk or manager in the regular employment of creditor, or a justice of the Peace, Notary Public, Graduate of a University or Advocate or Pleader of High Court.

Signature

The proxy must be deposited with the Official Assignee at least one clear day before the time appointed for the meeting at which it is to be used.

FORM NO. 90

Proposal for a Composition

(Rule 548)

(Case title as in Form No. 35)

I/We _____, the above named debtor/debtors, hereby submit the following proposals or a composition in satisfaction of my/our debts:

1. That payment in priority to other debts directed to be so paid in the distribution of the property of an insolvent shall be provided for as follows:

(Set out terms of proposal so far as relate to preferential claims)

2. That the provision for payment of all proper costs, charges and expenses of and incidental to the proceedings and the commission payable to the Official Assignee shall be made in the following manner:

*Set out the proposal for provision for costs, charges, expenses and
Official Assignee's commission*

3. That the following composition shall be paid as hereinafter mentioned on all provable debts:

(Set out terms of composition)

4. That the payment of the composition be secured in the following manner : (Set out full names and addresses of sureties (if any) and complete particulars of all securities intended to be given)

Dated at this day of 20

(Signed) (a)

FORM NO. 91

Proposal for a Scheme of Arrangement

(Rule 548)

(Case title as in Form No. 35)

I / We , the above named debtor/debtors hereby submit the following proposals for a scheme of arrangement of my/our affairs in satisfaction of my/our debts:

1. That.

(Set out terms of scheme)

2. That the payment in priority to other debts of all debts directed to be so paid in the distribution of the property of an insolvent shall be provided for as follows:

(Set out or indicate by reference to the scheme how it is proposed to satisfy preferential claims)

3. That the provisions for payment of all the proper costs, charges and expenses of and incidental to the proceedings and the commission payable to the Official Assignee shall be made in the following manner:

(Set out or indicate by reference to the scheme how it is proposed to provide for costs, charges, expenses and the Official Assignee's commission)

Dated at this day of 20

^(a) To be signed by the debtor, in case of joint debtors to be signed in the firm's name by such of the debtors as the Official Assignee shall require.

(Signed) (a)

FORM NO. 92

*Notice to Creditor of Meeting for consideration of a proposal for
Composition or Scheme*

(Rule 548)

(Case title as to Form No. 35)

Notice is hereby given that a general meeting of the creditors of the above named insolvent will be held on the day of 20 at o'clock in the noon precisely.

Creditors qualified to vote at such meeting may, by a resolution passed by a majority in number, and three-fourths in value, of all the creditors who have proved their debts, accept the proposal made by the insolvent for a composition (or scheme); or any amendment thereof which in the opinion of the Official Assignee, is calculated to benefit the general body of creditors. A copy of the proposal with my report thereon is hereto annexed.

Proofs of debts, proxies and voting letters intended to be used at the meeting must be lodged with or read the undersigned not later than o'clock in the noon of the day of 20

Creditors who prove their debts and whose proofs are admitted, and who do not vote on the debtor's proposal will be reckoned as voting against it.

A sitting of the, Court for the public examination of the insolvent will be held at the Court-house of the above Court at on the day of 20.

*Any creditor who has tendered a proof, or an advocate or pleader of this Court on his behalf may appear and question the debtor

(a) To be signed by the debtor, in case of joint debtors to be signed in the firm's name by such of the debtors as the Official Assignee shall require.

* To be omitted, if not required.

Sindh High Court Rules (O.S.)

on his public examination concerning his affairs and the causes of his failure.

Dated this day of 20

Official Assignee

(Address)

Note.- 1. Creditors who have proved may vote for or against the acceptance of the insolvent's proposal by means of the voting letter attached to the Official Assignee's report.

2. A form of proof and forms of general and special proxy are sent herewith.

FORM NO. 93

*Report of the Official Assignee to Creditors on proposal for
Composition or Scheme and Voting Letter*

(Rule 548)

(Case title as in Form No. 35)

The Official Assignee of the above Court hereby reports:

1. That the insolvent above named has lodged with him a proposal for a composition (or a scheme) to be submitted to the creditors of which the following is a copy: *(Here set out fully the terms of the proposal)*

2. That the liabilities as shown by the insolvent's schedule amount to the sum of Rs. , and the assets are estimated by the insolvent at the sum of Rs. after payment of preferential debts.

3. That the value of the assets is (fairly estimated by the insolvent) (or as the case may be).

Sindh High Court Rules (O.S.)

4. That the terms of the insolvent's proposal (*set out particulars of the proposal and observations thereon and on the insolvent's conduct*)

dated this day of 20

Official Assignee

(Address)

VOTING LETTER

In the High Court of Sindh
INSOLVENCY JURISDICTION
Case No. of 20

In the matter of Insolvent.
I one
-----, of ----- of the creditors of the insolvent
was some
above named for the sum of Rs. . hereby request the Official
my
Assignee of the said Court to record ----- vote(a) the Acceptance of
our
the proposal as set forth in the Official Assignee's report and hereto
and
annexed ---- (b) any amendment thereof which shall in the or opinion of
or
the said Official Assignee, be calculated to benefit the general body of
the creditors.

Dated at this day of 20

Signature of creditors.

- (a) Insert here the word "for" or the word "Against as the case may be.
- (b) Creditors may, if they think fit, authorize the Official Assignee to vote "Against" the proposal now submitted but "for" such amendment thereof, as may be satisfactory to the Official Assignee.
- (c) Insert "unanimously" when the resolution is so carried.

Sindh High Court Rules (O.S.)

Signature of witness.

Address.

Description.

FORM NO. 94

Resolution of accepting composition

(Rule 549)

In the High Court of Sindh
INSOLVENCY JURISDICTION
Case No. of 20

Minutes of resolutions come to and proceedings had at a meeting of this day of 20 , creditors held at Resolved as follows:- (c)

That the insolvent's proposal for a composition as set forth in the annexed writing marked "A" by accepted.

(If the Official Assignee is not to be the trustee for the purpose of receiving and distributing the composition, add here resolution appointing a trustee, and fixing his remuneration.)

Signature

Official Assignee
Chairman

No.	Assenting creditors signatures	Amount of proof			No.	Dissenting creditor's signatures	Amount of proof.		
		Rs.					Rs.	.	.

Sindh High Court Rules (O.S.)

--	--	--	--	--	--	--	--	--	--

Note. When a resolution is carried unanimously, the creditors need not sign; but when a division is taken all creditors and holders of proxies voting should sign. The signatures must be attached at the meeting. Resolution should be put separately.

FORM NO. 95

Resolution accepting a scheme of arrangement

(Rule 549)

In the High Court of Sindh
INSOLVENCY JURISDICTION

Case No. of 20

In the matter of

Insolvent.

Sindh High Court Rules (O.S.)

Minutes of resolution come to and proceedings had at the meeting of creditors held at _____ this day of _____ 20____, Resolved as follows (a) :-

That the insolvent's proposal for a scheme of arrangement as set forth in the writing hereunto annexed, and marked with the letter "A" be accepted.

That upon the Court approving this scheme of arrangement, Mr. _____ of shall be the trustee there under (b)

That _____ shall, subject to the sanction of the Court, be appointed the Committee of inspection under this scheme of arrangement for the purpose of superintending the administration of the insolvent's property by the trustee of whom (c) shall form a quorum.

(Here add any further resolution that may be passed respecting the administration of the property, the carrying on and disposal of the debtor's business, & etc.)

Signature
Official Assignee
Chairman

a.

No.	Assenting creditors signatures	Amount of proof			No.	Dissenting creditor's signatures	Amount of proof.		
		Rs.					Rs.		

-
- (a) Insert "unanimously" when the resolution is so carried.
(b) Here add remuneration (if any).
(c) Insert number "two" or as the case may be.

Sindh High Court Rules (O.S.)

--	--	--	--	--	--	--	--	--	--

Note. When a resolution is carried unanimously, the creditors need not sign; but when a division is taken all creditors and holders of proxies voting should sign. The signatures must be attached at the meeting. Resolution should be put separately.

FORM NO. 96

LIST OF CREDITORS ASSEMBLED TO BE USED AT EVERY MEETING

(Except a meeting at which a scheme or composition has been considered)

In the High Court of Sindh
INSOLVENCY JURISDICTION
Case No. of 20

In the matter of Insolvent
Meeting held at this day of 20 .

No.	Name of creditors present or represented	Amount of proof		
		Rs.		
1				
2				

Sindh High Court Rules (O.S.)

3			
4			
5			
6			

6	Total member creditors present or represented		

FORM NO. 97

List of creditors for use at meeting held for consideration of composition or scheme

In the High Court of Sindh
INSOLVENCY JURISDICTION
Case No. _____ of 20____

In the matter of

Insolvent

Meeting held at

this

day of

20

No.	Name of all creditors whose proofs have been admitted	Here states as to each creditors whether he voted, and , if so, how, whether personally, by proxy or voting letter	Amount of assets			Amount of admitted proof		
			Rs.			Rs.		
		Total						

Required number for majority

Required value, Rs.....

