CHAPTER - X

CIVIL CASES

1. JURISDICTION

C.L. No. 18/IV-g-27 Admn. (A) dated 29th January, 1977

It invites attention to section 27 of the Uttar Pradesh Civil Laws (Reforms and Amendment) Act, 1976 (U.P Act No. 57 of 1976), which has come into force from January 1, 1977 and says that all Munsif shall have the jurisdiction to hear suits of the valuation of up to five thousand rupees.

C.L. No. 8/IVF-80 Admn. (A) dated 18th February, 1981

A full powered Munsif, according to the seniority at a particular station, should be posted in the institution court so that he may try suits of valuation between Rs. 5,000/- and Rs. 10000/-. If there are not enough civil suits of such valuation to keep the officer fully engaged, he may be assigned criminal cases also.

New Munsifs, who have no criminal powers, should be assigned civil suits of the valuation up to Rs. 5,000/- only.

C.L. No. 57/IV-g-241/Admin. (A) dated 28th June, 1977

It encloses H.C. Notification No. 572/IVg-24/Admn.(A) Dated 28th June, 1977 conferring on each Munsif specified in the list jurisdiction of a Judge of Court of Small causes under the Provincial Small Cause Courts Act, 1887, for the trial of suits cognizable by such Courts up to the value not exceeding one thousand Rupees, within the local limits of the jurisdiction of the Court where he is posted.

C.L. No. 108/IVg-24 dated 28th June, 1977

It informs that the High Court has conferred on all the Civil Judges, the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Cause Courts Act 1887 (Act IX of 1887), for the trial of suits up to the value not exceeding two thousand rupees, by notification no. 571/IVg-24 dated 28thJune, 1977.

(i) Transfer of pending cases of valuation between Rs. 10,001/-to Rs. 25,000/- from the Courts of Civil Judges.

C.L.No. 9/IVg-24/ Admn.(G). dated : January 21, 1991

I am directed to invite your attention to Court's Notification No. 64/IVg-27, dated 8.2.1991 raising the pecuniary jurisdiction of Munsif to Rs. 25,000/- in view of Amendment of Section 19(2) of the Bengal, Agra and Assam Civil Courts Act, 1887 by U.P .Act No.17 of 1991 and to say that it has come in the notice of the Court that some District Judges are not transferring the cases of the valuation up to Rs. 25,000/- from the Courts of Civil Judges to the Courts of Munsifs having the enhanced pecuniary jurisdiction of Rs. 25,001/-. The matter has been again examined by the court and the Court has decided that all pending cases up to the valuation of Rs. 25,000/- in the Court of Civil Judges be immediately transferred to Courts of Munsifs who are competent to try the cases of said value either at the Headquarters or at outlying Courts as the case may be.

I am, therefore, to request you kindly to proceed in accordance with the above directions and ensure compliance of the same by all concerned.

(ii) Implementation of directions of Hon'ble Supreme Court dated 11.10.1991 in Civil Appeal No.2058-59 of 1988 M/s Oil and Natural Gas Commission and another v. Collector of Central Excise.

C.L.No. 7/IXF-69/Admn.(G). dated 9 January,1992.

I am directed to enclose herewith a copy of order• dated 11.10.1991 of the Hon'ble Supreme Court in the above noted matter, for information and necessary compliance by the concerned.

2. PLEADINGS

(i) Receipts

C.L. No. 35/VIIIb-6 dated 4th April, 1978

All the presiding officers are directed to ensure that receipts for cases of suits filed by the petitioners in civil courts are granted as required by rule 34 of the General Rules (Civil), 1957.

The provisions of this rule should be complied with strictly.

(ii) Amendment

C.L. No. 6/VII-d-148 dated 11th January, 1952

Under rule 18 of order VI of the Code of Civil Procedure 1908, parties are themselves responsible for making the necessary amendments in the pleadings within the time allowed by the court. It is no part of the duty of the office of the court to make the necessary amendments in the pleadings. The parties should themselves make the amendments in terms of the court's order or get them made by their counsel, under their signature. After the amendments have been made they should be checked by the official concerned who should thereafter record a note on the pleading including the name of the person by whom the amendments were made and the fact that they were made under the orders of the court, giving a reference to the application on which such orders were passed and the date of such orders.

(iii) Plaints rejected or returned after admission

C.L. No. 831/441-2(2) dated 25th March, 1918

In case of plaints, which have been rejected or returned after admission a note, should be made in the register (Form no. 3) in the column of remarks (No.26). The entries in Form no. 3 would be entered up to the stage when the plaint is rejected or returned. As such a case would not count, as a civil suit for statistical purposes an entry will have to be made in Form no. 74. The record should never go to the miscellaneous Muharrir, nor should any entry relating to it appear in Form No. 70. Form No. 70 should not contain an entry of any case, which arises out of or flows from a plaint that has been admitted (See note given at foot of Form no. 70)

(iv) Minor defendants

C.L. No. 2885/44-2(12) dated 17th May,1921

• For perusal of Judgement See 1992 Supp(2) SCC 432

A plaint in a suit where a minor is impleaded, as a defendant shall at once be registered as a suit in Form no. 3 if it is found to be in order. After the plaint has been so registered steps should at once be taken for the appointment of a guardian ad litem of the minor defendant, but the proceedings taken for this purpose need not delay the issue of summonses to adult defendants requiring them to file their written statements. It is to be understood, however, that the suit cannot proceed to trial until the guardian ad litem has been duly appointed and has filed a written statement on behalf of the minor.

Proceedings for the appointment of a guardian ad litem should be treated as proceedings in the suit and not as separate miscellaneous judicial proceedings.

G.L. No. 12 Dated 22nd June,1909

The general procedure which should ordinarily be adopted under the Code of Civil Procedure, 1908, in respect of the appointment of guardians in suits against minor defendants is as follows:

Under order XXXII, rule 3 an order for the appointment of a guardian may be made on an application either-

(a) by the plaintiff, or
(b) on behalf of the minor.

The plaint, therefore, should ordinarily be accompanied by an application supported by an affidavit. This application should set forth the name (1) of the guardian appointed or declared by competent authority, if any, (2) if there is no such guardian, of the natural guardian, (3) if there is neither a guardian appointed or declared by competent authority, nor natural guardian, of the person in whose custody the minor is, and (4) of the person proposed to be appointed guardian, if the application and affidavit as described above be filed, the court will then proceed under rule 3(4) to issue notice in form 11 (H) to the minor and the person referred to in (1) or (2) or (3) above. This notice in its present form may be regarded as precluding the appointment as guardian of the person notified, unless he makes an application to that effect. This appears likely to lead to inconvenience. It would, therefore, be well to substitute for the words "proceed to appoint some other person, etc" the words "proceed to appoint you…… or some other person, etc"

If an application is filed on behalf of the minor before the issue of notice in Form 11(H), the issue of such notice to the guardian may or may not be necessary. In the latter case, and when such notice has been issued whether an application has been filed on behalf of the minor in response there to or not, the court shall at once proceed to appoint a guardian. The guardian appointed or declared by competent authority shall be appointed, if there is one, unless there be reasons to the contrary which the court must record.

But as no person can be appointed as guardian without his consent, the court before actually appointing a person as guardian should issue a notice to him in the ordinary form to show cause (Form no.4, Appendix H), unless the person selected has already, by application or otherwise, signified his willingness to act. To the form of the notice when issued in these cases should be added the words "and it will be presumed that you consent to be appointed guardian for the suit".

Form 11 (H), as it stands, is addressed both to the minor and to the guardian. If issued jointly to both it is likely to lead to confusion. It would be better to issue a separate notice to each, the necessary alterations being made in manuscript.

G.L. No. 1745/3 to 1(c) dated 4th May, 1915

The attention of District Judges is drawn to Order XXXII, rule 4 of the Code of Civil Procedure, 1908 under the provisions of which they may insist in any case when the Nazir is appointed guardian ad litem that a legal practitioner be employed by him, his fees being deposited by the plaintiff and recovered by him as part of his costs in the suit or appeal in the event of his being successful. No doubt in some cases the real guardian of a minor, if he believes that the plaintiff will have to pay the fees of counsel for the defence, may refuse to act. Accordingly the Court considers that, while keeping in mind the provisions of order XXXII, rule 4, District Judges should pass such order as appears to them to be right and proper in each particular case.

G.L. No. 3/VII-d-34 dated 12th September,1956

Rules 1 and 4 of Order III of the Code of Civil Procedure provide that a recognized agent of Mukhtar-i-am can appear, make an application and act in court on behalf of the party duly authorising him but that pleading can be made only by a pleader engaged on behalf of the party. Railway Inspectors who are paid servant of Railway Administration and hold special power-of-attorney executed in their favour by the General Manager should, therefore, not be allowed to plead in civil cases in which the Railway Administration is a party.

Circular Latter No-32/2007 : Admin 'G' Dated :29 August, 2007.

On the above subject I am directed to inform you that to bring improvement in the administration of Civil Justice System in the Chief Justices Conference-2007, it has been resolved that the provisions relation to (a) examination of parties (Order X Rule 2 of C.P.C.), (b) discovery of the inspection (order XI of C.P.C., (c) issues (Order XIV Rule 2 of C.P.C.) and the ex-parte injunction (Order XXXIX, Rule 3 and 3 A) be strictly followed in letter and spirit by the subordinate Courts.

I am, therefore to request you to kindly bring the contents of the Circular Letter to the notice of all the Judicial Officers working under you for strict compliance of the directions of the Hon'ble Court.

(v) Statement under Order X, Rule 2

G.L. No. 1359/67-73 dated 18th April, 1923 and

G.L. No. 61/VIII-h-13 dated 29th May, 1972

The examination of the parties or their pleaders at the time of issues under Order X, rule 1, is not purely discretionary with the presiding officers. Whenever there are any allegations of fact in the plaint or written statement which have not been expressly or by necessary implication admitted or denied by opposite party the court is bound to clear up the pleadings by an examination of the opposite party or his pleader. The omission to do so often prolongs the trial and gives opportunity for these admissions of false evidence at later stage.

It is generally the case that the additional pleadings in the written statement contain fresh allegations of fact and some officers seem to be unaware that it is their duty before framing

issues to find out how for these additional pleas are admitted by the plaintiff. A simple instance is a suit for redemption of mortgage in which the defendant sets up two deeds for further charge and alleges that the plaintiff cannot redeem the mortgage in suit without redeeming these also. The defence my be either-

(1) a denial of the genuineness of the deeds; or
(2) an admission of execution of the deeds coupled with the plea that they have been paid off, or
(3) an admission that the deeds are genuine and outstanding coupled with the plea that the mortgage in suit is separately redeemable.

It is obviously important to pin the plaintiff down to a definite case before the suit goes to trial. In another case the plaintiff sued for the rent of a house. The defendant alleged that he was the owner of the house and had himself acquired it by purchase, and adduced a considerable body of evidence to prove this defence. During the course of the trial the plaintiff was examined as a witness and at once admitted the defendant's title to the house and stated that what he was claiming was ground rent for the site. If the plaintiff had been examined at the first hearing under O.X, Rule I, much unnecessary expense and time would have been saved. [See Order 10 rule 2, amended in 1976].

Order X, rules 1 to 3, Order XIV, rules 1 and 4,

Civil Procedure Code

C.L. No. 22/VIII h dated 18th March,1949

Order X, rule 1, Civil Procedure Code makes it obligatory upon the court to ascertain from each party or his pleader whether he admits or denies such allegations of facts as are made in the plaint or written statement, if any, of the opposite party and are not expressly or by necessary implication admitted or denied by the party against whom they are made, and to record such admissions and denials. Similarly Order XIV, rule 1(5) lays down that the court shall after reading the plaint and the written statement, if any, and after such examination of the parties as may appear necessary ascertain upon what material propositions of fact or law the parties are variance and shall thereupon proceed to frame and record the issues.

The subordinate courts would, therefore, be well advised to read the plaint immediately after its presentation to point out the defects found therein, and to fix a reasonable date for the remedying of such defects. Therefore, a date should be fixed for filing of written statement and another date, say a week later for framing of issues. Wherever necessary, there should be replication by the plaintiff to admit, deny or to explain the counter allegations, if any, contained in the written statement. The replication should generally be filed a few days before the date fixed for issues. Before the settlement of issues in contested cases, except where the plaint if brief and clear the parties must be examined to clarify the pleadings and to determine the matters under contest.

The Judge's notes may also indicate the step taken if any in the light of the above direction.

Cases for settlement of issues should, as far as possible, be taken up first and the issues framed in the presence of the parties or their counsel, after obtaining the admissions and denials of documents filed by the opposite-party. The counsel should come fully prepared with the facts of the case or should see that the parties are present to answer any question put by the court suo

motu or on the suggestion of the opposite-party. Issues when framed should be read over to the parties, and if no further issue is pressed, a note to that effect should be made in the Judge's notes.

Immediately after the issues have been struck the presiding officer should consider, may be on an application by a party, if the preparation of a site plan or enquiry after local inspection at the spot is necessary for the proper decision of the case. The commission should, as far as possible be issued on that very day with clear and detailed direction to be recorded in the Judge's notes, as to what the Commissioner is required to show in the plan and on what points he is required to make specific report. If any witness is to be examined on commission the court may consider the issue of a commission then and not postpone it till after the recording of the entire oral evidence.

Wherever necessary there should be a replication by the plaintiff to admit, deny or to explain the counter allegations, if any, contained in the written statement. The replication should generally be filed a few days before the date fixed for issues. Before settlement of issues in contested cases, except where the plaint is brief and clear, the parties must be examined to clarify the pleadings and to determine the matters under contest.

C.L. No. 66/VII d-148-Admn. (D) dated 24th October,1983

The Courts should make proper use of the powers vested in them under Order X, Rule 2 C.P.C. not only at the times of framing of the issues, but also at the stage of evidence to clarify the ambiguity and vagueness in the pleadings and pinpoints dispute between the parties.

(vi) Deciding question of limitation

G.L. No. 277/67-1 dated 31st January, 1918

Whenever an objection is raised that any proceeding is beyond time, the question of limitation should be determined so far as the court can determine it, after due notice to all parties.

(vii) Powers of the court to filling the written Statement vis-à-vis the provisions of order VIII rule 1 of the Code of Civil Procedure

C.L.No. 26/ Admin. `G`/2005:dated: 9th August, 2005

Upon a careful consideration of the scope of power of the court regarding extension of time for filling the Written statement in view of the provisions of Order VII rule 1 as also the object and purpose behind enacting same in the present form, the Hon`ble Court (Hon`ble Mr. Justice Anjani Kumar) has observed and held that the provision has to be construed as directory and not mandatory. Ordinarily, the time schedule prescribed by Order VII rule I has to be honoured but in exceptional situations occasioned by reasons beyond the control of the defendant, the court may extend time for filling the written statement though the period of 30 days or 90 days, referred to in the provisions, has expired .The extension can be only by way of an exception and for reasons assigned by the defendant and also recorded in writing by the court to its satisfaction.

While enclosing herewith a copy of judgment and order dated 19.5.2005 in CMWP No.25816 of 2005-Manasoor Ali versus Court of In-charge District Judge/Additional District Judge, Court No.1 Kanpur Nagar & ors. I am directed to request you to kindly circulate the copy of the judgment to all the judicial officers under your administrative control for guidance and following the law laid down by the Hon`ble Supreme Court and this Hon`ble Court.

C. L. *NO.34/* 2007 : Admin 'G' Dated 29th August, 2007.

On the above subject I am directed to inform you that to bring improvement in the administration of Civil Justice System in the Chief Justices Conference -2007, it has been resolved that the time frame relating to filing of written statements under Order VIII Rule 1 of C.P.C. be adhered to and only in exceptional cases the courts should permit filing of written statement beyond the upper time limit of 90 days.

I am, therefore to request you to kindly bring the contents of the Circular Letter to the notice of all the Judicial Officers working under you for strict compliance of the directions of the Hon'ble Court.

C. L. No.70/2007Admin(G) : Dated :13.12.2007.

The Hon'ble Court has noticed that the Presiding officers of Subordinate Court are not adhering to the provisions as laid down in Order VIII Rule 1 and are liberally granting opportunities to the defendants to file written statements even beyond the prescribed time limit which is resulting in procrastination of the trials in civil cases. Viewing this with extreme seriousness the Hon'ble Court has desired that the Subordinate Courts be impressed to strictly abide by the provisions as laid down in the above quoted order VIII Rule 1 of C.P.C.

Therefore, I am directed to request you to kindly instruct all the Judicial Officers working under your administrative control to make strict compliance of the provisions as given in Order VIII Rule 1 C.P.C.

3. **SUMMONSES AND PROCESSES**

(i) **Procedure for issue**

C.L. No. 29/Xc-5 dated 27th March, 1968

Notices and summonses should be issued in the forms in Hindi in Devanagari script as specified in the "Civil Prakriya Samhita (Hindi version of the Civil Procedure Code) for the facility of the litigant public.

G.L. No. 51/46/120/92 dated 13th December, 1939 modified by

G.L. No.14 of 1940

Summonses should be sent to the Nazarat without delay after they have been received duly filled up from the party concerned.

C.L. No. 53 dated 10th May, 1968

Under Order V, Rule 5 of the C.P.C. summonses are to be issued for settlement of issue or for final hearing as the case may be. It is, however, permissible to fix a date for filing written statement also while issuing summonses for settlement of issues. To issue a summons for filing written statement only is violative of the aforesaid rule.

C.L. No. 7/VIII h-28 dated 18th January,1954

It is the duty of the Munsarim before issuing any notice or summons against the Government or an officer of the Government in his official capacity, to scrutinize carefully the rules and orders governing the issue of such summonses and notices and to obtain the order of the court before actually issuing it.

On members of Parliament

G.L. No. 4/VIII-b-28 dated 12th September, 1953

Attention of all judicial officers and Magistrates in the State is invited to the provisions of article 105(3) of the Constitution which provides the same privileges for members of Parliament in India as are enjoyed by members of the British Parliament. One of the privileges is that no service of summons can be affected upon the members when they are within the precincts of the Parliament. It is not desirable that courts should attempt to serve such summonses through the Presiding Officer or through the Parliament secretariat. The appropriate procedure would be for the summons to be served direct upon the member concerned outside the precincts of the Parliament, i.e., at their residence on at some other place.

Same procedure should be followed for effecting service of summons upon members of the State Legislatures who enjoy the same privilege under article 194(3) and article 238 of the Constitution and section 19 (3) of the Government of part C States Act, 1951.

C.L. No. 16/VIII-b-28 dated 20th February, 1968

Procedure for service of summons on member of the State Legislature as indicated in Court's G.L. No. 4/VIII-h-28, dated September 2, 1953, be strictly followed.

C.L. No. 32/VIIIb-28(G) dated 7th May, 1984

The procedure for service of summons on the member of the Parliament or the State Legislature, as indicated in the aforesaid Court's G.L. and also in the provisions of rule 121 of the G.R. (Civil) and rule 15 of the G.R. (Criminal) 1957[*] *([*] Now 1977 vide notification no. 504/vb-13 dated 5.11.83.),* should be strictly complied with, and in future no summons should be served upon any member of Parliament or State Legislature while he is within the precincts of the House of Parliament or Legislature nor it should be served through the Presiding Officers or the Secretariat concerned. The summons should be served direct upon the members out-side the precincts of the House of Parliament or Legislature, as the case may be, i.e. at their residence or at some other place, as required by the aforesaid provisions.

On a member of staff of a diplomatic mission in India

C.L. No. 33/VIII-b-31-50 dated 16th May, 1950 read with

G.O. No. 1967 (1)/VII 372-50 dated 6th May, 1950

In cases in which it may be necessary and permissible to serve a summons, notice, etc. on any member or staff of a diplomatic mission in India, it is desirable that such summonses, notices, etc. should be routed through the Ministry of External Affairs, Government of India.

(ii) Summoning Lekhpals

C.L. No. 77/VIIb-48 Admn. (G) dated 11th July, 1979

The Presiding Officers are directed to refrain from summoning Lekhpals on Thursday unless there is some urgency in the matter:

(iii) Service of summonses

C.L. No. 1581 dated 19th May, 1904

All summonses intended for service on an officer serving under the Government of India shall be forwarded through the head of his department so as to admit of suitable arrangements being made for the conduct of public business during the absence of the officer concerned.

C.E. No. 38/VII-d-132 dated 31st May, 1963 and

C.L. No. 47/VIII-b-16 dated 7th May, 1968

In all judicial proceedings concerning the Railways, courts should send processes, accompanied with a copy of plaint/petition, direct to the General Manager, Deputy General Manager or the Administrative Officer of the Railway concerned instead of serving on the Secretary, Railway Board, or any other official of the Board.

C.L. No. 47/VIII b-16 dated 7th May, 1968

Under rule 104 of General Rules (Civil), 1957 in cases in which Railway is a party processes should be sent for service to the General Manager of the railway concerned who is authorised to act on behalf of the Central Government under rule 2 of the Order XXVII, C.P.C., and not to the Secretary to the Railway Board.

G.L. No. 2737/44-16(2) dated 13th August, 1917

In the cases of a Railway, in addition to service in the usual way, a copy of the summons should be sent by post under Order XXIX, rule 2(b) of the Code of Civil Procedure, 1908. If, however, the summons is sent by registered post, service in the usual way may be dispensed with.

C.L. No. 50/VIIb 68 dated 3rd May, 1972

District Judges to ensure prompt and quick service of summonses sent to them by the administrative Tribunal and Vigilance Commission and to see that the summonses are returned to the tribunal or the commission, before date fixed.

C.L. No. 72/VIII b-16 dated 20th December, 1954

Section 29 of the Jammu and Kashmir Code of Civil Procedure as inserted be Jammu and Kashmir Code of Civil Procedure (Amendment) Act, 2011 (copy forwarded to all District Judges with C.L. noted in the bloc) enables the service within that State of summonses and other processes issued by any civil or revenue court established in the other parts of India. Section 29 of the Code of Civil Procedure, 1908 (Act V of 1908), already contains reciprocal provisions requiring service by courts in the territories of India to which the code extends, of summonses and other processes issued by any civil or revenue court of Jammu and Kashmir.

C.L. No. 68/VIII b-14 dated 26th November, 1966

In the processes issued for service in Jammu and Kashmir the addresses of the parties and witnesses on whom service is to be effected as also the date fixed should be written in English, besides, Hindi to facilitate easy and quick service.

C.L. No. 2 dated 1st August.1907

Presiding Officers of subordinate courts shall make every possible effort in the first instance to secure the personal service of summonses on parties and witnesses. When this method of services proves ineffectual and the court is satisfied, as required by Order V, rules 19

and 20 (1) of the Civil Procedure Code, that the defendant is keeping out of the way for the purpose of avoiding service, substituted service by affixing a copy of the summonses in the court house and on the house of the defendant should be attempted. It is only when no other recourse remains that recourse should be had to service by means of notification in the press or the Gazette. The notification should appear in such publication as is most likely to come into the hands of the person sought to be served. It is, therefore, obvious that, except in a very few cases, notification published a careful discretion should be exercised in selecting the paper in which the publication is to be made. Such papers only should be chosen as are likely to be read by the person to be served, or by his friends.

When courts are inspected the inspecting officer should examine cases in which substituted service has been affected and note how for these instructions have not been followed.

G.L. No. 5021/3019(3) dated 18th November, 1927

It is the duty of the presiding officer to decide on the sufficiency of service under rule 17. There appear to be some officers who invariably treat service by affixation as insufficient. This is wrong. Such service is good and sufficient service under the law provided the conditions required by the rule are fulfilled, namely (a) the defendant or his agent or relative refuses to accept the summons and sign the acknowledgement, or (b) the service officer with due diligence cannot find the defendant, and there is no other person on whom service can legally be made. It is also necessary that the house to which the summons is affixed is that in which the defendant ordinarily resides or carries on business.

C.L. No. 4 dated 29th July, 1902

The declaration under order V, rule 19 of the Code of Civil Procedure, is judicial act to be made after and upon consideration of the report of the serving officer. It is not a declaration, which can in any sense of under any circumstance be made by the Munsarim. The order or return is an order to be made by the court. Before returning a summons to another court, especially in another State, the court which received the summons for service should always be at pains to examine carefully, and critically the return made by the serving officer, to see how far the serving officer has made any real effort to affect service, record a proper declaration, and to see that no summons is returned except under an order of court.

G.L. No. 8/67-5dated 30th April, 1941

In this connection the decision of the High Court in Dwarika Prasad vs. Brij Mohan Lal (I.L.R. XXXIII, Allahabad, page 649) may be seen.

G.L. No. 3851/6715 dated 20th December, 1917 read with

G.L. No. 28/67-2(1) dated 13 May, 1935

The attention of all subordinate courts is drawn to the judgment of the High Court in the case referred to in the letter (Champat Singh Vs. Lala Mahabir Prasad and others, decided on the 30th November , 1917) in regard to rules 17 and 19 and the need for passing orders under the latter rule of Order V of the Code of Civil Procedure, 1908.

The important points in the above judgment are –

(1) What is “due service” of process.

(2) The emphasis laid on the fact that as soon as a process has been returned to a court, the court ought to take up the question of service and after such enquiry as it deems proper and expedient pass an order that the process has not been duly served.

It is necessary for the Nazir to issue process as soon as possible after the necessary fee has been deposited and to direct that the processes be returned by an early date to be fixed by him and not delayed until the date fixed by the court for the hearing of the case.

C.L. No. 52/IV h-36 dated 10th March, 1977

Summons should be served by ordinary process unless the party interested applies for simultaneous service by registered post as well.

C.E. No. 43/IV -h-36 dated 8th March, 1977

If acknowledgement due receipts are not received after one month from the date of dispatch of summons by registered post, the concerned Presiding Officer should take up the matter in writing with the local post master.

C.L. No. 40/VIII-B-9 (Admn.) dated 4th June, 1981

The summons issued by courts should be complete in all respects and should contain a copy of the plaint and bear full and correct endorsements so that the authority required to take action thereon is not put to any inconvenience due to the aforesaid defects.

C.L. No. 136/VIII b-13 dated 4th December, 1978

Strict compliance of the provisions of Order-V rule 23d C.P.C should be done by all officers concerned with regard to return of summons etc. received from the courts of the other districts for service, and such summons etc. should invariably be returned to the issuing courts after service.

(iv) Processes

(a) Issuance of

G.L. No. 1902/35 (a)-1(7) dated 9th March, 1921 read with

C.L. No. 25d dated 19 March ,1959

Ordinarily every process shall be written in the court language. But where a process is sent for execution to a court where the court language is different it shall be written in English and shall be accompanied by a letter in English requesting its execution.

In cases where the return of service is in a language different from that of the district from which it is issued it shall be accompanied by an authorized English translation.

C.L. No. 100/VIII b-16 dated 6th October, 1951

When notices, summonses, etc. are to be issued to the Reserve Bank of India they should be issued in English.

G.L. No. 2645 dated 10th July, 1924

The address for service shall in no case be destroyed so long as an appeal in a case is pending.

C.L. No. 39/Xa-14 dated 1st June, 1955

Under rule 2, order V of the Code of Civil Procedure every summons or notice has to be accompanied by a copy of the plaint or application. The Munsarims in various courts should see that the necessary copies are sent for service along with summonses and notices. Any official found responsible for neglect in this respect should be seriously dealt with.

G.L. No. 51/46/92-120 92 dated 13th December, 1939

Emergent processes, if received by 2 p.m. should be sent out for service by the next day and other processes as soon as possible.

Process servers should, as a rule, go to the person seeking service or to his agent if so mentioned in the summons, in case the person seeking service or his agent lives in the same village or quarter in which the person sought to be served resides.

(b) Court's responsibility

C.L. No. 1405/67-2 dated 1st March, 1927

The attention of all civil courts is drawn to the following matters:

(1) Order XXI, rule 107, should be studied and decision as to the character of property to be sold whether ancestral or not, should not be arrived at without notice to the judgment-debtor.

(2) Presiding Officers of courts should pay personal attention to the service of notice by publication, and should themselves choose a suitable newspaper and not leave the choice to the execution clerk.

(3) It is advisable that all notices to the judgment- debtor under rules 22,66 and 107 of Order XXI should be issued at the same time.

(4) Proceedings under Order XXXI subsequent to the passing of the preliminary decree are proceedings in suit and should not be treated as a miscellaneous case and should not be entered in the register in form 70 or 74 of General Rules (Civil), 1957.

(c) Service of processes

Against Railways and income Tax Department

G.L. No. 48/72 dated 27 August, 1934 read with

G.O. No. 3901/F-1649 dated 26th July, 1934

Processes issued from the civil courts of Uttar Pradesh under rule 4 of Order XXVII of the Code of Civil Procedure against Railways or the Income Tax Department, should not be served on the Government Advocate but on the Agent of the Railway concerned or the legal Adviser to the Income Tax Department, U.P.

G.L. No. 5/VIId-132 dated 23rd January 1947

The notice of a suit under section 80 of the Code of Civil Procedure, 1908, against the Government involving a claim against the Railway Administration should be addressed to the Secretary to the Government of India, Railway Department (Railway Board)

C.L. No. 49 dated 23 May, 1969

District Judges should impress upon all the presiding officers working under them that except when under any statute or rule of the Court the notice is required to be served on Attorney General himself, no other notices or summonses for effecting service on Central Government officers or an officer serving in any Railway be sent to him.

Against State Government

C.L. No. 6/VIII-h-28 dated 13 January, 1953 and

C.L. No. 124 dated 6th December, 1969

Rule 4, Order XXVII of the Code of Civil Procedure and notification No. 721/VII-312, dated the 27th August, 1941, reproduced in Appendix C to the Legal Remembrancer's Manual, Fourth Edition, require that the processes against State Government be served on the authorized representatives of the Government and not on the Chief Secretary or any other Secretary to the State Government. As laid down in rule 4, Order XXVII, Civil Procedure Code, Government Pleaders (Now designated in this State as District Government Counsels) are the agents of the Government for the purposes of receiving processes against the Government.

