

CHAPTER VI

APPEALS TO THE SUPREME COURT

CIVIL APPEALS

Note. — Under Order 12. R.1 of the Supreme Court Rules, 1950, the provisions of Chapter 45 of the Code so far as may be applicable, and of any rules made for the purpose by the High Court apply in relation to appeals under Arts. 132(1), 133(1) and 155 of the Constitution.

1. The provisions of Chapter VI shall apply, so far as may be, to all applications made to this Court in connection with appeals to the Supreme Court.

2.(i) Where a certificate is not prayed for by a party at the time of disposal of an appeal or any proceeding, a petition for leave to appeal to the Supreme Court shall be prescribed in Form No.1 of the Schedule to these rules, and shall specify in the heading the names of the actual parties to the appeal at the time of the presentation of the petition tracing their relation to the original parties where they have been placed on the record as representative-in-interest.¹

(ii) Full particulars of addresses of the parties must be furnished within seven days of the filing of the petition.

(iii) A petition for leave to appeal to the Supreme Court under Art. 132 (1) and 133 shall be made in this Court within sixty days² from the date of the judgment, decree or order appealed from.

3. Notice of the application for leave to appeal to Supreme Court shall be given by the applicant or his advocate by delivering to the proper person (ordinarily the advocate for the appearing opposite party) a copy of the petition together with a notice, in the following form:

“Please take notice that this application will be filed with the proper officer of the Court and that you are required to attend and show cause against the applications, at the hearing if you desire to do so”.

4. Every petition for leave to appeal to the Supreme Court shall be presented to the stamp reporter. Such petition shall be accompanied by—

(i) Certified copies of the judgment and decree complained of.

Note — A petition presented without a copy of the decree appealed from shall forthwith be returned to the advocate or party presenting it, who shall refile it with the copy wanted within the period of limitation and in case it is refiled after the period of limitation, it should be accepted by office and forthwith laid before

Note 1: Rule 2(i)— In this rule the words, “where a certificate is not prayed for by a party at the time of disposal, of an appeal or any proceeding, a” were added at the beginning of this rule, vide Correction Slip No. 49, dated 18.8.1970, “Notification No. HC/XI/41/65/70/7520/RC Dated 18.7.1970.

Note 2: Rule 2(iii) — the words “sixty days” were substituted for the words, “ninety days” vide correction slip No. 26, Notification No. HC.XI/5/62/2342/RC dated 5.5.1964

the Court for orders, with a note as to limitation.

(ii) Notice of the application under Rule 3 duly served on the proper person.

(iii) Forms of notices to all respondents duly filled up in the manner prescribed by R. 21.

(iv) Court fee of R. 16 for drawing up an estimate of the expenses of preparing and forwarding to the Registrar of the Supreme Court the record of the case in addition to the usual fee of Rs. 4 leviable on the petition.

(v) The fee for the issue of the notice (of the application for leave to appeal) to all the respondents who did not enter appearance in the High Court at the hearing of the appeal.

5. If the stamp reporter finds that the petition is barred by limitation, he shall forthwith lay the same before the Court for orders with a note as to limitation. If it is filed within the prescribed period for limitation he shall lay before the Registrar with a report whether it has been filed in accordance with the rules of the High Court and whether the stamps filed therewith are sufficient.

6. Upon receipt of such petition with the stamp reporter's report, the Registrar shall, in case the petition is not in proper form or is not accompanied by the requisite Court fee stamps, fix a period within which the petition may be amended or lay the same before the Court for orders. If such petition is sufficiently stamped and complies with the provisions of the rules, he shall, upon receipt of such petition, direct notice to be served on the opposite party to show cause why the certificate should not be granted.

7. Where more than one such application is made by the same party at the same time relating to decrees or final orders in pursuance of the same judgment and only one record is required to be printed, the Registrar may order that only one Court-fee of Rs. 16 be paid, or that one certified copy of the judgment be accepted, or may refer the matter to the Court for orders.

8. When a certificate has been obtained by the party at the time of disposal of an appeal or any proceeding he shall file an application containing the grounds of his appeal for an order for the registration of the appeal and preparation of the record together with a Court fee stamp of Rs. 16 for drawing up an estimate for the preparation of the record.

Note—The requisite fee for the issue of notice to the respondents written up forms of notices, and certified copies of decree and judgment complained of need not be filed.