FORM NO. 98

Application to court for approval of composition or scheme

(Rule 549)

In the High Court of Sindh
INSOLVENCY JURISDICTION
Case No. of 20

In the matter of Insolvent.

Ex parte.

Whereas at a meeting of creditors of the above named insolvent held at on the day of 20 , resolution to accept (a) was duly passed by a majority in number representing three-fourths in value of all the creditors who have proved their debts;

And whereas the public examination of the said insolvent was concluded on the day of 20 ;

Now the (b) applies to the Court to fix a day for the consideration of the abovementioned

Dated this day of 20

Insolvent (or Official Assignee)

O R D E R

Before the Additional Registrar

Upon reading the above application and hearing it is ordered that the application for consideration by the Court of the

-
- (a) Composition or scheme of arrangement.
(b) Insolvent or Official Assignee.
(a) Insolvent abovenamed or Official Assignee.

Sindh High Court Rules (O.S.)

abovementioned (a) shall be heard on the day of 20 ,
at o'clock in the noon.

Dated this day of 20

By the Court,
Additional Registrar

FORM NO. 99

Notice to creditors (and Official Assignee) of application to Court to

approve composition or scheme of arrangement

(Rule 550)

In the High Court of Sindh
INSOLVENCY JURISDICTION

Case No. of 20

In the matter of Insolvent.

Ex parte:

To

Take notice that the application made to this Court on the ____
day of 20 by the (b) to approve the composition
(or scheme of arrangement) as proposed by the said insolvent and
duly accepted by the statutory majority of the creditors at a meeting
held on the day of 20 will be heard by the
Court on the day of 20 at o'clock in the noon.

Dated this day of 20

Assistant Registrar

FORM NO. 100

Order on application to approve composition or scheme

(Rule 551)

In the High Court of Sindh
INSOLVENCY JURISDICTION

Case No. _____ of 20____

In the matter of _____ Insolvent.

Ex parte:

On the application of the _____ (a) _____ and on reading the report of the Official Assignee filed on the _____ day of _____ 20____, and hearing the Official Assignee and _____, and the Court being satisfied that the creditors in the above matter have duly accepted a composition (or scheme) in the following terms, namely (*here insert terms short, not, insert* "in the terms contained in the paper writing marked A; annexed hereto"), and being satisfied that the said terms are, reasonable and calculated to benefit the general body of creditors, and that the case is not one in which, the Court would be required to refuse the insolvent's discharge;

(and as the case may be)

And being satisfied further-

- (a) That no facts have been proved which would justify the Court in refusing, qualifying or suspending an order of discharge: or
- (b) That facts have been proved which would justify the Court in refusing, suspending or attaching condition to the insolvent's discharge, but that having regard to the nature of such facts, and the composition (or scheme) providing reasonable security for payment of not less than four annas in the rupee on all the unsecured debts provable against the insolvent's estate.

Sindh High Court Rules (O.S.)

The said composition or scheme is hereby approved.

Dated this day of 20

By the Court,
Additional Registrar

FORM NO. 101

Order on application to enforce composition or scheme

(Rule 559)

In the High Court of Sindh
INSOLVENCY JURISDICTION

Case No. of 20

In the matter of a composition made by

Ex parte.

Upon the application of of and upon
reading (*here insert evidence*) and upon
hearing^(a) the Court being of opinion that the provisions of
the said composition (or scheme) mentioned in the affidavit filed in
support of the said application should be enforced, it is ordered that
(*here insert order*)

Dated this day of 20

By the Court,
Additional Registrar

To

Take notice that unless you obey the directions in this order,
you will be deemed to have omitted a contempt of Court.

(a) Full name, description and address of debtor.

FORM NO. 102

Order annulling composition or scheme, Section 31 (1)

(Rule 560)

In the High Court of Sindh

INSOLVENCY JURISDICTION

Case No. _____ of 20____

In the matter of a composition made by _____ of _____

Ex parte.

Upon the application of _____ of _____ and _____ on
reading *(here (a) set out the evidence)*

and upon hearing the Court being of opinion that default has
been made in carrying out the provisions of the said composition (or
scheme) by *(set out the facts)*;

Or

(b) it appearing to the Court that the composition (or,
scheme) can not proceed without injustice or undue delay;

Or

(c) that the approval of the Court to the said composition (or
scheme) was obtained by fraud;

It is ordered that the said composition (or scheme) be and it is
hereby annulled. And it is further ordered that the said (a) by and
he is hereby re-adjudged an insolvent:

Dated this _____ day of _____ 20____

(a) Full name, description and address of debtor.

Sindh High Court Rules (O.S.)

By the Court,
Additional Registrar

FORM NO. 103

Certificate of Approval of Composition
In the High Court of Sindh
INSOLVENCY JURISDICTION
Case No. of 20

In the matter of Insolvent.

Ex parte:

I hereby certify that a composition (or scheme of arrangement)
the above named debtor and his creditors, was duly approved by the
Court on the day of 20

Dated this day of 20

Additional Registrar

Sindh High Court Rules (O.S.)

FORM NO. 104

Order to the Director-General of Post Office in Pakistan

(Rule 562)

In the High Court of Sindh
INSOLVENCY JURISDICTION
Case No. of 20

In the matter of of Debtor.

Ex parte. the Official Assignee.

Upon the application of the Official Assignee of this Court, in the above matter, and pursuant to the provisions of Section 35 of the Presidency-towns Insolvency Act, 1909, it is ordered that for a period of from the day of 20 , all post letters, whether registered or unregistered, parcels and money orders addressed to the debtor above-named at *(here insert the full address or addresses)* shall be re-directed sent or by the Director-General of Post Offices in Pakistan or Officers acting under him to the said Official Assignee at his offices at Karachi, and that a sealed duplicate of this order be forthwith transmitted by the Additional Registrar to the said Director-General or Officers acting under him.

Dated this day of 20

By the Court,
Additional Registrar

FORM NO. 105

Order to pay debt, or deliver property Section 36(4) and (5)

In the High Court of Sindh
INSOLVENCY JURISDICTION
Case No. of 20

In the matter of Insolvent.

Sindh High Court Rules (O.S.)

Ex parte.

Whereas on the examination of _____ of taken
on the _____ day of _____ 20____, this Court is
satisfied (or it has been admitted by him) that he is indebted to the
insolvent above named in the sum of Rs. (or that he has in his
possession the following property belonging to the insolvent above
named) it is ordered that the said do pay to the Official Assignee of
this Court in full discharge (or as the case may be) of the said debt the
sum of Rs. (or do deliver to the Official Assignee the said property;
forthwith (or, if otherwise, state the time and manner of payment), and
do further pay to the said Official Assignee (or as the case may be) the
sum of Rs. _____ for costs.

Dated Karachi, this _____ day of _____ 20____

By the Court,
Additional Registrar

FORM NO. 106

Notice to creditors of application for discharge

(Rule 564)

In the High Court of Sindh
INSOLVENCY JURISDICTION
Case No. _____ of 20____

In the matter of _____ an Insolvent.

Ex parte.

Notice is hereby given that the above named insolvent having
applied for this discharge the Court has fixed the _____ day of
20____, for hearing the application.

Sindh High Court Rules (O.S.)

Creditors who intend to oppose the application must file their grounds of opposition before the Additional Registrar, Original Side, of this Court at least four days before the said date.

Day of 20

Karachi, Dated the

Assistant Registrar

FORM NO. 107

Order granting discharge unconditionally

(Rule 570)

In the High Court of Sindh
INSOLVENCY JURISDICTION

Case No, of 20

In the matter of the Insolvency Karachi Division Act (III of 1909)
and of (a) Insolvent.

Ex parte: The insolvent.

On the application of (a) , adjudged insolvent
on the day of 20 , and upon taking into
consideration the report of the Official Assignee as to the insolvent's
conduct and affairs, and upon hearing Official Assignee and

And whereas it has not been proved that the insolvent has
committed any act instituting an offence under Sections 421-424 of the
Pakistan Penal Code or under the Insolvency Karachi Division Act (III
of 1909) and proof has not been made of any of the facts and
circumstances mentioned in sub Section (2) of Section 39 or Section
44 of the said Act or that the insolvent has been guilty of any
misconduct in relation to his affairs; it is ordered that he be and he

(a) Full name, description or occupation and address.

Sindh High Court Rules (O.S.)

hereby is discharged from all debts provable in insolvency except such as are mentioned in subsection (1) Section 45 of the Act aforesaid.

Dated this day of 20

By the Court,
Additional Registrar

FORM NO. 108

Order Refusing Discharge

(Rule 570)

In the High Court of Sindh
INSOLVENCY JURISDICTION
Case No. of 20

In the matter of the Insolvency Karachi Division Act (III of 1909)
and of (a) insolvent.

Ex parte: The insolvent.

On the application of ^(a) adjudged insolvent
on the day of 20 , and upon taking into consideration
the report of the Official Assignee as to the insolvent's conduct and
affairs, and upon hearing the Official Assignee and

And whereas it has been proved that the insolvent has
committed the following offences, namely:

(Here state particulars)

Or

And whereas it has not been proved that the insolvent has
committed any of the offences mentioned in sub-Section (1) of Section
39 of the Insolvency Karachi Division Act (III of 1909) but proof has

^(a) Full name, description or occupation and address.