All the processes issued against the State Government should be served on the District Government counsel instead of the Chief Secretary or any other Secretary to the state Government.

Effective control

C.L. No. 78/Admn. (D) dated 1st August, 1978

The Court has accepted the following recommendation of the committee for investigation of causes of corruption in subordinate courts U.P., regarding process servers:-

(a) Presiding Officers and the officer-in-charge of the Nazarat should exercise strict supervision and control over the process-serving staff.

(b) The efficiency and integrity of the process servers should be judged on the basis of the amount of personal service affected by them.

(c) Process-servers giving less than 75 per cent personal service without any satisfactory explanation for the fall in their outturn should be suitably punished by fine or even by reduction of their salary.

(d) The percentage of successful service made by the process-servers should be taken into consideration at the time of their confirmation and promotion.

(e) For a false or fictitious report the process-server should be severely punished.

(f) All the presiding officers and the officer-in-charge, Nazarat should implement these instructions forthwith so that they may be able to keep strict supervision and control over the working of the process-serving staff. It is also impressed upon them that those process severs whose personal service report is less than 75 per cent or who make false or fictitious reports, should be suitable dealt with as contemplated in the said recommendations.

(g) The percentage of successful service made by the process-servers should also be given due weightage at the time of their confirmation and promotion.

C.L. No. 105/Admn. (D) dated 23 September, 1978

The reports of the process- servers are often not complete and notices etc. are not affixed on the doors of the parties and witnesses according to the directions contained in rules 138 and 139 of the General rules (Civil).

The District Judges should impress upon all concerned that the directions contained in the aforesaid rules regarding mode of service of processes and notices to the parties are complied with strictly.

C.L. No. 104/IV h-36 dated 16th June,1976

Departmental action against process-servers, found grossly delinquent in their performance in the sense of having knowingly submitted incorrect reports, should be taken. District Judges should take steps to educate the process-servers, regarding proper service of processes and submission for reports.

(d) Process issued for service in the foreign countries.

No. 33/ VIII-C-6/ Dated: July 11, 1996

It has been brought to the notice of the court that processes for service in foreign countries are being issued by the various court in the State directly and in complete disregard of the specific provisions contained in Rules 16 chapter III of General Rules (Criminal). The court takes serious view of the matter.

I am, therefore, to ask you to please ensure strictly compliance of the aforesaid provision by all concerned.

(v) Service or Summonses upon the members of the House

C.L. No. 3/VIlle-24/Admn.(G-2) dated 13 January, 1993

I am directed to invite your attention to Rule 121 of General Rules(Civil) and Rule 15 of General Rules (Criminal) and marginally noted circular letters on the above subject, and to say that it had repeatedly been emphasised in the marginally noted Circular letters that it is not desirable that Courts should attempt to serve summonses upon any member of the House through the Presiding Officers or through Parliament Secretariat. It had also been envisaged that summonses should be served direct upon the members out-side the precincts of the House of Parliament or State Legislature, as the case may be i.e. at their residence at some other place as required by the provisions of General Rules (Civil) and General Rules (Criminal).

1. G.L.No.4/V111b-28, dated 12.9.53
2. C.L. No.16/VI11-28 dated 20.3.68
3. C.L. No.32/VII1-26G, dated 7.5.84

I am to add that it has come to the notice of the Court that inspite of instructions contained in General Rules (Civil) and General Rules, (Criminal) and aforementioned Circular letters issued by the Court in this respect, subordinate courts send summonses to serve upon the members of the House or State Legislature for Service through the Presiding Officer of the House or State Legislature.

I am, therefore, to request you kindly to ensure that in future service of summonses upon any member of the House or State Legislature be not served through the Presiding Officers of the House or State Legislature, as the case may be. The Officers posted in your Judgeship be

apprised of the instructions issued by the Court from time to time in this respect and it may be ensured that such situation may not arise again otherwise the Court will take serious view to the non-compliance of the instructions issued by the Court in this regard.

C. L. No. 20/2007 : Admin. 'G' Dated : 11.5.2007

While inviting you attention to Rule 121 of General Rules (Civil) and Rule 15 of General Rules (Criminal) as also marginally noted Court's circular letters regarding service of summons upon the member of Parliament/State Legislature, I am directed to say that clear directions/instructions were issued earlier that in pursuance of the aforesaid rules, courts should not attempt to serve summonses upon any member of parliament or state Legislature through the Presiding Officers or through secretariat concerned while the summonses should be served direct upon the members outside the precincts of the House of Parliament of Legislature, a the case may be i.e. at their residence or at some other place, as required by the rules.

1. G.L. No. 4/VIIIb-28, Dt.12-09-1953
2. C.L. No. 16/VIII-28, Dt. 20-03-1968
3. C.L. No. 32/VIII-26G, Dt. 07-05-1984
4. C.L. No. 3/VIIIe 24/Admin. (G-2)-28, Dt. January 13.1.1993

I am, therefore, to request you to kindly ensure strict compliance of the directions/instructions above and all the Judicial Officers posted in your Judgeship be apprised of the same with the directions that the provisions of Rule 121 of General Rule (Civil) and Rule 15 of General Rules (Criminal) be complied with unerringly and honestly.

(vi) Service or notices and summons on the parties residing in the city of Ahmedabad.

C.L. No. 31/Admn.(F) dated 21 March, 1994

I am directed to send a copy of letter dated 3rd June, 1993 sent by the Officer on special duty of Hon'ble High Court of Gujarat and to request you to address the correspondence as mentioned in the letter whenever required.

(vii) H.H. Mehtra, officer on special Duty High Court of Gujarat, Ahmedabad-9 Service or processes by bailiff of Small Cause Court, Ahmedabad.

No. C. 1819/62 High Court of Gujarat dated 3 June, 1993

I am directed by the Hon'ble the Chief Justice and Judges of this High Court to state that all notices/summons for service on parties residing within the Municipal limits of the city of Ahmedabad should hereafter be addressed to the Chief Judge, Small Cause Court, Ahmedabad. I am, therefore, to request you to communicate the decision of this High Court to all the Subordinate Courts in Your State directing them to address their correspondence on this behalf as stated in this letter.

(viii) Language used to endorse the manner of service in notices summons etc. sent to Court's in Tamil Nadu for service and Return-Regarding.

C.L. No. 53/VIII-b-16/Admn. (F) dated 25 May, 1994

I am directed to send herewith a copy of the Circular Letter No. 2636/93/F1, dated 4-1-1994 of the Registrar, High Court, Madras and to request you to kindly strictly comply the instructions given in the aforesaid circular letter forthwith.

Thiru A. Ramamurthy, Registrar, High Court, Madras

Language used to endorse the manner of service in notices summons etc.

Sent to courts in Tamil Nadu for service and Return- Regarding.

R.O.C. No. 2636/93/F1 dated January 4, 1994

I am to state that Rule 55 of Civil Rules of Practice and Circular Orders applicable to the Civil Courts in the State of Tamil Nadu says that when a process is written in a language different from that of the area in which it is to be served, the court transmitting it for service shall also send a translation thereof in English and in cases in which process has to be returned to any court outside the State of Tamil Nadu and the return is not in English or in the language of that court, the proceedings Form 10, Appendix B, Schedule I of the Code with which it is sent back to that Court shall be accompanied by a translation of the return in English.

It has now been brought to the notice of this Registry, by the Subordinate Judicial Officers that summons and notices received from other States for service and return by the courts in Tamil Nadu are in the vernacular language of that State. English translation of the same are not accompanied as per the rule mentioned above and that none furnishing of English translation causes much inconvenience to the subordinate Courts in this State.

Similarly, the process sent by the Civil Courts in Tamil Nadu to outside the State for service and return are received back after service with the endorsement of the Nazirs of that court only in the vernacular language of that courts which could not be deciphered.

In this connection, I am also to add that as per Rule 55 of the Civil Rules of Practice and circular orders applicable to the Subordinate civil courts in this State, the summons and notices for service in this State should be accompanied by English translation if they are in any other language. Likewise, the endorsement with regard to the manner of service or non-service of the summons or notices received from the civil courts in Tamil Nadu should be accompanied by a true translation in English.

I am, therefore, directed to request you to look into the matter and issue suitable instructions to the Subordinate Civil Courts under your control to give a true translation of the (1) summons/notices intended to be served in the courts in Tamil Nadu in English and (2) endorsement regarding the manner of service, in English, as regards processes issued from the courts in this State, so that the endorsements may be correctly understood.

I am also to state that this Registry has also issued necessary circular instructions to the Subordinate Civil Courts in this State to adhere strictly Rule 55 of the Civil Rules of practice and circular orders mentioned above.

(ix) Service of notices

(a) Registered addresses for service

G.L. No. 421 dated 11th February, 1924

The rules made by this court under orders VII and VIII of the Code of Civil Procedure require every party in the trial court to file an address for service. Order VII, rule 22 provides that affixation to the outer door at such address may be sufficient and that if the party be not present on the date fixed, service by registered post shall suffice. By rule 12, Order VIII, this rule

applies to appeals as well. Yet the courts below continue to report from time to time that service by affixation is insufficient, which often results in a waste of time and labour in the High Court.

The attention of all subordinate courts is drawn to the provisions of Order VII rules 19-25 and Order VIII, rules 11 and 12.

District Judges should make it a point to see, when inspecting their own and the subordinate courts that these rules are being complied with.

G.L. No. 35/VIII-18 dated 13th May, 1964

Notices for service on parties residing within the municipal limits of the city of Ahmedabad should be address to the Principal Judge, City Civil Court- Ahmedabad.

G.L. No. 2590/6713 dated 5th July, 1924

Subordinate courts appear to experience some difficulty in deciding whether service is sufficient, because there is nothing to show whether the addresses of parties to which notices from this Court have been issued are or are not the addresses furnished by them for service under Order VII, rule 19, or Order VIII, rule 11.

To obviate this difficulty it is directed:

(1) that whenever an address has been filed for service under either of the above rules, such address shall be entered in the final decree or formal order instead of the address given in the plaint;

(2) that the decree or formal order shall indicate that the address is that filed for service under the above rules, either by the insertion in brackets immediately after such address of the number of the rule under which it was filed or in some other way. Whenever no such indication appears it will be understood that no address for service was filed by the party in question.

Notices then issuing from the High Court will contain an endorsement to the effect that the address given is the address furnished by the party for service, by the insertion in red ink in brackets immediately after the address of the letter "F.S." (i.e. filed for service under one of the above rules).

G.L. No. 49/67-4 dated 14th September, 1935

The above rules and rule 19, Order VII, and rule 11, Order VIII of the Code of Civil Procedure are framed more for the facility of appellate courts than for that of the courts of first instance, and so the non-observance of these rules causes great inconvenience to the appellate courts including the High Court and defeats the purpose for which they were framed.

Order VII, rule 20, Civil Procedure Code

Order VIII, rule 12, Civil Procedure Code

A reference to the rules noted in the bloc will indicate that addresses for service of the parties must be within the limits of the State of Uttar Pradesh. They should be filed in Form 17 or 18. Appendix H of the Code of Civil Procedure and subordinate courts should always insist that full and accurate Particulars are furnished in the addresses for service filed by the parties, so that processes can easily be served at those addresses through process- servers and also through

post. A registered address like the following is useless for the purpose as a process cannot be served on the person either through a process-server or by post.

Name Parentage and caste	Residence	Pargana or Tahsil	Post office	District
Ram Swarup son of Har Prasad Kurmi	Allahabad	Allahabad	Allahabad	Allahabad

An applicant residing in a town or city must be asked to give the number of his house, the name of the road or the Mohalla but an applicant residing in a village may give the name of his village, post office and other particulars of his residence so that there may not be any difficulty in finding him out.

G.L. No. 15/67-h 3 dated 25th March, 1938 and

C.L. No. 61/VIII-h dated 29th May, 1972

The rules below require the particular attention of subordinate courts:

(1) Every plaint or original petition should be accompanied by an address for service which is called the "registered address" and if any plaintiffs or petitioners are subsequently added, they should immediately file their registered addresses. These addresses must be written in English in block letters (Order VII, rule 19).

(2) Registered addresses must be within the limits of the State of Uttar Pradesh (Order VII, rule 20). It is thus important to remember that registered addresses at places beyond the State of Uttar Pradesh should not be accepted.

(3) Every party, whether original, added or substituted, who enters appearance in any suit or proceeding must similarly file an address for service written in English and in block letters, and the address for service must be within the limits of the State of Uttar Pradesh (Order VIII, rule 11); if this address is not filed, the defence is liable to be struck off.

The importance of these rules is that the address for service holds good during all appellate proceedings arising out of the original suit or petition and notices in appeal are to be issued from the appellate court to such addresses [Order XLI, rule 38(2)]. If the party to be served is not found at the registered address, service of notices by affixation at the registered address and by registered post is deemed as effective as personal service (Order VII, rule 22)

A party who omits to file an address for service incurs a very grave risk as service of notice on any respondent of any proceeding incidental to an appeal is not necessary unless he has appeared and filed an address for service [Order XLI, rule 14(3)] and service of notice in such cases is dispensed with by the High Court with the result that and appeal against such respondents, usually proceeds *ex parte*. The notice of the members of the Bar should be drawn by all presiding officers of civil courts to the provision of Order XLI, rules 14(3) and 38 (2) and the necessity of complying with the rules regarding registered addresses in the interest of their clients emphasized.

Presiding Officers must satisfy themselves before signing decrees or formal orders that there has been no neglect in regard to the following matters:

(1) The record must contain the registered addresses plaintiffs and all parties who have entered appearance (Order VII, rules 19 and 20 and Order VIII rule 11). They must be in English block letters, must be within the limits of the State of

Uttar Pradesh and must contain full and accurate particulars as laid down in General Letter no. 49, dated the 14th September, 1935.

(2) These registered addresses must be entered in the decree and formal order as required in General Letter no. 2590, dated 6th July, 1924 and General Letter no. 2365, dated 24 April, 1926. the defendants who have not appeared must be clearly indicated in the note printed in the decree. Decree writers must be warned that any omissions on their part may have serious consequences for the parties in appeal and will be severely punished.

(3) Registered addresses have to be filed in appeals only where no addresses for service have been filed in the trial court (Order XLI, rule 38).

As notices are issued by the court for service at registered addresses, the attention of Nazirs and process-servers must be drawn to the necessity of making every effort to affect personal service on the parties. Where that is not possible notices must be affixed at the registered address or if that can for some reason not be done at the chaupal or some other public place. In no case should notices be returned unaffixed. Where personal service has not been affected or where it has not been possible to affix notices at registered addresses the process-server's report must always contain a full explanation.

G.L. No. 17/673(1) dated 12th April, 1939 and

C.L. No. 61/VIII h-13 dated 29th May, 1972

When the official entrusted with affecting service has once located the party's registered address it is his clear duty to carry out implicitly the instruction which have been issued in no ambiguous language.

Officials concerned are warned that serious notice will be taken of any failure on their part to comply with these instructions.

(b) Service of notices on pleaders

G.L. No. 4754-67-10 dated 4th November, 1925

The attention of District Judges is invited to the provisions of Order III, rule 5 of the Code of Civil Procedure, which provides that a process served on a pleader of any party or left at his office or residence shall be presumed to have reached the party whom the pleader represents.

C.L. No. 61/VII-d-161 dated 7th October, 1966

Intimation of the dates of hearing of the Employee's State Insurance Act cases to the counsel appointed by the Employee's State Insurance Corporation should be given in time irrespective of the fact whether they are Government Counsel or private counsel.

(c) in execution cases

C.L. No. 39/VII-d-140 dated 9th April, 1953

Notices under section 82 of the Code of Civil Procedure for execution of decrees passed against any department of Government should invariably be sent to Government in duplicate.

C.L. No. 29/VII-d-140 dated 20th March, 1961

A copy of the notice should be endorsed to the Government of India in the ministry concerned or to the department of the State Government concerned, as the case may be. In case

of difficulty the name of the ministry or department should be ascertained from the counsel appearing for the Government before the case is decided and the information should be kept on the record.

C.L. No. 94 dated 18th December, 1957

In Order to avoid any dilatory tactics being adopted by judgment-debtors, the court has decided that three notices prescribed under rules 16, 22 and 37 of Order XXI of the Code of Civil Procedure should, as far as possible, be issued simultaneously so that execution proceedings are expedited.

(d) Service of contempt notice on the addressee.

C.L. No. 13 Dated: March 21,2001

Under the Contempt of Court Rules (as provided in Ch.XXXV-E Rule 6 of Rules of the Court), affecting of personal service on the alleged condemner is an essential requirement. It has been observed by Hon'ble court with concern that while affecting service of notice care to the rules are not taken. Instances have also come into the notice of the Hon'ble court that service on the condemner is preferred to have been affected on his Orderly or official attached with him. This is in clear violation of the rules and cannot in any way be presumed personal service . Hon'ble courts directions given in the Civil Misc. Contempt Application No. 3311 of 2000 Narendra Bahadur Mishra Vs. Ravindra Nath Tripathi and others are also enclosed here with for circulating amongst the judicial officers for ensuring compliance in such matters.

I am therefore desired to request you to bring into the notice of all the judicial officers the directions given in the aforesaid case and they be asked to remain careful while sending the report about service of notice on the alleged condemner.

(e) Service of summons/ notices in United Arab Emirates.

C.L. NO. 17 VIIC-6/ Admin. (F), dated: 7 May, 2005

I am directed to send herewith a copy of Government Letter No. 12 (16)/2005-Judl. Government of India, Ministry of Law & Justice, Department of Legal Affairs, Judicial section, New Delhi, dated 24.2.2005, on the above subject and to inform you that Joint Secretary & Legal Advisor to the Government of India has intimated that the Government of India has signed an agreement with the Government of U.A.E. in connection with service of Summons, Judicial Documents, Judicial commission, Execution of Judgment and Arbitral Awards vide Notification GSR 894 (E), dated 23rd November, 2000. As per the terms of the agreement, requests for legal assistance have to be made through the central Authorities of the respective countries. In the Republic of India, the central Authority is the Ministry of Low of Justices. The agreement further stipulates that all the document in connection with the legal assistance have to be officially signed by the court under its seal. All request and supporting documents have to be furnished in duplicate along with translation into one of the official language of the requested party. The official Language of the United Arab Emirates is Arabic.

It has been further intimated that the Government of U.A.E has requested for receiving of summons three months in advance of the hearing date set by the concerned courts in India and that too with complete address of the parties concerned to enable them to take appropriate action.

I am, therefore, to request you kindly to act upon accordingly and to kindly bring the contents of Circular Letter to the notice of all the Judicial Officers in your Judgeship for their guidance and strict compliance.

(f) Service of summons/Judicial Process etc. outside India in Civil matters

C.L .No. 44/VIIC-6/Admn.(F) : Dated 19.10.2006

In continuation of the earlier C.E. No. 74/VIIIb-16, dated August 22, 1959 and Circular Letter No. 21/VIIC-6/Admin.(F), dated 13.08.2004, dealing with service of judicial processes in criminal matters outside India, I am directed to say on the above subject that Government of India, vide Letter No. T-4410/24/2006 dated 23.03.2006 has intimated that the service of judicial processes outside Indian including summons/show cause notices etc., in cases pertaining to civil and commercial matters are required to be taken up with the Ministry of Law and Justice being the nodal ministry and central Authority for seeking and providing the mutual legal assistance in civil matters (copy enclosed).

It has been further informed that the Ministry of Law and Justice receives all kind of such request, examines them and takes appropriate action with regard to civil laws matters as per Allocation of Business Rules of the Government of India. It finalizes and notifies treaties and arrangements with other countries as per relevant statutory provisions in the Code of Civil Procedure. Therefore, all requests for seeking assistance from the foreign country including the service of all kinds of judicial processes or other documents be directly submitted to the Ministry of Law and Justice in the Civil and Commercial Matters.

I am therefore to send herewith a copy of above letter of the Government of India, Ministry of External Affairs for your information and necessary action with the request to kindly bring to contents of the circular letter to the notice of all the Judicial Officers in your judgeship for their guidance and necessary and strict compliance.

T 4410/24/2006, Dated New Delhi, the 23rd March, 2006

The Ministry of External Affairs has been receiving summons, notices and other judicial processes etc. in criminal and civil or commercial matters from the various courts in India for servicing the same on the persons residing outside the geographical limits of the Republic of India.

2. It is reiterated here that service of judicial processes outside India, including summons/show cause notices etc. is regulated by reciprocal arrangement with foreign countries, finalized and notified by the Ministry of Home Affairs, as per statutory provisions in the Criminal Procedure Code (Section 105). In the absence of such notified arrangements, the question of service of judicial processes outside India is required to be examined and decided by the Ministry of Home affairs, in view of the relevant Indian Municipal Laws.

3. As per Allocation of Business Rules of the Government of India, the Ministry of Home Affairs is the nodal Ministry and Central authority for seeking and providing the mutual legal assistance in criminal law matters. The Ministry of Home Affairs receives all kind of such requests, examines and takes appropriate action.

4. Similarly, the case pertaining to civil and commercial matters are required to be taken up with the Ministry of Law & Justice, as that ministry performs all the above mentioned functions, with regard to civil laws matters as per Allocation of Business Rules of the Government of India.

The Ministry of Law & Justice finalizes and notifies treaties and arrangements with others countries as per the relevant statutory provisions in the Code of Civil Procedure.

5. It is therefore requested that all requests for seeking assistance from a foreign country including the service of all kinds of judicial processes or other documents be directly submitted to the Ministry of Home. Affairs in criminal law matters and to the Ministry of Law and Justice in the civil and commercial matters.

6. It is requested that the information contained in the above paras may also kindly be suitably brought to the notice of the judicial authorities under your jurisdiction.

(g) To ensure strict compliance of the provisions as contained under Order 5 Rule 2 of the CPC read with para 102 and 103 of the General Rules (Civil), 1957

C.L. No. 56/2006, Dated December, 21, 2006

In Civil Misc. Writ Petition No. 59282 of 2006 – Shri Thakurdin Kesharwani Trust, Allahabad and others v. Prakash Chandra Sharma & others, the Hon'ble Court has observed with concern that in Subordinate Courts the summons being issued to the defendants are not accompanying with a copy of plaint or copy of the injunction application or other documents violating the provisions of Order 5 Rule 2 of the Code of Civil Procedure as also sections 102 and 103 of Chapter IV of General Rules (Civil), 1957.

Therefore, while enclosing herewith a copy of order dated 3.11.2006 passed in C.M. Writ Petition No. 59282 of 2006 aforesaid, I am directed to request you to kindly ensure strict compliance of the provisions contained under Order 5 Rule 2 of the Code of Civil Procedure and Sections 102 and 103 of General Rules (Civil) 1957, failing which the responsibility should be fixed on the erring officer.

I am, also to add that the order referred to herein above as well as the contents of the circular letter be communicated to the Judicial Officers posted in your Judgeship for their guidance and strict compliance**.**

C. L. No.30/2007: Admin 'G' Dated :.29 August, 2007

On the above subject, I am directed to say that in the Chief Justices Conference-2007 upon consideration of matter of service of summons it has been resolved that the courts should resort to the amended provisions of Code of Civil Procedure providing service of summons through courier, fax, e-mail, etc.

I am, therefore to request you to kindly bring the contents of the Circular Letter to the notice of all the Judicial Officers working under your supervisory control for strict compliance of the directions of the Hon'ble Court.

(x) Publication of notices

Guidelines for issuing summons/Judicial processes in the matters of diplomats of foreign embassies situated in India.

C.L. No. 17/2009 Admin. (G-II): Dated: 28.04.2009

In continuation of Hon'ble Court's earlier Circular Letter No. 33/VIII-B-31-50, dated 16th May 1950 read with G.O. No. 1967 (1)/VII 372-50 dated 6th May, 1950, I am directed to say that upon consideration of Letter No. F.No. 12(30)/2008-Judl. Dated 17th September 2008, having

been received from the Ministry of Law and Justice, Government of India registering protest against practice by courts issuing summons to diplomats working in embassies of foreign states in India despite immunities and privileges being available to them under Diplomatic Relations (Vienna Convention) Act, 1972 and Vienna Convention on Diplomatic Relations, the Hon'ble Court has desired that all the Courts of the state be directed to observe the provisions made under Article 31 of the Diplomatic Relations (Vienna Convention) Act, 1972 which provides immunities & privileges available to diplomats in judicial matters and also the procedure to be adopted in service of judicial processes to diplomats, in case deemed necessary. In matters other than those covered under the diplomatic immunity, the judicial process can be served through the Ministry of External Affairs and not directly by the courts.

While enclosing a copy of the above letter dated: 17.09.2008 of the Ministry of Law & Justice alongwith its enclosures, I am, therefore, to request you to kindly ensure strict compliance of the above directions of the Hon'ble Court by all the courts under your administrative control.

(a) Changes for publication of insolvency notices in Government Gazette

C.L. No. 64/1-Xf-36 dated 11th November, 1935

The changes for the publication of a notice under the Provincial Insolvency Act (V of 1920) in the Uttar Pradesh Gazette is Rs. 8. The Cost of one copy of Part VIII of the Gazette in its English and Hindi versions is Re.1, and Re. 0.75, respectively while sending the insolvency notices to the Press for publication in the Gazette a deposit of Rs. 9 for the notices in English version and Rs. 8.75 for the notices in Hindi version should be made in the local treasury in favour of the Superintendent, Printing and Stationery, U.P.[*] under the head 'XLV[**]-Stationery and Printing-Advertisements and sales of Gazettes'.

G.L. No. 76/94-2(52) dated 27th November, 1937

Insolvency courts should while sending notices to the office of the superintendent, Printing and Stationery, *U.P., for publication in the Gazette, certify that the publication charges including the cost of Gazette, have been deposited in the treasury in favour of the Superintendent, Printing and stationery,**U.P. Allahabad.

(b) Publication of court notices in newspaper

G.L. No. 61-46/25-913 dated 28th September, 1937 modified by

G.L. No. 12/46/25-992 dated 21st March, 1938 and

C.L. No. 12/Xf-12 dated 15th February, 1949

Courts should select newspapers through which information is most likely to reach the party to be served. Notices should thus ordinarily be published in daily newspaper with extensive circulation or in weekly newspapers with the largest circulation in the district where the parties to be served reside. Mere economy irrespective of the extent of circulation of the paper will not serve the purpose of publication of a notice in a newspaper:

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[*] Note: Now Director, Printing and Stationery.

[**] Now '0058'

Every court should maintain a register containing the following information:

(1) Name of office,
(2) Number of suit or proceeding,
(3) Name of district in which parties to be served with notices reside,
(4) Paper to which notice was sent for publication,
(5) Place of publication of paper,

Explanation of any departure from the directions in G.L. no. 1246/25-1992, dated the 21st March, 1938.

(6) The register maintained by each court should be put up before the District Judge for perusal on the 1st each month.

C.L. No. 85/Xf-12 dated August, 1951

In sending notices for publication to newspaper published from any particular place, the presiding officer should see that notices are, as far as possible, equally distributed among newspaper with a wide circulation.

The District Judge should ask for the rates for the publication of notices from newspapers in which such notices are ordinarily likely to be published and satisfy himself that the charges are reasonable and not exorbitant. The rates should be circulated to all subordinate courts for information.

C.L. No. 54/X-12 dated 16th April, 1952

The above directions apply to the publication of court summons, notices and other judicial processes, while the directions contained in G.O. No. 2501(i)/XIX-34-1946, dated the 4th September, 1951, apply only to the publication of Government advertisement, tender notices etc.

C.L. No. 5/Xc-5 dated 1st December, 1948

Extract from General Administration Department, G.O. no.2821/I/170(5)-1948, dated the 18th June, 1948 is reproduced below for the information and guidance of all District Judges:

(1) Under G.O. no. 4686/III-170-47, dated the 8th October, 1947, it is incumbent on the courts and other authorities concerned to issue their notices, summonses, etc. in Hindi in the Devanagri script. But a question was raised whether these instructions made it incumbent on the issuing authorities also to require the publication of notices, etc. in Devanagri script even when due to the circumstances of a particular case it might be required that they may be published in non-Hindi newspapers.

(2) The mere fact that a summons or notice has to be published in a non-Hindi newspaper is by itself not sufficient to justify the publication of the document in a language and script other than Hindi in Devanagri script. Even prior to the declaration of Hindi as the language of the State, non-Hindi newspapers on occasions used to publish court notices, etc. in Hindi in Devanagri script. There is

no objection to the publication of court notices or summonses in Hindi in Devanagri script in non-Hindi papers.

(3) It is, however, necessary to bear in mind the interest of the litigant public and it is for this reason that court notices, summonses, etc. are under standing orders, to be issued to those papers which command an adequate local circulation and are expected to reach the persons for whom the notices are intended.

(4) Court notices, summonses etc. should of course continue to be issued in the Devanagri script. But if, in any case, the authority considers that it is essential to publish them in a language other than Hindi written in Devanagri script then the issuing authority will have discretion to order the actual publication of the notices or summons otherwise than in Devanagri script though the original is in that script. In exercising this discretion the issuing authority will consider the special circumstances of a case to see whether it is necessary that the summons or notice, though issued originally in Devanagri script, should be translated or transliterated and published in a language or script other than Hindi. If the issuing authority is so satisfied it shall, after recording the reason, make an order to the effect that though the document has originally been issued in Hindi in the Devanagri script its translation or transliteration may be published in a language or script other than Hindi. The question of the publication of a summons or notice otherwise than in Hindi in Devanagri script is not to be left merely to the wishes of the party or parties concerned, but has to be decided by issuing authority itself after considering all the aspect of the case.

