

CHAPTER 3 Jurisdiction

Part A

RULES REGULATING THE PRACTICE OF THE HIGH COURT IN THE HEARING OF CAUSES AND OTHER MATTERS

1. Hours of business—The Court will be open daily, except on authorized holidays, for the transaction of judicial business, between the hours of 10 a.m. and 4 p.m.

No fresh case will ordinarily be called on for hearing after 4.30 p.m. but the hearing of a part-heard case may be continued so long as the Court hearing it may deem necessary.

2. Roster of Single and Division Benches—The Judges will sit singly or in Benches of two or more in accordance with a roster to be prepared from time to time. The roster will be prepared by the Deputy Registrar with the approval of the Honourable the Chief Justice.

3. Distribution of work to be made by the Deputy Registrar—Plaints appeals, applications and petitions for a preliminary hearing will be distributed by the Deputy Registrar two days previously. The distribution lists will be initiated by the Deputy Registrar and no change in them will be made without his authorization and initials. A copy of the list will be supplied to the Judges' Readers and to the Bar room and the Judges' Readers will bring to the notice of the Judges and the Deputy Registrar any alterations that appear unauthorized.

4. Hearing of ordinary and urgent petitions—Ordinary and urgent petitions shall be set down for hearing by the Deputy Registrar before Single and Division Benches in accordance with the roster for the time being prescribed under Rule 2 above.

5. Weekly and daily lists of civil and criminal cases and their adjustment—(a) A register of civil cases, complete in every respect, will be maintained in the High Court. From this Register cases will be taken up according to the order of institution for incorporation in a weekly list of cases to be heard by Division and Single Benches. For the convenience of counsel, a copy of the weekly list of each Bench will be sent to the Bar seven days before the beginning of every week. When work is likely to run short, the weekly list will be supplemented by the Deputy Registrar. These weekly lists will be open to adjustment by counsel or parties on Fridays. The weekly list will be broken up into daily lists and the daily Lists will be sent to the Bar room at 4.15 p.m., on the day preceding the date of hearing, except the lists for Monday, which will be supplied to the Bar room at 12 noon the proceeding Saturday. Any cases not reached at the close of a day will ordinarily be placed at the top of the lists for the next day and similarly any cases not reached at the close of the last day of the sitting of the Court in a week, will ordinarily be placed at the top of the following week's list.

Note—A case in which an application for the withdrawal of the case or passing a decree or order in accordance with a compromise arrived at between the parties has been made shall be placed in the daily list, after the part heard cases, even though the case may not otherwise be complete.

(b) A separate register of criminal cases within the jurisdiction of Division and Single Benches complete in every respect, will be maintained in the High Court. From this register cases will be taken according to the order of institution for incorporation in weekly lists of cases to be heard by both Division and Single Benches. For the convenience of counsel a copy of the weekly list of

each Bench will be sent to the Bar a week before the date of hearing. These weekly lists will be open to adjustment by counsel on Fridays. The weekly list will be broken up into daily list and dealt with as in paragraph 5 (a) above.

(c) Full and Special Bench cases such as Matrimonial Reference, reviews and applications for leave to appeal to the Supreme Court, etc., which cannot conveniently be heard on ordinary Bench days, will be heard on the first Monday in every month or on such other day or days as the Chief Justice may direct in the event of the first Monday being a holiday, or the work being excessive for one day.

6. Cases to be heard in the order or date of admission—Cases will be set down in the lists in the order of the date of admission except as directed below and will be heard in that order unless directed otherwise by the Court.

Exceptions—(a) Postponed cases take priority of all others in Division Bench lists, and in Single Bench lists of all others in their own class.

(b) Remanded cases take priority of all others except postponed cases.

(c) Cases fixed for “actual dates” under the second proviso to Rule 8 shall be listed first in the daily lists subject to part heard cases. Cases fixed by judges for actual dates shall be listed next.

(d) Cases marked “very early”, or “early” by order of a Judge or Judges and “commercial causes” shall take priority over ordinary cases.

(e) An appeal or petition against an order of remand of a lower Court shall be marked “early” and shall take priority over ordinary cases.

(f) An appeal or petition in connection with which proceedings pending in the lower Court are ordered to be stayed or have to be stayed in consequence of the record being sent for the High Court for the disposal of such appeal or petition, shall be marked “early”, shall take priority over ordinary cases and shall be set down for hearing within a period of three months from the date of stay or admission.