Sindh High Court Rules (O.S.)

been made of the following facts and circumstances under sub-Section (2) of Section 39 of the said Act (or/and Section 44 of the said Act), namely:

(Here state particulars)

Or/and that he has been guilty of misconduct in relation to his property and affairs, namely:

(Here state particulars)

It is ordered that the insolvent's discharge be and it is hereby refused.

Dated this day of 20.

By the Court,
Additional Registrar

FORM NO. 109

Order Suspending Discharge

(Rule 570)

In the High Court of Sindh
INSOLVENCY JURISDICTION
Case No. of 20

In the matter of the Insolvency Karachi Division Act (III of 1909)
and of (a) Insolvent.

Ex parte: The insolvent.

On the application of (a) adjudged insolvent, on the
day of 20 , and upon taking into consideration the
report of the Official Assignee as to the insolvent's conduct and affairs,
and upon hearing the Official Assignee and

And whereas it has not been proved that the insolvent has
committed any of the offences mentioned in sub-Section (1) of Section
39 of the Insolvency Karachi Division Act (III of 1909) but proof has

^(a) Full name, description or occupation and address.

Sindh High Court Rules (O.S.)

been made of the following facts and circumstances under sub-Section (2) of Section 39 (or/and Section 44) of the said Act:

(Here state particulars)

Or/and that he has been guilty of misconduct in relation to his property and affairs, namely:

(Here state particulars)

It is ordered that the insolvent's discharge be suspended until a dividend of not less than four annas in the rupee has been paid to the creditors, with liberty to the insolvent at any time after the expiration of two years from the date of this order to apply for a modification thereof, pursuant to Section 42(2) of the Act aforesaid.

Or

It is ordered that the insolvent's discharge be suspended for years and that he be discharged as from the day of 20 from all debts provable in insolvency except such as are mentioned in sub-Section (1) of Section 45 of the Act aforesaid.

Dated this day of 20

By the Court,
Additional Registrar

FORM NO. 110

Order for discharge subject to conditions

(Rule 570)

In the High Court of Sindh

INSOLVENCY JURISDICTION

Case No. _____ of 20____

In the matter of the Insolvency Karachi Division Act (III of 1909)
and of (a) _____ Insolvent.

Ex parte: The insolvent.

On the application of (a) _____ adjudged insolvent on the
day of _____ 20____, and upon taking into consideration the
report of the Official Assignee as to the, insolvent's conduct and
affairs, and upon hearing the Official Assignee and

And whereas it has not been proved that the insolvent has
committed any of the offences mentioned in sub-Section (1) of Section
39 of the Insolvency Karachi Division Act (III of 1909) but proof has
been made of the following facts and circumstances under sub-
Section (2) of Section 39 or/and Section 44 of the said Act:

(Here state particulars)

Or/and that he has been guilty of misconduct in relation to his
property and affairs, namely:

(Here state particulars)

It is ordered that the solvent be discharged subject to the
following conditions as to his future earning and/or after-acquired
property and/or income:

^(a) Full name, description or occupation and address.

Sindh High Court Rules (O.S.)

(Set out conditions)

Or

It is ordered that the insolvent be discharged subject to the following condition to be fulfilled before his discharge takes effect, namely, he shall before the signing of this order consent to a decree being passed against him in the Original Civil Jurisdiction of the above Court in favour of the Official Assignee for the sum of Rs. , being the balance of part of the balance of the debts provable under the insolvency, which is not satisfied at the date of this order. And it is further ordered that (here set out the terms of order as to payment of the sum, for which decree is to be passed, as to liberty to apply for a modification of the order, and any other terms).

And it is further ordered that upon the required consent being given, a decree be passed against the insolvent in the Original Civil Jurisdiction of the above Court for the sum of Rs. , upon production by the Official Assignee of a sealed copy of this order.

Dated this day of 20

By the Court,
Additional Registrar

Sindh High Court Rules (O.S.)

FORM NO. 111

Notice of Discharge (for Advertisement)

(Rule 571)

In the High Court of Sindh
INSOLVENCY JURISDICTION
Case No. of 20

In the matter of (a) of

Notice is hereby given that on the day of 20 the said was discharged from all debts provable in insolvency subject to the reservations contained in Section 45 (1) of the Insolvency Karachi Division Act (III of 1909) [and (b) otherwise as mentioned in the order of discharge].

Karachi, dated this day of 20

Assistant Registrar

FORM NO. 112

Consent of insolvent to decree being passed for balance or part of balance of provable debts.

(Rule 573)

In the High Court of Sindh
INSOLVENCY JURISDICTION
Case No. of 20

In the matter of Insolvent.

-
- (a) Full name, description or occupation and address.
(b) Omit, if discharge is unconditional.

Sindh High Court Rules (O.S.)

I, _____ of _____, the above named insolvent, do hereby consent to a decree being passed against me in the Original Civil Jurisdiction of the above Court in favour of the Official Assignee for the sum of Rs. _____ being the balance or part of the balance of the debts provable under my insolvency which is not satisfied at the date of my discharge; but this consent is subject to the provision contained in the Insolvency Karachi Division Act (III of 1909) with regard to the issue of execution on such judgment.

Dated this _____ day of _____ 20____

Signature _____

FORM NO. 113

Decree to be passed under clause (d) of sub-Section (1) of Section 39 of the Act.

(Rule 573)

In the High Court of Sindh
INSOLVENCY JURISDICTION
Civil Regular Suit No. _____ of 20____

The Official Assignee of the Court

Plaintiff

Versus

Defendant

And in the matter of the insolvency of the said upon reading a copy filed by the plaintiff of the order of the Court into *Insolvency Jurisdiction*, whereby it was ordered that

(recite substance of order)

and a copy also filed by the plaintiff of the consent of the said insolvency;

It is ordered and decreed that the defendant do, pay to the plaintiff the sum of Rs.

Given under my hand and the seal of the Court, this day
of 20

Judge.

FORM NO. 114

*Affidavit by insolvent, whose discharge has been granted conditionally
as to after-acquired property or income*

(Rule 575)

In to High Court of Sindh
INSOLVENCY JURISDICTION
Case No. of 20

In the matter of Debtor.

I, the above named debtor, make and
say as follows:

(1) I have since the date of my discharge resided and
carried on business at and I now reside and carry on business at

(2) The statement hereto annexed is a full, true and
complete account of all moneys earned by me and of all property and
income acquired or received by me since the date of my discharge (or
since the date I last filed a statement of after-acquired property and
income in Court, namely, the day of 20)

Sworn at, & etc.

Signature of debtor.

FORM NO. 115

Proof of Debt

(Rule 578)

(General Form)

In the High Court of Sindh
INSOLVENCY JURISDICTION

Case No. _____ of 20____

Re: (a) _____

make oath

I ^(b) of ----- and say:
solemnly affirm

(c) That I am in the employ, of the under mentioned creditor, and that I am duly authorized by him/them to make this affidavit, and it is within my own knowledge that the debt hereinafter deposed to was incurred, and for the consideration stated and that such debt, to the best of my knowledge and belief still remains unpaid and unsatisfied.

(d) That I am duly authorized, under the seal of the Company hereinafter named, to make the proof of the debt on its behalf.

1. That the said _____ was/were at the date of the order of adjudication, viz: the _____ day of _____ 20____, and still is/are justly and truly indebted to _____ (e) _____ in the sum of Rupees _____ annas and pies _____ only for (f) as shown by the account endorsed hereon, or by the following account, viz: for which sum or any part thereof I say that I have not, nor has (g) _____ or any person by _____ (h) _____ order

(a) Here insert the title, the number of matter, and the name of debtor, as given on the notice.

(b) Fill in full name, address and occupation of deponent.
If proof made by creditor himself, strike out clause(c) and (d).
If made by clerk, strike out (d).
If by Agent of Company, strike out (c).

(e) Insert "me and to (c) (d), (e) and (f), my co-partners in trade (if any), or, if by clerk, insert name, address and description of principal.

Sindh High Court Rules (O.S.)

to my knowledge or belief for (h) use,
had or received any manner of satisfaction or security whatsoever,
save and except the following: (i)

Admitted to vote for
the day of 20

Date	Drawer	Acceptor	Amount		Due date
			Rs.		
Sworn ----- at solemnly affirmed					

Official Assignee.

Admitted to rank for dividend this day of 20 , (g)
Deponent's for Rs: this day of 20 Signature.

Before me,

Official Assignee.

Commissioner.

Note.- A power of attorney executed by the creditor in favour of
the deponent authorizing him to make the affidavit must be produced..

(You should attend carefully to these directions)

1. The proof cannot be admitted for voting at any meeting,
unless it is properly completed and lodged with the Official Assignee
before the time named in the notice convening such meeting.