9. On receipt of an order from the Supreme Court granting special leave to appeal, the Officer-in-charge shall lay it before the Division Court for an order for registration and preparation of the record.

10. The rules in this Chapter shall apply, so far as they may be applicable, to all appeals registered under the foregoing Rr. 8 and 9.

11. All applications by or on behalf of, an infant or a person of unsound mind, shall be made in the name of the infant or person of unsound mind by the person whose name is on the record as his next friend or guardian; and whenever any application is consented, to or opposed by, an infant or person of unsound mind, the infant or person of unsound mind shall in like manner be presented by the person who appears in the record as his next friend or guardian.

12. In case there is no next friend or guardian upon the record, a separate application for appointment of next friend or guardian must be made.

13. Matters relating to —

(i) service of notices or other process;
(ii) substitution of parties and appointment or discharge of next friends or guardians ad litem of minors or persons of unsound mind, before the admission of an appeal;

(iii) preparation of paper-books;

(iv) return of documents; and

(v) matters not expressly to be laid before the Division Court for orders, shall be dealt with and disposed of by the Registrar.

14. Application for an order —

(i) to transmit orders of the Supreme Court for execution to the lower Courts, where no special direction are required;

(ii) to transmit securities to the Muffassal Courts for investigation as to their sufficiency; and

(iii) for refund of surplus deposits made for the purpose of preparing translations, manuscript, etc. may in ordinary circumstances be made to, and disposed of, by the Registrar without notice to the opposite party other than inclusion in the daily cause list.

15. In all other applications regarding matters connected with appeals to the Supreme Court, including petition for leave to appeal, notice in the form and manner prescribed by R. 3 of the Chapter is necessary in addition to any other notice herein prescribed.

16. Matters connected with appeals to the Supreme Court, other than those with which the Registrar is authorised to deal, shall ordinarily be heard at such time as the Division Court appointed to deal with such matters shall fix.

17. All applications which have been duly filed will be set down in a list in the order in which they are received. The cases in the list will be called on peremptorily in their turn, and if by fault of the applicant the application cannot be proceeded

with, it will be liable to be dismissed.

18. As soon as the Registrar has directed notice to be served under R. 6 of this Chapter, the Officer-in-charge shall forthwith proceed to issue notice of the application for leave to appeal to all the respondents who did not appear at the hearing of the appeal before the High Court. He shall also serve notices of the application for leave to appeal on the advocate for the respondents who appeared at the hearing before the High Court, but in case such advocates refuse to accept service, the notice shall be served directly on the respondent concerned.

19. A notice which it is necessary to serve under these rules (other than notice under R. 3 of this Chapter) or under Order XLV, R. 3 or R. 8, Civil Procedure Code, may be served in the manner provided by the Code for the service of notices, or, unless the Court or the Registrar otherwise directs, upon any advocate, who appeared for the party to whom notice is to be given in the appeal to this Court, unless the Vakalatnama of such advocate has been cancelled with the sanction of the Court. If there is no advocate upon whom notice can be served, then, unless the Registrar otherwise directs, the notice must be served upon the party through the proper Court in the district in which such notice is to be served, on paying the usual fee. The fee for the issue of the notice must be paid into Court at the time of filing the application. Such payment is to be made by stamp affixed to the notice intended to be served.

20. Nothing in these rules requiring any notice to be served on, or given to opposite party or respondent shall be deemed to require any notice to be served on, or given to, the legal representative of any deceased opposite party or deceased respondent in a case when such opposite party or respondent did not appear either at the hearing in the High Court or at any proceeding subsequent to the decree of the High Court:

Provided that notices under sub-R. (2) of R. 3 and R. 8 of Order XLV Civil Procedure Code, shall be given by affixing the same in some conspicuous place in the Court house of the Judge of the district in which the original suit was brought and by publication in such newspapers as the Court may direct.

Notice under the proviso to this rule may be issued in the manner prescribed to the legal representatives of the deceased respondent or opposite party in question without specifying such legal representative by name.

21.(1) With the fee for the issue of the notice the applicant shall also file printed forms of such notice duly filled up in the prescribed form [see Form No. S.C. 1, Appendix I, (*See at Page No. 225*)] the date of appearance and the date of the notice being left blank.

(2) The information entered in the form must be filled up in the vernacular (or

in English if the party to be served is European or a resident of Hill Districts or any place outside Assam) in a bold, clear and easily legible handwriting.

