

1[CHAPTER XXV  
Review

In cases filed and disposed of on the Original Side of the Court, the following Rule shall apply to an application for a review of a decree or order:

Where the Judge or the Judges, or any of the Judges, who passed the decree or made the order a review of which is applied for, continues or continue attached to the Court at the time when the application for a review is presented, and is not or are not precluded by absence or other cause for a period of six months after the application from considering the decree or order to which the application refers, such Judge or Judges or any of them shall hear the application, and no other Judge or Judges of the Court shall hear the same.

Provided that if the said Judge or Judges, or any one of the Judges, who passed the decree or made the order, is or are precluded by absence or other cause for a period of six months after the application from considering the decree or order to which the application refers, it shall be heard (a) if the decree was passed or the order was made by a Judge sitting alone, (b) if the decree was passed or the order was made by a Bench of two or more Judges, by a Bench consisting of as many Judges as the Bench whose decree or order a review is applied for. The Judges who passed the decree or made the order, as are available, shall be members of the Bench.]

**ORIGINAL SIDE PRACTICE DIRECTIONS**

2ORIGINAL SIDE PRACTICE DIRECTION  
No. 1 of 1973

1. The cause list of the Court would comprise of five categories as follows:—

(a) Short matters.

(b) Miscellaneous matters.

(c) Short cause matters.

(d) Long cause matters.

(e) Final matters.

(a) Short matters would be such matters where no detailed arguments are expected to be advanced.

(b) Miscellaneous matters would include all matters wherein no evidence is required to be recorded and only arguments are to be advanced.

(c) Short cause matters would be such matters where the matter is likely to be completed on one hearing.

(d) Long cause matters would be all other matters where the evidence is to be recorded for more than a day continuously.

(e) Final matters would be the main suits wherein final arguments are to be heard:

2. The Court shall fix actual dates in all these except that the Registrar/ Joint Registrar/Deputy Registrar can fix the cases before the Court in short matters. Where the actual dates of hearing are yet to be fixed in the cases, the Registrar/Joint Registrar/Deputy Registrar shall fix the said matters as short matters before the Court for fixing the actual dates of hearing.

3. The Court shall have the discretion to direct listing of any matter in any category.

4. For facility of fixation of causes in the Court, bound registers will be maintained by the Court Masters incorporating the abovesaid classification and the actual dates fixed.

5. A format annexed hereto, duly filled in, so far applicable, will be filed by the plaintiff in new matters, and in pending matters the format will be filed by both the parties. Thereafter, the format will be filled in and completed by the Court Masters as and when new applications are filed and disposed of.

(See Practice Direction No. 1)

HIGH COURT OF DELHI  
SUIT/PETITION/O.M.P. NO..... OF 199

..... Plaintiff(s)/

.....Petitioner(s)

Vs.

..... Defendant(s)/

..... Respondent(s)

Nature of the matter : .....

.....

Status invoked: .....

.....

ADVOCATES

.....

.....

Plaintiff(s)/Petitioner(s) Defendant(s)/Respondent(s)

INTERLOCUTORY APPLICATIONS (LAs)

S. No.	No. & Yr.	Filed By P.L.T.F./D.E.F.	Provisions of Law	Nature of Relief Sought	Remarks

ORIGINAL SIDE PRACTICE DIRECTION

No. 2 of 1973

**List of witnesses**

1. The list of witnesses required to be filed in accordance with Chapter VIII Rule 5(2) Original Side Rules will be in the form appended below:

**Form**

IN THE HIGH COURT OF DELHI AT NEW DELHI

Suit No. .... of ..... 19 ..... Plaintiff/Petitioner .  
 ..... vs. .... Deft/Respt.

Next date of hearing

List of witnesses filed by the .....

Serial No.	Full name & complete address	Facts Sought to be proved by the evidence of the witness	Documents sought to be proved by the evidence of the witnesses

Part—A Witnesses required to be examined on Commission.

Part—B Witnesses required to produce documents only, and who are not required to give oral evidence.

Part—C Witnesses required to give oral evidence and also to produce documents.

Part—D Witnesses required to give oral evidence but from whom no documents are required to be proved.

Filed by counsel for

the Plaintiff/Defendant/

Petitioner/Respondent

Filed on . . . . .

ORIGINAL SIDE PRACTICE DIRECTION

<sup>3</sup>No. 3 of 1974

**Trial**

1. (a) Whilst stating his case as required by Order 18, Rule 2 of the Code of Civil Procedure, 1908, a party shall give a general outline of his case and the nature of the evidence, oral as well documentary, which he proposes to adduce, before calling any witnesses in support of his case.

(b) If more than one counsel is engaged on behalf of a particular party, the junior of those counsel will state the case on behalf of that party.