2. You should not include in your debt interest after date of adjudication.

Note this

(f) State consideration (as goods sold and delivered by me and my said partners) to him (or them) at his (or their) request between the dates of more moneys advanced by me in respect of the under mentioned bill of exchange) or as the case may be.

(g) My said partners, or any of them, or the above named creditor (as the case may be)

(h) "My" or "our" or "their" or "his" (as the case may be).

(i) Here state particulars of all securities held, and in cases where the securities are on the property of the debtor, assess the value of the same; and if any bills or other negotiable securities be held, specify them in the schedule.

PARTICULARS OF ACCOUNT

(Credit should be given for contra accounts)

If space not sufficient, let the particulars be annexed, but where the particulars are on a separate sheet of paper, the same must be marked by the person before whom the affidavit is sworn.

Date.	Consideration.	Amount.	Remarks.
-------	----------------	---------	----------

Sindh High Court Rules (O.S.)

--	--	--	--

Note.- The vouchers (if any) by which the account can be substantiated should be annexed or specified.

Sindh High Court Rules (O.S.)

FORM NO. 116

Proof of Debt by Labourer, & etc.

(Rule 579)

In the High Court of Sindh
INSOLVENCY JURISDICTION

Case No. _____ of 20____

In the matter of _____ Insolvent.

I, _____ (a) _____ of _____ (b) and say solemnly affirmed

1. That _____ (c) _____ was/were at the date of the order of adjudication viz: the _____ day of _____ 20____, and still is/are justly and truly indebted to the several person, whose names, addresses and descriptions appear in the schedule endorsed hereon in sums severally set against their names in the sixth column of such schedule for wages due to them respectively as labourers and others in _____ (d) _____ in respect of services rendered by them _____ respectively to _____ (e) _____ during such periods before the date of the order of adjudication as are set out against their respective names in the fifth column of such schedule, for which said sums or any part thereof I say that they have not, nor has any of them, had or received any manner of satisfaction or security whatsoever.

at this _____ day of _____ 20____.

Deponent's signature

Before me,

Commissioner for Administering Oaths

-
- (a) Fill in full name, address and occupation of deponent.
 - (b) The abovenamed debtor or the Foreman / head Assistance of the abovenamed debtor or on behalf of the labourers and others employed by abovenamed debtor.
 - (c) "I" or "the said".
 - (d) "My employ" or "the employ of the abovenamed debtor"
 - (e) "Me" or "the abovenamed debtor."

SCHEDULE

Schedule referred to on the other side

1	2	3	4	5	6
No.	Full name of labourer & etc.	Address	Description	Period for which wages due	Amount due Rs.

Signature of Deponent

Signature of Commissioner or Officer Administering Oaths

FORM NO. 117

Notice of rejection of proof of debt

(Rule 586)

In the High Court of Sindh
INSOLVENCY JURISDICTION

Case No. _____ of 20____

In the matter of insolvent

Ex parte:

Take notice that as Official Assignee of the above estate I have this day rejected your claim against

Sindh High Court Rules (O.S.)

such estate (a) to the extent of Rs.
) on the following ground:-

And further take notice that subject to the power of the Court to extend the time, no application to reverse or vary any decision in rejecting our proof you will be entertained after the expiration of twenty days from this date.

Date this day of 20
Official Assignee
(Address)

From No. 118

Notice of secured creditor's claim
(Rule 588)
in the High Court of Sindh
Insolvency jurisdiction
Case No. of 20

In the matter of Insolvent

Ex parte:

Notice is hereby given that of who claims to hold security over, certain property of the insolvent for a debt of Rs. Principal and Rs. Interest, has applied to the Court to order the sale and realization of the said property, and the payment to him of the proceeds towards satisfaction of the said debt.

The day of 20 , at 11 a.m. has been fixed for the hearing of the said application, on which day any person interested will be heard in opposition thereto.

^(a) Wholly rejected, strike out words in italics.

Karachi, the day of 20.

Assistant Registrar

FORM NO. 119

Sale order on secured creditor's application

(Rule 590)

In the High Court of Sindh
INSOLENCY JURISDICTION

Case No. of 20

In the matter of Insolvent

Ex parte:

Upon reading the petition of

It is ordered that the official Assignee be at liberty to sell to the best purchaser or purchasers that can be got for the same, either by publication or private contract, on such day and in such manner and subject to such terms and conditions as he shall think fit, the following property, namely:

And it is further ordered that the purchase money for the property so to be sold as aforesaid be paid to the Official Assignee, and that all proper parties do join in and execute a conveyance of the said property to the purchaser or purchasers; and it is further ordered that the Official Assignee be at liberty, out of the said purchase money in the first place, to retain his prescribed commission and in the next place to pay all costs, charges and expenses of himself and of the said of and incidental to this application as taxed by the Additional Registrar; and it is further ordered that after payment of the said commission, costs, charges and expenses, the said Official Assignee be at liberty out of the balance remaining in his hands and so far as the same shall extend, to pay the said which shall be due to him for principal, interest, and costs and to

Sindh High Court Rules (O.S.)

retain the balance (if such Official Assignee as aforesaid, subject to the further order of the Court.

And at is further ordered that if the said purchase money, after payment of the said commission, costs and expenses shall not be sufficient to pay in full the amount of the said claim and interest, the said do rank as a creditor against the estate of the said insolvent for the balance which may remain due and owing to him.

Given under my hand and the seal of the Court,
this day of 20

Judge.

FORM NO. 120

Warrant of seizure, Section 59 (1)

(Rule 592)

In the High Court of Sindh
TNSOLVENCY JURISDICTION
Case No. of 20

In the matter of (a)

To

The Nazir of this Court.

Whereas on the day of 20 , an order of adjudication was made against the above named insolvent (or the Official Assignee appointed interim receiver of the property of the above named debtor):

(a) Full name, occupation and address of debtor.

Sindh High Court Rules (O.S.)

These are therefore to require you forthwith to enter into and
insolvent
upon the house and houses, and other premises of the said -----
debtor
insolvent
and also in all other, place and places belonging to the said ----- ,
debtor
where any of his goods and moneys are, or are reputed to be, and
these seize all the ready money, jewels, plate, household stuff, goods,
merchandise books of insolvent accounts, belonging to the said
insolvent
----- , except his necessary wearing apparel, bedding and tools, as
debtor
excepted by the Insolvency Karachi Division Act (III of 1909).

And that which you shall so seize you shall safely detain and
keep in your possession until you shall receive other orders in writing
for the disposal thereof from the Official Assignee; and in case of a
resistance for of not having the key or keys of any door or lock of any
insolvent
premises belonging to the said ----- where any of his goods are or
debtor
are suspected to be, you shall break open or cause the same to be
broken open, for the better execution of this warrant.

Dated this day of 20

Additional Registrar

FORM NO. 121

Search warrant Section 59(2)

(Rule 592)

In the High Court of Sindh
INSOLVENCY JURISDICTION
Case No. of 20

In the matter of (a)
To
The Nazir of this Court.

Sindh High Court Rules (O.S.)

Whereas it has been made to appear to the Court that there is
reason to suspect and believe that property of the above named -----
insolvent debtor
is concealed in the house (or other place describing it, as the case may
be) of one ----- of ----- ; such house or place not belonging
insolvent
to the said -----
debtor

These are therefore to require you to enter, in the day time into
the house (*or other place describing it*) of the said ----- situated
at ----- aforesaid, and there diligently to search for the property,
insolvent
and: if any property of the said ----- shall be there found by you on
debtor
such search, that you seize the, same to be disposed of and dealt with
according to the provisions of the Insolvency Karachi Division Act (III
of 1909).

Dated this ----- day of ----- 20-----

Additional Registrar

FORM NO. 122

*Notice to landlord of intention to disclaim leasehold property not sublet
or Mortgaged.*

(Rule 593)

In the High Court of Sindh
INSOLVENCY JURISDICTION
Case No. ----- of 20-----

In the matter of ----- Insolvent

Sindh High Court Rules (O.S.)

Take notice that I intend to disclaim the (a) dated ,
the whereby (b) was let to the above named
insolvent at the rent of Rs. If you require the matter to be
brought before the Court, you must give notice thereof to me in writing
within seven days, of the receipt by you of this notice.

Dated, this day of 20 .

Official Assignee
(Address)

To

Mr.

The landlord of the abovementioned property.

FORM NO. 123

Notice of intention disclaim leasehold property sublet or mortgaged

(Rule 593)

In the High Court of Sindh
INSOLVENCY JURISDICTION
Case No. of 20

In the matter of insolvent

Take notice that I intend to disclaim the (a) dated ,
the whereby (b) was let to the
above named debtor at the rent of Rs.

If you require the matter to be brought before the Court, you
must give notice thereof to me in writing within fourteen days of the
receipt by you of this notice.

Dated this day of 20

Official Assignee
(Address)

(a) Lease or tenancy as the case may be.

(b) Here specify property let.

(a) Lease or tenancy as the case may be.

(b) Here specify property let.

Sindh High Court Rules (O.S.)

To Mr. The landlord of the abovementioned property.
To Mr. The Mortgagee or Sub-tenant.