(3) The date fixed for the hearing of an application will be inserted in the form and the notice will be dated before it is signed by the Assistant Registrar.

(4) The necessary number of printed forms of notice in the prescribed form will be supplied to applicants or their advocates free of cost, or application to the Forms Assistant.

(5) The Registrar may, in his discretion direct in any particular case that the forms of notice be entirely filled up in the office of the Court.

22. As soon as it shall appear that the notices of the application for leave to appeal have been duly served on all the respondents, the Officer-in-charge shall lay the application for leave to appeal before the Division Court for orders under Order XLV, R. 3(1), Civil Procedure Code.

23. On the receipt of a report from the Court of first instance under Order XLV, R. 5, Civil Procedure Code, as to the amount or value of the subject matter of the suit and of the proposed appeal, notice shall forthwith be given to the applicant and to the appearing respondents, and any party objecting to the report shall within seven days from the date of the notice, file his objections, if any, and also serve a copy thereof on the other side. The case shall thereupon be laid before the Court for orders without delay.

24. Immediately after the grant of the certificate on petitions presented under R. 4 above and after registration of appeal as provided for in Rr. 8 and 9 *ibid*, the Officer-in-charge shall call for the transmission, ordinarily within seven days, of the record and all material papers.

25. The advocate for the parties shall be notified of the arrival of such record as soon as it is received in the office of the Court.

26. Whenever it shall be impossible for the lower Court to comply with the requisition within the time stated such Court shall report the reason of its inability, and shall ask for such further time as may be necessary.

27.(i) Immediately after the grant of a certificate for leave to appeal, or after registration of an appeal, as contemplated in Rr. 8 and 9 of this Chapter, the Officer-in-charge shall prepare and serve on the applicant an estimate with reference to —

(a) Parts I and II of the paper-book used in the appeal to the High Court; and

(b) the papers required to be added under R. 31 (post), excluding item (7) of the later rule. The amount due on such estimate shall be deposited within the time limited by Order XLV, R. 7 of the Code of Civil

Procedure.

(ii) If the application is from the judgment of the High Court in an appeal other than an appeal from an original decree or order, the applicant shall deposit a lump sum of Rs. 200 within the time limited by Order XLV, R. 7, on account of the cost of the preparation of complete Parts I and II of the paper-book. The estimate in such cases will be prepared and served as soon as possible after the receipt of the record and the filing of lists by the parties, but the said deposit of Rs. 200 shall be made within the prescribed time irrespective of the service of estimates.³

28. Thirty-five copies of the paper-book shall be prepared in accordance with the provisions of this Chapter on the appeal being finally admitted.

29.(i) If the applicant desires to include in Parts I and II of the paper-book used at the hearing of the appeal in the High Court any papers on which the decision of the appeal to the Supreme Court depends, which have not already been included in the paper-books, or to exclude therefrom any papers on the ground that they are irrelevant to the subject matter of the appeal to the Supreme Court, he shall, within one week from the date of service upon him of the notice under R. 25, apply to the Registrar for an order accordingly and file with his application a complete list of the papers to be included in, or excluded from the printed paper-book, and he shall at the same time, serve copies of the application and list on the appearing respondents.

(ii) Within one week from the date of the receipt by them of copies of the application and list mentioned in Cl. (i), the appearing respondents shall, if they so desire, file a similar application and list and simultaneously serve copies thereof on the appellant.

(iii)(a) In the case of appeal from the judgment of the High Court in an appeal other than an appeal from an original decree or order the appellant shall file a complete list of the papers which he wishes to include in Parts I and II of the paper-book within two weeks of the service of notice under R. 25, and shall simultaneously serve a copy thereof on the appearing respondents, who shall thereupon prepare and file their lists within one week of the receipt of the appellant's list and simultaneously serve copies thereof on the appellant.

(b) If any party considers that any paper, or portion thereof, should be included in, or omitted from, the lists, he may within one week from the receipt of a copy of the list of the other side and after giving notice to the other side of his

Note 3 : Rule 27 — In this rule the figure '200' was substituted for the figure '400' vide Correction Slip No. 10, dated the 6th October 1958, Notification No. HC.3/58/4164-RC. dated 6.10.1958

intended application, apply to the Registrar for an order that such paper, or portion thereof, should be inserted in the paper-book, or be omitted therefrom.