C.L. No. 61/Xf-12 dated 28th September, 1983

In view of the provisions of C.P.C. the publication of court summonses, notices and other judicial processes in the newspapers, henceforth, shall be governed by the provisions of sub-rule (1A) of rule 20 of order V of Civil Procedure Code. The other instructions contained in Court's C.L. No. 54/Xf-12 dated 16.4.1952 and C.L. No. 85/Xf –12 dated 18.8.1951, regarding publication of Government Advertisements etc. in the newspapers and regarding distribution of notices and rates for publication of notices in the newspapers, shall continue to remain in force as before.

C.L. No. 29/Xe-5(SC) dated 29th April, 1983 and

C.L. No. 1/Xe –5(SC) dated 7th January, 1985

All notices, summonses etc. shall invariably be issued or sent for publication in newspaper in the forms as given in Hindi edition of Civil Procedure Code, Criminal Procedure Code etc. published by the Government and no lapse should recur in this regard otherwise serious view will be taken by the Court in the matter.

(4) STAY AND INJUNCTION ORDERS

C.L. No. 68 dated 25th July, 1957

An order staying proceeding under section 10 of the Civil Procedure Code is a judicial order and should be passed only after the court has been satisfied that the matter in issue is directly and substantially in issue in the previously instituted suit and that the previously instituted suit is still pending. If the previously instituted suit has been disposed of and only an

appeal or revision is pending the court must hold that it is still pending within the meaning of section 10 before it can stay the proceedings. The finding that the matter in issue is directly and substantially in issue in a previously instituted suit should not be given without legal evidence, and certainly not on vague or sweeping information. If the suit itself is pending, copies of the pleadings should be require to be filed, and if an appeal or revision is pending, copies of the judgment of the trial court and of the memorandum of appeal or of the application for revision should be required. The court should be in possession of all the necessary information about the previously instituted suit, e.g., its number and year and names of the parties and the court where it is said to be pending. After the proceedings have been stayed, periodical enquiries should make whether the previously instituted suit is still pending. They should be made from the court itself where it is said to be pending.

The provisions of section 10 are mandatory and proceedings in the subsequent suit must be stayed if the matter in issue is directly and substantially in issue in a previously instituted suit. The two suits cannot, and should not be amalgamated or tried together.

Proceeding should be stayed in exercise of inherent powers only on the court being satisfied that it is necessary to stay them in the interest of justice or to prevent the abuse of process of court.

G.L. No. 3323/267 dated 25th July, 1925 and

C.L. No. 69/VIII-d-95 dated 11th May, 1971

The attention of District Judges is drawn to the remarks of the Civil Justices Committee regarding the issue of interlocutory injunctions. The committee point out that much delay in justice is occasioned by interlocutory orders for stay of proceedings and stay of execution, by interlocutory injunctions and by the holding up of proceeding pending application in revision. They add that interlocutory injunctions are throughout India, granted much too freely and without sufficient care to impose terms, and that this particularly applies to the granting of such injunctions *ex parte.* Order XXXIX, rule 3 of the Code of Civil Procedure makes it compulsory in all cases to issue notice to the opposite-party before granting a temporary injunction except where the object of granting the injunction would be defeated by the delay caused by issuing notice. The Committee fined that *ex parte* injunction are frequently issued where the dispute between the parties has been pending for months. Such cases clearly do not come within the exception. The issue of an *ex parte* injunction against a defendant in possession of property operates to give the plaintiff an unfair advantage. Where an injunction is granted without notice, it should be granted only for the minimum period necessary to enable the opposite party to come before the court and put forward his case. A week, or at most a fortnight, should ordinarily be sufficient for this purpose. If the defendant evades service of the notice knowing that the temporary injunction has expired, it will always be possible for the court to extend it. The court, however, agrees with the Committee that the issue of an interlocutory injunction without notice is to be regarded as an exception and should only be allowed where the plaintiff establishes in a convincing manner that by reasonable diligence on his part he could have avoided the necessity of applying behind the back of the defendant. Where there has been unnecessary delay on the part of the plaintiff in making his application, an injunction should never be granted ex part e.

Attention is also invited to the following remarks of the Committee:

> "Again we understand that in recent times the ordinary operations of local bodies are being constantly interfered with by ex parte injunctions at the suits of plaintiffs whose grievance is in no way commensurable with the damage which an interlocutory injunction is bound to do. There can be no greater encouragement to blackmailing and malicious suits. The serious interruption of public business in the interest of a protagonist in a local quarrel is by no means unknown."

G.L. No. 33 dated 12 May, 1955

The granting of an interim injunction, whether ex parte or not is a judicial matter. But where the Government or a local body have appointed a standing counsel, the courts may consider the desirability of disposing of the application the same day or within, say a couple of days after giving notice to the standing counsel.

C.L. No. 51/VIId-95 dated 5th May, 1972

Instruction issued by the Court in its C.L. No. 69 dated 11th May, 1971 and G.L. No. 3323/27, dated 25th July, 1925, regarding grant of injunction should be strictly followed and it should specially be borne in mind that injunction should not be granted in defective cases or in cases in which no notice under section 80 C.P.C. has been given.

C.L. No. 154/VII d-95 dated 10th October, 1977 and

C.L. No. 184/VII d-95 dated 9th December, 1977

While dealing with appeals from orders granting or refusing temporary injunctions, if it is found that the trial judges have exercised their discretion arbitrarily or frivolously in granting or refusing temporary injunctions, the same may be brought to the notice of the respective Administrative Judge within a month from the disposal of such appeals.

C.L. No. 144/VIII g-38 Admn. 'G' dated 19 December, 1979

The Presiding Officers should arrange cases in their diary in such a way that priority may be given to those cases in which stay orders or injunctions have been issued by their own courts.

C.L. 86/VIId-98-Admn. (G) dated 24th November, 1984

All the Presiding Officers should strictly comply with the provisions of Rule 1(3) and Rule 5(3)(c) of the Order XLI and Rule 8(h) of the Order XXVII C.P.C. while deciding suits relating to money matters, and while granting stay of execution of an appealable decree and depositing of security etc., in such suits.

C.L. No. 104/IVh-36 dated 16th June, 1976

Making of vague orders on temporary injunction such as saying that the status quo be maintained, should be avoided. Temporary injunction orders should be express and specific to the utmost possible extent. The order for interim injunction even where ex-parte, should ordinarily contain brief indication of the rationale for the order, so as to ensure that there has been an application of mind. Speaking order should not normally be passed where the injunction is refused. Security should invariably be taken even while giving an ex-parte order.

Ex- parte interim injunction should be made time bound. Final order should be passed within a month and extension, if necessary should not be for more than a fortnight with the consent of the opposite party.

(i) Grant or interim injunction both ex-parte as well as final by the Subordinate Courts.

C.L. No. 50/VIId-10/Admn.(G-2), dated September 6, 1993

I am directed to say that in the following decisions important guidelines have been laid down by their Lordships of the Supreme Court of India and this court regarding grant of interim injunctions, both ex-parte as well as final. At the ex-parte stage the assistance of a learned Advocate is not available. Some interim orders are capable of causing incalculable harm. It is, therefore, of utmost importance that the members of the subordinate judiciary should be aware of the law on the subject.

You are, therefore, requested to bring the following decisions to the notice of the officers posted under you:-

1. *Assistant Collector of Central Excise v. Dunlop India Ltd*., AIR 1985 SC 330 (particularly paras 1, 5 & 7)
2. *The National Textile Corporation v. Swadeshi Cotton Mills Co Ltd.,* 1987 ALJ 1266 (DB)
3. *Road Flying Carrier v.* The *General Electric Company of India,* AIR 1990 All 134.

Revision against the interlocutory orders or against the issuance of notice of an application filed under Order XXXIX rule 1 and 2 of Code of Civil Procedure.

C.L. No. 22- 12006: Admin 'G': Dated: 29.05.2006

While deciding Writ Petition No.1609 (M/S) of 2006-Cantonment Board and another Vs. District Judge, Lucknow (Incharge) and others, the Hon'ble Court (Hon'ble Mr. Justice Devi Prasad Singh) has noticed that the District Judges are entraining revisions filed against interlocutory orders issuing notices for affording opportunity of hearing to the other side before passing an injunction order under Order XXXIX rule 1 and 2 of the Code of Civil Procedure.

The Hon'ble Court has further noticed that "sometime after issuing notice on an application filed by the plaintiff under Order XXXIV Rule 1 and 2 of the Code of Civil Procedure matters are being kept pending by the trial Courts for sufficiently long period resulting in serious miscarriage of justice".

Therefore, while enclosing herewith a copy of judgment dated 27.4.2006 passed in above mentioned writ petition, I am directed to request you to communicate the judgment to all the Judicial Officers posted in the judgeship under your administrative control for their guidance and compliance.

Granting of interim as well as final injunctions

C.L. No. 71/2007Admn.(G). Allahabad Dated: 13.12..2007.

The Hon'ble Court has noticed that the subordinate Courts are not making compliance of directions issued through the Circular Letter no. 50/VII-d-10/Admin.(G-2)dated September 6th

1993 wherein certain guide lines were given for the Presiding Officers to be kept in mind while dealing with granting interim injunctions and final injunctions ,

Therefore, While enclosing a copy of the above mentioned Circular Letter , I am directed to request you to kindly impress upon all the judicial Officers working under your administrative control to make compliance of the above directions in letter and spirit .

Issuing summons/notices to the Department concerned against the accused persons involved in Petty Offences.

C. L. No. 61/2007Admin(G): Dated :13.12.2007.

The Hon'ble Court has noticed that a long delay in disposal of Petty Criminal Cases pertaining to Municipal Challans, Police Challans, Traffic Challans, Challans under Weights and Measurements Act and Forest Act etc. is taking place due to the Challaning Authorities not providing correct address of the accused in the Challans submitted before the Courts which results in services of notices/summons on them not being affected.

Therefore, I am directed to say that the Court concerned shall send summons/notices of all such accused persons to the Department concerned to be served upon them.

I am further to add that to kindly bring the contents of this Circular Letter to the notice of all the Judicial Officers working under your administrative control and to impress upon them to ensure compliance of the above directions of Hon'ble Court in letter and spirit .

(ii) Grant of stay in cases where merely Appeal, Revision or writ petition preferred.

C.L. No. 6/Admn.'G' dated 8 February, 1995

The Hon'ble Chief Justice and Judges have been pleased to direct that all Judicial Officers may be advised that mere filing of an appeal, revision or even a writ petition against an order or judgment does not, by itself, constitute any valid or justifiable ground to stay the operation thereof. In other words, unless the implementation of the impugned order or judgment is stayed by the competent court, it must be given effect to and carried out.

Disregard of these directions cannot but invite serious adverse note.

Stay of proceedings in the cases pending before the trial court

C.L. No. 40/2006, dated 19.9.2006

With reference to the above subject, I am directed to request you that bemoaning the interminable stay in proceedings to be prominent causes of docket explosion it have been resolved in the Chief Justices' Conference, 2006 that a mechanism needs to be evolved to contain this menace.

Therefore, I am directed to request you to kindly impress upon all the Judicial Officers in your Judgeship to take necessary steps for vacation of stay in proceedings pending before the Trial Court at the end of six months. However the stay in proceedings could be extended on the basis of adequate and special reasons in writing and the same is to be recorded in the concerned file of the case,

I am further directed to request you to kindly bring the contents of the circular letter to the notice of all the Judicial Offi8cers is the judgeship for their guidance and strict compliance.

(iii) Proforma regarding continuance of Stay Orders granted by the Hon'ble High Court.

C.L. No. 47/IVf-5/Admn.(Inspection) Section, dated 13 December, 1995

I am desired to enclose a proforma approved by the Hon'ble court for making enquiries regarding continuance of stay orders granted by the Hon'ble High Court.

In future, all the enquiries in this respect be made on the enclosed proforma only.

PROFORMA REGARDING CONTINUANCE OF STAY ORDERS GRANTED BY THE HON'BLE HIGH COURT

Sl. No.	Particulars of cases of Lower Court,				Particulars of cases of high Court			
	Civil/ Criminal Case Number	Year	Name of parties	District	Crl/Civil/ Revision/Appeal/ Writ Number	Year	Date of Stay Order Granted by the Hon'ble High Court	Stay continuing Stay vacated on….
1	2	3	4	5	6	7	8	9

Date Prepared by:- Checked by:

SIGNATURE OF THE OFFICER

(iv) Circulation of the copy of Judgment and order dated 21.05.2004 in C.M. W.P. No. 19123 of 2004-Bhagwati Prasad Lohar & Other Vs. State of U. P. and others; 2005 (99) RD 333

C.L.No.15/ Admin:'G' 2006 dated: 3 may 2006

The Hon'ble Court (Hon'ble Mr. Justice Anjani Kumar) while dealing with the order issuing notices for affording opportunity of hearing to the other side before passing any injunction order under Order XXXIX Rule 1&2 of the Code of civil Procedure, has observed and held that the order issuing notice for affording opportunity of hearing to the other side before passing any injunction order by the trial court is an interlocutory order against which no revision lies. Therefore, while enclosing herewith a copy of Judgment and order dated 21.05.2004 in C.W.M.P. No.19123 of 2004-Bhagwati Prasad Lohar & Other Vs. State of U. P. and others, 2005 (99) RD 333, I am directed to request you that the judgment and order referred to herein above be circulated amongst all the judicial officers posted in your judgeship for their guidance and compliance.

(For Judgment See – 2005(99) R.D. 333)

(V) Interim Injunction applications not to bar the progress of the trial.

C.L. No. 62/2007 Admin (G): Dated: 13.12.2007

It has come to the notice of Hon'ble Court that the Subordinate Courts usually defer final hearing of the cases in which the parties move Interim Injunction applications despite their being no stay order by the Appellate/Revisional Court. The said reason has been identified to be one of the most prominent reasons for delay in disposal of civil cases. Therefore the Hon'ble Court has desired that the Subordinate Court be clearly instructed not to halt the trial proceedings unless there is a stay granted in the matter by superior court.

Therefore, I am directed to request you to kindly impress upon all the Judicial officers posted under your administrative control not to defer final hearing in matters wherein no stay

order has been passed by any Superior Court staying further proceedings of the case and take up such matters as per routine of the Court.

5. COMMISSIONS

(i) Inland

C.L. No. 22/VIII h-13 dated 18th March, 1949

Immediately after the issues have been struck the presiding officer should consider, may be on an application by a party, if the preparation of a site plan or enquiry after local inspection at the spot is necessary for the proper decision of the case. The commission should as far as possible, be issued on that very day with clear and detailed directions to be recorded in the Judge's notes, as to what the commissioner is required to show in the plan and on what points he is required to make a specific report. If any witness is to be examined on commission the court may consider the issue of a commission then and not postpone it till after the recording of the entire oral evidence.

C.L. No. 35/VIII-b-23 dated 15 March, 1971

Presiding Officers should mention the name of the commissioner at the time of passing order of issuing commission.

Second commission

G.L. No. 19/67 dated 1st May, 1929

A second commission should not be issued until good reasons are given why the first commission should not be accepted. When once a second commission is issued the first commission goes out of evidence entirely. No reference can afterwards be made to that first commission. If second commission is also found to be unsatisfactory reasons should be given and that commission should also be taken out of the evidence. The attention of judicial officers is drawn to the relevant passages from I.L.R. XLV Mad. 79 (Judgment in S.A. no 671 of 1919 between K.K.M., Thottama and C.S. Subramanian).

Distribution of commissions

G.L. No. 4386/89 dated 4th December, 1922

The attention of District Judges is drawn to the necessity of ascertaining periodically the number of commissions issued to legal practitioners in each court subordinate to them and sees that there is a fair distribution of such work. The court regards this supervision as most important.

C.L. No. 102/411-h-3 dated 2nd December, 1968

Strict compliance of Rule 65(4), General Rules (Civil) may be impressed upon the presiding officers so that commissions for preparation of a map or for making partition are ordinarily issued to Amins only in the first instance.

Timely execution of commissions

C.L. No. 110/VIII b-28 dated 24th October 1952

Presiding officers should be strict in demanding execution of commissions in time and in case a commissioner is found to be dilatory or his work is generally found to be unsatisfactory the question of omitting his name from the next year's list should be considered.

Complete directions should always be given to the commissioner at the time of issuing the commission.

C.L. No. 52 dated 5th May, 1972

Names of only those persons should be entered in the list of survey commissioners under rule 66(1) General Rules (Civil) who possess a good knowledge of survey work and can make measurements properly. There should be no hesitation on the part of the presiding officers in recommending the removal of the name of a survey commission satisfactorily. In case survey cannot be done by the advocates or the Amins, there should be no hesitation in issuing the commission to a qualified person even though his name is not on the list.

Examination of transferred Medical Officers

G.L. No. 19/48-75 (a) dated 20th June 1931 read with

G.O. No. 2470/VI dated 20th June, 1931

A medical officer who has been transferred to another district should not as a matter of course be re-called to give evidence in his old district, but should be examined on commission unless his personal appearance is considered absolutely necessary.

Examination of Finger-Print expert

C.L. No. 121/VIII-f-8 dated 8th December, 1951 read with

C.L. No. 9 dated 24th May, 1909

Delay in the execution of commission for the examination of finger- print expert is generally caused by-

(a) the treasury chalan showing that the party concerned has deposited the fee of the expert, not reaching the Lucknow Court in time:
(b) The amount deposited being less than that prescribed under paragraph 82(b) (8) of the U.P. Finger and Foot Print Manual.
(c) The Commissioner's fee not reaching the Lucknow Court in time: or
(d) The interrogatories not being sent along with other papers for the execution of the commission

In order to obviate such delays while issuing such commission the presiding officer should see that the Commissioner's fee and the treasury challan relating to the deposit of the expert's fee reach the court to which the commission is issued for execution in good time. In a case in which an open commission is not issued the court issuing the commission should also take care to forward the interrogatories and the cross- interrogatories if any, along with the other papers.

An additional sum of Rs. 3 should also be sent along with the commission to meet the conveyance charges of the commissioner in addition to his fee as prescribed under rule 66 (4) Chapter III of General Rules (Civil), 1957. An extract from Government notification no. I/III-B-

79-49, dated the 23rd May, 1949 prescribing fees for the examination of an expert of the Finger Print Bureau is reproduced below for ready reference.

All applications should be addressed to the Deputy Superintendent of Police, Finger Print Bureau, Criminal Investigation, Uttar Pradesh, Lucknow.

Fees shall be charged by the Finger Print Bureau at the following scale of furnishing expert opinion in all cases in which an opinion is applied for at the request of a party (including the Central and the other State Government). The amount realised shall be credited to the State Government under the head, "XXIII-A-Police Fees-Fines and forfeitures-Other fees, fines, etc," and the treasury challan sent to the Deputy Superintendent of Police, Finger Print Bureau, Uttar Pradesh.

Consultation fee- Rupees fifteen per Case if the number of impressions to be compared is five or less. For every additional impression Rs.3.

Photographic fee-Rupees three per impression photographed subject to a minimum of Rs. 10 per case.

Rupees 20, Rs. 30 and Rs. 40 per case per call according as the expert concerned is of the rank of a Sub-Inspector, Inspector and a Deputy Superintendent of Police.

Traveling allowance, where admissible, shall also be charged from the party concerned at prescribed rates.

[Home Department (Police-A) no. 451/VIII-36-50, dated the11th May, 1950.]

Appointment of Lawyer as Arbitrators

G.L. No. 29/VIII-16 dated 11th October, 1947

Judicial officers should avoid appointing lawyers as arbitrators in civil cases on payment of fees.

(ii) Foreign

For procedure to be followed in regard to letters of request, commissions, and summons for foreign countries reference is invited to the letters given below:-

C.L. No.147/VIII-b-32, dated 20th September, 1971
G.L. No.44/83-4(6), dated 2nd November, 1939 as supplemented by
G.L. No.1/83-5, dated 11th January, 1940.Enclosures amended and supplemented by
G.O. No.478/VII-225-38, dated 15th March 1940
G.L. No.28/83-6(4), dated 5th September, 1940 modified by
G.L. No.39/83-6(6) dated 5th December.1940.
G.L. No.16/83-7(2), dated 27th May 1941 and
G.L. No.1/83-5, dated 11th January, 1940.
C.L. No.14/VIII-b-31 dated 23rd February, 1950,
G.L. No.18/83-7(5) dated 4th July, 1941 and,
G.L. No.272/191, dated 23rd January, 1924.
C.L. No. 14/VIII-b-31 dated 23rd February, 1950, read with Government of India
Letter No. F-120-13/48 (O.S.III) U.K. dated 24 December 1949.
G.L. No. 81/VIII-b-31 dated 2nd August, 1951, read with Government of India Letter No. F-12(16)/51- U.K. dated 29th May, 1951 and Ministry of External

Affairs Letter No f-120-13/48-(O.S.III) dated 6th August, 1948.
(C.L. No. 6/VIII-b-31 dated 9th February, 1949).
C.L. Nos. 88/VIII-b-31 dated 14th August, 1952,
127 /IX-g-12 dated 11th December, 1952:
1/VIII-b-31 dated 6th January 1953:
85/VIII-b-16 dated 26th August, 1953 and
100/VIII-b-31 dated 5th October, 1953.
C.L. No. 12 dated 16th February, 1954
C.L. No.13/VIII-b-31 dated 23rd February, 1954
C.L. No.26/VIII-b-16 dated 3rd April, 1954
C.L. No.39/VIII-b-31 dated 16th July, 1954
C.L. No.51/VIII-b-31 dated 23rd September, 1954
C.L. No.67/VIII-b-16 dated 25th November, 1954
C.L. No.22/VIII-b-31 dated 14th April, 1955
C.L. No.45/VIII-b-16 dated 28th July, 1955
C.L. No.57/VIII-b-16 dated 29th September, 1955
C.L. No.65/VIII-b-31 dated 11th November, 1955
C.L. No.72/VIII-b-31 dated 20th December, 1955
C.L. No.6/VIII-b-16 dated 7th January, 1956
C.L. No.7/VIII-b-31 dated 9th January, 1956
C.L. No. 27/VIII-b-16 dated 30th March, 1956
C.L. No.66/VIII-b-31 dated 9th August, 1956
C.L. No.67/VIII-b-31 dated 9th August, 1956
G.O. No.104 dated 29th November, 1956
C.L. No.38/VIII-b-31 dated 22nd April, 1957
C.L. No.40/VIII-b-31/75 dated 3rd May, 1957 and
C.L. No.49/VIII-b-31 dated 21st May, 1957
C.L. No. 61 dated 24th June, 1957
C.L. No. 26 dated 4th March, 1958
C.L. No.52 dated 16th May, 1958 and
C.L. No.1/11 dated 4th December, 1958
C.E. No.36/VIII-b-31 dated 14 May 1962 and
C.E. No.147/VIII-b-32 dated 20th September, 1974

C.L. No. 111/VIII-b-32/F/79 dated 26th September, 1979

While sending the letter of request to foreign countries for execution, the presiding officers should comply with the following directions contained in Government of India letter no. T-441/8/79 dated 12th March, 1979 issued by Ministry of External Affairs. The letters of request should be got typed neatly, preferably on a bond paper, stitched in a folder and the folder affixed with the seal of the court. The letters of request are required to be submitted to this Ministry, through the respective State Government, in duplicate.

It should also be specifically mentioned in the forwarding letter, which should also be in duplicate, whether the fees for execution of letters of request have been deposited by the party concerned in advance. The information regarding latest rates of commission fees, charged by courts of various countries abroad for execution of letters of request, is being collected from abroad and the same will be communicated shortly.

Fee for execution of letters of request

C.E. No. 85/VIII-b 31 dated 7th December, 1966

Statement showing approximate cost for the execution of letters of request, Commission, etc. in foreign countries:-

Mission	**Deposit required** **Rs.**
Ethiopia	320
New York	1,100
Dacca	470
London	550
Canada	1,180
Cap Town	160
Singapore	160
Washington	1,100
Suva	390
Buenos Aires	320
Port Louis	240
Aden	90
Indo-China	630
Canberra (Tasmania)	160
Canberra (South Australia)	790
Canberra (Victoria)	160
Canberra (Queens land)	320

In regard to countries which are not included in the statement a sum of Rs. 320 is considered as adequate deposit subject to the amount being adjusted when the actual charges are know.

[Vide Government of India, Ministry of External Affairs letter no. T.441(16)/66, dated July 20, 1966]

C.E. No. 42/VIII-b-32 dated 26th May, 1965

The authority for the purpose of ordering refund of deposits for service of legal documents in other countries is the court at whose instance the deposit was made and refund should be made in form T.R 61 as provided in the Central Treasury Rules, Volume I (627 and 628) after the actual cost etc. for deduction for the Commission/Letter of Request etc. is known.

Service of Writs or commission

G.L. No. 60/83-6(5) dated 13 November, 1935

Reference is invited to the General Letters noted in the bloc.

Issue of warrants, summonses, etc. to foreign countries like Afghanistan, etc.

G.L. No. 95/191-1(3) dated 21st November, 1936 read with

G.O. No. 1951/VII-1892-1936 dated 26th October, 1936 and

C.L. No. 70/VII-b-32-8-59 dated 3rd August, 1959

Reference is invited to the General Letters noted in the Bloc.

C.E. No. 22/VIII-b-16 dated 25 February, 1970

Indian courts can send their summons for service on defendant residing in Pakistan, to Pakistani court having jurisdiction in the place where the defendants reside. The summons should be in English.

C.L. No. 80/VII-b-16-2 dated 18th August, 1961

In regard to the colony of Singapore and the Federation of Malaya, all judicial documents and processes should be addressed direct from a High Court in India to a High Court in Singapore and the Federation of Malaya.

(iii) Legalization of documents

By officers appointed in this behalf

C.L. No. 30/X-f-23 dated 7th May, 1955

Reference is invited to the Circular Endorsement noted in the bloc.

For use in Iran

G.L. No. 38/83 dated 17th October, 1930

Reference is invited to the General letter noted in the bloc.

For use in Iraq

G.L. No. 33/34 dated 7th August, 1930

Reference is invited to the General Letter noted in the bloc.

For use in the Union of Africa

G.L. No. 35/83 –5 dated 12th September, 1931, read with

G.O. No. F-310/30-Judicial dated 25th March, 1930

Reference is invited to the General Letter noted in the bloc.

Note: All presiding officers should have copies of these letters prepared from their files of G.Ls. and C.Ls. and keep the same under a separate cover for facility of reference. Copies of General and Circular Order issued by the Court in future on the above subjects should also be placed in the same cover for guidance.

C. L. No.58/2007Admin (D): Dated: 13.12.2007

Rule 66(1) of the General Rules (Civil) provides that every District Judge shall maintain a list of legal practitioners for each revenue District and outlying Munsifi, authorized to execute commission and such list shall be prepared by him in consultation with Judicial Officers of each revenue district and outlying Munsifi as the case may be. Such List may be Sub divided in 5 parts including that of Survey matter. An earlier issued C.L.no.52 dated 5th May 1972 provides that names of only such persons should be entered in the list of Survey Commissioners Under Rule 66(1) G.R.(Civil) who possess a good knowledge of Survey work and can make measurements

properly. A need is felt by the Hon'ble Court that in more complicated cases involving Survey work. The same should be performed by Qualified Engineers who can be engaged by the party concerned if an adequate fee is provided for the same.

Therefore, in continuation of the above noted Circular letter, I am directed to request you to kindly impress upon all judicial officers that in complicated cases, they may appoint in their discretion qualified engineers for conducting survey work, with cost (here the fees of the Surveyor) to be borne by the party seeking relief of appointment of such surveyor .

I am to add further that kindly bring the contents of this Circular Letter to all the Judicial Officers working under your administrative control to make strict compliance of the directions given.

6. SMALL CAUSE CASES

Procedure on sudden abolition of Small Cause court

G.L. No. 36 dated 30th September, 1931, read with

G.L. No. 9/IV-g-24 dated 9th March, 1949

Small Cause Court cases pending in a court, which has been abolished or has ceased to exist on the transfer of the Presiding Officer, become triable as regular suits and not as Small Cause Court cases by the court of inferior jurisdiction in which they would be filed if freshly instituted and the decrees would be appealable. The District Judges has no power to transfer such pending Small Cause Court cases under section 24 of the Code of Civil Procedure after the court has ceased to exist or the officer has left the district so that the decrees may be non-appealable. *(Bhagwati Pande vs. Badri Pandey and another,* (1932) ILR. LIV., Allahabad, page 171 (F.B.) Civil revision no. 162 of 1930).

District Judges are advised to pass orders of transfer in regard to such cases shortly before the court ceases to exist or the officer is transferred. Some cases may be transferred to Civil Judges and some to Munsifs as the District Judge may think fit. In that case the cases would continue to remain Small Cause Court cases and can be tried summarily and the decree would not be appealable.

If a successor to a Civil Judge invested with Small Cause Court power finds a number of Small Cause Court cases pending on his file, which had not been of his predecessor, it is irregular for him to try them on the regular side under section 35 of the Small Cause Court Act when the suits are within the pecuniary jurisdiction of a Munsif. Such cases should go to the Munsif's courts to be tried as regular suits.