FORM NO. 124

Disclaimer without notice

(Rule 593)
In the High Court of Sindh
INSOLVENCY JURISDICTION
Case No. of 20

In the matter of Insolvent.

I, the Official Assignee of the property of the above named insolvent, hereby disclaim the (c) of the premises (d) which were let to the above named insolvent, (e) at rent of Rs. per

Notice of this disclaimer has been given to (f)

Dated this day of 20

Official Assignee

-
- (c) Lease, dated the or as the case may be.
(d) Insert description of the property.
(e) On a tenancy or for a term of years, as the case may be.
(f) Insert names and address of persons to whom notice has been given.

FORM NO. 125

Disclaimer of leasehold property after notice to landlord mortgagee, & etc

(Rule 593)

In the High Court of Sindh
INSOLVENCY JURISDICTION
Case No. _____ of 20____

In the matter of _____ Insolvent.

Pursuant to notice dated the _____ day of _____ 20____,
addressed to (a) _____ I, the Official Assignee of the
property of the above named insolvent, hereby disclaim the lease
dated the _____ day of _____ 20____, whereby (b) _____ were
let to (c) _____ at a rent of Rs. _____ For a term of _____

Dated this _____ day of _____ 20____

Official Assignee

FORM NO. 126

Disclaimer of leasehold property with leave of Court

(Rule 593)

In the High Court of Sindh
INSOLVENCY JURISDICTION
Case No. _____ of 20____

In the matter of _____ Insolvent.

-
- (a) Here insert names and addresses of person to whom notice has been given.
(b) Here insert particulars of demised property.
(c) The abovenamed insolvent or as the case may be.

Sindh High Court Rules (O.S.)

Pursuant to an order of Court, dated the day of
20 .I, the Official Assignee of the property of the
above named insolvent, hereby disclaim all interest in the lease, dated
the day of 20 , where by the premises (d)
were demised to at a rent of Rs. per annum for a term of

Dated this day of 20

Official Assignee

FORM NO. 127

Notice of Disclaimer without the leave of the Court

In the High Court of Sindh
INSOLVENCY JURISDICTION
Case No. of 20;

In the matter of Insolvent.

Take notice that by writing, under my, hand bearing date the
day of 20 .I the Official Assignee
of the property of the above named insolvent disclaimed (a) of
the premises known as (b) which were let to (c)

The above named disclaimer has been filed in Court with the
proceedings in the above case.

Your attention is directed to the provisions of the Insolvency
Karachi Division Act (III of 1909), printed on the back hereof.

Dated this day of 20

Official Assignee

-
- (d) Insert description of the property disclaimed.
(a) The lease dated the day of or as the case may be.
(b) Insert description of the property disclaimed.
(c) On a lease or for the term of years, or as the case may be.

(Address)

Note.- On the back of this notice the provisions of sub-Section(2) of Section 62 and of sub-Sections (1) and (2) of Section 66 should be printed.

FORM NO. 128

Notice of disclaimer of lease with leave of Court

In the High Court of Sindh
INSOLVENCY JURISDICTION
Case No. of 20

In the matter of Insolvent.

Take notice that pursuant to an order of the Court, dated the day of 20 .I, the Official Assignee of the property of the above named insolvent, by writing under my hand bearing date the day of 20 , disclaimed all interest in the lease, dated the day of 20 , whereby the premises were demised to at a rent of Rs. per annum for a term of .

The above named disclaimer has been filed in Court with the proceedings in the above case.

Dated this day of 20 Official Assignee

FORM NO. 129

Notice by landlord or other person requiring Official Assignee to bring matter of intended disclaimer of property burdened with onerous covenants before the Court.

In the High Court of Sindh
INSOLVENCY JURISDICTION
Case No. of 20

In the matter of Insolvent.

Sindh High Court Rules (O.S.)

To the Official Assignee of property of the above named insolvent:

I hereby give you notice that the said insolvent was, at the date of the order of adjudication, interested as lessee (or as the case may be) in the property described in the schedule to this notice, and that as such lessee (or as the case may be) the insolvent, was liable in respect of (*set out nature of insolvent's liability*) which liability has devolved on you as Official Assignee in insolvency of this property, and I hereby require you to bring the, matter of your intended disclaimer of the insolvent's interest in the said property before the Court.

I am, & etc.

(Signed)

(State how interested in the property)

Schedule to notice when given by lessor

Date of lease	Name, address and occupation of parties to lease.	Full description of property leased	Term and rent	Date of assignment to insolvent (if any)	Names and addressed of parties to assignment (if any)	Particulars of any notice of mortgage of lease by insolvent

Sindh High Court Rules (O.S.)

--	--	--	--	--	--	--

Schedule to notice when given by mortgage or assignee

Date of lease	Names and addresses of parties to lease	Description of property leased	Term and rent.	Date of mortgage	Names and addresses of parties to mortgage	Term conveyed by mortgage	Amount secured by mortgage	Particulars of any transfer of mortgage with dates and names and descriptions of parties thereto.

FORM NO. 130

Notice of intention to declare dividend (for advertisement)

(Rule 594)

In the High Court of Sindh
INSOLVENCY JURISDICTION
Case No. _____ of 20 ____

In the matter of _____ Insolvent.

Notice is hereby given that a _____ (a)^(a) dividend is
intended to be declared in the above matter, and the last day for
receiving proofs of debts is the _____ day of _____ 20 ____ ,

Dated the _____ day of _____ 20 ____ ,

Official Assignee
(Address)

^(a) Insert here "first" or "second" or "final" or as the case may be.

FORM NO. 131

Notice to creditors of intention to declare dividend

(Rule 594)

In the High Court of Sindh,
INSOLVENCY JURISDICTION
Case No. of 20

In the matter of Insolvent.

A (a) dividend is intended to be declared in the above matter. You are mentioned in the insolvent's Schedule as a creditor for Rs. , but you have not yet proved your debt. If you do not prove your debt by the day of 20 , you will be excluded from this dividend.

Dated the day of 20

Official Assignee
(Address)

FORM NO. 132

Notice of dividend

(Rule 594(3))

In the High Court of Sindh
INSOLVENCY JURISDICTION
Case No. of 20

In the matter of Insolvent.

Sindh High Court Rules (O.S.)

(Please bring this dividend notice with you)

Dated the day of 20

Dividend of in the rupee.

Notice is hereby given that a dividend of in the rupee has been declared in this matter, and that the same may be received at my office, as above, on the day of 20 , or on any subsequent day on which the office is open between the hours of 11 a.m. and 3 p.m.

Upon applying for payment this notice must be produced entire, together with any bills of exchange; promissory notes or other securities held by you, and if you do not attend personally you must fill up and sign the subjoined forms of Receipt and Authority, when a cheque payable to your order will be delivered to the bearer; or if you desire, the dividend will be sent to you by money order at your risk and cost at the address given by you.

Official Assignee

To

Note.- On application for dividend this notice must be produced entire, and the bills or other securities held by you must be produced.

RECEIPT

Received from the Official Assignee the sum of Rs.
being the amount payable to in respect of the dividend of
in the rupee on Rs. being claim against this estate.

Creditor's signature

(Please affix five Rupee stamp if the amount is over Rs. 2000/-)

AUTHORITY

Please deliver to, *(insert the name of the person who is to receive the cheque or the words "me by post" if you wish the cheque be sent to you in that way)* the cheque for the dividend payable to in this matter.

Or

Please remit by Money Order at my risk, and cost the amount of the dividend after deducting the postal commission. I agree that the responsibility of the Official Assignee shall cease on his handing over the amount to the postal authorities for being remitted to me at the following address.

Creditor's signature
(and full address).

FORM NO. 133

Statement showing particulars of the estate, Section 69(S)

(Rule 594(4))

In the High Court of Sindh

INSOLVENCY JURISDICTION

Case No. _____ of 20____

In the matter of _____ of _____^(a), adjudged insolvent on the
day of _____ 20____ statement showing position of estate at
declaring dividend or at day of application for release, as the case may be.

Dr.	Estimated to produce as per insolvent's schedule		Receipt		Cr.	Fees		Payments	
	Rs.		Rs.			Rs.		Rs.	
To total receipts from date of order of adjudication (or Order appointing interim receiver).					Court fees- Law costs of petition Other law costs				
(State particulars under the several headings specified in the insolvent's schedule	----				Official Assignee's remuneration, viz 5 per cent On Rs. Assets realized Special Manager's charges				
Receipts per trading account other receipts	----				Person appointed to assist insolvent to prepare schedule				

(a) Here state address or description of debtors (b) insert number of creditor.
(c) First, or as the case may be.

Sindh High Court Rules (O.S.)