(iv) It shall be competent to the Registrar to pass any orders which with reference to the said applications, he may consider proper, any cost incurred on this account shall be borne in such manner as the Registrar may direct:

Provided that if the Registrar is unable to arrive at any conclusion as to whether a document should be included or not, and as to which party should bear the cost of inclusion of any document, he may make a note, which will form part of the paper book, to that effect. Such application shall bear a certificate, under the hand of advocate presenting them to the effect that the inclusion of the papers specified in their respective list is necessary in order to arrive at a proper decision of the appeal, or that the papers are irrelevant and should be excluded from the printed record required for the Supreme Court.

(v) Where an order is passed under Cl. (iv) for exclusion on an application under Cl. (i) the excluded portion or portions shall be indicated by asterisks, where portion or portions of a paper are excluded, and a footnote shall be made by the Editor giving reference to the order of the Registrar. Where a paper or papers are excluded in entirety, a list of the paper or papers excluded shall be made and shall form part of the transcript record to the Supreme Court. The order or orders passed by the Registrar under Cl. (iv) shall also form part of such transcript record.

30. Paper-books shall be prepared in accordance with the provisions of the First Schedule to the Supreme Court Rules, 1950. All documents omitted from the transcript shall be enumerated in a type-written list to be transmitted with the record.

Note — Supreme Court Rules regarding Preparation of Record in Civil Appeals are printed in Appendix I.

31. The following documents shall be added to the papers of Part I of the paper-books which have already been printed —

- (1) the proceedings in the High Court, if any;
- (2) the judgment and decree of the High Court;
- (3) the petition in the case of appeal under Rr. 8 and 9 of this Chapter;
- (4) the application for leave to appeal, affidavits, etc.;
- (5) the grounds of appeal;
- (6) the order granting certificate;
- (7) the certificate granting leave;

- (8) the order admitting the appeals;
- (9) the proceedings of the High Court or the Supreme Court connected with the order of admission of appeal to the Supreme Court;
- (10) Registrar's certificate of service of notice of admission of appeal; and
- (11) any document not already included in Part I, on which the decision of the appeal depends.

The additional documents should be printed strictly in chronological order and should be paged at the foot of each page in continuation of the previous paging of Part I, and shall contain brief marginal notes.

The parties shall agree to the omission of formal and irrelevant documents, but the description of the documents may appear (both in the Index and in the Record), if desired with the words "not printed" against it.

32. Whenever the decision of the appeal is likely to turn exclusively on question of law, the appellant may, with the sanction of the High Court print such parts only of the record as may be necessary for the discussion of the same.

33. In Part I of the transcript record to the Supreme Court, the names of all the parties must be shown in full in the following documents:

- (a) the plaint;
- (b) the lower Court's decree;
- (c) the memorandum of appeal to the High Court;
- (d) the decree of the High Court;
- (e) the application for leave to the Supreme Court;
- (f) the application for registration of the appeal filed under R. 8 of this Chapter;
- (g) the proceedings of the High Court connected with the order of admission of appeal to the Supreme Court; and
- (h) the High Court's order of admission of the appeal to the Supreme Court.

The recital of the names in full should be avoided in the following documents:

- (a) the High Court's judgment or in the cause title;
- (b) the order granting certificate;
- (c) the Registrar's certificate of service of notice of admission of appeal and of despatch of the transcript record.

34. The following charges shall be payable in respect of the matters specified.

		Rs. a p
(a) Cost of estimate (payable by the appellant in Court-fee stamps)		16 0 0
(b) Estimating charge per 10,000 words (payable by the respondent in respect of his papers)		1 0 0
(c) Estimating charge for maps	12½ per cent of the cost of tracing.	
(d) Estimating charge for Photographs	12½ per cent of the cost of producing the negative.	
(e) Translation of vernacular portion of record per 150 vernacular words, three figures being counted as one word.		1 4 0
(f) Examining translations per 300 vernacular words, three figures being counted as one word.		1 4 6
(g) Copying English portion of record	The rate specified in Chapter XIII, R. 7	
(h) Editing the paper-book, per page	12 annas if the paper-book is printed and 6 annas if it is typed.	
(i) Lithographing, drawing or tracing maps (where necessary)	Actual costs.	
(j) Printing fee for 35 copies ordinary matter, with marginal notes	Actual cost not exceeding Rs. 3-8-0 per page	
Tabular matter	Actual costs	
(k) Certifying one copy of printed record for every 8 printed or manuscript pages or part thereof		1 0 0
(l) Binding the paper-book per copy		1 14 0
(m) Preparation of Index for every 16 papers or part thereof		1 0 0
(n) Taxing the paper-book cost.	One anna for every printed and half anna	

for every typed page
of the paper-book.