7. Postponement of cases—(i) An application for the postponement of a case shall be presented to the Deputy Registrar and shall not be taken direct to a Judge.

(ii) Cases may be postponed by the Deputy Registrar, or, in his absence, under the orders of such other officer as may be in charge of the judicial department for the time being—

(a) If, two days before the date of hearing, the record has not been received, or the case is otherwise incomplete;

(b) If, before the day of hearing, the death of a party is announced and an adjournment is thereby necessitated;

(c) If the lower Courts have not complied with a precept or process.

(iii) Except as provided above, no application for the adjournment of a case shall be entertained unless a Bench or Judge, as the case may be, is satisfied that by reason of recent death, sudden illness or domestic bereavement a party cannot be properly represented at the hearing unless such order is made.

(iv) Ordinarily part-heard cases will be proceeded with on the following day or days till they are concluded.

8. Duty of counsel to attend on the date of hearing—Parties and their Advocates are required to attend the Court on the day or days for which their cases are set down, and on subsequent days until their cases are disposed of or are postponed:

Provided that intimation of the *pacca* date fixed in a case will be sent by registered postcard (A.D.) to such parties as are not represented by counsel. Such postcard shall be sent to an address to be given by the party in response to the original notice of appeal calling upon him to furnish an address for service for the purposes of the appeal, or if he fails to give such address within one month of the service of such notice of appeal to his address as given by the appellant in the memorandum of appeal. The posting of such postcard shall be deemed to be sufficient intimation to the party of the date fixed in the case;

Provided further that in a case in which an Advocate not ordinarily resident in Chandigarh (Delhi) has to appear, the Deputy Registrar may fix an “actual date” if such Advocate puts in a written request for that date to which he himself has obtained the consent of other counsel in the case. Such date shall not be altered except by any order or the Bench concerned, or of the first Division Motion Bench if the case is not listed before a particular Bench.

COMMENTS

It is the duty of the Registrar of the Court (vide Rule 8 of Chapter 3-A of Volume V of the Rules and Orders of this Court) to issue notices to parties who are not represented by counsel by registered A/D post and to sent the same “to an address as given by the appellant in the memorandum of appeal”. It is the posting of only such a postcard which is deemed to be sufficient intimation to the party of the date fixed in the case. *Smt. Rama Vanti v. Smt. Bal Kaur*, 1968 (70) P.L.R. 357.

Presumption of intimation to party does not arise if prescribed manner of intimation (by registered postcard and not cover) is not followed. *Risal Singh v. Indraj*, 1974 (76) P.L.R. (Delhi) 60.

When ignorance of lawyers is pleaded in seeking condonation of delay its basis must be given that lawyer was guilty of negligence or want of legal skill *Riasat Ali v. Syeda Begum* 2001 RLR 196. The above legal proposition cannot be questioned but the each case has to be judged on its own facts and circumstances. In the case in hand it is not disputed that another appeal relating to the adjoining property No. 35 Link Road, Lajpat Nagar-III, New Delhi being SAO filed by the same counsel was pending and it was disposed of pursuant to compromise reached between the parties. In such a situation possibility of a confusion entertained by the previous counsel in regard to the disposal/pendency of the present appeal could not be ruled out. The past conduct of the appellant would show that he was vigilant enough to prosecute the appeal inasmuch as he got the legal representative of the respondent substituted on the death of the deceased respondent. There is nothing to show that the appellant had lost interest in persecuting the matter. Even if it is assumed for the sake of argument that there was some amount of negligence on the part of the previous counsel in not keeping a track of the further proceedings of the appeal after the substitution of legal representatives and not putting appearance on the date of hearing of the appeal, I am of the considered opinion that the appellant should not be penalised for the same. Having regard to the entirety of facts and circumstances of the appeal, this Court is of the opinion that it would be expedient in the interest of justice to condone the delay in filing the application for restoration and to set aside the dismissal of the appeal and to restore the appeal for being heard and disposed of on merits. *Mehant Joginder Singh v. Mrs. S. B. Naronha*, 2002 (98) DLT 183 : 2002 (6) AD (Delhi) 545.

According to the proviso appended to Rule 8 of the High Court Rules and Orders, it is imperative upon the office of the High Court to serve another notice for a *pucca* or an actual date to be fixed by the office if a party already served for a tentative date is not represented by a counsel. Earlier service of a notice for a tentative is no service at all if the party so served has not engaged any counsel and the counsel has not put in appearance to represent that party. *State v. M/s. Rakesh Industries*, (1970) 72 P.L.R. 95.