Total					Auctioneer's charges				
					Other cost and expenses, viz-				
					Costs of notices in <i>Gazette</i>				
					and local advertisers				
					Incidental outlay				
					Total costs of realization				
					Allowances of insolvent				
Less –					Creditors, viz:-				
Deposit returned to					(b) Preferential Unsecured				
petitioner					(c) Dividend now declared				
payments to					of annas pies in the				
redeem securities					rupee on Rs.				
Costs of					Dividends previously				
execution					declared				
payments per					The debtor's estimate of				
trading account					amount expected to rank for				
Net realizations.					dividend was Rs.				
					Balance				

FORM NO. 134

Notice to persons claiming to be creditors of intention to declare final dividend, Section 73 (1)

(Rule 597)

In the High Court of Sindh
INSOLVENCY JURISDICTION
Case No. of 20

In the matter of

Insolvent.

Take notice that a final dividend is intended to be declared in the above matter, and that if you do not establish your claim to the satisfaction of the Court on or before the day of 20 , or such later date as the Court may fix, your claim will be expunged and I shall proceed to make a final dividend without regard to such claim.

Dated this

day of

20

Official Assignee

Sindh High Court Rules (O.S.)

Address-

FORM NO. 135

Application by creditor for order for Official Assignee to pay dividend withheld, and order thereon

(Rule 598)

In the High Court of Sindh
INSOLVENCY JURISDICTION
Case No. of 20

In the matter of Insolvent

Ex parte:

I, F.K. of , make application to this Court for an order to be made upon the Official Assignee to pay the dividend in this insolvency due to me, with interest thereon for the time it has been withheld from me, that is to say from the day of 20 , on which day I applied to the Official Assignee for its payment to me, and also to pay to me the costs of this application.

Dated this day of 20

Signature F.K.

Order

Upon the reading of this application, and upon hearing it is ordered that the Official Assignee do forthwith pay to the said F.K. the sum of Rs. the amount of such dividend.

And it is further ordered that the Official Assignee do pay out of the funds in his hands to the said creditor at the same time the sum of the funds in his hands to the said creditor, at the same time the sum of Rs. for interest on such dividend being at the rate of 6 per cent, per

Sindh High Court Rules (O.S.)

annum for the tune that its payment has been withheld, together with a further sum of Rs. for the costs of this application.

Dated this day of 20

By the Court;
Additional Registrar

(If the Court does not order payment, then after the words "it is ordered, insert the order made).

FORM NO. 136

Notice of transfer of separate estate to joint estate (for local newspaper or advertiser)

(Rule 618)

In the High Court of Sindh
INSOLVENCY JURISDICTION

Case No. of 20

In the matter of insolvents

Notice is hereby given that there being in the hands of the Official Assignee in the above insolvency a surplus estimated at Rs. Arising from the separate estate of (a) one of the insolvents, and there being no separate creditors of such insolvent, it is the intention of the Official Assignee at the expiration of fourteen days from the publication of this notice to transfer such surplus to the credit of the joint estate in the said insolvency.

Dated this day of 20

Official Assignee

FORM NO. 137

(Rule 630)

Case No. day of 20

In the matter of _____ Insolvent

1. That account hereto annexed marked with the letter A produced and shown to me at the time of swearing this my affidavit, and purporting to be my account as special manager of the estate or business of the above named contains a true account of all and every sums and sum of money received by me or by any other person or persons by my order or to my knowledge or belief for my use on account or in respect of the said estate or business.

2. The several sums of money mentioned in the said account hereby verified to have been paid or allowed have been actually, and truly so paid and allowed for the several purposes in the said account mentioned.

3. The said account is just and true in all and every item and particulars therein contained according to the best of my knowledge and belief.

Signature

Sworn, & etc

Before me

Commissioner for Oaths

FORM NO. 138

Report of Official Assignee as to insolvent's property, Section 106

(Rule 632)

In the High Court of Sindh,
INSOLVENCY JURISDICTION
Case No. _____ of 20____

In the matter of _____ Insolvent.

Pursuant to the provisions of sub-Section (1) of Section 106 of the Insolvency Karachi Division Act (III of 1909) I, _____, the Official Assignee in the above matter, hereby report to the Count that the property of the insolvent is not likely to exceed in value Rs.3,000/-.

Dated this day of 20 Official Assignee

FORM NO. 139

Order for summary administration, Section 106 Warrant of seizure.
Section 59(1)

(Rule 632)

In the High Court of Sindh
INSOLVENCY JURISDICTION
Case. No. _____ of 20____

In the matter of _____ Insolvent

Ex parte:

Upon reading the report of the Official Assignee (or the petition and affidavit of _____) filed on the _____ day of _____, 20____,

Sindh High Court Rules (O.S.)

and/or upon hearing it is ordered that the estate of the above named insolvent be administered in a summary manner pursuant to Section 106 of the Insolvency Karachi Division Act (III of 1909).

Dated this

Day of

20

By the Court

Official Assignee

FORM NO. 140

Creditor's petition for order of administration of deceased debtor's

Estate, Section 108

[Rule 633(1)]

In the High Court of Sindh

INSOLVENCY JURISDICTION

Case No.

of 20

In the matter of

(a)

Deceased debtor.

Ex parte.

I, of (or/we of and of) hereby petition the Court that an order be made for the administration in insolvency of the estate of the late (a) who lied on the day of 20 , and say:-

1. That the said for the greater part of the six months immediately prior to his decease resided (or carried on business) at within the limits of the Original Civil Jurisdiction of this Court.

2. That the estate of the said is justly and truly indebted to me (or us in the aggregate) in the sum of Rs. (b)

^(a) Insert name and description of deceased debtor.

Sindh High Court Rules (O.S.)

3. That I/we do not nor does any person on my/our behalf hold any security on the said deceased debtor's estate or on any part thereof for the payment of the said sum

Or

That I hold security for the payment of (or part of) the said sum, but that I will give up such security for the benefit of the creditors of the said deceased in the event of an order being made for the administration in insolvency of his estate (or and I estimate the value of such security at the sum of Rs.) (or as in creditor's petition Form No. 48).

4. That probate of the will (or letters of administration to the estate) of the deceased was/were on or about the day of 20 , granted to of

Or

That the deceased left a will which has not yet to my/our knowledge been proved (or died intestate and letters of administration have not to my/our knowledge been obtained) by one; and the heir/heirs of the deceased according to the (c) Law of Succession and Inheritance (or and the next-of-kin of the deceased according to the law of intestate succession applicable to his estate) are/is- (d)

5. That the estate of the said is (according to my information and belief) insufficient to pay his debts.

Dated this day of 20

Signature

Signed by the petitioner in my presence.

Signature of witness.

Address.

Description.

FORM NO. 141

Notice of creditor's petition under Section 108

[Rule 633(2)]

In the High Court of Sindh
INSOLVENCY JURISDICTION

Case No. _____ of 20____

In the matter of _____ Insolvent.

Ex parte:

To

Take notice that a petition (a copy, whereof and of the affidavit verifying the petition hereto annexed) has been presented to this Court on the _____ day of _____ 20____, and it is ordered that the said petition shall be heard on the _____ day of _____ 20____, at _____ o'clock in the _____ noon.

If you, the said _____, intend to dispute the matter of any of the statements contained in the petition, you must file with the Additional Registrar of this Court a notice stating the grounds upon which you intend to dispute the same.

Dated Karachi, this _____ day of _____ 20____

Additional Registrar

FORM NO. 142

*Order for administration in insolvency of estate of deceased debtor,
Section 108(2)*

[Rule 634(1)]
In the High Court of Sindh
INSOLVENCY JURISDICTION
Case No. _____ of 20____

In the matter of _____ Insolvent.

Ex parte:

Upon the petition of _____ dated the _____ day of _____ 20____, and upon reading and hearing _____, it is ordered that the estate of, the debtor above named, who died insolvent, be administered in insolvency, and that the Official Assignee do forthwith proceed to realize and distribute the same in accordance, with the provisions of the Insolvency Karachi Division Act (III of 1909) and that the costs of this application be _____

Dated this day of 20

By the Court,

Sindh High Court Rules (O.S.)

FORM NO. 143

*Order of Administration of Estate of Deceased Debtor on Transfer of
proceedings under Section 108 (3)*

[Rule 634(1)]

In the High Court of Sindh
INSOLVENCY JURISDICTION
Case No. of 20

In the matter of the estate of of deceased

Whereas proceedings for the administration of the estate of late
or deceased were commenced in the (*here set out Court*)
on the day of 20 , and whereas the Court did
on the day of 20, transfer such proceedings to
this Court:

It is hereby ordered that the estate of the said deceased
be administered in insolvency and that the Official Assignee do
forthwith proceed to realize and distribute the same in accordance
with, the provisions of the Insolvency Karachi Division Act (III of
1909).

Dated this day of 20

*By the Court
Additional Registrar*

FORM NO. 144

Notice (for Advertisement) of order for Administration in Insolvency of Deceased Debtor's Estate.

[Rule 634(2)]
In the High Court of Sindh
INSOLVENCY JURISDICTION

Case No. _____ of 20

In the matter of _____ deceased.

Ex parte.