- (o) Cost of transmission (including Rs. 5 to the Court-keeper for supervising the packing and despatch of printed record and Rs. 2 to dufttry for packing) Estimated amount.

N.B. Government materials and service postage stamps shall be issued for packing and despatch of the printed record, but the cost of packing materials and stamps so used shall be certified by the Court-keeper and credited to Government from the deposit made by the party.

Note 1— The above rates are liable to alteration.

Note 2— Each item of cost in the preparation of the paper-book at the rates specified above should be calculated to the nearest anna (fraction below half anna being omitted and half an anna or over being reckoned as one anna.

35. The estimate shall include the matters referred to in the preceding rule and be framed in accordance with the charges above specified. An appellant to the Supreme Court shall be required to pay the expenses actually incurred in connection with the preparation of the estimate, whether the appeal be admitted or not.

36. The appellant may, at the next sitting of the Registrar, object to such estimate, but such objection is not to delay the making of the deposit.

37. If it is subsequently appears that the amount which either party has been required to deposit is sufficient to defray the cost of preparing his portion of the paper-book, the Officer-in-charge shall estimate the additional amount required and shall give notice thereof to such party. It shall be competent to the Registrar to pas any orders regarding the payment of such additional amount as he may consider proper.

38. All documents which are to be included in transcript for the Supreme Court, if not originally in English, shall be translated into that language.

Note — “Document” include evidence of witnesses.

39. The appellant shall furnish security for the costs of the respondent within the period prescribed by Order XLV, R. 7, Civil Procedure Code.

40. The security for costs of the respondents required by Order XLV, R. 7 of the Civil Procedure Code, shall ordinarily consist of cash or Government securities to the value of Rs. 2,500 in each appeal:

Provided that in analogous cases, the Court may reduce such security for each successive appeal after the first to any smaller amount, or may direct that a consolidated security not exceeding Rs.5000 be furnished for the entire group of

analogous appeals:

Provided further that the Court at the time of granting the certificate may, after hearing any opposite party who appears, order on the ground of special hardship that some other form of security may be furnished; but no such order shall be passed unless the opposite party has been served by the appellant with notice seven clear days before the date of hearing, setting forth the nature of the security proposed to be furnished. No adjournment shall however be granted to an opposite party to contest the nature of such security.

Note — Security deposited in cash may be subsequently converted into Government securities and vice versa, under the orders of the Registrar to be obtained on a written application.⁴

41. When, in the special circumstances of the case, the Court allows immovable property to be accepted as security, the party finding the security shall file a mortgage bond, duly registered, together with a specification of the title to the property. Such bond shall be filed within the time limited by Order XLV, R. 7 of the Code of Civil Procedure. When such bond has been filed, the Registrar shall refer the matter to be tested by the Judge of the district or the District Magistrate in which the immovable property offered as security is situated.

42. Immediately upon the arrival of any report as to the sufficiency of any security, the Officer-in-charge shall issue a notice in the prescribed form to the parties concerned specifying the nature of the case. All parties desirous of objection to the report shall, within six days from the date of the notice, file their objection, if any, and serve a copy of the same upon the other parties to the appeal. All such objections will be disposed of at the next sitting by one of the Division Courts after the arrival of the report.

43. If the security tendered be found insufficient by the Division Court, the appellant shall, within six weeks of the date of such finding deposit Rs.4,000 in cash, or Government securities to the extent of Rs.4,000 (market value), or to such amount as will bring up the value of the security to Rs. 4,000.

44. In case the last day for making the deposit or giving the security under Order XLV, Rr. 7, 10 and 14, Civil Procedure Code, shall fall on a day upon which the Court is closed, the deposit may be made, or the security given, upon the first day upon which the Court re-opens.