Non-service of the actual date notice really amounts to non-service of the notice intimating the date of hearing of the appeal to the respondent. It is not sufficient, for the respondent to be informed that an appeal has been filed against him. He has also to be informed of the date on which the appeal has to be heard and also informed that if he is not present on that date he may be penalised by an *ex-parte*, decision being passed against him. If the precise date is not intimated to him, he cannot be penalised. If the actual date notice had been sent in the prescribed form by a postcard duly addressed to the respondent, it would have been an intimation of the date of actual hearing even if the postcard had not been received by the respondent (and had only been received or seen by the members of his household or some other person connected with him).

Application under Civil Procedure Code that the *ex-parte* proceedings ordered against the Respondent be set aside. *Risal Singh v. Indraj*, (1974) 76 P.L.R. 60 (Delhi).

Notice of an actual date to a person who is unrepresented cannot be deemed to have been served if the registered envelope gets without being served. *Risal Singh v. Indraj*, 1974 Raj L.R. (notes) 92.

Counsel for applicant was engaged in another Court is not a sufficient ground for application to set aside *ex parte* decree passed by single Judge of High Court on original side. *Sangram Electronics v. M/s. Hyderabad Allwyn Metal Works*, AIR 1984 Delhi 384.

When the counsel dies, it is the duty of the Court to inform the party directly that his counsel is dead and arrangement for another counsel may be made, if this is not done and the appeal is disposed of *ex parte*, the party is entitled to get the appeal restored under Order-41, Rule 21, of the Code of Civil Procedure. *Smt. Dropti v. Chinta*, 1971 (73) P.L.R. 917.

9. Disposal of urgent petitions—(i) Urgent petitions must ordinarily be presented before 11 a.m., but may, in exceptional cases, be received not later than 3 p.m.

(ii) These petitions will be laid before the Deputy Registrar who shall ordinarily fix them for hearing on the next day. If, however, the Deputy Registrar is satisfied that there is sufficient urgency, he shall mark the petition for hearing on the same day.

Delhi High Court Notification Dated 12.12.1966

In exercise of the powers conferred by Section 7 of the Delhi High Court Act, 1966, the Hon'ble the Chief Justice and Hon'ble Judges of the Delhi High Court are pleased to issue the following instructions in regard to the preparation and publication of the cause list of the Court:

1. The Registrar shall keep a list of all cases pending before the Court, and shall, at the commencement of each class separately, to be called the "ready list". The cases in the "ready list" shall be arranged year-wise in each class separately in the order of their registration, and the list shall be added to from time to time as and when fresh cases become ready for hearing.

2. Out of the "ready list" the Registrar shall publish on the notice board of the Court at the end of each month a list of cases to be heard during the following months. Subject to any general or special directions that may be given by the Hon'ble the Chief Justice and subject to the orders of the Court, the cases listed for hearing in the monthly list in each class shall be in the order in which the cases have been registered.

3. From out of the monthly list, the Registrar shall publish at the end of each week a list of cases to be heard in the following week. This list, subject to the directions of the Chief Justice or any special direction of the Court, shall be arranged strictly in the order in which the cases appeared in the monthly list.

4. Out of the weekly list, the Registrar shall publish at the end of each day a daily list of cases to be heard by the Court on the following day.

5. The list shall be published in accordance with the roster settled by the Hon'ble C.J. for the month and in the monthly list reasonable number of matter shall be shown which the Court can, taking into account the total days of the month, dispose of during the month.

6. In the weekly list also only such number of matters may be shown as can reasonably be disposed of by the Court during the said week. Ordinarily the cases in Daily Board will be listed in the order in which the cases have been shown in the weekly list.

7. So far as specially directed matters, appeals involving capital sentence, and the like are concerned these may be listed out of turn in the manner indicated below :

(a) *Capital Sentence Cases*: These references and appeals may be added (after due notice to the parties within 7 days of their becoming ready for hearing) at the top of the Weekly list to be heard subject only to overnight part heard.

(b) *Expedited Appeal with Special Direction as to the date of hearing*—(i) Where the direction is to list the appeal or matter on a particular day, the matter shall be added to preceding day's matters and, where the direction is to list the appeal in a particular week, it shall be listed in the weekly list after the preceding week's residue.