Notice is hereby given that on a petition presented by of a creditor, an order for the administration in Insolvency Karachi Division Act (III of 1909) was made by the Court on the day of _____ 20

Dated this day of _____ 20

Additional
Registrar

FORM NO. 145

Books of Account to be maintained by the Official Assignee

(Rule 629)

	Names	Contents
01.	Day book	Daily Cash receipts and payments of cash and securities.
02.	Ledger	Account of each estate in which monies or securities are received.
03.	Collection account	Payments into and out of any bank approved by the court except on

Sindh High Court Rules (O.S.)

			Office Charges Account or Dividend Account.
04.	Dividend Account		Account of monies transferred from Collection Account for distribution as dividend.
05.	Unclaimed Dividend Account		Amounts credited to payments made out of the Unclaimed Dividend Account
06.	Unclaimed Dividend revenue Account and Office Charges Account.		Receipts from and payment out of the Unclaimed Dividend Revenue Account Office Charges (salaries, advance to estates, & etc.)
07.	Deposit and Sale Account		Cash received from Depositors or purchasers on sale of property and expenditure.
08.	Dividend Register		List of estates in which dividends have been declared, with date of declaration.
09.	Assets Register		List of movable and immovable property come to the hands of the Official Assignee. List of out standings, by reference to schedule of insolvent. Remarks column, entry as to disposal of property, and whether out standings are recoverable, or to be written off.
10.	Documents Register		List of title deeds, documents and books of account come to hands of the Official Assignee.
11.	Security Ledger		List of securities arranged under the following account:

Sindh High Court Rules (O.S.)

- (1) Collection Account.
- (2) Unclaimed Dividend Account.
- (3) Estates Account Securities held on account of separate estates.

APPENDIX B

REGISTERS

FORM NO. I

Register of Receivers

(Rule 79)

Serial No.	Number of Matter	Names of Parties	Name of Receiver	Date of Appointment	Date when accounts to be furnished	Date of discharge	Remarks
1	2	3	4	5	6	7	8

FORM NO. 2

Register of Securities and Security Bonds

(Rule 109)

In the High Court of Sindh at Karachi

Serial No.	Number and year of the suit or proceedings	Names of Parties	Nature and description of security	Name and address of the principal	Name and address of the surety	For what amount words and figures)	Date of execution of the bond	Initial of the Nazir	Remarks

Sindh High Court Rules (O.S.)

	ng (Civil or Criminal)								
1	2	3	4	5	6	7	8	9	10

FORM NO.3

Process Service Register for the High Court of Sindh for the year 20

(Rule387)

Date of giving process to Bailiff	Bailiffs name	No. and kinds of processes with the Nos. of the cases they refer to		Signature of Bailiff acknowled ging the receipt of processes and money	Date on which the processes are received from the Bailiff	What processes served	What processes not served	Amount of money returned by Bailiff and signature of the Nazir or clerk in support of entries in columns 6 to 9	Remarks
		Proces ses with which no money is given	Proces s with which money is given						
1	2	3	4	5	6	7	8	9	10

Sindh High Court Rules (O.S.)

FORM NO. 4

Register of Dead Stock of Movable Property

[Rule 402(2)]

Serial No.	Description of article	Authority for purchase and date of purchase	Number or quantity	Value	Initials of head of Office	Final Disposal		Amount and date of credit at treasury	Realized balance is stock	Of head of office	Initials remarks
						No or quantity and nature of disposal	Authority or voucher				
1	2	3	4	5	6	7	8	9	10	11	

FORM NO.5

Administrator and Executor's Accounts

[Rule 435(2)]

No. of Application	Due date	Date of a call for overdue accounts	Date of submission of accounts	Judge's order on accounts (briefly)
1	2	3	4	5

Note.- Each page of the Register should be allotted to one application.

Sindh High Court Rules (O.S.)

FORM NO. 6

Index of powers of Attorneys deposited in Court

(Rule 461)

Name of donor	Name of donee	By whom presented	Date of execution of instrument	Description of papers if any deposited with the instrument	Annual serial No.	Date of deposit	Certified copy		Date of return	To whom returned	Remarks
							When delivered	To whom delivered			
1	2	3	4	5	6	7	8	9	10	11	12

FORM NO.7

Register of Insolvency Notices to be kept by the Insolvency Court in the High Court of Sindh

(Rule 638)

No.	Insolvent	Creditors	Where filed	Advocate	Result of
-----	-----------	-----------	-------------	----------	-----------

Sindh High Court Rules (O.S.)

					notice

FORM NO. 8

Register of Petitions to be kept by the High Court of Sindh

(Rule 638)

No. of Petition	Name of insolvent	Residence	Descrip tion	Date of Petition	Petitioning creditor	Advocate	Act of insolvency alleged	Date of adjudicati on order

Sindh High Court Rules (O.S.)

FORM NO. 9

Register of Adjudication Orders to be kept by the High Court of Sindh

(Rule 638)

No. of adjudication order	No. of petition	Date of Petition	Date of adjudication order	Date of public examination	Date of approval of composition scheme	Date of hearing application for discharge	Date of order of discharge	Result of application and conditions (if any)	Date of annulling adjudication	Proceedings consolidated or transferred	Date of order of summary administration (section 1060)	Date of administration of deceased's estate (section 108)
1	2	3	4	5	6	7	8	9	10	11	12	13

FORM NO. 10

Half yearly Statement showing the number and result of Applications and proceeding under the Insolvency (Karachi Division) Act (III of 1909), in the High Court of Sindh, in the year 20
(Rule 638)

Application for declaration of insolvency									
	Total number for hearing	Transferred to another province or presidency withdrawn and etc	Granted		Rejected		Applicant being sent to the Magistrate to be dealt with	Total of Columns 3 to 8	Pending at the close of the year
	1	2	A Special Manager being appointed	A Special manager not being appointed	Penal Proceeding Sections 33 & 104 not being taken	Sentence of imprisonment being passed under Sections 33 & 104	7	8	9
Total									
	Number of insolvents discharged during the year under Section 38	Number of insolvent's estates in the hands of the O.A. in which proceedings were finally closed during the year	Amount of creditor's claims dealt with during the years		Gross Amount of Insolvents Assets realized and disbursed		Number of debtors in respect of whom orders of adjudication were annulled	Number of undischarged insolvent at the end of the half year	Remarks
	10	11	Admitted	Satisfied	Realized during the years	Disbursed during the year	16	17	18
Total									

! This is the total of the entries in columns 9 and 10.

APPENDIX C
SCALE OF FEES
CHAPTER 1
Scale of Process Fees
(Rule 128)

1. Table of fees to be charged in respect of processes, proclamations and sales.

Name of Process etc	In suits appeals or proceedings
1	2
or issue of summons or notice	Rs.
(a) to a single defendant respondent or witness	25
(b) to every additional defendant respondent or witness in the same town or village if the processes be applied for at the same time.	20
For every warrant.	100
(a) Or arrest, in respect of every person to be arrested;	
(b) of attachment in respect of every such warrant.	100
(c) or sale, in respect of every such warrant	100

Sindh High Court Rules (O.S.)

III. For every proclamation other than proclamation of sale under order XXI, rule 66, Civil Procedure Code or every injunction or order and every process not otherwise provided for.	Rs. 100/-
IV. For every proclamation of sale under order XXI, rule 66, Civil Procedure Code.	Rs. 20/-
V. For every sale of movable or immovable property.	A percentage or poundage on the gross amount realized by the sale up to Rs.10,00,000/- at the rate of 2% together with a further fee on all excess of gross proceeds above Rs. 10,00,000/- at the rate of 1%.

Note I.- (a) In cases in which several properties are sold in satisfaction of one decree, only one poundage fee, calculated on the gross sale-proceeds shall be levied.

(b) The percentage or poundage must be paid (1) in a case where the purchaser is a person other than the decree-holder, at the time of making the application for payment of the proceeds of sale by the Court, and (2) in a case where the decree holder has been permitted to purchase and set off, at the time the sale is confirmed by the Court.

Note II.- In cases where the Court orders the issue of process by post registered for acknowledgement, the actual postal and registration charges shall be taken from the party in addition to the prescribed process fee.

Note III.- For processes applied for and ordered to be executed as *emergent*, the fee will be ordinary fee and half as much again.

Note IV.- When one person has to be served in *more than one capacity*, e.g., personally as well as guardian of the minor or minors, only one fee is to be, charged.

Note V.- When a process issued by a Civil Court is returned unserved and has been *re-issued for service*, a half fee only shall be charged on the occasion of each re-issue:

Provided that no process fee shall be charged for the re-issue of process in cases where the process was to be issued in time or was returned unserved by the bailiff or foreign Court for no fault of the party.

Note VI.- When the service is set aside in an inquiry under Order V rule 20 of the Code, or when witnesses, & etc., *have to be summoned a second time* in consequence of the Court not sitting, or of taking up or not completing the hearing of the case on the day on which they were first summoned, no further fee is to be levied upon re-issue.