45. When the security has been furnished and the deposit made in accordance with these rules, the Officer-in-charge shall lay the application before the Court

Note 4: Rule 40 — Order XLV, R. 7 of the Code of Civil Procedure, as referred to in the rule, relates to security and deposit required on grant of certificate and was subjected to amendment, vide C.P.C. Amendment of 1976.

for orders as to the admission of the appeal.

46. After the admission of the appeal, the transcript of the record will be prepared for transmission to the Supreme Court.

47. In all cases on the admission of an appeal to the Supreme Court, notice of such admission shall, at the cost of the appellant, be given by this Court to all the contesting respondents, and the Registrar of this Court shall transmit to the Registrar, Supreme Court, with the transcript record of the case, or soon thereafter as practicable a certificate that notice has been served on all the contesting respondents.

Forms for issue of such notice of admission, and the costs of service thereof, shall be put in by the appellant to the Supreme Court, within a fortnight from the date of the admission of the appeal.⁵

48. After the despatch by this Court to the Supreme Court of the transcript record in an appeal to the Supreme Court, duly admitted by this Court, or by an order of the Supreme Court giving special leave to appeal as aforesaid notice of such despatch shall, also at the cost of the appellant, be given by this Court to the appellant and all the respondents, whether they have entered appearance or not, and the Registrar of this Court shall, as soon as practicable thereafter, transmit to the Registrar of the Supreme Court a certificate as to the date or dates on which such notice has been given to the appellant and all the respondents.

Notice forms for issue of such notice of despatch, and the cost for service thereof, shall be put in by the appellant to the Supreme Court within a fortnight from the receipt of notice that the transcript record is ready for despatch.

49.(a) When a party, who has been successful in an appeal to the Supreme Court, applies for a certificate of the costs incurred in the appeal in this Court, the Deputy Registrar shall, upon production of the order of the Supreme Court for the payment of such costs, prepare such certificate and place it on the record of the Supreme Court appeal.

(b) A copy of the certificate will then be taken by the party in the usual way.

50. The Registrar shall periodically and at short intervals place in the Court's list all appeal which are in arrears and call on the appellants to show cause before the Court why the appeals should not be dismissed for want of prosecution.

51. The supplemental record dealing with substitution and representation of heirs of deceased parties shall be transmitted to the Supreme Court. If the paper-book has already been printed the supplemental record shall be in manuscript.

Note 5: Rule 47 — In this rule the word "contesting" was inserted between the words, "Court to all the" and "respondents". And the words "whether they have entered appearance or not" were deleted vide correction slip No. 10, Notification No. HC.3/58/4164/RC dated 6.10.1958.

52. The rules will apply *mutatis mutandis* to appeals preferred under Art. 135 of the Constitution.

CRIMINAL APPEALS

53. On receipt of the copy of petition of appeal under R. 6, Order XXI of the Supreme Court Rules, the Registrar shall proceed to have 25 copies of the record printed.

54. In printing the record of Criminal Appeals, the procedure laid down in these rules for Civil Appeals shall be followed.

Note— Extracts from Supreme Court Rules, 1950, relating to Criminal Appeals are printed in Appendix II.

LEAVE TO APPEAL TO THE SUPREME COURT IN CASES INVOLVING DEATH SENTENCES AND CRIMINAL PROCEEDINGS UNDER ARTS. 132(1), 134(i)(c) OF THE CONSTITUTION OF INDIA.

55. A petition for leave to appeal to the Supreme Court in cases involving death sentences should be made orally at the time of delivery of judgment:

Provided that under exceptional circumstances such applications may be lodged in the Court within sixty days⁶ from the date of the judgment:

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

In computing the period, the time requisite for obtaining a copy of judgment or order sought to be appealed from shall be excluded.

56. Where the petitioner is in jail, he may present his petition together with the accompanying documents to the Officer-in-charge of the jail who shall forthwith forward the same to the Registrar.

57. As soon as practicable, the Registrar shall place the petition and the accompanying documents so received before the Court and the Court may, on perusal of the papers, reject the petition summarily without bearing the petitioner in person if it considers that there is no sufficient grounds for granting the leave to appeal to the Supreme Court:

Provided that where the petitioner is represented by a counsel of his choice or by an *amicus curiae* assigned to him by the Court, the Court shall not dismiss the petition without hearing the counsel or *amicus curiae* as the case may be.