When a Court of Small Causes created under section 5 of the Provincial Small Cause Courts Act, ceases to exist or an officer invested with such powers is transferred, cases pending on his file on the Small cause Court side can, by virtue of the provisions contained in section 35 of the Provincial Small Cause Courts Act and section 24 of the Code of Civil Procedure, be decided as Small Cause Court cases only under the following conditions:-

(i) if the successor of the officer possesses similar small cause court power of that valuation and actually takes over charge from the outgoing officer; or

(ii) if there is in the district any other officer, Civil Judge or Munsif, invested with powers to try Small Cause Court suits of that valuation in that area; or

(iii) If before the Small Cause Court ceases to exist or the officer invested with such powers makes over charge the District Judge, in exercise of the powers conferred by section 24 of the Code of Civil Procedure, transfers such suits to any other court or officer, even though not invested with Small Cause Court powers.

In other cases, the pending Small Cause Court suits will have to be tried as regular suits by the court which would be competent to entertain them if those suits were instituted afresh.

When the successor of the officer is not invested with Small Cause Court powers or being invested with such powers does not actually take over charge from the outgoing officer, the pending Small Cause Court suits in that officer's court ought to be dealt with as follows:

1. In case the outgoing officer is a Munsif-

(a) if there is a Civil Judge or an Additional Civil Judge exercising Small Cause Court powers in that area, and there is no additional Munsif invested with such powers and having territorial jurisdiction over that area, the Civil Judge or Additional Civil Judge, as the case may be, will have the jurisdiction to try the pending suits as Small Cause Court suits without any order by the District Judge and they should be sent to the court concerned automatically;

(b) if there is a Civil Judge or Additional Civil Judge and also an Additional Munsif, both exercising or competent to exercise Small Cause Court powers in that area, the two officers can try the pending Small Cause Court suits as such without any order by the District Judge depending upon their pecuniary and territorial jurisdiction as judges invested with Small Cause Court powers; and the cases should be sent to the proper court automatically;

(c) if there is an Additional Munsif invested with Small Cause Court powers but there is no Civil Judge or Additional Civil Judge for that area invested with such powers, the pending suits of valuation within the pecuniary Small Cause Court jurisdiction of the Additional Munsif would stand transferred to his file to be heard as Small Cause Court suits while those above that valuation will be tried as regular suits unless transferred by the District Judge under section 24 of the Code of Civil Procedure; or

(d) If there is no officer invested with Small Cause Court powers, all the pending cases will be tried as regular suits unless transferred under section 24 of the Code of Civil Procedure before the outgoing officer actually makes over charge.

2. In case the outgoing officer is a Civil Judge-

(a) If there is another Civil Judge, whether designated as second or Additional Civil Judge, invested with Small Cause Court powers exercisable in that area, all the pending Small Cause Court suits and proceedings can be tried by him as Small Cause Court Judge;

(b) If there is no Civil Judge invested with Small Cause Court powers, but there is a Munsif or an Additional Munsif invested with or exercising Small Cause Court powers in that area or part thereof, pending Small Cause Court suits within the pecuniary and territorial jurisdiction of the Munsif under the Small Cause Court Act can be taken cognizance of by him under section 35 of the provincial Small Cause Court Act, without any fresh order of transfer by the District Judge while

the other suits beyond his pecuniary and territorial jurisdiction can be tried as Small Cause Court suits only if they are transferred under section 24 of the Code of Civil Procedure prior to making over by the Civil Judge; or

(c) If there is no officer invested with Small Cause Court powers, instruction no. 1 (1) (d) will apply.

3. When the successor of the officer is invested with similar Small Cause Court powers and actually takes over charge from the outgoing officer, no orders of transfer by the District Judge are necessary as the Court invested with Small Cause Court powers continues to exist.

4. When successor of the Munsif is invested with Small Cause Court powers in respect of suits of a lower, valuation the pending Small Cause Court suits of higher valuation can be tried by a Civil Judge or Additional Civil Judge invested with and exercising such powers as Small Cause Court suits; but if there is no such Civil Judge, suits of a higher valuation can be tried as Small Cause Court suits only where orders of transfer are passed by the District Judge before the outgoing officer hands over charge.

It shall be the duty of each Munsarim to bring this letter to the notice of the District Judge and also the officer who is being transferred, if any, on every occasion when a Small Cause Court is to cease to exist or when an officer receives an order of transfer.

7. GENERAL DIRECTION FOR DISPOSAL OF CASES

C.L. No. 69/X-a-14 dated 13th July, 1953

Presiding officers should bear the following observations and instruction in mind in their day-to-day work:

> "The main essential of the proper working of a court is that the Presiding Officer should be vigilant and should take an intelligent interest in the work all rounds. He should know his duties and should possess necessary zeal to perform them. No amount of improvement or change in the law or rules of procedure can bring about expeditious and smooth disposal of work if the Presiding Officer cannot maintain proper control over his diary, staff and proceedings in court. He should understand a case thoroughly before he proceeds to try it so that he may be in a position to appreciate evidence as it proceeds. Avoidable adjournments, recording of evidence piecemeal, long dates for arguments or for delivery of judgment and signing of order sheets as a matter of course, should be avoided as far as possible. There should be strictness in granting adjournments and time for making up deficiency in court fees, deposit of process-fees and taking of other steps. Greater use should also be made by courts of the provisions of order X of the Code of Civil Procedure".

Orders should be passed on miscellaneous applications in open court either on the day on which they are filed or on the following day before taking up regular casework. The court also expects Presiding Officers to pay greater attention to execution cases and to devote adequate time for the same.

C.L. No. 61/VIII h-13 dated 29th May, 1972

In the interests of proper administration of justice it should be ensure that no harassment is caused to the litigants on account of any mistake or error on the part of the court staff or the

process- servers. Notices should be issued in all cases and an attempt should be made to affect service promptly. The cases should be undated only after the issues have been framed. In cases where dates are fixed for appearance or for filing written statement, personal interest should be taken. Proper use of rules 1 and 2 of order X, C.P.C. should be made and pleadings must be cleared up at the first hearing. There should be no frequent adjournments. In cases which are to be adjourned, orders should be passed in the early part of the day. There should be effective control over process serving staff. Dates should be given by the Presiding Officers themselves and be not left to the readers. Provisions of rule 82 read with rule 401 of General Rules (Civil) should be strictly followed and no case the readers should be allowed to handle files for fixing dates.

C.L. No. 4 dated 3rd February, 1976

The court is trying to improve the service and living conditions of judicial officers in many and far-reaching ways. At the same time it has become imperative that the judicial officers should also galvanise themselves, adopt a more positive attitude to their work and be efficient to acquire real grip and command over their work.

The nation honours judicial officers through the convention of calling them learned-learned Munsif, learned Magistrate, learned Judge. The High Court now requires each officer to justify the appellation and in fact be learned and capable. To this end, the following suggestions are made for compliance:-

(1) Every officer must be punctual. He should be in his chair in the court room at the stroke of 10.30 a.m. and 2 p.m. That will go a long way in sustaining the good image of the judiciary among the litigants. It will induce lawyers also to be punctual. Every officer is hereby directed to send his daily sitting register to the District Judge so that as to reach him latest by 10.35 a.m. each day for his information and initials, else he will be treated and marked absent for the day. The District Judge is the head of the District judiciary. He is the boss. There should be no sense of embarrassment in sending the register daily to him instead of once a month.

(2) The officers should read Order XI Civil Procedure Code and realise the difference between a party trying to know the nature of his opponent's case and a party trying to know the facts which constitute the evidence of his opponent's case. The parties should be encouraged to utilise the provisions of Order XI. These provisions immensely cut short the oral evidence, thus saving the time taken in disposal of a case. The disposal of the officers will improve.

(3) There is a growing tendency to remand civil appeals at the slightest pretext. The High Court takes a serious view of unnecessary remand of suits. The officers should study the provisions in Order 41, Civil Procedure Code for taking additional evidence and remitting an issue. They should be aware that remand is not a substitute for these two. A remand increases the life of litigation by several years, which is a serious matter. The Circular Letters No. 63, dated August 31, 1965, may again be circulated amongst the officers.

(4) Issuance of injunctions indiscriminately has "virtually brought the judiciary into disrepute. The High Court issued General Letter No. 3323/267, dated 25th July, 1925.

It made strong observation in A.I.R. 1926 Allahabad 406(408). You may get a copy of the aforesaid General Letter and the observations beginning with the paragraph-

"I regret to say that I am compelled to draw the attention of the learned Judge…" at page 408 typed out and a copy given to each officer in your judgeship for guidance.

An injunction should not be granted ex parte so as to last for a period of more than 15 days, in the first instance. It should be liable to be extended by a fresh order. This way the plaintiff will remain under the control of the court, rather than employ delaying tactics.

(5) Every officer must maintain a digest of decided cases. A loose-leaf register should be taken. The digest should be subject-wise and contain short notes of all cases on civil, criminal and constitutional law, decided by the Supreme Court and the Allahabad High Court. It should also include full Bench decisions of other High Courts. The law point decided in a case can be noted from the head note. The judgment should however, be read in extensor not for the law it contains but for the sound of law it makes. Each jurisdiction, like civil, criminal, Constitutional or industrial, has its own vocabulary. The officer should familiarise himself with the language of the law. Phrases peculiar to such jurisdictions of which appeal, should be noted in the digest so that they can be used to embellish the judgment of the officer. This way the officer will not only acquire ability but by displaying it even in court, will get greater respect from the Bar. He will be able to write better judgments, by which his ability is evaluated by the High Court.

C.L. No. 13 dated 22nd January, 1977

To expedite information about the decision of cases in the Court it has now been decided that an intimation about the disposal of a case be sent as soon after disposal of a case as possible. If the record along with the copy of judgment is not received by the District Judge within a month of the receipt of information about the disposal of the case, he may write to the Registrar demi- officially in the matter.

Shunning frequent adjournments

C. L. No-35/2007: Admin 'G' Dated: 29 August, 2007.

With exalted aim of bringing perceptible improvement in administration of Civil Justice System the Hon'ble court has viewed with serious concern the practice of granting frequent adjournments on insignificant grounds by subordinate courts and has desired suitable instructions to be issued urging them to avoid frequent adjournments.

1- C.L. No. 22/VIII-b-13 dated 28th March, 1949 and C.L. No. 61/VIII-h-13 dated 29th May, 1972

2- Letter No. 2586/ 2004 dated Feb. 19th, 2004

Therefore, In continuation of the marginally quoted Circular Letters and General letter, I am directed to say that in a bid to ameliorate the Civil Justice System adjournments be avoided to be given on baseless flimsy grounds by the court.

I am therefore to request you to kindly bring the contents of the Circular Letter to the notice of all the Judicial Officers working under your supervisory control with an instruction to make strict compliance to the same in letter and spirit.

8. EXPEDITIOUS DISPOSAL OF CASES

C.L. No. 65 dated 31st October, 1962

In order to avoid accumulation of old cases, the tendency of leaving such cases as are of complicated nature involving lengthy arguments, recalcitrant witnesses, voluminous documents and intricate law points and taking up only such cases as are short and convenient for heavy disposal should be deprecated. The Court would like to impress upon the officers that while passing remarks on their outturn these facts are also taken into account and consideration is given to disposal of old and complicated cases.

The Court has, after due consideration of all aspects of the question, decided that the following procedure should be followed by all concerned:

(1) Presiding Officers should make concentrated efforts to reduce the arrears in all categories of cases as soon as possible.

(2) Officers should be instructed by the District Judge to do their proper share of work and follow the instructions given by him.

(3) Cases should be taken to be 'old' according to the following time schedule:-

  (a) Regular suits in Munsifs and Civil Judges Courts- More than a year old.
  (b) Small Cause Suits-More than three months old.
  (c) Regular Civil and Revenue Appeals-More than six months old.
  (d) Miscellaneous Civil Appeals- More than three months old.

(4) At the beginning of each quarter all officers should draw up a plan for disposal of old suits and cases chronologically and send a copy thereof to the District Judge to enable him to suggest modifications, if any, and to see, when inspecting the diaries and when scrutinizing the returns whether the programme was adhered to and, if not, whether reasons for departure were sufficient

(5) Out of the pending cases the District Judge, at the beginning of each quarter, should be in a position to decide tentatively as to how many and which classes of cases are to be transferred to different courts. The transfer should, as far as possible, be made then to subordinate courts to formulate their plan. The current institution should continue to be transferred in the normal course to the junior officers. Where there is more than two officers of the same class at least one of them usually, the junior most should be entrusted with the disposal of current cases so that new institution may not in their turn become old.

(6) The District Judge should call for and examine the diaries of subordinate courts from time to time. At the headquarters this should be possible at short intervals. He should furnish necessary guidance in the matter of arrangement and point out shortcomings where they exist.

(7) Adjournment in old and explanatory cases should not be granted as a matter of routine and should be an exception rather than the rule. In an old case ready for hearing, if an adjournment becomes unavoidable, it should not be unduly long and should be granted in consultation with the lawyers with a specific understanding that no further adjournment will be granted on the next date fixed and in case of illness of

lawyer already engaged, arrangement for another lawyer appearing in his place will be made.

(8) Interlocutory matters should be disposed of expeditiously and proper attention should be given to final decree proceedings.

(9) A list of old cases which are not ready for hearing on account of proceedings for service of substitution etc., being in progress should be prepared and brought up to date and placed every fortnight before the Presiding Officer who must scrutinize it and pass necessary orders to expedite the proceedings. Such lists should be examined by the District Judge also at the time of inspection of the court.

(10) In disposing of cases the subordinate courts should give top priority to the cases categorised above. New cases should not be taken up unless the old cases are disposed of or there are reasons to be recorded in writing on the order sheet for doing so. Along with the monthly returns, a certificate should be submitted to District Judge that no preference was given by subordinate courts to the new cases over the old cases.

In achieving the above target resort should not, however, be taken to methods involving rash or sketchy orders being passed in undue haste and quality not be sacrificed at the altar of quantity.

C.L. No. 104/IVh-36 dated 16th June, 1976

To ensure expeditious disposal of civil cases, following instructions are issued for guidance of and compliance by, the presiding officers.

(1) Parties shall have the responsibility of bringing any witness required to give evidence or to produce documents.

(2) (a) Hearing of a suit should be continued from day to day until all the witnesses in attendance have been examined. It should not be adjourned unless necessary for exceptional reasons to be recorded.

(b) The court may record statements of witnesses who are present, even if the party or his pleader is not present.

(3) Costs imposed in connection with adjournment should be deposited in the court. It should, however, be paid after the disposal of the cases.

(4) The judgment recorded by the Presiding Officers in civil cases should be precise and not prolix. It should deal with essentials and be argumentative.

C.L. No. 8/IV-f-80 Admn. (A) dated 18th February, 1981

(1) The District Judge should keep a close watch on the Diaries of the Munsifs directing them not to grant adjournments for more than a week after the case is ripe for hearing.

The cases adjourned for one week should be carried over and fixed in the next week, except, of course, in genuine cases in which a longer adjournment is needed. While granting longer adjournments, the officer should record in brief the reasons thereof.

(2) Too many cases should not be fixed in a day's cause list to avoid harassment to the litigants coming from distant places. The Presiding Officers should adopt such means as may lead to minimize the duration of disposal of cases.

(3) Special attention should be paid to the disposal of older cases.

C.L. No. 185/VII f-50 dated 20th November, 1976

District Judges should impress upon all judicial officers, the necessity of deciding cases in general and rent control matters in particular, involving the serving armed forces personnel on priority basis. And, adjournments must not be granted indiscretely.

C.L. No. 157/VII -d-180 dated 21st December, 1971

Cases requiring early hearing may be disposed of expeditiously. Pauper applications should ordinarily be decided within one year and miscellaneous matter like tenants's applications for repairs etc; under U.P. Rent Control Act even in lesser time.

C.L. No. 96/IV h-36 dated 27th May, 1977

> "Proceedings arising out of matters such as succession, guardianship, matrimony, rent control, ceiling, payment of wages, Forest Act & Motor Vehicles Act, should not be treated miscellaneous proceedings, but at par with regular suits or appeals, as the case may be, and given priority."

C.L. No. 9/VII f-125 dated 16th January, 1986

The District Judges are required to see personally that the cases filed under the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972, are dealt with and disposed of as expeditiously as possible.

C.L. No. 83/VII f-99/ Admn. 'G' dated 23rd July, 1979

Particular days or dates in a week or a fortnight depending upon the work load of such cases should be earmarked by the Presiding Officers for disposing of Matrimonial, Eviction, Accidents and Successions cases. It is left to the discretion of the Presiding Officers to fix other nature of such cases fixed on a particular day or date may not be sufficient to keep them busy for the whole day.

C.L. No. 84/Admn. (A) dated 23rd July, 1979

All cases under the Employees Provident fund Act, 1952 should as far as possible be entrusted to one court in each district for disposal.

C.L. No. 69/IV h-36 dated 1st April, 1977

The Presiding Officers are required to pass orders on interlocutory applications on the order sheet except in cases of appealable orders. Finding on issues or judgments should be written separately.

C.L. No. 42/VIId-60 dated 5th July, 1984

Henceforth, the English Proceedings (Judges Notes) shall be maintained by the Presiding Officers in their own handwriting as required by rule 85 of the General Rules (Civil), 1957, Volume 1, and rule 19 of order XVIII C.P.C. as amended by Allahabad High Court.

C.L. No. 68/VII C-227 dated 15th October, 1982

The District Judge should attempt to transfer all cases covered by order 32-A, Rule 5, C.P.C. to one Additional District & Session Judge with the instructions to the Presiding Officer concerned to deal with such cases with expedition and priority.

Half-yearly reports of the effect and consequence of implementation of this scheme should be submitted to the Court

C.L. No. 48/VIID-94 Admn. 'G' dated 9th August, 1984

All the Presiding Officers should strictly follow the provisions of Order XXXVII C.P.C while dealing with the trial of specified classes of suits, to which they said provisions apply. Care must also be taken to see that the object of the rule is not defeated by imposition of harsh conditions.

Taking up immediate steps for early disposal of more than 7 years old cases pending in the subordinate courts.

C.L. No. 47/ 2000: Dated: October 20, 2000

In continuation of court's previous circular Letter No30 dated December 23, 1999 regarding expeditious disposal of old cases, I am further directed to say that Hon'ble the chief Justice of India has expressed concern over the pendency position of cases in Subordinate courts. And statistics in regard to the disposal and pendency of old cases reflect that the pendency of

more than 7 years old cases in the State is quite high and calls for remedial measures on war footing so that wait of consumers of justice is curtailed to the extent possible.

The Hon'ble Chief Justice of India also desired that immediate steps be taken for early disposal of more than 7 years old cases pending in the Subordinate courts. Such cases be fixed on a day to day basis so that it is conveyed to the parties that old matters cannot be allowed to remain pending indefinitely.

I am, therefore, to request you to kindly take remedial measures on war footing for early disposal of more than 7 years old cases and action taken by you in the matter may kindly be informed to the court.

Priority to the cases in which person with 40% or more disability is or the main Petitioner(s) defendant(s)

C. L. No. 7/2005 Dated; 10.2.2005

The Hon`ble Minister Law and justice, Government of India, new Delhi while observing that the Fast Track court thought conceived to specifically dispose of sessions cases pending for over two years have also been requested to accord priority for disposal of cases relating to senior citizens and abuse of women, has suggested that priority be also given to the cases in which person with 40 or more disability as per the Disability Act is or are the main petitioner(s) or the main defendant (s). Upon consideration of the matter the Hon`ble Court has been pleased to direct that cases regardless of the period of the pendency in detailed the which person with 40% or more disability as per the Disability Act is or are the main petitioner(s) or the main defendant(s)be heard and decided on regular and priority basis . Therefore, I am to request you to be so good as to bring the contents of this circular to the notice of all Judicial Officers in your Judgeship for strict compliance.

Implementation of resolution of the Chief Justices Conference 1996

C.L. No. 72/ /Admin (G): Dated: Dec, 1996

I am directed to intimate you that in the Chief Justices Conference 1996 held at New Delhi, item No,6 was in respect of procedural changes which can be brought about to expedite trial and disposal of cases.

It was resolved that –

'Each High Court shall amend the Rules framed under section 122 of C.P.C. for ensuring expeditious trail and disposal of cases.

It is proposed that proposals for amending the rules framed by the High court under section 122 C.P.C be obtained from District Judges by 20.12. 96 So that necessary amendments in the C.P.C. be made for ensuring expeditious trial and disposal of the cases.

You are therefore, directed to send the proposals for the abovementioned purpose latest by 20. 12. 96.

9. DISPOSAL OF DEPOSITS

(i) Under section 83 of the Transfer of Property Act, 1882

G.L. No. 2 dated 24th June, 1908

With regard to the disposal of deposits made under section 83 of the Transfer of Property Act, 1882, the following rules have been laid down for the guidance of subordinate courts:

(1) When a deposit has been made by the mortgagor, a date should be fixed, as a matter of convenience for the withdrawal by the mortgagee, of the deposit so made

(2) If the mortgagee fails to appear on the date fixed, or refuses to accept the sum deposited, the mortgagor's application should, by order, be consigned and the money so deposited be held at the disposal of the mortgagor. If the mortgagee, however, applies and the mortgagor consents the money deposited may be applies to the mortgagee.

(ii) Under section 2 of the Administration of Evacuee Property Act, 1950

G.L. No. 17/VIIIc-6 dated 6th July, 1950 read with Government of India letter No. XXXI (pol-49)/50 G.C. dated 26th June, 1950

Under the provisions of the Administration of Evacuee Property Act, 1950 , court deposits lying in the civil courts to the credit of evacuees fall within the definition of the term "evacuee property" [Section 2(f)x (i)], and cannot, therefore be paid to the evacuee. They vest in the Custodian and have to be paid to him.

G.L. No. 24/VIII-e-6 dated 11th October, 1950

Deputy Custodians are permitted to inspect periodically the registers of civil courts, prepare a list of deposits belonging to evacuees and forward a copy of the list to the civil court concerned with a view to ensure that no unauthorized payment of deposits belonging to evacuees are made.

Necessary facilities should be given to Deputy Custodians by courts for this purpose.

Section 10 (f) and 45 of the Administration of Evacuee Property Act, 1950, empower the Custodian to requisition any document from the custody of a public servant, and confer upon him the same powers as are vested in a civil court under the Code of Civil Procedure. The Custodian should be deemed to be a civil court for the purposes of rule 203, Chapter VIII of General Rules (Civil), 1957 and requisitions for records made by him should be complied with without any reference to this Court.

(iii) Disposal of gold in the custody of courts

C.E. No. 25/VII -f-193 dated 29th April, 1966

For disposal of gold in possession of civil and criminal courts the following instruction as contained in Government of India, Ministry of Finance, Circular letter no 16/65, dated March 26, 1965, should be followed:

(a) A Court of law is not a person within the meaning of rule 126-I of the Defence of India Rules, 1962 and hence it is not required to make a declaration under this rule when it comes into possession of any non-ornament gold, but in order to facilitate proper enforcement of the Gold Control Rules, it is desirable that it should send an intimation of such gold to the proper officer of the Central excise having the jurisdiction over the area in which the court is located.

(b) As regards the disposal of ornaments coming into their possession, the courts cannot be treated as 'dealers' under the Rules, as they will not be selling the ornaments in the sense of carrying on any business. The courts would, therefore, stand on par with private individuals. In such cases there is no restriction regarding the purity of the gold ornaments sold. In other words, the courts will be free to sell ornaments of over 14 caret purity as well, to any purchase irrespective of whether he is a private individual or a dealer. No specific exemption under the Gold Control Rules for this purpose will, therefore, be necessary.

(c) Sale of non-ornamental gold under rule 126-H-Sale of Non-ornamental gold will automatically be restricted to licensed dealers only, because under rule 126-I (3) it is an offence for any person other than a licensed dealer, to acquire non-ornament gold, except by succession, intestate or testamentary or in accordance with a permit granted by the Administration in this behalf.

There is no objection to the return of gold ornaments (irrespective of purity) in the custody of the courts without any intimation to the Central Excise Officer unless an advice has been received by the courts from the Central Excise officer that those ornaments were required in connection with any departmental proceedings.

The position about non-ornament gold is different. Private individual are not entitled to acquire or receive non-ornament gold except by succession, intestate or testamentary or in accordance with a permit issued by the Gold Control Administrator. Only a licensed dealer in gold can receive non- ornament gold without any prior permit and he will include the quantity so received in his monthly return.

Whenever non-ornament gold is returned, the owner, if not a licensed dealer, should be required to obtain necessary authorisation or permit from the Deputy Secretary, Regional Office of Gold Control Administrator, Laxmi Building, 22-Sir P.M.Road, Bombay-1. The court concerned should send intimation to the Central Excise Officer of the area whenever non-ornament gold is returned.

As per G.O. No. 407/VII-541-1965, dated 24.2.1965 confiscated gold will be transferred to the control of the Government of India, Ministry of Finance (Department of Economic Affairs), New Delhi who will take it over at Rs. 62.50 per Tola which is based on international price of Rs. 35 per fine oz. By IMF. The money so received from Government of India will be credited to head "52-Misc."

For disposal of silver, the Reserve Bank of India, Bombay, should first be consulted before disposing it of in open market to avoid any undesirable effects on the markets.

10. PREPARATION OF FORMAL ORDERS

C.L. No. 1 dated 7th February, 1894

It is the duty of Presiding Officers of subordinate courts to draw up, sign and date formal orders, such as are referred to in the definition of "order" in section 2 (14) of the Code of Civil Procedure, 1908 and rule 43 of the U.P. Insolvency Rules contained in Appendix 17 (J).

C.L. No. 1 dated 22nd February, 1905

In all case in which a certificate or probate is issued, whether contested or non-contested, a formal order grating or refusing the certificate or probate should be prepared under rule 43 aforementioned.

G.L. No. 6366 dated 10th December, 1927

The Presiding Officers of all subordinate courts should personally see that formal orders are prepared wherever the law so enjoins.

11. DECREES

(i) Preparation

G.L. No. 394/67-2 dated 16th February, 1918

The attention of District Judges is invited to the judgment of the High Court in the case of Dambar Singh v. Kalyan Singh (Allahabad Journal, Volume XV, pages 914-919 and I.L.R. Allahabad, Volume XL at page 109) as regards the form of the decree for costs realizable form mortgaged property. The decree should be in the form prescribed by Order XXXIV of the Code of Civil Procedure, and direct what property is to be sold and the amount that is to be recovered from the property, including costs.

C.L. No. 31/VII d-166 dated 16th May, 1983 and
C.L. No. 51/VII d-166 dated 19th August, 1983

It superseded Circular Letter No. 61/IV h-36, dated 22.3.77 containing instructions to give up the practice of mentioning the grounds of appeal and cause of action in the Appellate Court's decrees, and invites attention of all Presiding Officers to Form No. 9 of Appendix 'G' of the Code of Civil Procedure which requires that the memorandum of appeal and memorandum of expenses for taxing the costs in the decree should also be incorporated in the body of the decree of the lower appellate court.

All the presiding officers of lower appellate courts should carefully scrutinize these aspects where decrees in appeals are put up for their signatures by the office. District Judges during inspection of the court under their administrative control, and to see that memorandum of appeal and memorandum of expenses for taxing the costs in the decrees are invariably incorporated in the lower appellate courts,' decrees and the rules regarding the preparation of the decrees are strictly complied with.

C.L. No. 77/VII d-166 dated 7th November, 1984 and
C.L. No. 15/VII d-166 dated 29th April, 1985

The District Judges should see that the instructions contained in the aforesaid circular letter are strictly complied with by the courts below, while preparing the lower appellate court decrees. The Court will take a serious view of matter, if any deviation from the said instructions comes to the notice of the Court in future.

C.L. No. 19/VII d-166 dated 6th March, 1986

The Presiding Officers should carefully scrutinize the decrees when the same are put-up for their signature by the office.

The clerk, who is found to have been guilty of preparing wrong decrees, should be severely dealt with, and the Court will take serious view of the matter, if any deviation from the said instructions already issued by the court comes to its notice.

G.L. No. 111/35(a)-2 dated 11th January, 1921

A decree or a formal order must contain, in addition to the addresses given in the plaint, such addresses as the parties have filed in compliance with the provisions of Order VII, rules 19 to 25, and Order VIII, rules 11 and 12 of the Code of Civil Procedure.

The High Court looks to the District Judges to see that the rules regarding registered addresses are strictly complied with. They should pay particular attention to this point when inspecting a subordinate court.

C.L. No. 3602/44-12(3) dated 1st July, 1921

The following instructions should be carefully observed in the preparation of a final decree:

(1) When a preliminary decree in a suit for sale is passed under Order XXXIV, rule 4, and the defendant pays into court within time the amount declared due under the said decree together with subsequent costs payable under rule 10, a final decree should be prepared forthwith as required by rule 5 without waiting for any application to be made.

(2) When a preliminary decree in a suit for redemption is passed Order XXXIV, rule 7 and the plaintiff pays into court within time the amount declared due together with subsequent cost payable under rule 10, a final decree should be prepared forthwith under rule 8(1) for redemption in terms of the preliminary decree without waiting of any application to be made.

(3) It is only when the payment of decree money is not made on or before due date that an application is required to be made for preparation of final decree-

(a) by the plaintiff in a suit for sale;
(b) by the defendant-mortgagee in a suit for redemption.

G.L. No. 1437 dated 24th April, 1923 read with

G.L. No. 820/35(a) dated 14th March, 1924

In all appeals filed in the High Court the addresses of the parties are taken from copies of decrees supplied to them by subordinate courts. In order to avoid errors and possible misreading of names and addresses the Munsarim and the Head Copyist are made responsible for seeing that all "the names and description of the parties" in copies of decrees and formal orders are clearly and legibly written. The "description" should always include addresses and registered addresses.

G.L. No. 2365/35(a) 1(2) dated 4th April, 1926

Under rule 38, Order XLI of the Code of Civil Procedure the address for service in the trial court holds good for the court of appeal also. It is only where no address for service is filed in the trial court that parties have to file the address in appeal. The address given in the decree should be the address for service filed by the parties themselves in the trial court or in the appellate court, as the case may be.