(ii) *Other Expedited Appeals*—Once the monthly programme is announced appeals falling in this category that become ready during the course of the month, shall be added to the subsequent month's list.

(iii) In arranging the monthly list the following principle may be followed:

Subject to special orders by the Chief Justice or by the concerned Bench all cases be listed strictly in accordance with their age.

Motions for Adjournment and Adjustment

Once the monthly programme is announced, any motion for adjournment or adjustment of a matter included in the monthly list should, if it relates to a matter which is more than two years old, be made on an application after notice to the opposite side. Such applications shall, if the matter is not on the Daily Board of a particular Bench be listed before the Bench presided by the Hon'ble the Chief Justice. So also a motion for expediting the hearing of a particular cause or matter or for obtaining a direction for its hearing on a particular date shall be made by a written application after notice to the opposite party. Such application shall also be listed before the Hon'ble the Chief Justice shall keep a proper record, in separate register of the direction given by the Hon'ble the Chief Justice and submit the same to the Registrar for compliance.

All the existing rules and procedure relating to the publication and preparation of Cause list shall so far as they are inconsistent with or contrary to these instructions be deemed to have been altered or superseded.

Part B JURISDICTION OF A SINGLE JUDGE AND OF BENCHES OF THE COURT

1. Cases ordinarily to be heard by a single Judge—Subject to the provisos hereinafter set forth the following classes of cases shall ordinarily be heard and disposed of by a Judge setting alone:

(i) a motion for the admission of—

¹[Omitted].

²[(a) a first appeal from the decree of a subordinate Court, or]

³[(a)] an appeal from order under the Code of Civil Procedure and under any Act of the Central or State Legislature unless there is any thing of the contrary in the said act, or

1. Omitted by Notification 490/Rules dated 19-5-81.

2. Added vide Notification No.386/Rules/DHC dated 23.12.2008

3. Clause (a) and (b) to be read as (b) and (c) due to addition of clause (a) vide Notification No. 386/Rules/DHC dated 23.12.2008.

⁴ [(b)] a second appeal irrespective of the value of the subject matter :

COMMENTS

Company appeal against order of a company Judge awarding interest on principal amount of debt admitted by company in winding up petition by creditor; held not admissible as a matter of course, but liable to be listed for motion before a division bench, 1984(86) P.L.R. 681.

⁵ [(ii)(a) a regular first appeal irrespective of the value of the matter;

(b)] a second appeal irrespective of the value of the subject matter;

(iii) an appeal from an order under the Code of Civil Procedure and from an order passed in the execution of a decree;

(iv) a civil appeal, application or reference under any Act of the Central or State Legislature other than Code of Civil Procedure and other than the Indian Divorce Act, if such appeal, application or reference is not otherwise expressly provided for;

⁶ [(v) an appeal under the Land Acquisition Act irrespective of the value of the subject matter;]

COMMENTS

The use of the word "ordinarily" in Rule 1(v). Chapter 3-B, Volume V, High Court Rules and Orders indicates there is no absolute bar to an appeal under the Land Acquisition Act being heard by a Single Judge. *Shri Chand v. Union of India and others*, (64) P.L.R. 870.

Under Chapter 3-B of Volume V a single Judge has jurisdiction only to admit applications under Order 22, Rule 9, of the High Court but not to adjudicate upon them. When he makes an order in such an application he does nothing more than admitting the petition and the order would be subject to all just exceptions. Even if he decides the matter it is open to the respondent to come and show cause against the order made *ex parte*. *Committee of Management of Bunga Sarkar v. Raghbir Singh and others*, A.I.R. 1951 Punjab. 257.

⁷ *Explanation:* ⁸ [Nothing in sub-rules (i), (ii) and (v) of Rule 1] shall prevent a Judge sitting alone to refer any appeal to a larger bench with the approval of Chief Justice.

(vi) an appeal relating to costs only;

(vii) an application, under Section 22 or 23 of the Code of Civil Procedure, for an order determining in which of several Courts having jurisdiction a suit shall be heard, and an application for an order for the transfer of a case from one subordinate Court to another;

(viii) an application under Order 1, Rules 8, 10, or 11 read with Section 107 of the Code of Civil Procedure;

(ix) an application for an order extending the time for, or directing any particular method of, service of notice on a respondent;

(x) an application for the withdrawal of an appeal or application, or for a consent decree or order;

(xi) a motion to admit an application and an application when admitted, for an order, under Order

4. Clause (a) and (b) to be read as (b) and (c) due to addition of clause (a) vide Notification No. 386/Rules/DHC dated 23.12.2008.