Note 6: Rule 55 — In the first proviso, for the words, “thirty days”, the words, “Sixty days” were substituted vide Correction Slip No. 27, Notification No. HC.XI/5/62/2342/RC dated 5.5.1964

58. All applications in criminal proceedings under Arts. 132 (1) and 134 (i) (c) of the Constitution shall be lodged in this Court within sixty days⁷ from the date of judgment or order appealed from where a certificate is not prayed for by a party at the time of disposal of an appeal or any proceeding:

Provided that in computing the period, the time requisite for obtaining a copy of the judgment or order sought to be appealed from shall be excluded:

Provided further that the Court may for sufficient reasons extend the time.

Note 7: Rule 58 — In this rule the words “thirty days” was substituted by the words “sixty days”, vide Correction Slip No. 28 dated 5.5.1964, and vide Correction Slip No. 50, dated 18.8.1970, Notification No. HC.XI/4/65/70/2520/RC, the words, “where a certificate is not prayed for by a party at the time of disposal of an appeal or any proceeding,” were added, after the words, “appealed from”.

APPENDIX I
CIVIL APPEALS
ORDER XV

RULES AS TO PREPARATION OF RECORD

Rule 5 — The record shall be prepared and printed under the supervision of the Court appealed from in accordance with the rules contained in First Schedule hereto, and the parties may submit any disputed question arising in connection therewith to the decision of that Court, and it shall give such directions thereon as the justice of the case may require.

Rule 6 — When the record has been made ready, the Registrar of the Court appealed from shall —

- (i) at the expenses of the appellant transmit to the Registrar of the Court such number of copies as the Court may direct, or, in the absence of any special direction in this behalf 25 copies of such record, one of which copies he shall certify to be correct by signing his name on, or initialling, every eight page thereof and by affixing thereto the Seal of the Court appealed from;
- (ii) give notice of the despatch of the record to the parties; and
- (iii) send to the Registrar of this Court a certificate as to the date or dates on which the notice under the preceding sub-Cl. (ii) has been served.

FIRST SCHEDULE
RULES AS TO PRINTING OF RECORD

1. The record in appeals to the Supreme Court shall be printed in the form known as Demy Quarto.

2. The size of the paper used shall be such that the sheet, when folded and trimmed will be 11 inches in height and 8½ inches in width.

3. The type to be used in the text shall be pica type, but long primer shall be used in printing accounts, tabular matter and notices. The number of lines in each page pica type shall be 47 or thereabouts, and every tenth line shall be numbered in the margin.

4. Record shall be arranged in two parts in the same volume, where practicable, viz. —

Part I. The pleading and proceedings, the transcript of the evidence of the witnesses, the judgments, decrees, etc. of the Courts below, down to the order admitting the appeal.

Part II. The exhibits and documents.

5. The Index to Part I shall be in chronological order, and shall be placed at the beginning of the volume.

The Index to Part II shall follow the order of the exhibit mark, and shall be placed immediately after the Index to Part I.

6. Part I shall be arranged strictly in chronological order, i.e. in the same order as the index.

Part II shall be arranged in the most convenient way for the use of the Supreme Court, as the circumstances of the cases require. The documents shall be printed as far as suitable in chronological order, mixing plaintiff's and defendant's documents together when necessary. Each document shall show its exhibit mark, and whether it is a plaintiff's or defendant's documents (unless this is clear from the exhibit mark) and in all cases documents relating to the same matter such as

(a) a series of correspondence, or

(b) proceedings in a suit other than the one under appeal;
shall be kept together.

The order in the record of the documents in Part II will probably be different from the order of the index, and the proper page number of each document shall be inserted in the printed index.

The parties shall be responsible for arranging the record in proper order for the Supreme Court, and in difficult cases counsel may be asked to settle it.

7. The documents in Part I shall be numbered consecutively. The documents in Part II shall not be numbered, apart from the exhibit mark.

8. Each document shall have a heading which shall consist of the number of exhibit mark and the description of the document in the index, without the date.

9. Each document shall have a marginal note which shall be repeated on each page over which the document extends, viz.—

PART I

(a) Where the case has been before more than one Court, the short name of the Court shall first appear. Where the case has been before only one Court, the name of the Court need not appear.

(b) The marginal note of the document shall then appear consisting of the number and the description of the documents in the index, with the date except in the case of oral evidence.