G.L. No. 3/VII-d-64 dated 9th February, 1951

In the form prescribed for the preparation of decrees in subordinate courts there are three places where dates may be entered. One of these places is at the top where the date on which the case came up before the court for final disposal is to be entered. Then there is a place at the bottom where the date on which the decree was sealed and signed is to be entered. Lastly, a date is entered below the signature of the judge at the bottom indicating the date on which the decree was signed. This is in accordance with sub-rule (5) of rule 21 of Order XX of the Code of Civil Procedure.

According to sub-rule (4) of the above rule the decree is to be dated as of the day on which the judgment was pronounced. There is, however, no uniform practice as to the place where such date is to be entered in the decree.

In order to secure uniformity the Court issues the following instruction:

(1) No date should be entered at the first of three places indicated above, that is, at the place where it is stated that the case came up before the court for final disposal. There seems to be no necessity for mentioning the date on which the case came up for final disposal before the court in the decree.

(2) The date on which the judgment was pronounced should be entered at the bottom as the date on which the decree was signed and sealed.

(3) The presiding officer while affixing his signature to the decree should give the date on which he actually signs just below his signature in compliance with sub-rule (5) of Order XX of the Code.

C.L. No. 100 dated 19th September, 1978

The decree though drawn up afterwards relates back and operates from the date of judgment. In various decrees, no dates are given and the space meant for mentioning the date of decree is left blank thus creating difficulty in computing the period of limitation, which should start from the date of decree and not from the date of signing of the decree.

The concerned officials should, therefore, be directed to invariably mention the date of decree which should correspond to the date of judgment in all the decrees and formal orders issued by the courts in future.

C.L. No. 25/VII d-64 dated 19th March, 1986

No date need be given in the first line of the proforma after the words 'coming' and before the word 'for'. The word 'up' should be substituted for the words 'on this day'. The sentence shall then read as "This suit coming up for final disposal….". In the same form in the last line, between the words 'this' and 'day' the date on which the judgment was pronounced should be entered as the date on which the decree was signed and sealed. The Presiding Officer should give the date on which he actually signs the decree below his signature. For purposes of foot-notes, figure '(1)' should be given after the words 'this day' in the last line of the form and figure '(2)' after the word 'Judge'. The foot-notes indicate that at (1) the date on which judgment was pronounced, should be entered and at (2) the Judge should give in his own hand the date on which he signed the decree.

In case of non-compliance of these directions, action will be taken against the assistant concerned. And the presiding officers who sign incorrectly prepared decrees will also be held responsible for signing such decrees.

(ii) Preparation of Decree of Formal order

C.L. No. 62/VIIIb-104/Admn. (G) dated 29 May, 1990

I am directed to invite your attention to Rule 96 of the General Rules (Civil), 1957 Volume I, on the above subject and to say that it has been noticed by the Court that in the absence of standard form there is a wide variation in the manner in which the decree or formal order is usually prepared in the subordinate courts leaving behind scope for mentioning sometimes the particulars of the original proceedings, the nature of miscellaneous proceedings, that date of institution, the valuation of the suit which is essential for determining the forum of appeal and in most of the cases the costs incurred by the parties, are not drawn up at all depriving the parties of the above benefits to be taxed in the final decree, causing inconvenience to the Court in disposal of such type of cases.

I am to add that steps are being taken to make necessary amendments in the General Rules (Civil) in Appendix 4 list A against the entry part and number IV-49 by prescribing a printed from for the preparation of formal order which will take sometime and in the meantime it is directed that henceforth, the formal order so drawn in the subordinate courts should invariably contain the particulars of original suit, valuation and expenses in addition to other particulars as required in a formal order.

The contents of the above C.L. may kindly be brought to the notice of all concerned for information and necessary action.

(iii) Preparation of decrees in Land Acquisition References by courts below

C.L. No. 4/VIIIb-164/Admn. (G) dated January 13, 1993

I am directed to say on the subject noted above that it has come to the notice of the Court that the decrees in Land Acquisition references are drawn up in a sketchy manner leaving behind the relevant details with the result that it is not possible for the Court to correctly determine the value of the appeal and other forum in that behalf. It is, therefore, directed that henceforth the decree of the Subordinate Court must indicate the following particulars:-

1- The total area of the land involved in the reference;

2- The rate and total amount of compensation offered by the Collector in respect of the land;

3- The rate and the amount at which enhancement of compensation is sought in the reference (difference of 3 and 2 will help in determining the valuation of the reference).

4- Rate per unit and the total amount awarded by the District Judge (difference of 4 and 3 will determine the enhancement made by the court which will help in determining the costs to be awarded to the parties);

5- Compensation awarded for buildings, wells or trees etc., by the court and by the Collector;

6- Proportionate amount of success and failure of the parties to the reference;

7- The rate and amount of solatium payable to the claimants;

8- The rate and period which interest is payable to the claimants;

9- Grand total

On the basis of these particulars the decree should also indicate the cost incurred by either side in the column meant for the purpose. These particulars in a decree will be essential for the purpose of calculating the extent of the claim accepted by the Court and for fixing the valuation of the appeal in accordance therewith.

I am, therefore, to request you kindly to bring the contents of this letter in the notice of all concerned and also ensure compliance of these directions.

(iv) Mortgage suits

C.L. No. 1/VII d-120 dated 27th November, 1957

Mortgage suits should not be kept pending after the preliminary decree is passed. The suit should be treated as disposed of as soon as a preliminary decree is passed and the record consigned to the record-room. After an application for preparation of a final decree is presented the record should be sent for and proceedings continued. The plaintiff has a right to apply for the preparation of a final decree at any time within the period of three years prescribed by the Limitation Act, and it is only when such an application is made that proceedings for a final decree can be commenced. When such proceedings are resumed, the case should again be shown as pending.

(v) Small cause court decree

G.L. No. 51/46/120, 92 dated 13th December, 1939

Small cause court decrees may (notwithstanding the provisions of Order XX, rule 21, Civil Procedure Code) be shown to counsel who want to see them.

(vi) Amendment

G.L. No. 51/46/120 dated 13th December, 1939

Application for amendment of decree should be carefully scrutinized and in every case it should be noted whether the mistake is intentional or accidental. A clerk who is found to have been guilty of preparing wrong decrees, or of including a set of expenses in the memorandum of costs in certain decrees and, without valid reasons, not including these in others of a similar nature, should be severely dealt with.

(vii) Report under section 82, C.P.C.

C.L. No. 20 dated 4th March, 1959

Reports under section 82 of the Code of Civil Procedure regarding non-satisfaction of decrees should invariable be sent to Government in duplicate.

C.L. No. 15/VII d-140 dated 2nd February, 1961

Non-compliance of the directions in the preceding paragraph is a serious matter and Munsarims of the courts concerned will be held personally responsible for any failure.

C.L. No. 99/VII-b-11 dated 3rd November, 1961

In order to avoid delay and facilitate location of the administrative department concerned the designation of the Head of Department should be mentioned in the plaint at the place where the names of the plaintiff and defendant are given in the beginning as illustrated below: the "State of Uttar Pradesh through the ……." (Designation of the Head of the Department) plaintiff.

(viii) Execution in Jammu and Kashmir

C.L. No. 51/VIIIb-16-4/55 dated 30th August, 1955

The decrees passed by a civil court in India may be executed through a court situate in the State of Jammu and Kashmir as if the decree had been passed by such a court in that State.

(ix) Execution in foreign countries

C.E. No. 73/VIII-b-245 dated 11th August, 1969

Under notification, dated June 17, 1968, Republic of Singapore has been declared a reciprocating territory for the purpose of section 44 A C.P.C. and the High Court of the Republic of Singapore to be a superior Court with reference to that territory.

C.E. No. 81 dated 22nd August, 1969

From 1st September, 1968 'Trinidad' and Tobago are declared to be reciprocating territories for the purpose of section 44- A C.P.C. and the following courts will be superior courts of that territory:

(a) High Courts;
(b) Courts of Appeal;
(c) Industrial Court; and
(d) Income Tax Appeal Board

12. ENFORCEMENT OF MAINTENACE ORDERS

C.L. No. 1 dated 11th January, 1965

The Maintenance Orders (Facilities for Enforcement) Act, 1921 extends to the countries of Basutoland, Bechunaland and Cyprus under the Maintenance Orders (Facilities for Enforcement) Order, 1963 of the Government of Isle as amended by the Maintenance Orders (Facilities for Enforcement) Amendment (No. 2) Order, 1964.

13. COSTS

C.L. No. 64/IVh-36 dated 24th March, 1977

The costs awarded by the courts from time to time during the pendency of the case shall henceforth be taxed in the decree and not deposited in cash in the court.

C.L. No. 105/IVh-36 dated 9th June, 1977

In view of the new provisions of sub-section (2) of section 35 B, C.P.C. the aforesaid instruction stands withdrawn. The new provisions regarding drawing up an order in respect of unpaid costs as made in sub-section (2) of section 35B, C.P.C. shall henceforth be followed by all courts concerned.

C.L. No. 44/VIIIb-177/Admn.(F) dated 9th July, 1981

All the Presiding Officers should ensure that the costs awarded by the courts in cases in favour of the Government are shown in the decree in question invariably and without fail so that the Government may not be put to any loss on this count.

Non-maintainability of Revision under S. 115 of the CPC against the issuance of notice on an application moved under O. XXXIX Rule 1 of the Code of Civil Procedure, as laid down in WPNo. 802 (M/S) of 2007 – Lalit Mohan Srivastava Vs. District Judge, Ambedkar Nagar and Others

C. L. No. 18/2007 Dated: 19.5.2007

The Hon'ble Court in Writ Petition No. 802 (M/S) of 2007- Lalit Mohan Srivastava Vs. District Judge, Ambedkar Nagar and others delving deep into the plethora of rulings, to set at rest the confusion, if any, in respect of no-maintainability of Civil Revision against issuance of notice on an application moved under order XXXIX Rule 1 of the Code of Civil Procedure, has been pleased to observe on 23.2.2007 as under:

> "…..A plain reading of all the three judgments namely; Shiv Shakti (Supra), Surya Dev Rai (supra) and Gayatri Devi show that revision under section 115 of the Code of Civil Procedure shall not be maintainable at the stage of interlocutory proceeding. A close reading of provision contained in Maharashtra as well as in the State of U.P. at the face of record shows that order passed by the trial court while issuing a notice on an application under 39 rules 1 and 2 of the Code of Civil Procedure shall be interlocutory order and it cannot be termed as case decided. Needless to say that provision under Section 115 Code of civil Procedure is a procedural Law and ipso facto the provision itself cannot be termed to be declaration that revision shall be maintainable even if case is not decided…"

Therefore, while enclosing herewith a copy of the judgment and order mentioned above, I am directed to request you to kindly bring to the notice of all the Judicial Officer within your administrative control the contents of the above judgment for strict compliance.

Heavy Cost to be imposed in Cases where unnecessarily enlarged affidavits are filed

C. L. No-37/2007: Admin 'G' Dated: 29 August, 2007.

On the above subject, I am directed to say that in the Chief Justices Conference-2007 upon consideration of matter the practice of the entire pleadings of the parties being reproduced in the affidavits of the witnesses instead of coffining them to the facts required to be proved by the witnesses has been deprecated. The Hon'ble Court has been pleased to direct that the courts should carefully scrutinize the affidavit before serving copy on the opposite parties and wherever it is found that the scope of the affidavits have been unnecessarily enlarged, such affidavits should be rejected with heavy cost.

I am, therefore to request you to kindly bring the contents of the Circular Letter to the notice of all the Judicial Officers working under your supervisory control for strict compliance of the directions of the Hon'ble Court.

14. APPEALS

(i) Admission

C.L. No. 66/Xg-1, dated 13th November, 1955

Munsif's appeals should not be admitted as a matter of course without scrutinizing the judgments under appeal and considering whether they can be disposed of summarily. A greater use of the provision of Order XLI rule 11 of the Code of Civil Procedure in the disposal of Civil Appeals should be made.

(ii) Appellate officers for debt relief cases

C.L. No. 145/IVg-102/Admn.(A) dated 14th September, 1977

It encloses Government Notification No. 18-1(4)/77 – (ii). dated August 5, 1977, which appoints following officers as appellate officers for the whole of the district in which they are for the time being posted, to hear the appeals u/s 8 and 23 of U.P. Debt Relief Act, 1977:-

1. In districts of Almora, Banda, Fatehpur, Hamirpur, Lalitpur, Pauri, Pratapgarh and Tehari, the District Judges;
2. In districts of Agra, Aligarh, Allahabad, Bareilly, Gorakhpur, Kanpur, Lucknow, Moradabad, Meerut and Varanasi, the Judges of the Small Cause Court; and
3. In other districts the Civil Judge (at the headquarters) exercising powers of the court of small causes.

(iii) Remand

C.L. No. 63 dated 31st August, 1965

Officers hearing civil appeals should avoid remanding of cases with a view to show larger disposal and should follow strictly the procedure laid down in rules 24, 25 and 27 of Order XLI of the Code of Civil Procedure.

C.L. No. 13/VIId-103 dated 22nd January, 1971

Serious view will be taken if the aforesaid instructions are not complied with strictly.

C.L. No. 31/VIId-103 dated 25th February, 1974

Appellate courts should avoid remanding of cases to the trial courts and try to dispose of the appeals finally on merits. In this connection, attention is drawn to the following observations of the Supreme Court in two cases:-

1. A first appeal is a re-hearing and if the parties have led all the evidence that they desire, it is the duty of the first appellate court to give its own conclusions upon the evidence before it. If a trial court does not decide according to the evidence led upon those pleadings it is for the appellate court to reverse the finding and give its own findings; again, if an issue has been decided by the trial court in a very perfunctory manner, it is for the first appellate court to give its decision.

2. But power to order re-trial after remand where there has already been a trial on evidence before the court of first instance connot be exercised merely because the appellate court is of the view that the parties, who could lead better evidence in the court of first instance, have failed to do so. A trial de-*novo*, after setting aside a final order passed by a court of first instance, may, therefore, be made in exceptional circumstances, where there has been no real trial of the proceeding, or where allowing the order to stand would result in abuse of the process of the court.

Compliance of provisions mentioned under O. XLI Rule 9 of CPC

C. L. No.63/2007Admin(G): Dated: 13.12.2007

The new Rule 9 of Chapter XLI of C.P.C. Provides that the Court from whose decree an appeal lies, shall entertain the memorandum of appeal and shall endorse thereon the date of presentation and shall register the appeal in a book of appeal for that purpose .It has been noticed that compliance of the above provision is not made by the subordinate Courts and the same has been taken a serious note of. Therefore, it has been desired by the Hon'ble Court that provisions of the said Rule 9 of Chapter XLI be strictly complied with by all the subordinate Courts.

Therefore, I am directed to request you to kindly impress upon all the judicial officers posted under your administrative control to adhere to the mandates given in order XVI Rule 9 of C.P.C. without fail.

(iv) Ceiling appeals

C.L. No. 17/VII f-209 dated 16th February, 1979

For the sake of uniformity in the matter in all the judgeships where the District Judges are appointed as appellate authority under section 33 of the Urban Land (Ceiling and Regulation) Act, 1976 (Act no. 33 of 1976) the following instructions should be followed:-

1. The appeals under section 33 of the Urban Land (Ceiling & regulation) Act, 1976 should be treated as Miscellaneous appeals and entered in Register in Form no. 81 of the General Rules (Civil), 1957, Volume II.
2. Quota for appeals under the Urban Land (Ceiling & Regulation) Act, 1976 (Act no. 33 of 1976) is hereby fixed at four appeals per day.

C.L. No. 32/Ceiling/Admn.(g) dated 13th May, 1986

Section 4 of the U.P Imposition of Ceiling of Land Holdings Ordinance (No. 3 of 1986) bars the jurisdiction of District Judges, Additional District Judges, Civil Judges, and Additional Civil Judges, to hear appeals under section 13, 20 and 21 of the principal Act and provides further that such appeals pending immediately before the commencement of the Ordinance no. 3 of 1986 before any District Judge, Additional District Judge, Civil Judge and Additional Civil Judge shall stand transferred to the Commissioner and shall be disposed of by him in accordance with the provisions of the U.P. Imposition of Ceiling on Land Holdings Act as provided by the U.P. Ordinance No. 3 of 1986 promulgated by Government on January 13, 1986.

The District Judge should bring this fact to the notice of all concerned officers.

(v) Compliance of provisions mentioned under Order XLI Rule 9 of CPC

C.L. No. 19/2008 Admin (G): Dated: 4.9.2008

Upon consideration of the Judgment and Order dated 25.10.2002 passed by the Hon'ble Apex Court in Salem Advocate Bar Association, Tamil Nadu v. Union of India, the Hon'ble Court has been pleased to direct that the Appeal shall be filed under Order XLI, Rule 1 in the Court in which it is maintainable and a copy of the memorandum of appeal which has been filed in the Appellate Court should also be presented before the court against whose decree the appeal has been filed and the endorsement thereof shall be made by the decreeing court in a book called the Register of Appeals.

Therefore, in supersession of earlier C.L. No./2007/Admin (G) Dated 13.12.2007. I have been directed to say that the Hon'ble Court has desired that the contents of this Circular Letter be brought to the notice of all the officers working under your administrative control for strict compliance of the directions.

15. MISCELLANEOUS CASES

(i) Adoption of abandoned or destitute children

C.L. No. 40/VII f-45-Admn. (G) dated 29th May, 1986

The directions of Hon'ble Supreme Court contained in its orders dated 6th February, 1984, and 27th September, 1985 and 13th February, 1986 passed in L.K. Pandey v. Union of India reported in AIR 1984 SC 469 and AIR 1986 SC 272 respectively, should be strictly complied with by all.

EXTRACT OF ORDER DATED 13 FEBRUARY, 1986

In respect of children who have been abandoned or brought prior to 27.9.85 in the State in which the application for guardianship sought to be made with a view to eventual adoption, the court to which the application is made will satisfy itself where such children have been abandoned or brought within the State prior to 27.9.85 and if the court is so satisfied, the requirement laid down by us in the main judgment and the supplementary judgment that the children should not be allowed to be brought from one State to another for adoption except subject to certain conditions, as also the requirement that where the children sought to be adopted are abandoned or destitute children, they should be cleared by the Juvenile Court, shall not be applicable to such children. The Court may for this purpose require the scrutinizing agency to visit the Home or Homes where such children are kept with a view to assisting the court in determining whether such children were abandoned or brought within the State prior to 27.9.85. So also where the child sought to be adopted is claimed to be the child of an unwed mother, the court before which the application for appointment of guardian of such child is pending, will satisfy itself of the said fact and if the court is so satisfied, clearance of the Juvenile Court will be dispensed with. All the other requirements set out in the main judgment and the supplemental judgment will however continue to be applicable.

(ii) Inter-country adoption

C.L. No. 63/Admn. (F) dated 30th August, 1986

Encloses a list of recognized Indian social/child welfare agencies and one foreign social/child welfare agency, sent by Government of India, for the purpose of inter-country adoption of children for information and record.

LIST OF RECONGNISED INDIAN SOCIAL/ CHILD WELFARE AGENCY

State Home for Women, Surat	Gujarat
State Home for Women, Ahemedabad	Gujarat
State Home for Women, Baroda	Gujarat
Reception Centre and Foundling Home, Surendranagar	Gujarat
Special School for Girls, Rajkot	Gujarat
Reception Centre, Indar	Gujarat
Reception Centre, Palitana	Gujarat
Reception Centre, Bansda	Gujarat

ENLISTED FOREIGN SOCIAL/CHILD WELFARE AGENCY 'AMARNA' Aide Aux Infants du Tiers-Monde Avenue, des Ancients Combattants'37D, 1140 Bruxells, Belgium

(iii) Implementation of Hon'ble Supreme Court Judgment dated 6.2.1984 in Writ Petition (Criminal) No. 1171 of 1982 Laxmi Kant Panday v. Union of India.

C.L. No. 1/VIIf-45/Admn. (G) dated February 11, 1991

In continuation of the Court C.L. No. 97/VIIf-45/Admn.(G) dated October 23, 1990, I am directed to send herewith a copy of the list of Indian Social/Child Welfare Agencies recognized by Government of India for Inter-Country Adoption of Children prepared by the Government of India, Department of Welfare, Adoption Cell, New Delhi, for information and necessary action.

GOVERNMENT OF INDIA MINISTRY OF WELFARE
(DEPARTMENT OF WELFARE)
LIST OF INDIAN SOCIAL/CHILD WELFARE AGENCIES RECOGNISED BY GOVERNMENT OF INDIA FOR
INTER-COUNTRY ADOPTION OF CHILDREN

No.	Name and address of the Agency	Certificate No. & date	Validity of certificate
1	2	3	4
Andhra Pradesh			
1.	Guild of Service, Seva Samajam, Balika Nilayam, 10-3-561/3, Vijaya Nagar Colony, Hyderabad-500 457	7/88 14.12 88	3 Years
2.	Indian Council of Social Welfare (Red Hills.), Inside Cancer Hospital Compound) Hyderabad- 560004).	28/88 04.01.89	3 Years
Delhi			
1.	S.O.S. Children's Villages of India, 507, Vishal Bhavan, 95, Nehure Place, New-Delhi-110 19.	23/89 03.01.89	3 Years
2.	Missionaries of Charity, Nirmala Shishu Bhavan, 12, Commissioner Lane, Delhi- 110 054.	25/89 03.01.89	3 Years
3.	Delhi Council for Child Welfare, Qudsia Garden, Yamunna Marg, Civil Lines, Delhi- 110 054.	33/89 12.01.89	3 Years
4.	Church of North India, Shishu Sangopan Griha, St. Mishel's Compound, Hospital Road, Jangpura, New Delhi- 110 014.	24/89 03.01.90	1 Year
5.	Holy Cross Social Service Center 34, Dr. Mukherjee Nagar (West), Delhi-110009	37/89 30.01.90	1 Year
6.	Welfare Home for Children, 68, Raja Garden, New Delhi.	35/89 24.01.90	1 Year

Gujarat			
1.	Shri Kathiawar Nirashrit, Balashram Malviya Road, Rajkot- 360 002	5/89 15.12.88	3 Years
2.	Mahipatram Rupram Ashram, Opposite Raipur Gate, Ahmedabad- 380 022.	58/89 27.9.90	1 Year
Haryana			
1.	Haryana State Council for Child Welfare, Bal Vikas Bhawan, 650, Sector 16-D, Chandigarh- 160 016	28/89 04.01.89	3 Years
Karnataka			
1.	Canara Bank Relief & Welfare Society, 27th Cross, Banashankari, 2nd Stage, Bangalore, 560 070	43/89 28.03.89	3 Years
2.	Ashraya, Jawan's Colony B.D.A. Park, Qouble Road, Indira Nagar, 1st Stage, Bangalore-560 038.	44/89 28.03.89	3 Years
3.	St. Michael's Home, Old Madras Road, Indira Nagar, Bangalore- 560 038.	45/89 28.03.89	3 Years
4.	Society of Sisters of Charity, St. Geross Convent Belvedera Angelere, Mangalore-575 002.	56/89 1.1.90	1 Year
5.	Society of Sisters of Charity, Holy Angels Convent Stella Maris Convent, Malleshwaram, Bangalore- 560 003.	55/89 1.1.90	1 Year
6.	Society of the Sister of St. Joseph of Tarbes, 47, Promenade Road, PO Box 555 Bangalore- 560 005	69/90 13.4.90	1 Year
Kerala			
7	Dinasevenasabha (Catholic Association of the uplift of the Poor) Snehaniketan, Social Center, Pattuvam, Cannanore, Distt. Cannanore.	20/89 3.1.90	1 Year
8.	St. Joseph's Children's Home, Kummannor, Cherpunkal, PO, District Kottayam,	21/89 3.1.90	1 Year
9.	Foundling Home (Sisu Bhavan) Padupuram P.O., Via Karukutty, District Eranakulam.	22/89 3.1.90	1 Year
10.	Holy Infant Mary's Girls' Home, Vythiri, Wynad, Wynad District- 673 576	38/89 03.02.90	1 Year
	Kerala State Council for	62/90	1 Year

11.	Child Welfare, Thycaud, Trivandrum- 685 014.	13.8.90	
Maharashtra			
1.	Balwant Kaur Anand Memorial Welfare Society, Anand Corner, 18, Dr. Coyaji Road, Pune- 411 001.	9/89 28.12.88	3 Years
2.	Indian Association for Promotion of Adoption, R.N.A. House, 1st Floor, Veer Nariman Road, Fort, Bombay- 400 034	10/89 28.12.88	3 Years
3.	Children of the World (India) Trust, 501, Arun Chamber, Tardoo, Bombay- 400 034.	11/89 28.12.88	3 Years
4.	Pushpawadi Foundling Home Nagpur House of Mary Immaculate, Providence School Compound Civil Lines; Nagpur-440 001.	12/89 28.12.88	3 Years
5.	Bharatiya Samaj Seva Kendra, 5, Korogaon Road, Pune- 411 001	13/89 28.12.88	3 Years
6.	Mahila Sewa Mandal, 25/20, Karve Road, Pune- 411 004.	14/89 27.12.88	3 Years
7.	Family Service Center, Eucharistic Congress, Building-III, No.5, Convent Street, Bombay- 400039.	15/89 28.12.88	3 Years
8.	Maharashtra State Women's Council, Rescue Home, Asha Sadan Marg, Umerkhadi, Bombay- 400 009.	16/89 04.01.89	3 Years
9.	Vivekanand Bala Sadan, Seth Daga Dharmshala, Opp. Railway Station Kampteo, Nagpur- 411 002	17/89 28.12.88	3 Years
10.	Hindu Women's Welfare Society, Sharadhanand Mahilashram Sharadhanand Road,Matunga, Bombay- 400 019	18/89 29.12.88	3 Years
11.	W.B.N. Balakashram, 431, Navi Peth, Pandharpur, District Sholapur	19/89 31.1.89	3 Years
12.	Missionaries of Charity, Nirmala Shishu Bhavan, Church Road, Ville Parle (West), Bombay- 400 056.	30/89 03.01.89	3 Years
13.	Matru Sewa Sangh, (Foundling Home) Institute of Social Work, Bajaj Nagar, Nagpur- 411 010.	34/89 10.01.89	3 Years
14.	St. Crispin's Home, FR-10, C.T.S.-12, Karve Road, Erandawana, Pune- 411 004.	27/89 1.7.90	1 Years

15.	Bal Anand World Children Welfare Trust, India, Sail Krupa, 93, Ghatla Village, Chember, Bombay- 400 071.	32/89 1.7.90	1 Years
16.	Shri Sharadhanand Anathalya, Society, Sharadhanand Peth, Nagpur- 400 039.	39/89 9.2.90	1 Year
17.	St. Catherine's Home Veera Desai Road, Andheri (West) Bombay- 400 059.	40/89 1.7.90	1 Year
18.	Holy Cross Home for Babies C/o Holy Cross Convent, Amravati (Camp) 444 602.	64/90 14.9.90	1 year
19.	Society for Child Development House, 630, Caranzalen, Goa- 403 002	42/89 21.03.89	3 Years
20.	Caristas Goa Pace Patriarcal Altinho, Anjim- 403 001.	49/89 8.5.90	1 Year
ORISSA			
1.	Manoj Manjari Sishu Bhavan At/PO. Keonjhargarh, Distt. Keenjhorgrah, Pin-738 001	1/89 8.12.89	3 Years
PONDICHERRY			
1.	Cluny Children's Home (Cluny Sisu Illam) Pourponnier St. Joseph, 8, Romain, Rolland Street, Pondicherry- 605 001	8/89 19.12.88	3 Years
TAMIL NADU			
1.	Guild of Service (Central) 28, Casa Major Road, Egmere, Madras- 600 008	3/89 12.12.88	3 Years
2.	Congregation of the Sisters of the Cross of Chavanod, P.B. No. 395, Old Goods Shed, Road Teppalulam, Triuchirapalli-620 992	4/89 13.12.88	3 Years
3.	Institute of the Franciscan Missienardea of Mary Society No. 3 Holy Appostles Convent St. Thomas Mount Babies Home, St. Thoms Mount, Madras- 600 016	6/89 13.12.88	3 Years
4.	Concerd House of Jesus (Home for Helpless Kids) 10, Venkatmma Samati Street, Pursalwelkam, Madras- 600 008	2/89 12.12.88	3 Years
5.	Grace Kennett Foundation 34, Kennett Road, District Madurai, Madurai- 625010	47/89 05.04.89	3 Years
	Families for Children	36/89	3 Years

6.	(Kuzhanthaikal Kudumpam) 107, Vellore Road, Bodanur Coimbatore District- 641 023	24.1.1989	
7.	S.O.S. Children's Villages of India- Chatnath Homes, Karran Prayas-Reception-cum- Adoption Center, 13 Professors Colony, 1st Main Road, Tambaram East, Madras-680 059	61/90 27.7.1990	1 Year
WEST BENGAL			
1.	Missionaries of Charity, 54/A, Lower Circular Road, Calcutta- 700 016	50/89 1.7.1989	3 Years
2.	Society for Indian Children's Welfare, 22, Col. Biswas Road, Ballygunge, Calcutta.	51/89 1.7.90	Vaild up to 31.12.1990
3.	Indian Society for Sponsorship And Adoption, 1, Palace Court, 1 Kyd Street, Calcutta- 700 816	48/89 1.5.90	1 Year
4.	International Mission of Hope (India) Society 2, Nimak Mahal, Calcutta- 700 043	63/90 30.8.90	1 Year
ORISSA			
1.	Subhadra Mahtab Seva Sadan AT.PO/PS Udayagiri, District Phulbani- 762 100	65/90 26.10.90	1 Year
2.	'Basundhara' AT. Bhruba Tara Khalasi Lan, Rashtrabhasa Road, Cuttack- 753 001	65/90 16.11.90	1 Year

Compliance of direction given by Hon'ble Supreme Court in L.K. Pandey v. Union of India (Writ Petition No. 1170 of 1982) pertaining to expeditious disposal by District/Family Courts of cases involving Inter-Country adoption.