2. After both parties have produced their evidence, the party beginning may address the Court on the whole case; the other party may then address the Court on the whole case; and the party beginning may reply on the whole case, provided that in doing so he shall not, without the leave of the Court, raise questions which should have been raised in the opening address.

3. Where the party entitled to make the closing address raises any fresh point of law in that address or cites any authority not previously cited, the opposite party may make a further address in reply, but only in relation to that point of law or that authority, as the case may be.

4. If a party or his recognized agent or the representative of a corporate body party to the proceeding himself intends to appear as a witness, he shall so appear before any other witness on his or its behalf has been examined; provided that the Court may on an application made on his behalf and for reasons to be recorded, permit him to appear as his or its own witness at a later stage.

5. Notwithstanding anything contained in Order XVIII of the Code of Civil Procedure 1908 or the Delhi High Court Original Side Rules, 1967 the Court may for sufficient reason go on with the hearing although the evidence of the party having the right to begin has not been concluded and may also allow either party to produce any witness at any stage of the suit.

6. The Court Master of the Court shall take charge of every document or object put in as an exhibit during the trial of any case and shall mark or label every exhibit with a letter or letters indicating the party by whom the exhibit is put in or the witness by whom it is proved, and with a number, so that all exhibits put in by a party, or proved by a witness, are numbered in one consecutive series.

7. The Court Master of the Court shall examine all documents produced or offered in evidence and bring any apparent insufficiency of the Court-fee or other stamp to the notice of the Judge for orders. He shall endorse all documents admitted in evidence and all documents rejected with the particulars required by law and sign or initial such endorsements.

8. A document, when tendered in evidence or produced in Court, shall not be so endorsed or marked with the seal or any exhibit mark as to make any part thereof illegible. Such endorsement, seal or exhibit mark shall always be made on such part or parts of the document as do not contain any writing and preferably on the side, top or bottom margin or cover page, if any, of the document.

Provided that, if in any exceptional case, no such part or parts of the document are available for placing the endorsement, seal or mark, then the same shall be placed on a separate slip of paper and then such slip shall be attached to the document.

9. At the hearing of a suit or other proceeding in Court the Court Master shall make a note of the times at which each hearing commenced and terminated respectively on each day on which it was heard.

10. When filing a list of witnesses in the form prescribed by Practice Direction No. 2 of 1973, the language in which the witness will make his statement should, if possible, be indicated in the third column of that form. This information is required in order to know whether the services of an interpreter will be necessary.

11. When the interval between the date on which a date for trial was fixed and the date of trial is more than six months, any party may apply to the Registrar/Deputy Registrar at least one month before the date of trial for letters to issue to the witnesses bound down reminding them that their presence is required on the date of trial.

12. It will be the duty of counsel for the parties to exchange, at least one day before the date fixed for the trial, lists of Authorities to which they are likely to refer. Such lists must also be handed into the Court Usher at the latest by 9.45 A.M. on the day of hearing. The lists should be headed with the Number and the Name of the Case and the names of counsel.

#### ORIGINAL SIDE PRACTICE DIRECTION

4No. 4 of 1974

#### **Testamentary and Interstate Jurisdiction**

1. No application for the grant of probate or letters of administration will be received by the Registry, except where the Administrator General is the applicant, unless:—

(i) it is accompanied by an affidavit of valuation as required by Section 19-1 of the Court Fees Act, 1870 prepared strictly in the form set forth in the third Schedule thereof, and

(ii) the said affidavit has annexed to it an appropriate account specifying all the property in respect of which estate duty is payable upon the death of the deceased as required by Section 56(1) of the Estate Duty Act, 1953, and

(iii) it affirms that a copy of the said affidavit with the Account has been delivered to the Controller of Estate Duty, and

(iv) is also accompanied by an affidavit of proof or certificate of death.

2. An application for probate shall be verified by at least one of the witnesses to the will (when procurable) in the form set forth in Section 281 of the Indian Succession Act, 1925, and the affidavit of such witness shall also be filed. If no affidavit by any of the attesting witnesses is procurable, evidence on affidavit must be produced of that fact and of the handwritings and/or any circumstances which may raise a presumption in favour of due execution of the will.

3. In all application for probate or for letters of administration with the will annexed the petitioner shall state the names of the members of the family or other relatives upon whom the estate would have devolved in case of an intestacy together with their present place of residence.

4. In all application by a creditor for letters of administration it shall be stated particularly how the debt arose and whether the application has any and if so what security for the debt.

5. The Registrar or Deputy Registrar shall give notice of all application for probate or letter of administration to the Chief Controlling Revenue authority in accordance with Section 19-H of the Court-fees Act, 1870, and it will be the duty of the petitioner or his counsel to ask for issuance of the same.

6. In all applications for probate or letters or administration notice of the application shall be given to all the heirs and next of kin of the deceased mentioned in the application.