5. Sub-rule (ii) of Rule 1 be read as clause (b) and new clause (a) added to sub-rule (ii) of Rule 1, vide Notification No.386/Rules/DHC dated 23.12.2008.

⁶. Added vide Notification No.386/Rules/DHC dated 23.12.2008

7. Added by Notification No. 813 dated 30-10-78.

8. Substituted by Notification No. 386/Rules/DHC dated 23.12.2008 (Amendment shall also apply to pending appeals other than in which regular hearing has actually commenced before coming into force of these Rules.)

XXXII. Order XXXIX, Order XL, or Order XLI, Rule 5 or 6 of the Code of Civil Procedure, a motion to admit an application for an order under Order XXII or under Order XLI, Rule 10, and in a case in which the appeal is within the jurisdiction of a Judge sitting alone an application when admitted, for an order under Order XXII or under Order XLI, Rule 10;

(xii) a motion to admit an application, and in a case in which the appeal is within the jurisdiction of a Judge sitting alone, an application when admitted, under Order XLIV, Rule 1 of the character of Civil Procedure for permission to appeal in *forma pauperis*;

(xiii) an application under Order XLV of the Code of Civil Procedure, other than an application for a certificate under Order XLV, Rule 2 in a case disposed of by a Division Bench;

(xiv) a motion to admit an application, and an application when admitted, under Section 44 of the Punjab Courts Act or under Section 25 of the Provincial Small Cause Courts Act, 1887, or under the first proviso to sub-section (1) of Section 75 of the Provincial Insolvency Act, 1920 or under Article 227 of the Constitution of India;

(xv) any other application—

(a) when under these rules is not expressly required to be made to a Bench of two or more Judges; or

(b) which is made in any matter within the jurisdiction of a Judge sitting alone and which is otherwise expressly provided for;

(xvi) a reference under Order XLVI of the Code of Civil Procedure or under Section 99 or Section 100 of the Punjab Tenancy Act;

(xvii) a suit coming before the Court in the exercise of its extra-ordinary original civil jurisdiction;

⁹ [(xviii) (a) Application or petition under Article 226 of the Constitution of India for the issue of any directions, orders or writs in the nature of Mandamus, prohibition, *quo-warranto* or *certiorari* for the enforcement of fundamental rights conferred by Part III of the Constitution of India or for any other purpose, except:

¹⁰ [(i) Petitions where *vires* of Acts or statutory rules, regulations, or bye-laws are challenged.]

(ii) Petitions where personal liberty is involved.

(iii) Petitions pertaining to all Revenue/tax matters including entertainment taxes, except Municipal Tax.

(iv) Petitions arising from the orders of the Board for Industrial and Financial Reconstruction/Appellate Authority for Industrial and Financial Reconstruction or seeking directions to them; and

(v) Petitions pertaining to Public Interest litigation.

¹¹ [(vi) Petitions pertaining to the award to Tenders.

(vii) Petitions relating to Co-operative Societies.

9. Substituted vide Notification No. 495/Rules/DHC, dated 17-11-95 (w.e.f. 1-1-1996).

10. Substituted vide Notification No. 47/Rules/DHC, dated 11-4-2002.

11. Clause (vi) to (x) added vide Notification No. 47/Rules/DHC, dated 11-4-2002.

(viii) Petitions being service matters of Armed Forces of the Union.

(ix) Petitions arising out of Land Acquisition.

(x) Petitions concerning orders passed by the High Court on the administrative side.]

¹²[Provided that as regards pending cases, the learned single Judge may hear the part-heard matters.]

¹³[*Explanation:* The preliminary hearing for admission and final disposal of applications and petitions pertaining to matters mentioned in clause (i) to (x) of sub-rule (xviii)(a) above shall however be before a Bench of two Judges and before a Single Bench when there is no sitting of Division Bench.]