C.L. No. 28/2009 Admin. (G-II) Dated May 21, 2009

The Central Adoption and Resources Authority (CARA), an autonomous body, of Ministry of Women and Child Development, Government of India has brought to the notice of Hon'ble Court vide D.O. Letter No. 16/1/2000-CARA dated 12.12.2008 that the direction of Hon'ble Supreme Court given in L.K. Pandey v. Union of India (W.P. No. 1170 of 1982) pertaining to expeditious disposal by District/Family Courts, of cases involving inter-country adoption, are not being followed which prescribes that the entire procedure should be completed by the Court expeditiously as far as possible within a period of two months from the date of filing of applications for the guardianship of child. The proceedings on the application for guardianship should be held in Court in camera and should be recorded confidentially. As soon as order is made on the application for guardianship, the entire proceedings including the papers and documents should be sealed.

Upon consideration of the above matter, the Hon'ble Court has desired that the Family Courts or the Court assigned to deal with such nature of cases under your administrative control should be thoroughly impressed to adhere to the directions given by the Hon'ble Apex Court in Lakshmi Kant Pandey v. Union of India; (1984) 2 SCC 244 by making sincere efforts to decide such cases within the time stipulated i.e. two months from the date of filing of the application.

While enclosing a copy of the judgment of Hon'ble Apex Court delivered in the above noted case alongwith copy of letter dated 12.12.2008 of Central Adoption Resource Authority, I am directed to request you to kindly impress upon the Judicial Officers presiding over the Family Courts or dealing with such matters working under your administrative control to ensure compliance of the above directions in right earnest.

(iv) 1. Reimbursement or maintenance and other expenses to recognised Indian Social or child welfare agency in case of inter-country adoption from foreign adoptive parents.

C.L. No. 51VIIf-45/Admn. (G) dated September 25, 1992

I am directed to enclose herewith a copy of letter F.No.4-4-91- CARA, dated May 11,1992 from the Secretary, Central Adoption Resource Agency, New Delhi, on .the above subject, and to say that the Concerned courts in your judgeship may kindly be apprised of the contents of this letter enclosure for information and necessary compliance.

Ministry of Welfare, Central Adoption Resource Agency West-Block-8, Wing No.2. R.K. Puram, New Delhi-66

Reimbursement or maintenance and other expenses to a recognised Indian social or child welfare agency in case of inter-country adoption from foreign adoptive parents.

L. F. No. 4-4-91-CARA dated May 11, 1992

The Supreme Court vide its series of Judgments dated 27th September, 1985, 3.12.1986 and 14.8.1991 have among other aspects, laid down detailed guidelines with regard to the recovery of maintenance and other incidental expenses incurred by a social welfare agency for rearing the orphan/destitute child till the date of guardianship from prospective foreign adoptive parents in case of inter-country adoption. For ready reference, the relevant portions of the judgments are reproduced here below-

EXTRACTS OF THE SUPREME COURT JUDGMENT DATED 27.9.1985

" …we have no doubt that the recognised social or child welfare agency through whom the application for guardianship as processed would take care to see that no exorbitant amount is sought to be charged by the social or child welfare agency looking after the child by way of maintenance expenses. But we would by way of greater safeguard direct that when the court makes an order appointing a foreigner as guardian, the court should look into this question and sanction the amount to be paid by the foreigner to the social or child welfare agency by the court shall be recoverable by the social or child welfare agency by way of maintenance expenses from the foreigner who is appointed guardian of the child……"

"... The recognised social or child welfare agency processing the application must also be entitled to recover from the foreigner who is sought to be appointed guardian of the child, costs incurred in preparing and filing the application and prosecuting it in court. Such expenses may include legal expenses, administrative expenses, preparation of child study report, preparation of medical and I.O. reports, passport and visa expenses and conveyance and they may be fixed by the court at such figure not exceeding Rs. 4;000/-, as may be thought fit by the court……."

EXTRACT OF THE SUPREME COURT JUDGMENT DATED 3.12.1986

" ……..We, therefore, agree that the recognised placement agency processing the application of a foreigner for being appointed guardian of a child with a view to its eventual adoption, should be entitled to recover from the foreigner, cost incurred in preparing and filing the application and prosecuting it in court including legal expenses, administrative expenses, preparation of child study report, preparation of medical and I.Q. reports, passport and visa expenses and conveyance expenses and that such expenses may be fixed by the court at a figure not exceeding Rs. 6,000/ ".

EXTRACTS OF THE SUPREME COURT JUDGMENT DATED 14.8.1991

"... The Judgment laid down a scale of expenses to be recovered by the Agency offering placement for maintaining the child from the Adoptive parents. There was some modification in 1986, keeping in view the general rise in cost of living we are prepared to allow escalation by 30% we do not, however agree to an escalation of 10% every year. The matter may be reviewed once in three years so for as escalation of expenses is concerned ".

From the above extracts of judgments it is amply clear that Supreme Court has entrusted an important duty of fixing the cost of expenses to the competent courts while awarding order of guardianship so as to avert the possibilities of excess or exorbitant charges from the foreign adoptive parents. But it has been observed from the copies of orders of guardianship which are being received by us that competent Courts are not following the above directives of the Supreme Court while disposing inter-country guardianship applications. They do not stipulate the total amount towards maintenance and other expenses to be recovered by the Indian recognised social or child welfare agency from the prospective foreign adoptive parents through foreign enlisted social or child welfare agency. In the absence of specific orders of the competent courts regarding fees to be charged by the local agencies, there is every likelihood that those voluntary agencies may indulge in over charging from the foreign adoptive parents in contravention of the guidelines of Supreme Court.

In view of the above position, it is requested that all competent courts in your State/U.T. may kindly be suitably advised that while awarding the guardianship of a orphan/destitute/abandoned child in favour of a foreign adoptive parent, they should invariably fix the amount to be recovered from the foreign adoptive parent through the concerned enlisted foreign agency according to the direction of the Supreme Court so as to avoid any chances of overcharging by the concerned local child/social welfare agency.

(v) Renewal of Recognition Certificate for inter-country adoption.

C.L. NO. 63VIIf-45/Admn.'G' dated 22 July, 1994

While enclosing herewith copies of letter No. 4-4/91 CARA dated 16.9.93 followed by letter dated 3.11.93 and another letter no. 16-5/88-CH (AC)/CARA dated 25. 10. 93 received from Central Adoption Resource Agency, Ministry of Welfare, Government of India, New Delhi for information and necessary action, I am directed to request that all the Presiding Officers and concerned competent courts functioning under you be directed that they should not entertain any application from a foreign citizen for award of guardianship of any Child on his/her favour under the Guardian and Wards Act, 1890, or for its adoption under the Hindu Adoption and Maintenance Act, 1956 unless the Court concerned has satisfied itself that the original application of the foreign Citizen has been routed through the proper channel as referred in

above mentioned letter dated 16.9.1993 and to follow strictly the provisions of General Rules (Civil) Amendment Rules, 1991 published in U.P. Gazette on 4.1.1992.

No. 4-4/91- CARA Central Adoption Resource Agency (Ministry of Welfare) West-Block 8, Wing 2, 2nd Floor R.K. Puram New Delhi.

To, The Registrar Supreme Court of India, New Delhi dated November 3, 1993

2. Routing of inter-country adoption application of foreigners through Central Adoption Resource Agency.

1. I am forwarding herewith a copy of this office letter of even number dated 16th September, 1993 (copy enclosed) vide which your kind attention was invited to the judgment dated 6th February, 1984 awarded by the Supreme Court of India in the Writ Petition No. (CRL) 1171/1982 in the matter *of Shri L.K. Pandey v. Union of India* with a view to regulate inter-country adoption of Indian children. You were also requested to transmit the letter with instructions to all the High Courts of India for onward transmission to the District Courts which are actually processing the cases of inter-country adoption of Indian children.

2. It is presumed that the necessary instructions in this regard have been circulated to all the High Courts and District Courts in India accordingly. In fact such applications of the foreign adoptive parents who intend to adopt a child from India are required to be routed through the Central Adoption Resource Agency. But while going through the record it has been observed that most of the District Courts in the country particularly in Orissa, Maharashtra and Delhi are still not following the norms and procedure laid down by the Supreme Court of India for the purpose of regulating inter-country adoption of Indian Children. Therefore, this amounts to violate the ruling of the Supreme Court of India.

3. It is also further observed that the direction of the Supreme Court in regard to the processing of the applications of the prospective adoptive parents by the District Courts within a stipulated time within two months from the date of submission of the original application along with the original documents by the agency is not adhered to. For instance, the District Courts in Haryana are taking almost one year.

4. In view of this you are again requested to kindly take up the matter with the High Courts and District Courts in India to ensure that the judgment of the Supreme Court of India is followed strictly till the new guidelines on Adoption are implemented.

(vi) Disposal of adoption cases by the District Courts within the time frame fixed by the Supreme Court of India.

C.L. No. 5/VII f-45/Admn.'G' Section dated February 2, 1995

Hon'ble the Chief Justice has been pleased to direct to enclose herewith a copy of letter No. 4-4/91-CARA dated 25.10.94 received from the Secretary, Ministry of Welfare, Government of India, Central Adoption Resource Agency, New Delhi with its enclosure on the above subject and to say that it has been noticed by the Ministry of Welfare, Government of India, CARA, New Delhi that the district courts are taking a lot of time to decide the guardianship of child in favour of foreign adoption parents, even the district courts are going beyond the prescribed time limit of two months stipulated by the Hon'ble Supreme Court of India vide their judgment dated 3.12.1986 in a Writ Petition (CRL) No. 1171/82 in the matter of *Shri Laxmi Kant Pandey v. Union of India and others.*

It is, therefore, requested that all the Presiding Officers and concerned Competent Courts functioning under you be directed to take care to decide the adoption cases expeditiously within the time-frame of two months fixed by the Hon'ble Supreme Court of India and to follow strictly the directions given by the Hon'ble Supreme Court in aforesaid Writ Petition (CRL) No.1171182.

No. 4-4/91-CARA Central Adoption Resource Agency, (Ministry of Welfare) West Block 8, Wing 2, 2nd Floor, R.K. Puram, New Delhi. dated October 25, 1994

To, The Registrar High Court of Uttar Pradesh, Allahabad.

Disposal of adoption cases by the District Courts within the time-frame fixed by the Supreme Court of India.

L. No. 4-4/91-CARA dated October 25, 1994

I am to refer to this office letter of even number dated,1.7.92 (copy with enclosures enclosed) vide which your kind attention was invited to the directions of the Supreme Court to High Courts in their judgments dated 9.12.1986 in a Writ petition (CRL No. 1171/1982) in the matter of *Shri Lami Kant Pandey v. Union of India* & *Others.*

It is assumed that there are periodic instructions from the High Courts to district courts for the disposal of adoption cases within the time frame fixed by the Supreme Court. Secondly, the High Courts must be receiving the details of the proceedings relating to award of guardianship of the child in favour of foreign adoptive parents from the district courts regularly in the prescribed proforma. This practice must continue in the best interest of the child.

For some time, we have been receiving complaints from the Social Child welfare agencies recognised for the purpose of inter-country adoption work that the district courts are taking lot of time to decide the guardianship of the child in favour of foreign adoptive parents, even the district courts are going beyond the prescribed time limit of two months stipulated by the Supreme Court in India. As a result of this delay our children are suffering in the homes and deprived of their legitimate family surroundings.

In view of this, you are requested to kindly take up the matter again with the district courts and ensure that the district courts should dispose of the adoption cases expeditiously within the time- frame of two months fixed by the Supreme Court of India.

This may be treated as Most Urgent.

Priority To the cases under Indian Succession Act, Guardian & Wards Act and U.P. urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972

C. L. No. 59/2007Admin(G): Dated: 13.12.2007.

It has come to the notice of Hon'ble Court that Miscellaneous cases registered under Indian Succession Act, Guardian & Wards Act and U.P. Urban Buildings (Regulation of Letting, Rent and Eviction)Act,1972 are often neglected by the Subordinate Courts which results in their remaining pending for a very long time .The Hon'ble Court has desired that the cases related to the above Acts are of considerable importance and should be taken up by the Courts on priority basis so that the interest of the parties does not suffer adversely .

Therefore, I am directed to request you to kindly impress upon the Judicial officers posted under your administrative control to take up all cases pertaining to Indian Succession Act, Guardian & Wards Act and U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972, on priority.

Central Adoption Resource Agency (Ministry of Welfare) Government of India West Block No 8, Wing No.2, R.K. Puram, New Delhi

(vii) Quarterly Report about children whose guardianship has been awarded in favour of foreign parents.

L. No.4-4 /91-CARA-1337 dated l July, 1992

1. In continuation of this Agency's letter No. 4-4/91-CARA dated 5.10.91 regarding quarterly report about children whose Guardianship has been awarded in favour of foreign parents, I am to invite your kind attention to the following portion of the directions of the Supreme Court to High Courts is in judgment dated 3rd December, 1986 in Writ Petition (CRL) No.1171/82 in the matter of *Shri Laxmi Kant Pandey v. Union of India:-*

   "Some Social and Child Welfare Agencies made a complaint before us that the proceedings for appointment of a prospective adoptive parent as guardian of child drag on for months and months in some district courts and almost invariably they take not less than five to six months. We do not know whether this is true, but if it is, we must express our strong disapproval of such delay in disposal of the proceedings for appointment of guardian. We wish to impress upon the district courts that proceedings for appointment of guardian of the child with a view to its eventual adoption, must be disposed of at the earliest and in any event not later than two months from the date of filing of the application. We would request the High Court to call for returns from the district courts within their respective jurisdiction showing every two months as to how many applications for appointment of guardian are pending, when they were filed and if more than two months have passed since the date of their filing, why they have not been disposed of up to the date of the return. If any application for guardianship is not disposed of by the district courts within a period of two months and there is no satisfactory explanation, the High Courts must take a serious view of the matter. We were also informed that some district courts are treating applications for guardianship in a lackadaisical manner and are not scrupulously carrying out the directions given by us in our judgement. This defiance by the district court of the direction given by us should not be tolerated by the High Courts and we would request the High Courts to exercise proper vigilance in this behalf'.

2. In accordance with the above directions of the Supreme Court, Part II has been further provided in the existing proforma of the quarterly report so as to collect the requisite additional information regarding pendency of cases from the District Courts. Accordingly, you are requested to circulate the revised proforma of the Quarterly Report to all District Courts within your jurisdiction for their guidance and compliance. It is also requested that specific action taken by the High Courts against the District Courts for undue delay may kindly be communicated to us from time to time.

3. This may kindly be considered most important. Receipt of this letter may kindly be acknowledged.

PROFORMA
QUARTERLY REPORTS FROM DISTRICT COURTS TO BE SENT TROUGH HIGH COURTS
PART I

SL. No.	Name, age & sex of the child	Name & address of the foreign adoptive parents	Name & address of the recognised Indian/Social/Child Welfare agency which processed the case in India	Name & address of the foreign agency which sponsored the application of foreigners	Name of the Court	No. and date of the Court Order
1	2	3	4	5	6	7

No. of cases of adoption/ guardianship on the last date of previous quarter	No. of cases filed in Distt. Courts during the quarter under report	Total No. of the cases available for disposal (1+2)	No. of cases disposed by the Distt. Courts during the quarter under report	No. of pending cases, as on the last date of the quarter under report	No. of cases pending for more than 60 days	Period of pendency and reasons for the delay in each such case
1	2	3	4	5	6	7

Signature of Distt. Judge
Name of District
State

Guardianship Certificate meant for the mentally disabled persons.

C.L. No. 7/2009 Admin G-II Dated: 07.04.2009

While enclosing herewith the copy of the Government Letter No. 826/65-1-2007-93/2000 dated 09.07.2007, from Chief Secretary, Government of U.P. on the above subject, I am directed to circulate the same for your information.

संख्याः826/65-1-2009-93/2000

प्रेषक,

रोहित नंदन
प्रमुख सचिव,
उत्तर प्रदेश शासन।

सेवा में,

समस्त प्रमुख सचिव/सचिव,
उत्तर प्रदेश शासन,

विकलॉक कल्याण अनुभाग-1 *लखनऊः दिनॉकः 09 जुलाई, 2007*
विषयः- मानसिक मन्दित व्यक्तियों के लिये गार्जियनशिप पमाण-पत्र।

महोदय,

जैसाकि आप अवगत हैं, कि सामान्य स्थिति में 18 वर्ष की आयु के पश्चात् व्यक्ति वयस्क (बालिग) हो जाने पर अपने बारे में विधिक रूप से स्वंय निर्णय लेने के लिये अधिकृत हो जाता है। अभिभावक/संरक्षक को आवश्यकता केवल 18 वर्ष की आयु तक होती है। जब तक व्यक्ति अवयस्क (माइनर) रहता है। लेकिन मानसिक मन्दित व्यक्ति 18 वर्ष की आयु प्राप्त करने के पश्चात् भी निर्णय लेने के लिये सक्षम नहीं हो पाता है। मानसिक मन्दित व्यक्ति शारीरिक तौर पर वयस्क होते हुए भी मानसिक रूप से वयस्क नहीं हो पाता है। ऐसे व्यक्तियों को देखभाल एवं उनकी ओर से उनकी सम्पत्ति एवं अन्य मामलों में निर्णय लेने के लिऐ भारत सरकार के सामाजिक न्याय एवं अधिकारिता मंत्रालय द्वारा स्पेशल ट्रस्ट फार वेलफेयर ऑफ परसन्स विद आटिज्म, सरेब्रलपल्सी, मेन्टल रिटार्डेशन एण्ड मल्टीपिल डिसएबिलिटीज एक्ट, 1999 (नं0 44 आफ 1999) बनाया गया है।

2- इस अधिनियम के अन्तर्गत प्रत्येक जिले में जिलाधिकारी की अध्यक्षता में लोकल लेबल कमेटी गठित करने की व्यवस्था है। इस कमेटी को मानसिक मन्दिल आटिज्म सरेब्रलपल्सी व मल्टीपिल डिसएबिलिटीज व्यक्तियों के लिये कतिपय कार्य किये जाने हेतु अधिकृत किया गया है। इसमें से एक महत्वपूर्ण कार्य मानसिक मन्दिल व्यक्तियों की देखभाल के लिये अभिभावक (गार्जियन) संरक्षक नियुक्त करने से संबंधित है। मानसिक मन्दिता से प्रभावित ऐसे वयस्क व्यक्तियों के लिये भी अभिभावक/संरक्षक के रूप में किसी व्यक्ति को 'लोकल लेवल कमेटी' द्वारा नियुक्त किया जा सकता है और ऐसे नियुक्त अभिभावक/संरक्षक को ऐसे मानसिक मन्दित व्यक्तियों की ओर से निर्णय लेने का अधिकार प्राप्त हो जाता है।

उक्त अधिनियम की धारा-14 में मानसिक मन्दित व्यक्तियों के लिये गार्जियन नियुक्त करने की व्यवस्था है। धारा-14 निम्नवत् है:-

Appointment for guardianship:

14(1) A parent of a person with disability or his relative may make an application to the local level committee for appointment of any person of his choice to act as a guardian of the persons with disability.

(2) Any registered organization may make an application in the prescribed form to the local level committee for appointment of a guardian for a person with disability:

Provided that no such application shall be entertained by the local level committee, unless the consent of the guardian of the disabled person is also obtained.

(3) While considering the application for appointment of a guardian the local level committee shall consider.

(a) Whether the person with disability needs a guardian;

(b) The purposes for which the guardianship is required for person with disability.

(4) The local level committee shall receive process and decide applications received under sub-sections (1) and (2) in such manner as may be determined by regulations.

Provided that while making recommendation for appointment of a guardian, the local level committee shall provide for the obligations, which are to be fulfilled by the guardian.

(5) The local level committee shall send to the Board the particulars of the applications received by it and orders passed thereon at such interval as may be determined by regulations.

3- यह संज्ञान में आया है कि उक्त अधिनियम में मानसिक मन्दित व्यक्तियों के लिये अभिभावक नियुक्त करने की उक्त व्यवस्था की जानकारी न होने के कारण मानसिक मन्दित व्यक्तियों को देय सुविधाओं का लाभ नहीं प्राप्त हो पा रहा है। सक्षम अधिकारी द्वारा ऐसे व्यक्तियों के लिये माननीय न्यायालय से गार्जियनशिप प्रमाण-पत्र लाने की अपेक्षा की जाती है। अधिनियम में की गई उक्त व्यवस्था को दृष्टिगत इसकी आवश्यकता नहीं रह जाती है। अधिनियम की धारा-14 के प्राविधान के अन्तर्गत जारी गार्जियनशिप प्रमाण-पत्र मानसिक मन्दित व्यक्तियों के लिये विधिक रूप से मान्य किया जाना चाहिए ताकि ऐसे व्यक्तियों को प्रदत्त विभिन्न सुविधाएँ/योजनाओं का लाभ प्राप्त होने में तथा क्लेम्स, पेंशन, लोन आदि प्राप्त करने में कठिनाई न हो। परन्तु उक्त

सुविधाएँ प्रदान करने से पूर्व यह अवश्य सुनिश्चित कर लिया जाए कि अधिनियम की धारा-14 के अन्तर्गत जारी गार्जियनशिप प्रमाण-पत्र से आच्छादित है।

4- इस सन्दर्भ में मुझे यह कहने का निदेश हुआ है कि अधिनियम की धारा-14 के अर्न्तगत लोकल लेबल कमेटी द्वारा मानसिक मन्दित व्यक्तियों के लिये अभिभावक/संरक्षक नियुक्त करने के संबंध में जारी ''गार्जियनशिप प्रमाण-पत्र'' को मान्यता प्रदान की जाय तथा ऐसे प्रमाण पत्रों से आच्छादित होने की दशा में उक्त श्रेणी के व्यक्तियों के लिए नियमानुसार देय सुविधाएँ, क्लेम्स, पेंशन, लोन आदि अनुमन्य की जाय। यह भी सनिश्चित किया जाय कि जिस उद्देश्य के लिये प्रमाण पत्र जारी किये गये हैं, उनके अनुरूप ऐसे व्यक्तियों को देय लाभ/सुविधाएँ मिलने में कठिनाई न हो।

5- यह आदेश वित्त विभाग के अशासकीय पत्र संख्या-ई-3-1405/X-2007 दिनॉक 04 जुलाई, 2007 में प्राप्त उनकी सहमति से निर्गत किये जा रहे हैं।

(viii) Audit of minor's accounts by civil court official

C.L. No. 9/VIII-b-173 dated 23rd January, 1954

Audit of minor's accounts in guardianship cases in which the total annual receipt does not exceed Rs.1, 000 may be entrusted to a civil court official provided that the work is done out of office hours and does not interfere in any way with official duty.

Such an official may be paid the usual audit fee at the rate of 2 per cent of the total annual receipts.

(viii-a): Grant of Child Care leave and Child Adoption leave

C.L. No. 26/82-A/Admin. 'D' Section: Dated 27.08.2010

I am directed to inform you that after careful consideration of the case the Court has been pleased to adopt the G.O. (O.M.) No. G-2-2017/DAS-2008-216/79/Lucknow: dated 08.12.2008 (Copy enclosed) and related G.O. (O.M.) No. G-2-573/Ten-2009-216-79 Lucknow: dated 24.3.2009 (Copy enclosed), issued on the above subject, in respect of employees of Courts subordinate to the High Court of Judicature at Allahabad.

उत्तर प्रदेश शासन
वित्त (सामान्य) अनुभाग-2

संख्याःजी-2-573/दस-2009-216-79
लखनऊःदिनॉक 24 मार्च, 2009
<u>कार्यालय ज्ञाप</u>

विषयः बाल्य देखभाल अवकाश तथा दत्तक ग्रहण अवकाश की अनुमन्यता के सम्बन्ध में शर्तों का निर्धारण।

उपर्युक्त विषय पर अधोहस्ताक्षरी को यह कहने का निदेश हुआ है कि शासनादेश संख्याःजी-2-2017/दस-2003-216-79, दिनॉक 8 दिसम्बर, 2008 के अनुसार महिला सरकारी सेवक को चाहे वह स्थायी हो अथवा अस्थायी, बाल्य देखभाल अवकाश तथा दत्तक ग्रहण अवकाश अनुमन्य कराया गया है। संदर्भगत अवकाश की स्वीकृति के सम्बन्ध में शर्तं निम्नवत् हैंः-

बाल्य देखभाल अवकाशः

(1) बाल्य देखभाल अवकाश अधिकार के रूप में नहीं मॉगा जा सकेगा। कोई कर्मचारी बिना पूर्व स्वीकृति के बाल्य देखभाल अवकाश पर नहीं जा सकेगा।

(2) बाल्य देखभाल अवकाश उपार्जित अवकाश की भॉति माना जायेगा और उसी तरह स्वीकृत किया जायेगा।

(3) उपार्जित अवकाश की भाँति बाल्य देखभाल अवकाश के मध्य पड़ने वाले सार्वजनिक अवकाशों को बाल्य देखभाल अवकाश में सम्मिलित माना जायेगा।

(4) बाल्य देखभाल अवकाश तभी अनुमन्य होगा जब सम्बन्धित महिला कर्मचारी के लेखे में उपार्जित अवकाश अवशेष न हो।

दत्तक ग्रहण अवकाशः

(1) ऐसे महिला राजकीय सेवक जिनके दो से कम बच्चे जीवित हों एवं जिनके द्वारा एक वर्ष की आयु तक का बच्चा गोद लिया गया हो को सामान्य माताओं को प्रदत्त प्रसूति अवकाश की भाँति 180 दिन के दत्तक ग्रहण अवकाश (Child Adoption Leave) की सुविधा प्रदान की जायेगी। प्रसूति सअवकाश एवं दत्तक ग्रहण अवकाश की बढ़ी हुयी अवधि का लाभ उन महिला कर्मचारियों को भी देय होगा जो दिनाँक 1 दिसम्बर, 2008 को प्रसूति अवकाश का उपभोग कर रही थी।

(2) महिला सरकारी सेवक को उक्त अवकाश अवधि के दौरान वह पूर्ण वेतन देय होगा जो वह अवकाश पर जाने के दिनाँक को आहरित कर रही हो।

(3) दत्तक ग्रहण अवकाशकिसी अन्य प्रकार के अवकाश के साथ मिलाया जा सकता है।

(4) दत्तक ग्रहण अवकाश के निरन्तरता में महिला सेवकों को यदि आवेदन किया जाता है तो कानूनी तौर पर गोद लिये जाने के दिनाँक को बच्चे की आयु घटाते हुये अधिकतम एक वर्ष की अवधि तक का उसे देय एवं अनुमन्य अन्य अवकाश, बिना दत्तक ग्रहण अवकाश की अवधि को जोड़े निम्न प्रतिबंधों के साथ स्वीकृत किया जा सकेगा-

(क) यदि किसी महिला सेवक को गोद लेने के समय दो या अधिक जीवित बच्चे हों तो यह अवकाश उसे स्वीकृत नहीं किया जायेगा।

(ख) उपरोक्त एक वर्ष तक की अवधि के अवकाश की गणना निम्न उदाहरण के अनुसार होगाः-

(च) दत्तक ग्रहण अवकाश पर बच्चे की आयु एक माह से कम होने पर एक वर्ष तक का अवकाश स्वीकृत कियाजा सकता है।

(छ) बच्चे की आयु छः माह या अधिक परन्तु सात माह से कम होने पर छः माह तक का अवकाश स्वीकृत किया जा सकता है।

(ज) बच्चे की आयु नौ माह या अधिक परन्तु दस माह से कम होने पर तीन माह तक का अवकाश स्वीकृत किया जा सकता है।

(5) दत्तक ग्रहण अवकाश को छुट्टी के लेखे के नाम नहीं लिखा जायेगा।

2- जिन महिला कर्मचारियों को शर्तों के अभाव में शासनादेश दिनाँक 8 दिसम्बर, 2008 के अनुपालन में बाल्य देखभाल अवकाश तथादत्तक ग्रहण अवकाश स्वीकृत कर दिया गया है उनके बाल्य देखभाल अवकाश तथा दत्तक ग्रहण अवकाश को उन्हें देय उपार्जित अवकाश में परिवर्तित माना जायेगा।

3- शासनादेश संख्या- जी-2-2017/दस-2003-217-79, दिनाँक 8 दिसम्बर, 2008 इस सीमा तक संशोधित समझा जाये।

4- उपर्युक्त आदेश तात्कालिक प्रभाव से प्रभावी होंगें।

5- संगत अवकाश नियमों में आवश्यक संशोधन यथासमय किया जायेगा।

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अनूप मिश्र
प्रमुख सचिव, वित्त।

उत्तर प्रदेश शासन
वित्त (सामान्य) अनुभाग-2
संख्या-जी-2-2017/दस-2008-216/79

लखनऊःदिनॉक 08 दिसम्बर, 2008

<u>कार्यालय ज्ञाप</u>

विषयः- प्रसूति अवकाश की सीमा में वृद्धि तथा बाल्य देखभाल अवकाश की स्वीकृति।

कार्यालय ज्ञाप संख्याःसा-4-394/दस-99-216/79, दिनॉक 04-06-1999 द्वारा स्थायी एवं अस्थायी महिला सरकारी सेवकों को 135 दिन का प्रसूति अवकाश स्वीकृत किया गया था। वेतन समिति 2008 की संस्तुतियों पर प्रसूति अवकाश की अवधि 135 दिन से बढ़ाकर 180 दिन किए जाने का निर्णय लिया गया है। इसी प्रकार विशिष्ट परिस्थितियों यथा बीमारी तथा परीक्षा आदि में देखभाल हेतु संतान की उम्र 18 वर्ष होने की अवधि तक महिला सरकारी सेवक को सम्पूर्ण सेवाकाल में अधिकतम दो वर्ष (730 दिन) का बाल्य देखभाल अवकाश (Child Care Leave) *अनुमन्य कराने की व्यवस्था प्रसूति अवकाश के संबंध में लागू अन्य शर्तों एवं प्रतिबन्धों के अधीन रहते हुए की गयी है। यह दोनों व्यवस्थायें गोद ली गयी संतान के मामले में भी उसी प्रकार लागू करने का निर्णय लिया गया है।*

2- अतः श्री राज्यपाल महोदय संदर्भगत कार्यालय ज्ञाप दिनॉक 04-06-1999 को अतिक्रमित करते हुए प्रसूति अवकाश के संबंध में वित्तीय हस्तपुस्तिका खण्ड-2, भाग-2 से 4 के सहायक नियम-153(1) के अधीन सम्पूर्ण सेवाकाल में दो बार तक लागू अन्य शर्तों एवं प्रतिबन्धों के अधीन प्रसूति अवकाश प्रारम्भ होने की तिथि से 435 दिन से बढ़ाकर अधिकतम 180 दिन करने तथा विशिष्ट परिस्थितियों यथा संतान की बीमारी अथवा परीक्षा आदि में 18 वर्ष की आयु तक देखभाल हेतु महिला सरकारी सेवक को सम्पूर्ण सेवाकाल में अधिकतम दो वर्ष (370 दिन) का बाल्य देखभाल अवकाश अनुमन्य कराये जाने की सहर्ष स्वीकृति प्रदान करते हैं। यह दोनों व्यवस्थायें (प्रसूति अवकाश एवं बाल्य देखभाल अवकाश) गोद ली गयी संतानों के मामलों में भी लागू होंगी।

3- उक्त व्यवस्था विभिन्न विभागों के राजकीय एवं सहायता प्राप्त शिक्षण/प्राविधिक शिक्षण संस्थाओं के महिला शिक्षकों (यू0जी0सी0, ए0आई0सी0टी0ई0, आई0सी0ए0आर0 वेतनमानों से आच्छादित पदों को छोड़कर) एवं सहायता प्राप्त शिक्षण एवं प्राविधिक शिक्षण संस्थाओं की शिक्षणेत्तर महिला कर्मचारियों के लिए भी लागू होंगी।

4- उक्त नियम की अन्य शर्ते यथावत् प्रभावी रहेंगी।

5- उपयुक्त आदेश दिनॉक 01 दिसम्बर, 2008 से प्रभावी होंगे।

6- संगत अवकाश नियमों में आवश्यक संशोधन यथासमय किया जायेगा।

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प्रमुख सचिव।

(ix) Intestate, probate and succession

i. Registration of intestate cases received from District Magistrates

G.L. No. 2697/44-89 dated 17th June, 1914

As soon as a report is received from the Magistrate under rule 1 of the rules contained in appendix 17(A) of the General Rules (Civil), 1957, that a person has died intestate leaving movable property an entry should be made in Form no.7 Register of Miscellaneous Non-Judicial cases. In the event, however, of the appearance of a claimant an entry should be made in Form no. 70, Register of Miscellaneous Judicial cases not relating to suits. When a claimant does not appear at the time the report is received, but at a later stage, the case should, on his appearance be transferred from Form no.7 to Form no. 70. The entry relating to the property in these cases should be made in Form no. 40, Register on Intestate Property.

ii. Administration of estate of persons dying intestate

G.L. No. 23/M-1 dated 14th March, 1936 (see G.O. No. 2079/VII-235-1935 dated 22nd February, 1936)

There are no provisions in the General Rules (Civil) for expenses connected with the administration of the immovable property (i.e., pay, etc. of sajawals and peons appointed for collection work) of person dying intestate. The provision for such expenses would be found in the concluding portion of section 5 of the Bengal Regulation V of 1799 requiring the expenses to be met from the income of estate.