7. Before setting down an application for probate or letters of administration for final hearing in Court, the Registrar or Deputy Registrar will certify:—

(i) That notice of the application has been served on the Chief Controlling Revenue-authority.

(ii) That the account prescribed by Section 56(1)(a) of the Estate Duty Act 1953 has been delivered to the Controller of Estate Duty.

8. Non-contested applications for probate or letters of administration may be disposed of either on affidavits or evidence as the Judge hearing the matter may deem fit.

9. A copy of the affidavit of valuation of the property of the deceased accompanying an application for probate or letters of administration shall be annexed to the grant of probate or letters of administration.

10. The forms prescribed in Nos. 173 to 180, both inclusive, in Volume 6 Part A of the Rules and Orders of the Punjab High Court (1960 edition), with such variations or modifications as the circumstances may require, shall be used for the purposes therein mentioned.

11. Grants of probate or letters of administration shall issue in the name of this Court and be signed by the Deputy Registrar.

12. An administration bond, unless dispensed with by the Court, shall be executed in favour of the Registrar. Unless otherwise ordered by the Court such bond shall be given with two sureties by the Registrar or Deputy Registrar for the amount of the value of the property for which the grant is made.

Provided that if the value is less than Rs. 1000/- one surety only may be taken.

#### COMMENTS

*Exemption from sureties—Considerations for.*—The cases relied on by the petitioner do not advance her case in as much as in the decision of *Subhash Chopra v. State*, 1989 (39) DLT 297, Mahinder Narain, J, while granting probate in favour of the petitioner directed the petitioner to file requisite account and administer the estate in the manner in which it was required to be administered. The learned judge dispensed with the requirement of furnishing administration bond under Section 291 of the Indian Succession Act since letter of administration had not been sought. Reference is invited to the para 5 of the said judgment/order. Similar is the situation in *Sambhu P. Jaisinghani v. Kanayalal P. Jaisinghani & Others*, 1995 (60) DLT 1. In the instant case, the petitioner had made a specific prayer for grant of a probate and for the grant of letters of administration of the estate. The prayer had been specifically allowed and the letters of administration directed to be issued with copy of the Will annexed. Accordingly, Section 291 would therefore, come into play. The exemption under Section 291 of the Indian Succession Act is only when letter of administration is granted under Section 241 to the attorney of an executor in the contingency set out in the said section.

Moreover, it seems that the petitioner had been repeatedly seeking time to complete the formalities for the second bond. The Will in question is concerned with an immovable property as well as the distribution of Jewellery and the disposition of a loan owing to the deceased in terms of the Will. The petitioner has already been exempted from filing the second administration cum surety bond. The first administration cum surety bond had already been filed on record and the statements in support thereof the petitioner and the sureties have been recorded. The said administration cum surety bond is on record. It is not as if that the said administration cum surety bond is of an indefinite duration. In terms of the bond itself the petitioner is required within six months from the grant of letters of administration or such further time as may be extended by the Court to make an inventory of the assets and property as well as credit and debts owing to the deceased and file an account of the estate of the deceased showing the manner in which the assets that have come to the petitioner's hand had been applied and disposed of. The bond becomes void in compliance of the aforesaid. *Smt. Shakuntala Taxali v. State*, 1996 (2) AD. (Delhi) 573.

13. Administration bonds shall be attested by the Deputy Registrar or by such other officer(s) of the Court as may be nominated by the Registrar.

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#### RULES FOR FILING OF CAVEAT UNDER SECTION 148-A OF THE CODE OF CIVIL PROCEDURE

(i) In any suit or proceeding to which Section 148-A of the Civil Procedure Code, 1908 applies, the person instituting the same shall state in the plaint, petition or application, whether or not he has received notice of any caveat lodged in this Court in respect thereof; and, if so the particulars of the same.

ANNEXURE 'A'  
CAVEAT

IN THE HIGH COURT OF DELHI  
AT NEW DELHI ORIGINAL/APPELLATE CIVIL  
JURISDICTION CAVEAT NO ..... OF 1985

In the matter of a suit/appeal/proceeding instituted (give the particulars), or expected to be instituted, by

..... Petitioner(s)/

..... Appellant(s)

Against

..... Respondent(s)

To

The Registrar,

Delhi High Court,

New Delhi

Let no order (here state in detail the precise nature of the order apprehended) be made in the above matter without notice to the undersigned.

Dated this the ..... day of ..... 19.....

Sd/-

Name and address of the Caveator  
and his counsel, if any

Filed on .....



- [2.](#) Substituted vide Notification No. 364/Rules/DHC dated 13-12-1991.
- [3.](#) The Original Side Practice Direction No. 6 of 1974 renumbered as No. 3 vide Notification No. 364/Rules/DHC dated 13-12-1991.
- [4.](#) The Original Side Practice Direction No. 7 of 1974 amended and renumbered as No. 4 vide Notification No. 364/Rules/DHC dated 13-12-1991.