- (c) In the case of the oral evidence, "Plaintiff's evidence" or "Defendant's evidence" shall appear beneath the name of the Court, and then the marginal note consisting of the number in the index and the witness's name, with "Examination", "Cross-examination" or "Re-examination," as the case may be.

PART II

The word "Exhibits" shall first appear.

The marginal note of the exhibit shall then appear consisting of the exhibit mark and the description of the document in the index with the date.

10. The parties shall agree to the omission of formal and irrelevant documents, but the description of the document, may appear (both in the index and in the record), if desired with the words "not printed" against it.

A long series of documents, such as accounts, rent rolls, inventories, etc. shall not be printed in full, unless counsel so advises, but the parties shall agree to short extracts being printed as specimens.

11. In cases where maps are of an inconvenient size or unsuitable in character, the appellant shall, in agreement with the respondent prepare maps drawn properly to scale and of reasonable size, showing as far as possible the claims of the respective parties in different colours.

APPENDIX II CRIMINAL APPEALS ORDER XXI

Rule 6 — The Registrar of the Court shall thereafter send a copy of the petition of appeal to the High Court concerned for its record. The High Court shall then arrange for the printing of the record in the case and for the transmission of the printed record to the Registrar of this Court with all convenient speed. In the preparation of the printed record, the High Court may include the printed paper-book prepared for its own use at an earlier stage. The record shall be printed at the expense of the appellant, unless otherwise ordered by the Court. In appeals involving sentence of death, the record shall be printed at the expense of the Government of the State concerned.

* * * *

Rule 7 — As soon as the record has been got ready the Registrar of the High Court shall despatch to the Registrar of this Court not less than fifteen copies. In cases falling under Art. 134 (1) (a) and (b), the printed record shall be despatched to this Court within a period of forty-five days after the receipt of the intimation from the Registrar of this Court of the filing of the petition of appeal.

* * * *

Rule 11 — So far as may be, the proceeding Orders in this Part of these rules shall with necessary modifications and adaptation, apply to criminal appeals under this Order:

Provided that in criminal proceedings no security for costs shall be required to be deposited, and no Court-fee, process-fee, or search-fee shall be charged and no copying charges shall be made except for copies other than first, to any part to the proceedings.

**SCHEDULE
FORM No.1
PETITION FOR LEAVE TO APPEAL
UNDER ORDER XLV, RULE 3 OF THE CODE OF CIVIL PROCEDURE**

IN THE HIGH COURT OF JUDICATURE IN ASSAM CIVIL JURISDICTION

Appeal No.	of	...
Suit	of	...

..... Appellant

Versus

..... Respondent

To

The Honourable Chief Justice and other Justices of the
Honourable Court.

The petition of
showeth —

1. That this suit was filed by, the plaintiff in the Court of the Judge, and prayed (here set out a concise statement of the plaint in suit and give amount or value of the subject-matter).
2. That the said suit came on for hearing before the Judge of on day of and the said Judge on the day of passed the decree (or order).
3. That (here insert name of appellant) feeling himself aggrieved by the said decree (or order) filed a memorandum of appeal against the same on the day of ...
4. That the said appeal came on for argument before the Court of Appeal

consisting of the Honourable and the Honourable on the day of and their Lordships on the day of passed the decree (or order).

5. That your petitioner feeling himself aggrieved by the said decree (or order) is desirous of appealing to the Supreme Court from the same on the grounds following (there state the grounds and number them consecutively as (i), (ii), (iii) etc.)

6. That the amount or value of the subject-matter of the suit in the Court of first instance and of the matter in dispute on appeal to the Supreme Court is Rs.20,000 and upwards (or: "that the decree (or order) from which an appeal is sought to the Supreme Court involves, a claim or question respecting properly of the amount or value of Rs.20,000 and upwards"). [If the Appellate Court affirmed the decree (or order) of the Court below add] and that the appeal herein involves a substantial question of law.

7.[Omitted].⁸

Note 8: Rule 7 was omitted by Correction Slip No. 74 and before omission it read as follows:

"7. That your petitioner is ready and willing to comply with the rules and orders as to giving security for costs and otherwise regulating appeals to the Supreme Court.

Your petitioner therefore prays that your Lordships will be pleased —

(a) to grant him a certificate that (here state nature of certificate required as set out in paragraph 6), and

(b) to admit his petition and to transmit to the Supreme Court under the seal of this Honourable Court, a correct copy of the record so far as is material to the questions in dispute herein."