A District Judge may charge the expenditure incurred on account of payment to Superintendent of Police for armed police, etc. and traveling allowance of Nazir to his contingent allotment and make an application for additional grant, if necessary.

As in the case of expenses on immovable property these items of expenditure though initially met from the contingent grant, should be recovered from the property of the deceased in case a claim arises and the property has to be restored to him by Government.

Sale of properties left by persons dying intestate

G.L. No. 2112 dated 23rd July, 1896

Civil courts have no power to direct a sale under section 5 of Bengal Regulation V of 1799 of immovable property left by a person who has died intestate and without heirs and held under attachment by the Collector of the district in accordance with the previous orders of the Judge, as such order is not authorized under the law as contained in Regulation V of 1799 and Regulation V of 1827. They are bound to hold the estate under attachment until the legal heir to the estate or other person entitled to receive charge thereof as executor, administrator or otherwise shall attend and claim the same. Circumstances may exist under which the only person entitled may be the collector as representing the State. In such cases the collector ought to make appearance before the Judge and satisfy him of his claim.

Deposit of security by persons granted letter of administration

C.L. No. 3 dated 31st August, 1906

Some District Judges omit, when granting letters of administration, to cause the person to whom such grant has been given to furnish proper and adequate security and to give him the bond required by the imperative provisions of section 291 of the Indian Succession Act, 1925.

Procedure for obtaining properly stamped succession certificate

G.L. No. 15/47-17(2) dated 26th June, 1944 read with Finance (M) Department

Letter No. M-260/X-508-1942 dated 2nd November, 1943

The letter contains certain executive instructions, framed by the Government, laying down the procedure in cases where a person voluntarily desires to obtain a properly stamped succession, certificate under section 382 of the Indian Succession Act, 1925, even though they said certificate may not be meant for presentation in a court or public office.

(x) Proceedings under U.P. Sales Tax Act 1948

C.L. No. 8/VIIIf-144/Admn. (G) dated 22nd February, 1989

Section 9 of the U.P. Sales Tax Act, 1948 provides that any dealer or other person aggrieved by an order made by the assessing authority, other than an order mentioned in section 10-A, may within thirty days from the date of service of the copy of the order, appeal to such authority as may be prescribed. Likewise, section 17 of the said Act makes it clear that save as is

provided in section 11, no assessment made and no order passed under this Act or the Rules made there under by the assessing authority shall be called into question in any court, and save as is provide in sections 9 and 10, no appeal or application of revision or review shall lie against any such assessment or order. Such power is only vested in the courts specially constituted under section 9 of the U.P. Sales Tax Act, 1948.

District Judges should impress upon all the presiding officers that any failure in complying with the aforesaid provisions shall amount to dereliction of duty on their part.

(xi) Family pension cases

C.L. No. 16/Admn. (A) dated 28th January, 1977

The cases filed under section 14-A of the Employees' Provident Fund (and Family Pension Fund) Act, 1952 should be decided expeditiously.

(xii) Election petitions

C.L. No. 23/IV-g-4 dated 29th March, 1950

Delay in the disposal of election petitions against presidents and members of District Board causes administrative difficulties and is in the interest of administration as well as of the local bodies that election petitions are decided expeditiously.

(xiii) Cases relating to dissolution of marriage

G.L. No. 198/67-1 dated 11th July, 1922

Suits for divorce and separation are comparatively rare in this State. It is not to be expected that either on the Bench, or at the Bar, there should be much familiarity with divorce practice. But this fact should induce a special degree of care and circumspection in the disposal of such suits on the part of the judge.

The duty of dissolving marriages is one involving serious responsibility. The decision affects not merely the character, reputation and the future of the alleged guilty party, but also the welfare of the children, the validity of remarriages, the legitimacy of children who may be subsequently born and the interests of public morality.

In undefended cases the court should invariably satisfy itself by unimpeachable testimony that the absence of the alleged guilty respondent is due entirely to a consciousness of guilt, and of the futility of denying the charge, and to no other cause.

The following recommendations, which from the nature of things cannot be more than superficial, and do not profess to be comprehensive should in all cases be rigorously followed. They represent points which, recent experience has proved to the High Court, are often overlooked-

I. Marital offences (adultery, cruelty and the like) must be proved, whether they are denied or not, with the same particularity and certainty as courts are accustomed to require in criminal trials.

II. It is the established rule that in a husband's petition the wife has an absolute right to be provided if necessary by an order of the court, with funds in advance to enable her to obtain legal advice and to defend herself with legal aid if she intends to deny the charges. Every notice of a petition served upon a wife should include a clear intimation to the

respondent of this right. It is so well established that a lawyer employed by the wife, on her own responsibility, can sue the husband for the cost which he reasonably incurs, such costs, being held to be "necessaries" for which a wife may pledge her husband's credit if there is reasonable ground for resisting the petition.

III. The petition should contain a precise statement of the dates, and places, at which each marital offence, of whatever kind, is alleged to have taken place.

IV. A petition containing mere vague and general allegation should be summarily rejected as disclosing no ground for a decree. All general allegations should be in any case struck out from the petition before notice is issued. The proper form of order is- "paragraph…… to be struck out unless within…… days the petitioner furnishes to the respondent in writing particulars of the date when, the place where and the person with whom, each and every of the alleged acts of misconduct took place."

V. Any variation between the precise particulars of marital offences alleged in the petition, and the evidence called to support them, should be regarded with suspicion unless satisfactorily explained especially in undefended suits.

VI. Whenever adultery is sought to be proved by the evidence of one witness, the judge should ask himself if there are any circumstances in the nature of corroboration, e.g., evidence of familiarities less than adultery, e.g., constant association, a closer degree of friendship than is usually permissible etc.

VII. The evidence of servants has always been regarded as untrustworthy, unless corroborated by independent testimony, or unless they have without delay reported the matters to which they speak.

VIII. The identity of the person alleged to have committed the offence, with the identity of the respondent, or party to the marriage against whom the allegation is made, should be established by the sworn testimony of someone able to speak to both from first-hand knowledge.

IX. Evidence in divorce suits being largely circumstantial, care should be taken to investigate the history of the married life and the continued relations of the contending parties so as to enable a judgment to be formed from the recorded evidence as to the probability or otherwise, of the main allegations.

X. A confession by a wife, contained as it usually is in a letter addressed to the husband, requires to be considered with care. Proof of handwriting must, of course, be given and, if misconduct is ought to be proved on the basis of the letter alone, great caution should be exercised in accepting it, especially if it was written in the presence of the husband or under his roof. In a case of this kind the letter may have been procured by threats or may be wholly untrue and collusive. Prudence suggests that, just as in number VI, surrounding circumstances should carefully be considered.

XI. The allegation that an Englishman has abandoned his domicile of origin and has definitely and finally elected to adopt an Indian domicile is one which should be strictly proved. The questions which will suggest themselves are, what relatives has he in England, what property, what "prospects and, on the other hand, what are the inducement which have led him to spend the rest of his life in India and when he formed that resolution. The real truth may be that this resolution was formed when first he learnt

about the domicile difficulty at the institution of the suit and will be abandoned immediately on the termination of the suit.

It may be added that the presiding judge will find it of great service in his efforts to probe the allegation made to adopt a skeptical attitude towards the evidence of either side, and to follow it up with questions of his own until he is convinced of the truth of one or the other.

G.L. No. 28/VIII h-6-1 dated 4th October, 1947

An extract from the High Court judgment in matrimonial reference no. 4 of 1949 is reproduced below for the guidance of subordinate courts:

> "We have read the judgment of the learned District Judge and we are satisfied upon the evidence that the finding at which he has arrived is correct. In these circumstances we shall be prepared to confirm his decree were there in fact a decree which did dissolve the marriage of the petitioner and the respondent. The operative part of the decree in this case is in the following terms:

'It is ordered that a decree *nisi* dissolving the petitioner's marriage with the respondent be passed.'

> "Apart from the fact that the decree made by a District Judge under section 14 of the Act is not a decree *nisi* which can only be passed by the High Court under section 16- that part of the decree to which we have referred does not purport to dissolve the marriage at all, for instead of declaring the marriage dissolved it merely say that a decree having that effect will, presumably at some future date, be passed. This Court has on a number of occasions pointed out the necessity of the decree being prepared strictly in accordance with the provisions of section 14, for it is the decree of the District Court, and not the judgment of the learned District Judge, which comes before this Court for confirmation."

In the circumstance we amend the decree of the lower court by substituting for the sentence, which is quoted above the following:

> "It is ordered and declared that the marriage between the petitioner and the respondent is dissolved this decree being subject to confirmation by the High Court of Judicature at Allahabad."

(xiv) Insolvency proceedings and company matters

G.L. No. 713/67-7 dated 21st March, 1917

The attention of District Judges is called to the importance, in insolvency proceedings, of settling the schedule of creditors at as early a stage as possible.

C.L. No. 67/R dated 27th September, 1949

1. No hard and fast definition of the term "gross assets" occurring in Judicial (Civil) Department notification no. 6240/VII-540-46, dated 23 November, 1950, reproduced as Appendix 17(ii) of General Rules (Civil), 1957 can be given, as the presiding officers will always be in the best position to adjudge the amount of gross assets according to the circumstances of each case. Generally speaking "gross assets realized by the Official Receiver"

will be the total realization made by him from sale of the property- movable and immovable- belonging to the insolvent. If any property has been wrongly attached and has to be released or having been sold the money has to be refunded, it would not be a realization of the assets of the insolvent and should not be considered to form part of the gross assets realised by the Official Receiver. Where at the instance of the creditors or informants, the Official Receiver attaches any property, which is adjudged not to belong to the insolvent, he cannot be allowed any remuneration on the value of that property either out of the insolvent's estate or from the property itself. The Official receiver may, however, make an arrangement with the creditors or informants, with the sanction of the Insolvency Judge, for reimbursement of the expenses incurred by him and for meeting his fees in such cases, the term "gross assets" does not also include monies not belonging to the insolvent, e.g., moneys deposited with the Official Receiver as security or in payment of costs of litigation, or amounts of dividends returned undelivered and re-deposited in the insolvents funds.

2. Clause (2) of the Government notification mentioned above is general and gives full discretion to the Insolvency Court in allowing additional remuneration to the Official Receiver where the order of adjudication is annulled or the insolvent makes a settlement with his creditors out of court. But the discretion so exercised should not be arbitrary. The presiding officer will have in such cases, before awarding remuneration, to form an approximate idea of the time spent and the labour put in by the Official Receiver over the case and the amount of gross assets which could have been realized by him had the proceeding not come to an end by the annulment of the order of adjudication or by a settlement out of court. The amount of gross assets which could have been realized by the Official Receiver will depend upon the facts of each case and will have to be determined by the court on consideration of all the factors including the debts shown in the application, the debts claimed by the creditors, the amount of scheduled debts and the assets, alleged or established, of the insolvent.

In case where the order of adjudication is annulled or settlement is made with creditors out of court at an early stage there may not be enough material before the court to enable it to arrive at a clear decision. In such cases, scheduled debts can generally be taken the maximum limit of the "gross assets" while the actual work done by the Official Receiver should be taken as the primary factor in determining the amount of commission within the limits prescribed in the notification mentioned above.

3. The salary of a Karinda appointed with the approval of the court for the proper administration of the insolvent's property is a proper charge on the insolvent's estate. Thus, where the Karinda employed by the Official Receiver supervises the property of more insolvents than one, his salary can be proportionately borne by all the insolvent estates concerned. But no portion of the Karinda's salary should be charged to an estate, which has no movable or immovable property requiring supervision.

G.L. No. 971/11H-1(14) dated 21st February, 1928

The provisions of rule 16 of the rules contained in Appendix 17 (J) of the General Rules (Civil), 1957, should always be observed by Insolvency Courts. Even where the estates are small, a head clerk or vakil should be appointed to audit the accounts of those estates for the joint fees to be paid out of all the estates. Whenever there is a receiver, an auditor should be appointed. When estates are large the Examiner of Local Fund Accounts should be requested to depute an auditor to audit the accounts.

G.L. No. 30/47-17(4) dated 28th April, 1937 read with Government of India

Letter No. F.224/37/Judl. dated 23rd March, 1937 and

G.L. No. 37-47-17(18) dated 11th December, 1937

Presiding officers of subordinate courts should appoint or recommend for appointment only registered accountants to audit the accounts of public companies.

A copy of the register of accountants entitled to practice as auditors of companies can be obtained from the Manager of Publications, Central Publication Branch, Civil Lines, Delhi on payment. The charges should be met from the departmental budget.

C.L. No. 65/VIIIb-165 dated 23rd July, 1959

The Government of India has under notification No.C.S.R. 663, dated the 29th May, 1959, published on page 803 of Part II, section 3, sub-section (i) of the Gazette of India, dated the 6th June, 1959, empowered all district courts in U.P. to exercise jurisdiction conferred upon the High Court under the following sections of Indian Companies Act, 1956:

Section 75	-	Return as to allotments.
Section 89	-	Termination of disproportionately excessive voting rights in existing companies.
Section 113	-	Limitation of time for issue of certificates.
Section 118	-	Right to obtain copies of and inspect trust deed.
Section 141	-	Rectification by Court of register of charges.
Section 144	-	Right to inspect copies of instruments creating charges and companies register of charges.
Section 163	-	Place of keeping, and inspection of, registers and returns.
Section 196	-	Inspection of minute books of general meetings.
Section 219	-	Right of member to copies of balance sheet and auditors' report.
Section 234	-	Power of Registrar to call for information of explanation.
Section 240	-	Production of documents and evidence.
Section 304	-	Inspection of the register of Directors Managing Agents, Secretaries and treasures, etc.
Section 307	-	Register of Director's share holdings, etc.
Section 375	-	Managing Agent not to engage in business competing with business of managed company.
Section 614	-	Enforcement of duty of company to make returns, etc. to Registrar.

Notifications issued under the proviso to sub-section (1) of section 3 of the Indian Companies Act, 1913, are superseded by this notification only in respect of their application to proceedings instituted on the day next following the date of its publication in the Gazette.

(xv) Official Receivers

G.L. No. 21/R dated 7th August, 1950

Recommendations for appointment or extension of the term of an Official Receiver should be sent three months before the expiry of the term of such appointment.

C.E. No. 95/R dated 25th August, 1972

This should be sent by the District Judges to the Government direct instead of routing them through the Court.

C.L. No. 48/R dated 26th August, 1950

The recommendation should invariably mention the date of birth of the person recommended.

C.L. No. 8 dated 19th January, 1959

Appointments of Official Receiver shall, at the first instance, be made for a term of one year.

In case the work of an Official Receiver appointed as above is found satisfactory his term may be extended for three years.

G.L. No. 29/47-31 dated 26th July, 1932

District Judges shall take full security from Official Receivers before they are allowed to work as such.

C.L. No. 59/R dated 9th June, 1953 read with

G.O. No. 3746(i)/VII-540, 46 dated 9th April, 1953

Verification of securities furnished by Official Receivers should, as far as possible, be done through the agency of the Collector or the court Amin so that Official Receiver may not have to pay much for the annual verification of his securities.

C.L. No. 19/R dated 21st March, 1964

The District Judges should ensure that a written undertaking is invariably taken before hand from all the applicants for the post of Official Receiver that on being selected they will readily be able to furnish the necessary securities according to dictions.

C.L. No. 6/3R dated 13th January, 1951

Road mileage is always much higher than the fare by rail or motor bus and in the interest of the insolvents as well as the creditors Official Receivers should charge traveling allowance accordance to the provisions of rule 14-A (2), Financial Handbook, Volume II.

Preparation and checking of Official Receiver's accounts

G.L. No. 14/47-7(2) dated 8th March, 1935

The date on which possession is taken of the property should be shown in the "Remark" column of Form nos. 136 and 137 [registers of movable property and immovable property which are maintained by Official Receivers under rules (xi) and (xii), of Appendix 17(J) of the General Rules (Civil), 1957].

G.L. No. 21/18 dated 2nd April, 1948

The Insolvency Judge should properly check the accounts and registers of the Official Receiver at the end of each quarter, when accounts are submitted to him under rules 16 and 18, Appendix 17(J) of the General Rules (Civil), 1957. Accounts should be kept ready for audit at a week's notice.

G.L. No. 68/167-3(12) dated 7th July, 1936

The annual audit of the accounts of Official Receivers is carried out by the staff or the Examiner, Local Fund Accounts, U.P. It is not generally possible to give audit intimation more than a week before its commencement and all Receivers including Official Receivers should keep all the records of accounts ready for audit and to produce them before the auditors when required by them for the purpose of audit.

Appointment as Receiver or Guardian ad litem

G.L. No. 10/R dated 2nd May, 1950

Official Receivers, like other members of the Bar, are eligible for appointment as receiver, guardian *ad-litem* or curator, and there is no objection to their holding the office of Official Receiver while acting as such.

C.L. No. 13 dated 22nd January, 1958 and

C.L. No. 66 dated 3rd May, 1974

The Official Receiver has the experience of management of estates and property. He has also furnished security for the proper discharge of his duties and seems to be well qualified for such appointment.

Subordinate courts should, therefore, consider the claims of an Official Receiver appointed in the district under the Provincial Insolvency Act to appointment as a Receiver under Order XL of Civil Procedure Code.

C.L. No. 111/R dated 14th November, 1951

Official Receivers are not exempt from personal appearance before the District Registrar or the Sub-Registrar.

(xvi) Award of compensation on reference U/S 18 of the Land Acquisition Act on the basis of square foot, square yard or square meter in respect of large tracts of Agricultural land.

C.L No.20 dated 26 April, 1996

It has come to the notice of the Hon'ble court that the subordinate court while deciding the references under section 18 of the Land Acquisition Act awards compensation on the basis of square foot, square yard or square meter even in cases in which large tracts of agricultural land in Acres or Bighas has been acquired. Such orders are wrong in principle of law particularly when large extent of land are sought to be acquired for public purposes.

The attention of the Judicial Officers is drawn to the decision of the Hon'ble Apex Court reported in A 1 R 1996 SC 531 and JT 1996 (2) SC 37.

I am, therefore, to request you to draw the attention of all the Judicial Officers posted in Judgeship to follow the principle laid down by the Apex Court in the aforesaid two cases as referred above while disposing the cases relating to reference under section 18 of the Land Acquisition Act.

(xvii) *राजस्व न्यायालय के क्षेत्राधिकार में हस्तक्षेप*

परिपत्र संख्याः 47/सात एफ-189/प्रशासकीय (जी-2) दिनॉक 18 अगस्त, 1993

उपर्युक्त विषयक अध्यक्ष, राजस्व परिषद लखनऊ के अर्द्धशासकीय पत्र संख्याः 667/पी.सा./92 दिनॉक 30 मार्च, 1992 की प्रति भेजते हुए मुझसे यह कहने का निदेश हुआ है कि इस परिपत्र को संलग्न सहित अपने अधीन समस्त न्यायिक अधिकारियों के मध्य सूचनार्थ एवं आवश्यक कार्यवाही हेतु परिचालित करें।

राजस्व परिषद, लखनऊ।

अ.शा.पत्र सं.- 667/पी.एस./92 राजस्व परिषद, लखनऊ दिनॉक 30 मार्च, 1992

मैं आपको श्री मुनीश्वर दयाल कुलश्रेष्ठ ए.डी.जी.सी. (रजि.) आगरा पत्र दिनॉक 21.5.1992 मूल रूप में भेजा जा रहा है। उन्होंने कहा है कि उ.प्र. जमीन्दारी उन्मूलन एवं भूमि सुधार अधिनियम की धारा 330 (सी) के अंतर्गत यह स्पष्ट प्राविधान है कि जो शासकीय वसूली भू-राजस्व के रूप में की जायेगी उसके विषय में दीवानी न्यायालय कोई विचार नहीं कर सकते। परन्तु हाल में ऐसा देखा गया है कि बकायेदार राजस्व विभाग से सुविधा न पाने पर दीवानी न्यायालयों में चले जाते है और कुछ दीवानी अदालतें स्थगन आदेश भी पारित कर देती है। जब उनको यह बताया जाता है कि उनको क्षेत्राधिकार प्राप्त नहीं है और उनको यह बिन्दु प्रारम्भिक बिन्दु के रूप में निस्तारित करना चाहिए। बजाए उसको निस्तारित करने के कहते हैं कि गुणदोष के आधार पर लिखित बयान उपलब्ध कराये जायें। उनका ऐसा आदेश अवैधानिक है व राजस्व न्यायालय के क्षेत्राधिकार में हस्तक्षेप है।

2- *शासन के ज्ञान में यह लाया जावे कि माननीय उच्च न्यायालय से ऐसे स्पष्ट आदेश जारी कराये जावें कि ऐसे वादों में क्षेत्राधिकार के विषय में प्रारम्भिक बिन्दु बनाकर पहले निर्णय लिये जाया करें। इस पर की गई कार्यवाही व शासन द्वारा माननीय उच्च न्यायालय द्वारा जारी कराये गये आदेशों की प्रति परिषद को भी उपलब्ध कराने का कष्ट करें।*

(xviii) Disposal of applications for Succession certificates, grant of probate, grant of Letters of Administration.

C.L. No. 17/VIIIb-37/Admn. G-2, dated 29th March, 1993

It has been brought to the notice of the Court that even uncontested applications for succession certificate, grant of probate, grant of Letters of Administration remain pending for months together and in some cases for years together. Sometimes they are adjourned on account of the fact that there is boycott of of courts by the lawyers. This is not a happy state of affair.

I am, therefore, directed to say that all the Presiding Officers under you be informed that on such applications, if the petitioner is present, his statement should be recorded by the Presiding Officer and the petition be disposed. He should also ensure that uncontested cases do not remain pending for a long period.

(xix) Disposal of Election Petitions

C.L. No.21/ dated 26th April, 1996

I am directed to draw your attention to the fact that large numbers of Election Petitions filed in the District Courts are pending and the Courts are not deciding these petitions expeditiously. Delay in disposal of these Election Petitions is a matter of grave concern.

The Court has desired that these petitions may be disposed of as early as possible.

I am, therefore, to request you kindly to direct the Court concerned in the Judgeship to decide the Election Petitions expeditiously and report the compliance to the Hon'ble Court.

(xx) Disposal of Matrimonial Cases

C.L. No. 23/VIIh-44/Admn.(E) dated 1st March, 1994

I am directed to say that it was pointed out by the Chairman of U.P. Legal Aid and Advice Board that institution of matrimonial cases is on increasing trend. Hence speedy disposal of such cases is necessary whether these cases are decided on merit or by making efforts for

reconciliation. On his suggestion the matter was considered by the Court and the Court has arrived at the conclusion that matrimonial cases are required to be disposed of with more speed.

I am, therefore, to request you kindly to issue necessary instructions to all the courts subordinate to you dealing with matrimonial cases, to make efforts to dispose of these cases expeditiously.

(xxi) To observe caution while accepting insanity certificates in divorce proceedings

C.L. No. 6/2005 Dated 5th February, 2005

I am directed to send herewith a copy of D.O. Letter No.CP/VIP/NCW3229, dated September 16, 2004 of Dr. Poornima Advani, chairperson, National Commission for Women, New Delhi along with a copy of the Investigation Report dated July 10,2004 for your information.

(**xxii**) S**upply of copy of Judgment dated 5.3.2004 of the Hon`ble Court passed in first Appeal No.247of 1997 Moradabad Development Authority vs. Shami Ahmad and another**.

C.L. No. 9 / 2004: Dated 29th March, 2004

I am directed to send herewith a copy of Judgment passed by Hon`ble Court (Hon`ble M. Katju, J. and Hon`ble K.N. Ojha, J.) in first Appeal No. 247 of 1997 – Moradabad Development Authority vs. Shami Ahmad and another for strict compliance of the directions as contained therein.

It is further requested that the contents of the aforesaid judgment be communicated to the judges hearing the Land acquisition references in your Judgeship.

(See for Judgment: 2004 A.L.J. 2197)

(xxiii) To ensure strict compliance of the directions passed in first Appeal no. 981 of 2002- Agra Development Authority Vs. State of U.P. connected with First appeal No.979 of 2002, First Appeal no. 983 of 2002, first appeal No. 980 of 2002 and First Appeal No. 982 of 2002 by the Hon`ble Court.

C.L. No.10 / Admin. `G`/Dated: 29th march, 2004

I am directed to send here with a copy of judgment passed in First Appeal no. 981 of 2002- Agra Development Authority vs. State of U.P. connected with first Appeal no. 979 of 2002, First Appeal no. 983 of 2002,First Appeal No. 980 of 2002, and First Appeal No. 982of 2002 with the request to kindly bring the contents of the judgment to the notice of all the Judicial Officers hearing Land Acquisition References for strict compliance and that collusive orders may lead to disciplinary action against the concerned person and Judicial Officers.

(See for Judgment: 2004 A.L.J. 1853)

(xxiv) Circulation of the copy of judgment delivered by the Hon`ble Court in Civil Revision No. 78 of 2004. Dr. Nanda Agarwal vs. Matri Mandir Varanasi and another

C.L. No. 32/ 2004, Dated 24 September, 2004.

The Hon'ble Court (Hon`ble Anjani Kumar, J.) while deciding Civil Revision No. 78 of 2004. Dr. Nanda Agarwal vs. Matri Mandir Varanasi and another has observed with concern that

a Court trying a civil suit does not have any power to extend time for filing the written statement beyond what is stipulated in Order VIII Rule 1 of the Code of Civil Procedure.