Note VII.- *If the warrant has already been issued to arrest a judgment-debtor who has failed to pay the decretal amount and who has been ordered to be imprisoned in a civil Jail and such warrant of arrest is in force, no further fee is leviable on the order of committal to jail.*

Note VIII.- *No fee to be charged for any process issued by a Court of its own motion.*

Note IX.- *No process fee shall be charged on proclamations under Section 10 of Regulation VIII of 1827.*

Note X.- *When attachment is sought at one time of two or more immovable properties, whether situated in the same village or town or in different villages or towns but within the jurisdiction of the Court attaching them, only one process fee shall be charged.*

CHAPTER II

Scale of Travelling Expenses and Subsistence Allowance to Witnesses and Judgment-debtors and Scale of Fees to Assessors in Civil Matters (Rule 242)

1. As a general rule; the allowances to be paid to witnesses shall be a subsistence allowance varying according to circumstances, but not exceeding the average daily wage of the class to which the witness belongs nor the following maxima:-

- | | | |
|-------|---|--|
| (i) | witnesses of the class of smaller cultivators and labourers | Rs.200/- per day |
| (ii) | witnesses of higher class | Rs. 300/- per day. |
| (iii) | witnesses of superior class | Rs.500/- per day. |
| (iv) | expert witnesses (except an expert from a Finger Print Bureau). | Ordinarily Rs. 500/- to Rs.1000/- per day. |
| (v) | expert from Finger Print Bureau | Rs.1500/- per day. |

Note.-Class (i) will generally include smaller cultivators and labourers; class (ii) patels, ordinary land-owners, clerks, artisans and men of business, and professional and other gentlemen etc., class (iii) will comprise gentlemen of high position.

2. Travelling expenses will be granted according to the rates specified below in all cases in which the Court deems such expenses to be reasonable, having due regard to the distance to be travelled and the position and circumstances of the witnesses:

- (i) when the journey is by road; the actual expenses incurred, provided the same be reasonable;
 - (ii) when the journey is wholly or partly by train/rail.
- | | | |
|-----|-------------------------------------|---|
| (a) | witnesses of class (i) above | economy class railway fare; |
| (b) | witnesses of class (ii) ... | economy class railway fare according to the discretion of the Court; |
| (c) | witnesses of classes (iii) and (iv) | Sleeper or first class railway fare according to the discretion of the Court. |

Note.- Witnesses of classes (ii), (iii) and (iv) *may* also be allowed conveyance hire to attend Court, provided it is claimed and was actually incurred and appears to be reasonable.

3. When the journey to and from the Court is made by railway or other means of conveyance, the time for which subsistence allowance is paid should be that actually spent on the journey.

4. Peculiar cases not provided for in the above rules are to be dealt with according to their own merits, and at the discretion of the Court from which subsistence money or the travelling allowance is demanded:

Subsistence Allowance of Judgment debtors

[Section 57 of the Code]

For the purpose of subsistence allowance, judgment-debtors according to their social status; education and mode of living, shall be divided into the following classes, namely:

- (1) The superior class, and
- (2) The ordinary class,

and the subsistence allowance shall be paid in accordance with the scales of the follows:

Superior class. - from Rs.1000/- to Rs. 1500/- per day.

Ordinary class. - from Rs.500/- to Rs.750/- per day.

In fixing the rate of subsistence allowance the ruling prices of grain should always be considered.

Fees to Nautical Assessors

(Section 140 of the Code and Rule 687)

- (a) Nautical assessors in service of Government, Rs.3000/- per day.
- (b) Nautical assessors not in service of Government, Rs.5000/-per day.

CHAPTER III

Scale of Receivership Fees

(Rule 84)

- (1) On rents recovered or on interest 5 per cent..
earned on investments
- (2) On outstanding recovered-
On the first Rs.1,00,000/- or fraction 5 percent
thereof...
On the next Rs.1,50,000/- or fraction 3 percent
thereof...
On the next Rs.2,50,000/- or fraction 2 percent
thereof...
On the next Rs.5,00,000/- or fraction 1 percent
thereof...
On any further over Rs.1,00,0000/- 0.5 percent
- (3) On sales of properties, movable or
immovable calculated on the total
value realized in any one estate-
On the first Rs.10,00,000/- or 3 per cent
fraction thereof...
On the next Rs.15,00,000/- or 2 ½ per cent
fraction thereof...
On the next Rs.25.00000/- or 2 per cent
fraction thereof...
On the next Rs.50,00,000/- or 1 per cent
fraction thereof...
On any sum above Rs. 1,00,00000/- ½ per cent

Sindh High Court Rules (O.S.)

- (4) For taking charge of movable property which is not sold, on the estimated value. 1 per cent
- (5) For taking custody of moneys or of Government Securities, or of Stocks, Shares, Debentures, Debenture-stock or other Securities. 1/2 per cent (In the case of Government securities or of stocks, Shares, Debentures, Debenture-stock or other Securities, the percentage shall be calculated on their face value).
- (6) For any special work not provided for above such remuneration as the Court on the application of the receiver shall think reasonable.

CHAPTER IV

Scale of Attestation Fees

(Rule 61)

Attestation of an affidavit or of a document other than an affidavit-

- (a) if done within the precincts of the High Court. Rs.20/-.
- (b) if done without the precincts of the High Court. Rs.50/-.
- (i) if within five km of the High Court Rs.200/-.
- (ii) if beyond five km from the High Court. Rs.1000/-.

CHAPTER V

Scale of Commission Fees (Rule 233)

1. Examination of witnesses-
 - (a) Examination of a witness *de bene esse* whether within or without the precincts of the High Court. Rs. 5000/-
 - (b) Examination of a witness outside the Province of Sindh According to the rules.
2. Local investigation Rs.5000/-
3. Examination of accounts
 - (1) for attendance for taking evidence, hearing arguments or other proceedings (not being the report here-in-after provided for) lasting more than half an hour
 - (a) if such attendance in any matter referred to him does not exceed one hour. Rs. 1000/-
 - (b) if it exceeds one hour, for every additional half hour or part thereof. Rs.500/-
 - (c) when more than two parties appear, each party per half hour. Rs.500/-
 - (2) for each report on any matter referred to him by the Court, per each folio of 90 words. Rs.200/-
4. Partitions 5 per cent on the value of the share or shares partitioned or sold.

Provided that the fees mentioned in clauses 3 and 4 shall be subject to a minimum of Rs.3000/-

Provided also that the fees in clauses 1 to 4 shall be exclusive of process fees and travelling and subsistence allowances and are liable to modification according to the circumstances by order of the Judge subject to the minimum as prescribed by the first proviso.

CHAPTER VI

Computation of Advocates Fees

(Rule 300)

1. In-
 - (a) suits,
 - (b) appeals from decrees, including preliminary decree but other than appeals from order in execution proceedings, and
 - (c) applications proceedings or appeals under the Succession Act 1925, excepting applications or appeals falling under clause 2(f), which are contested, the amount of the Advocates' fees shall be computed on the amount or value of the subject matter in dispute in such suit, appeal, application or proceeding at the rates specified below:-

if the value exceeds Rs.30,00,000/- Rs:50,000/+1%
of amount over Rs.30,00,000/- subject to a maximum of
Rs.1,00,000/-
2. In
 - (a) suits, appeals, applications or proceedings in which the amount of value of the subject-matter in dispute is not capable of assessment;

Sindh High Court Rules (O.S.)

- (b) suits for ejectment between land-lords and tenants and appeals from decrees in such suits,
- (c) appeals from orders (including orders in execution proceedings),
- (d) revisional applications,
- (e) execution proceedings provided they are contested,
- (f) applications or appeals under Parts VII & X of the Succession Act, 1925, and
- (g) all other cases not specifically provided for the amount of the Advocates' fees to be allowed shall be by order of the Court but shall not be less than Rs. 500/- for each necessary attendance in Court.

3. The fees prescribed in clauses 1 and 2 shall be taken to be the remuneration for the advocates service until the final decree or order in the suit, appeal, application, reference or proceedings, as the case may be, is passed.

4. When an appeal is made from a decree or order in a case previously remanded to a lower, court for a fresh decision or when a suit or an appeal is not defended or is decided *ex parte* or is compromised at any, stage, the fee shall be calculated at one-half the rates specified in clause 1.

Explanation. - A suit shall be deemed to be not defended when the defendant admits the claim but prays merely for installments under Order XX, Rule 11 of the Code.

5. When costs of any particular day are granted, the Advocate's fee shall be fixed for that day according to clause 2, and shall be in addition to any other Advocates' fee allowable under this Chapter.

6. (i) Save as otherwise provided by clause 5, fees shall not be allowed in excess of those which the Advocate has agreed to receive.

(ii) For several parties on either side having substantially but a single interest only, one fee shall be allowed payable and receivable as the Court may direct. For those having substantially separate interest, separate fees shall be allowed.

7. Subject to any special order of the Court, in no case, whether specially provided for in this Chapter or otherwise shall be Advocates' fees payable in any civil suit, appeal, application or proceeding other than execution proceedings, be less than the minimum prescribed by the rules of the Bar Association of which such Advocate is a member.

CHAPTER VII

Scale of Fees for preparing processes.

(Rule 300(1))

For preparation of original process Rs:10/- each

For preparation of each duplicate process Rs.5/- each.

Subject to a minimum fee of Rs.20/- in each suit, appeal or other proceeding.