It has further been observed by the Hon'ble Court that a failure to file written statement as contemplated under Order VIII Rule 1, of C.P.C. entails the penalty on the defendant that defendant cannot file written statement and the suit has to be decided even in absence of written statement filed on behalf of defendant.

In this regard, I am directed to send herewith a copy of the Judgment dated 26.8.2004 delivered by Hon'ble Court in Civil Revision No. 78 of 2004. Dr. Nanda Agarwal v. Matri Mandir Varanasi and another for your information and compliance of the directions as contained therein with the request to kindly bring the contents of the Judgment to all the concerned Judicial Officers working in your Judgeship.

(See for Judgment: 2005 A. L. J. 98)

C.L. No.225 P.S. (R.G.) /2002 : Dated: November 18th February, 2002.

Hon'ble the supreme court of India, while disposing of the petition challenging the recent amendments made in Civil Procedure code has held that there is no constitutional infirmity in the same, but at the same time has decided to constitute a committee to ensure that the amendments made become effective and result in quicker dispension of justice. That committee is headed by Hon'ble Mr. Justice N. Jagannadha Rao, Chairman, Law Commission of India who has solicited the views of Members of the Sub-ordinate judiciary. A letter in this regard, addressed to Hon'ble the chief Justice was received and I have been directed to circulate the same.

Accordingly, a copy of the letter sent by Hon'ble Mr. Justice M.Jagannadha Rao along with copy of the judgment given by Hon'ble the Supreme Court of India in **Salem Advocates Bar Association Tamilnadu Vs. Union of India decided on October 25,2002** is being enclosed herewith for perusal with request to send your views as desired in the aforesaid letter.

(xxv) Compliance of directions laid down in the judgment dated 7.5.1996 of Hon'ble the Supreme Court of India in civil appeal no. 7760-7761 of 1996 U.P. State Road Corporation and others vs. Trilok Chandra and others

C.L.No.35 Admin (G), Dated 19 July,1996

Hon'ble the Supreme Court while deciding the matter of U.P.State Road Corporation vs.Trilok Chandra and others has issued directions that the said judgment may be circulated to all the court/Tribunals subordinate to Hon'ble High Court of judicature at Allahabad.

In compliance of the directions contained in the judgment a copy of order of Hon'ble the Supreme Court is being enclose for strict compliance.

I am, therefore to request you to communicate the directions of the Hon'ble Supreme Court to all the courts subordinate to Hon'ble the High court by circulating the copy of the judgment for strict compliance.

(xxvi) The guidelines with regard to the representation of the parties litigating before the family court through their counsel

C.L.No./20 Dated: 9th June, 1998

Hon'ble court (Hon'ble Sri M.Katju and Hon'ble Sri.S.L. Saraf.JJ) in civil Misc. Writ Petition No.48736 of 1997, Prabhat Narain Tickoo Vs.Smt. Mamta Tickoo and others, has formulated, the guide lines with regard to the representation of the parties litigating before the family Court through their counsel.

I am desired to send the copy of the aforesaid judgment for information.

Enforcement of the provisions of Section 13 of Family Courts Act, 1984 and Rule 27 of the U.P. Family Courts (Court) Rules, 2006 providing for seeking permission to engage Advocate in appropriate cases.

C.L. No. 18/2009/ Admin. (G-I): Dated: April 29, 2009

The Hon'ble Court has noticed that the provisions as laid down in Section-13 of the Family Courts Act providing for a bar to engage a Legal Practitioner to appear before a Family Court in a suit or proceedings and has left it to the discretion of the Court to seek assistance of Legal Expert as Amicus Curiae if so required in the interest of Justice, are not being adhered to by the Courts and hence has desired that strict compliance be made of the provisions as provided in Section 13 of the Family Courts Act, 1984 and also in Rule-27 of the U.P. Family Courts (Court) Rules, 2006 which provides that the Court may permit the parties to be represented by a Lawyer if the case involves complicated questions of Law or considers that the party seeking the permission will not be in a position to conduct his/her case adequately or for any other reason and the reasons for granting such permission shall be recorded by the Court in its order. The permission so granted may also be revoked by the Court at any stage of the proceedings if the same is considered just and necessary.

Therefore, I am, directed to request you to kindly bring the contents of this Circular Letter to the knowledge of all the Presiding officers of the Family Courts working under your administrative control for strict compliance of the directions.

Help Desk to be provided in Family Court.

C.L. No. 19/2009 Admin. (G-I): Dated: 29.04.2009

In order to give effect to the U.P. Family Courts (Court) Rules, 2006, which have provided simplified procedure for making application in summery proceedings on just one form, upon consideration of the matter the Hon'ble Court has desired that a help desk be set up in each Judgeship to be manned by a senior clerk preferably a lady where there exists a family court to assist the parties approaching the court for providing necessary guidance in filling up the form and enlightening them to provide detailed information with regard to filing of cases, the manner and method of recording of evidence and the recovery of maintenance.

Therefore, I am, directed to request you to kindly bring the contents of this Circular Letter to the knowledge of all the Presiding officers of the Family Courts working under your administrative control for strict compliance of the directions.

Enforcement of provisions of Section 11 of Family Courts Act, 1984

C.L. No. 22/2009/Admin. 'G-I': Dated: May 2, 2009

The Hon'ble Court has noticed that the provisions as laid down in Section 11 of the Family Courts Act providing for holding in camera proceedings in every suit or proceedings to which the Act of 1984 applies if the family court so desires or either of the parties so desires, are

not being observed by the Courts strictly. Now the Hon'ble Court upon consideration of the matter has desired that the Courts dealing with matters falling under Family Court Act must strictly follow the provisions as contained in section 11 of the Act.

Therefore, I am, directed to request you to kindly bring the contents of this Circular Letter to the knowledge of all the Presiding Officers of the Family Courts working under your administrative control for strict compliance of the same.

(xxvii) Judgment of court rendered in civil Misc. Writ Petition No.174 16 of Ram Chandra Shukla Vs. State of U.P. and others.

C.L.No.23/Alld: Dated 17th September, 1999

The direction of Hon'ble court contained in judgment rendered in civil Misc. Writ Petition No.17416 of 1997 Ram Chandra Shukla Vs. State of U. P. and others is being communicated for circulation to all the judicial officers posted in this district for information and necessary action.

(See for Judgment)

(xxviii)Priority to the cases in which persons with 40% or more disability is or are the main petitioner(s)/defendants(s).

C.L. No. 7 /2005 Dated: 10th February, 2005

The Hon'ble Minister Law and Justice, Government of India, New Delhi while observing that the Fast Track Courts though conceived to specifically dispose of Sessions cases pending for over two years have also been requested to accord priority for disposal of cases relating to senior citizen and abuse of women, has suggested that priority be also given to the cases in which persons with 40% or more disability as per the Disability Act is or are the main petitioner(s) or the main defendant(s). Upon consideration of the matter the Hon'ble Court has been pleased to direct that cases regardless of the period of the pendency in which persons with 40% or more disability as per the Disability Act is or are the main petitioner(s) or the main defendant(s) be heard and decided on regular and priority basis.

Therefore, I am to request you to be so good as to bring the contents of this circular to the notice of all Judicial Officers in your Judgeship for strict compliance.

(xxix) Declaration regarding 'marriage' & dowry'

C.L. No. 31 /2005 Dated: 29 October, 2005

Upon consideration of Government Order Nos. 3760/60-3-04(16AQ)/2000 dated 30.12.2004 1107/60-3(16AQ) dated 02 .05.2005 and 1284/60-3-2005-3(65) dated 26.05.2005 dealing with declaration regarding marriage and dowry, by the Government Servants who have been appointed after 31.03.2004 the court has been pleased to direct that all such judicial officers and supporting staff in the ministerial and inferior establishment of the district judiciay who have been appointed after 31.3.2004, shall in performances of direction in rule 5(5) (a) of the Uttar Pradesh Dowry Prohibition(first Amendment) Rules, 2004, which come into force with effect from the date of their publication in the Gazette vide notification No. 2457/60-3-3-(65)-97 dated 31st March, 2004, make a declaration under their signature stating that they have not taken and dowry.

Therefore, I am directed to send out here with a copy each of the Government Order Nos. 3760/60-3-04(16AQ)/2000 dated 30.12.2004 1107/60-3-05 (16AQ) dated 02 .05.2005 and

1284/60-3-2005-3(65) dated 26.05.2005 with the request that the contents of and directions in the rules and Government orders aforestated, be unerringly gone through all the way for ensuring strict compliance and declaration meant for well again standards of public life, be furnished by all concerned immediately.

(xxx) Expeditious disposal of cases relating to intellectual Property Rights and Commercial Arbitration.

C.L. No. 2/ Admin 'G' /2006: Dated: 5th February, 2006

I am desired to inform that Hon'ble the Chief Justice of India expressing concern over failure of the District Judiciary to deliver justice with the reasonable time frame, has desired that for keeping the confidence of the people arrears be reduced and postponement in disposal of case be done away with.

On a thoughtful consideration of the matter, the Hon'ble Court has been pleased to order that cases relating to Intellectual Property Rights and Commercial Arbitration in the judiciary in your organizational control be identified and taken up for hearing on precedence. Further, Monthly progress of deposal of such cases be monitored effectively and reports be submitted to the Court faithfully and punctually so as to reach by 10th of next following month.

Therefore, I am to request you to take all such steps as might be indispensable in achievement.

(xxxi) Caution to turn away from back up in filing of frivolous suits.

C.L. No. 3/ Admin 'G' /2006: Dated: 15th February, 2006

Hon'ble Supreme Court of India in Writ Petition (Civil) No. 496 of 2002-Salem Advocate Bar Association, Tamil Naddu Vs. Union of India (2005)6 SCC 344 has observed and held as below:

Judicial notice can be taken of the fact that many unscrupulous parties take advantage of the fact that either the costs are not awarded or nominal costs are awarded on the unsuccessful party. Unfortunately, it has become a practice to direct parties to bear their own costs. In large number of cases, such an order is passed despite Section 35(2) of the Code. Such a practice also encouraged filing of frivolous suits. It also leads to taking up of frivolous defences. Further wherever costs are awarded, ordinarily the same are not realistic and are nominal. When Section 35(2) provides for cost to follow the event, it is implicit that the costs have to be those, which are reasonable incurred by a successful party except in those cases where the court in its discretion may direct otherwise by recording reasons thereof . the costs have to be actual reasonable costs including the cost of the time spent by the successful party, the transportation and lodging, if any, or any other incidental cost besides the payment of the court fee, lawyer's fee, typing and other cost in relation to the litigation.

The District Judiciary puts the edifice of the administration of justice together. The district Judiciary is thus under an obligation to turn away from back up in filing of frivolous suits. Therefore, I am directed to request you and all the judicial Officers working in Judiciary under you administrative control, to go all the way through the directions in the judgment referred to herein above and make sure obedience in epistle and force.

(xxxii) Judgment and order dated 24.9.2005 in Civil Misc. Writ Petition No. 63114 of 2005-Ganga Prasad Vs. M/s Hanif Opticians & others.

C.L. No. 6/ Admin 'G' /2006: Dated: 15th February, 2006

While enclosing herewith a copy of judgment and order dated 24.9.2005 in Civil Misc Wit Petition No. 63114 of 2005 Ganga Prasad Vs. M/s Hanif Opticians & others. I am desired to say that the Hon'ble Court (Hon'ble Mr. Justice S.U. Khan) has been pleased to observe that the tenants enjoying the tenanted property on highly inadequate rent tend to prolong the disposal of the appeal or revision for continuing their possession without payment or proper rent/damages for use and occupation. If the stay against eviction is granted on the condition of monthly payment of reasonable amount this practice can sufficiently be checked. The Hon'ble Court has therefore directed that in revisions under section 25 Provincial Small Caused Court Act or appeal under Section 22 of U.P. Act No. 13 of 1972 District Judge or Addl. District Judge while granting stay order shall impose conditions of payment of reasonable among which may be about 50% of the Current rent (i.e. rent on which building in dispute may be let out at the time of grant of stay order. In this regard no detailed inquiry need be made. Mere guesswork based on common sense may do).

Therefore. You are requested to kindly circulate the said judgment to all the additional District & Sessions Judge in the Judgeship under your administrative control for their guidance.

Improvement in administration of Civil Justice System

C. L. No. 41/2006, dated 19-9-2006

With reference to the above subject I am directed to inform you that to shore up the administration of Civil Justice System in the Chief Justices' Conference, 2006, it has been resolved that a holistic approach a required to be adopted with stringent enforcement of the provisions of the Civil Procedure Code in the matter of service of process, filing of written statement, use of Alternative Dispute Resolution (ADR) methods, imposing of costs, admission/denial of documents, examination of parties, discovery and inspection of documents, framing of issues, granting of adjournments, production of witnesses and granting of ex parte injunction/stay orders by all the Judicial Officers.

Therefore, I am further directed to request you to impress upon all the Judicial officers working under your supervision and control in the Judgeship to follow the above directions meticulously.

16. EXECUTION CASES

G.L. No. 3020/19-O-20 dated 4th September, 1920

Complaint are frequently made of the difficulties encountered by decree-holders and these complaints are to a large extent justified owing to constant neglect in properly complying with the directions laid down in Chapter VI of the General Rules (Civil), 1957. The execution clerk appears to be allowed a very free-hand and is commonly reputed to make considerable illicit income out of his post. Whatever his motive, it is intolerable that the clerk of a court should be in a position to intimidate parties and pleaders into taking action for which not the remotest necessity exists, and the manifest object of which is to defeat rules made for the guidance of courts, to say nothing of the needless vexation and hardship caused both to the decree-holder and the judgment-debtor.

District Judges should devote special attention to execution cases pending in the courts directly subordinate to them and take steps to ensure rigid compliance with the rules. Execution

cases should be placed before the presiding judge in open court daily in the same manner as suits and other causes as they are the most important part of civil proceedings.

G.L. No. 10/VIII-h-19 dated 12th September, 1951

The file arising out of an execution application should be kept separate and district from the file arising out of an objection under section 47 or Order XXI, rule 58, of the Code of Civil Procedure. A separate index and order sheet should be prepared for every file arising out of an objection as soon as an objection is filed. These files should be kept separate until the objections are disposed of and should thereafter be stitched to the main execution file as required by the rules.

If may be said that if the files arising out of such objections are kept separate from the execution file there is an apprehension of the attached property being sold or the judgment-debtor being arrested notwithstanding the fact that an objection to such sale or arrest may not have been disposed of. But there would be no such apprehension if the files arising out of such objections are kept in charge or the same clerk who deals with execution files. As further safeguard care must always be taken whenever the execution is stayed on the filing of an objection to make an entry thereof on the execution file giving reference to the appropriate file in which such objection is being dealt with.

G.L. No. 1823/35(a)-k(a) dated 7th May, 1915

No application for an order for sale under Order XXI, rule 66(3), of the Code of Civil Procedure should be entertained unless it is accompanied by a verified statement.

Such statement must be examined to see that the encumbrances are set down so for as they are known to or can be ascertained by the person making the verification.

In this connection reference is made to rule 165, chapter VI of the General Rules (Civil), 1957 which lays down that in every case the decree-holder must submit registration receipt, showing that search has been made at the registration office.

In every case, the decree-holder must make this search at the registration office and the court should not fall back on the report from the same offices which it calls for under Order XXI, rule 106 of the Code of Civil Procedure.

If a comparison of the statement submitted by the decree- holder and of the report received from the registration office reveals any discrepancies, the decree-holder should be called to account. If he states that he did not see an entry or made a wrong note by accident, the cost of his inspection at the registration office should be disallowed.

G.L. No. 47/167-1 dated 5th January, 1927

The attention of all District Judges and that of all civil courts subordinate to them is drawn to the provision of Order XXI, rule 69 of the Code of Civil Procedure, under which it is incumbent on the court to specify the hour as well as the day to which a sale is adjourned. An omission to do so may amount to a material irregularity, which would result in the setting aside of the sale.

G.L. No. 6428-167-7(12) dated 13th December, 1927

Delay statements reveal that there is often a great deal of waste of time in the procedure of sale officers. It is realized that the proceedings must of necessity be lengthy. But the procedure

of sale officers can be improved so as to save trouble both to the officers themselves and to their clerks. In many cases the proceedings are conducted piecemeal. For instance, at one time, the decree-holder is called upon to pay process-fees to summon the judgment-debtor; then he is called to verify something, and then again to make a deposit. All these preliminary matters could be settled once and for all when the decree-holder first appears.

G.L. No. 9/167-3(1) dated 20th January, 1929

Parties to civil suits are required to file registered addresses (vide Order VII, rule 19 to 25 of the Code of Civil Procedure) and service at such addresses is considered sufficient (see rule 22). This rule may also be observed in execution proceedings in revenue courts.

G.L. No. 7/67-4 dated 11th April, 1931

The attention of all presiding officers of civil courts is invited to the provisions of Order XLI rule 6(2), of the Code of Civil Procedure, which makes it obligatory for the executing court to stay the sale on the application of the judgment-debtor "on such term as to security or otherwise as the court thinks fit until the appeal is disposed of". It has been observed, however, that when an application is made by judgment-debtor to executing court, the presiding officer almost invariably refuses to pass orders staying sale, on the ground that an appeal is pending and that the order must be passed by the High Court. When the application is made to the High Court after an appeal has been filed, stay of execution proceedings can only be ordered under Order XLI, rule 5, when it is necessary for the judgment-debtor to prove that substantial loss may result to him unless an order of stay is made, i.e.; special circumstances have to be proved by the judgment-debtor, and the sale is not stayed as a matter of routine even if the security offered by the judgment-debtor is sufficient. The appellate court is not bound by the provisions of rule 6(2) like the court which made the order for the sale of immovable property in execution of a decree.

The result of the executing courts failing to understand the rule or to apply it properly is that numerous applications are made in the High Court, which is unnecessary, and judgment-debtors are thereby placed in a much less favourable position than the law intended that they should be. Therefore, courts executing decree by sale of immovable property should follow the provisions of Order XLI, rule 6(2), implicitly.

C.E. No. 73/VII-d-71 dated 6th December, 1967

In case any property is taken into custody while delivering possession of a premises in execution of any order or decree or any property attached in any execution case or otherwise remains unclaimed or is not taken back by the owner despite a notice to him, the property shall be disposed of in accordance with the provisions of section 25, 26 and 27 of the Police Act, 1861 and paragraph 344(b) and notes appended thereto of F.H.B. Volume V.

G.L. No. 17/VI-c-S dated 21st September, 1951

Warrants of arrest or attachment are sometimes executed on Sundays or other holidays deliberately or maliciously with a view to cause harassment to a party. District Judges should take suitable action against the official concerned whenever instances of this kind come to their notice.

Resistance offered to civil court officials

G.L. No. 12 dated 7th June, 1928

(1) The Amin or peon must be made to understand that whenever he is resisted, he is not to make a "complaint" without the permission of the court.

(2) When resistance is offered he must report to the Police immediately and ask, if necessary, for medical examination.

(3) He should then report to the court concerned.

(4) The court will make such enquiry as may be necessary and possible in the circumstances, and then;

(a) either itself make a complaint under section 195(1)(a) of the Code of Criminal Procedure; section 186 of the Indian Penal Code will cover the great majority of such cases;

(b) or where the procedure indicated under (a) is not possible, direct the peon or any other officer under it to make a complaint giving him a letter addressed to the magistrate informing him that the complaint is being made by the direction of the court, and that the court has prima facie, satisfied itself as to the correctness of the complaint.

G.L. No. 17/67-1(3) dated 12th March, 1935

In a case in which a judgment-debtor escaped from the custody of process-servers the latter were directed by the court concerned to file a complaint in the criminal court. The Magistrate, however, refused to treat the case as a challan case and the decree-holder ceased to take any interest in the prosecution after the complaint had been filed.

The Government have decided that Para 2 of G.O.no. 2918/VI_2152-1933, dated the 11the may, 1934 (reproduced in the letter) covers cases of this kind also and that the District Magistrate can in all such cases ask for the Legal Remembrancer's permission to depute the Government counsel to conduct the prosecution if he thinks that the case is of some importance or is of an intricate nature.

Attachment of moneys deposited in treasury

G.L. No. 1/86 dated 2nd January, 1915

The rule governing the attachment of moneys held in deposit in Government treasuries under the orders of a court of departmental officer, relates to "property in the custody of a court or public officer"(rule 52, Order XXI, Code of Civil Procedure). The treasury officer is, qua the deposit, merely the agent of the depositing court or officer, and therefore, the deposit held by the treasury officer is in the "custody" of the court or officer by whose order it was made. District Judges should, therefore, ensure that civil courts do not issue warrants of attachment to treasury officers, but to the court or public officer by whose orders the money is held in deposit by the treasury officer.

Attachment of pay

C.L. No. 10 dated 20th January, 1958

The directions contained in notification no. SRO-F. 19(1)-E-57, dated the 24th September, 1957, of the Government of India, forwarded to all District Judges with the C.L. noted in the bloc should be complied with in issuing notices attaching salaries and allowances of government servants employed in the aforesaid Ministry.

C.E. No. 18/VII-d-13 dated 21st February, 1961

As clarified in Government of India letter no. 22/56-60 Judl., date December 7, 1960 sent with the marginally noted C.E. pay and allowances of all personnel subject to Army/Navy/Air Force Acts are immune from attachment under section 28/20/28, thereof. Section 60(I) C.P.C. also makes similar provision. While passing decrees against Army/Navy/Air force personnel, these provisions must be kept in view.

C.E. No. 12/ VII-d-13, dated 22nd January, 1964

Under Government of India, Home Department (Judicial notification no. 186/37-July, dated the 2nd October, 1946 as amended up to July, 1963 the following allowances payable to any public officer in the service of the Central Government or any servant of a Federal Railway or a cantonment authority or of the port authority or major port shall be exempt from attachment in pursuance of clause (1), sub-section (1) of section 60, C.P.C.:-

(1) All kinds of traveling allowance.
(2) All kinds of conveyance allowances.
(3) All allowances granted for meeting the cost of
    (a) uniform, and
    (b) rations
(4) All allowances granted as compensation for higher cost of living in localities considered by Government to be expensive localities including hill stations.
(5) All house rent allowances.
(6) All allowances granted to provide relief against the increased cost of living.
(7) A foreign allowance or, in the case of head of Diplomatic Missions, frais de representation assigned to officer serving in post abroad.
(8) Children's Education allowance allowed under the Office Memorandum no. 10(I)-Est. (spl.) 60 of the Government of India in the Ministry of Finance, dated 30th June, 1962 as amendment from time to time.

This is beside the exemption of the first two hundred rupees and one half of the remainder of the salary granted under C.P.C. Amendment Act (no.26) of 1963.

C.E. No. 51 dated 7th September, 1964

District Judges and additional District Judges have been asked to impress upon the court functioning under them to give effect to the amended provision of section 60 C.P.C.

C.L. No. 48 dated 22nd September, 1967

Presiding Officers should follow the instructions contained in Court's C.L. No. 9/VII-f-181, dated January 23, 1959, and not attach the Provident Fund amounts standing to the credit of the employees as it is in contravention of the provision of section 10 of the Employee's Provident Fund Act, 1952.

Execution proceedings against government servants

C.L. No. 38/VIII-b-10 dated 9th June, 1950 read with

G.L. No. 44/180-33(3) dated 5th September, 1935

The correct procedure to be followed by the executing court in cases in which a decree against a government servant is sought to be executed by his arrest is that a notice of the intended

arrest of the judgment- debtor, should be addressed and sent to the Head of the Office where the judgment –debtor may be employed, mentioning the probable date when a warrant for his arrest is likely to be issued. The Head of the Office should in no case be asked to suspend the government servant concerned.

Awarding of costs

G.L. No. 2031, dated 30th June, 1897

In many cases it happens that an application for execution fails owing to the fault of the decree-holder, and in all such cases he should himself be made to bear all the charges to which the judgment-debtor may have been put owing to the decree-holder's fault or neglect. Among others, the following may be mentioned as cases in which the decree-holder should not be allowed to recover his costs from the judgment-debtor :

(1) When the decree-holder allows an application to be struck off for want of prosecution.
(2) When the decree-holder puts in an application which the court considers to be unnecessary.
(3) When the application is defective and is consequently disallowed.
(4) When two separate applications are put in, but the subject-matter of the second application might reasonably have been included in the first application.
(5) When the application is made for execution against property with which the judgment-debtor has no concern.

Persistent neglect to exercise proper discretion in the awarding of costs in cases of this kind on the part of a presiding officer will be taken notice of by the High Court.

Effect of stay order

G.L. No. 18/67015 dated 1st August, 1928

An order of stay is passed by this court on the supposition that execution of a particular decree has not taken place. If execution has already taken place, it is not the intention of this Court that there should be restitution in pursuance of the order of this Court.

Expeditious disposal of Execution Cases.

C.L.No 39/98 : Dated 20th August, 1998

It has come to the notice of the Court that interest in the disposal of execution cases is not being taken by the judicial officers. Pendency of execution cases for a very long time not only results in hardship to the decree-holders but also creates unnecessary litigation. The Court has taken a decision that by giving due regards to the existing laws and the provisions efforts should be made for early disposal of execution cases.

I am, therefore, directed to communicate you the direction to the Hon`ble for Court for strict compliance.

Execution in Jammu and Kashmir

C.L. No. 51/VIIIb-16-4-55 dated 30th August, 1955

The decrees passed by a civil court in India may be executed through a court situate in the State of Jammu and Kashmir as if the decree had been passed by such a court in that State.

Execution in foreign countries

C.E. No. 73/VIII-b-245 dated 11th August, 1969

Under notification, dated June 17, 1968, Republic of Singapore has been declared a reciprocating territory for the purpose of section 44 A C.P.C. and the High Court of the Republic of Singapore to be a superior Court with reference to that territory.

C.E. No. 81 dated 22nd August, 1969

From 1st September, 1968 'Trinidad' and Tobago are declared to be reciprocating territories for the purpose of section 44- A C.P.C. and the following courts will be superior courts of that territory:

(e) High Courts;
(f) Courts of Appeal;
(g) Industrial Court; and
(h) Income Tax Appeal Board

17. COMPLIANCE OF RULE 351* GENERAL RULES (CIVIL) 1957, VOL. I.

C.L. No. 83/VIIIv-112/Admn.(G), dated 30th November, 1989

I am directed to invite your attention to Rule 351 of the General Rules (Civil), 1957 (As amended) and to request you kindly to submit your report to the Court at an early date, as to how your are handling the problem of your judgeship in compliance of the provisions of Rules of the provisions of Rule 351 ibid.

Compliance of Rule 351 General Rules (Civil) 1957, Vol. 1.

No. 11007/VIIIb-112/Admn. (G) dated 25th October, 1991

With reference to Court's letter No. 7522/VIIIb-112/Admn. (G) dated July 31, 1991 on the above subject I am directed to say that due to inadvertence in the letter dated 31.7.1991 "Rule357" was mentioned where as it should have been "Rule 351'.

I am, therefore, while enclosing herewith a copy of Courts Circular Letter No. 83/VIIIb-112/Admn. (G) dated November 31, 1989, to request you kindly to send the desired information to the court as asked therein at an early date.

18. CONSUMER FORUM MATTERS

(i) **Settlement of Consumers' disputes as per Consumers Protection rules, 1987**

C.L. No. 104/VIIf-252/Admn. (G) dated 17th November, 1990

I am directed to say that certain District Judges, have approached the Court that they are facing problems in their normal working by virtue of their appointment to Head of the District Forum under the subject and sought clarification from the Court. The Court on a consideration of the matter is of the opinion that in view of the orders of the Supreme Court, no further

* This rule deals with the custody of cash and articles of value in Subordinate Courts.

instructions are possible at this stage and has directed that the present arrangement may continue subject to clarification that, as far as possible, the District Judges may hold the Session of the Consumers Protection Council after the court working hours or on holidays as the case may be.

The Court has further decided to request the Government to move the Supreme Court for clarification, namely, that an Additional District Judge can also be appointed to preside over the Consumers Protection Council with the concurrence of the High Court.

I am to add that the Government is being requested as mentioned and necessary directions shall follow after decision as taken in the matter.

I am, therefore, to request you kindly to act in accordance with the Consumers Protection Act, 1986 and Consumers Protection Rules, 1987 with the directions contained in this circular letter.

(ii) Place of sitting of the District Forum under the Consumer Protection Rules, 1987.

C.L. No. 27 VIIf-252/Admin (G) Dated 15th April 1991

In continuation of Court's Circular letter No. 104/VIIf-252/Admn.(G), dated November 17, 1990, on the above subject, I am directed to say that certain District Judges have approached this Court to know as to what would be the place of sitting of the District court Consumers Forum under the said Rules. The Court has considered the matter and has decided that the place of sitting of the District Court Consumers Forum shall be the Chamber of the District Judge.

I am, therefore, to request you kindly to hold the sitting of the District Consumers Forum in your Chamber and inform about the same too concerned persons.

(iii) Compliance of directions of Hon'ble Supreme Court in Consumers Forum Matter.

C.L. No. 12/VIIf-252/Admn.(G) dated 12th February, 1992

I am directed to enclose herewith a copy of Hon'ble Supreme Court's orders dated 5.8.1991 and 20.12.1991 passed in Writ Petition No. 1141 of 1988 with Writ Petition No. 742 of 1990 * Common cause, A Registered Society v. Union of India and other and to request you kindly to furnish the following information to the Court immediately :-

(1) Number of disputes relating to Consumers Forum Pending in your judgeship on 31 December, 1991?

(2) Enlighten the Court as to the functioning of the Forum with grievances, if any, being faced in the matter?

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* For perusal of Judgement see (1992) 1 SCC 707 : 1992 SCC(Cri.) 278