(b) A proceeding of a civil nature under a special Act of the Central or State Legislature coming before the Court in the exercise of its original jurisdiction, *e.g.*, under the Indian Trusts Act, 1882, the Companies Act, 1956, the Inventions and Designs Act, the Indian Divorce Act, the Indian Succession Act, the Guardians and Wards Act or the Banking Companies Act, 1949;

¹⁴(xix) Petitions/Appeals arising from the orders of statutory Tribunals, as mentioned in column 2 of the Schedule appended hereunder, shall be heard either by a Single Judge or by a bench of two Judges as per the entries mentioned in Column 3 of the Schedule.

Hon'ble the Chief Justice can, from time to time, add, delete or modify columns 2 and 3 of the Schedule.

Schedule

Srl. No.	Statutory Tribunals	Petition/Appeal to be heard by
1.	Central Administrative Tribunal (CAT)	Bench of two Judges
2.	Debt Recovery Tribunal (DRT)	Bench of two Judges
3.	Debt Recovery Appellate Tribunal (DRAT)	Bench of two Judges
4.	Lokayukta	Bench of two Judges
5.	Industrial Dispute Tribunal	Single Judge
6.	Delhi School Tribunal	Single Judge
7.	NDMC/MCD Tribunal	Single Judge
8.	Rent Control Tribunal	Single Judge

12. Proviso added vide Notification No. 63/Rules/DHC, dated 30-5-2002.

13. Substituted vide Notification No. 47/Rules/DHC, dated 11-4-2002.

¹⁴. Inserted vide Notification 182/Rules/DHC dated 11.5.2012

9.	Motor Vehicle Act Tribunal	Single Judge
10.	Railway Claim Tribunal Act	Single Judge
11.	Workman Compensation Tribunal	Single Judge
12.	Employee Provident Fund Tribunal	Single Judge

¹⁵(xx) an appeal, petition or reference under the Code of Criminal Procedure, 1898, other than—

(a) an appeal or reference or a petition for enhancement of sentence in a case in which a sentence of death or of imprisonment for life has been passed;

(aa) an application by the complainant, under Section 417(3) of the Code, for the grant of special leave to appeal from an order of acquittal;

(b) an appeal under Section 417 of the Code from an order of acquittal;

(c) a case submitted under Section 307 of the Code;

(d) a case in which notice has issued to a convicted person who has been sentenced to imprisonment for a term of seven years or more to show cause why the sentence should not be enhanced;

(e) a case in which notice has issued to a convicted person requiring him to show cause why his conviction should not be altered to one of an offence punishable only with death or imprisonment for life;

Explanation—Preliminary hearings for admission of—

(i) a petition for enhancement referred to in sub-clause (a); and

¹⁶[(ii) an application for grant of special leave to appeal under sub-clause (aa) in a case where the offence is punishable with sentence of death or imprisonment for life; and

(iii) an appeal under Section 417 (378 new) referred to in sub-clause (b) in a case where the offence is punishable with sentence of death or imprisonment for life;

shall be before of two judges and all other cases/application under sub-clause (aa) and appeals under sub-clause (b) shall be before a Single Judge.]

¹⁷(xxi) A case coming before the High Court in the exercise of its ordinary or extra-ordinary original criminal jurisdiction (including a case under Article 226 of the Constitution of India).

¹⁸[*Explanation*—The preliminary and final hearing of cases under Article 226 of the Constitution of India, relating to habeas corpus and preventive detention, shall be before a Bench of two Judges.]

¹⁵. Clause (xix) renumbered as clause (xx) vide Notification 182/Rules/DHC dated 11.5.2012

¹⁶. Substituted vide Notification No. 200/Rules/DHC dated 13-10-2003 (w.e.f. 13-10-2003).

¹⁷. Clause (xx) renumbered as clause (xxi) vide Notification 182/Rules/DHC dated 11.5.2012

¹⁸. Substituted vide Notification No.200/Rules/DHC dated 13.10.2003

Provided that—

(a) a Judge may, if he thinks fit, refer any matter mentioned in any of the clauses of this rule other than clauses (x), (xviii) or (xx) and with the sanction of the Chief Justice, any matter mentioned in clauses (xvii) and (xx) to a Division Bench of two Judges;

(b) a Judge before whom any proceeding mentioned in clause (xviii) is pending, may, with the sanction of the Chief Justice, obtain the assistance of any other Judge or Judges for the hearing and determination of such proceeding or of any question or questions arising therein.

2. (i) Bench in cases of misconduct of Advocates—Every case for professional or other misconduct against an Advocate shall be laid before the Honourable the Chief Justice or a Judge nominated in this behalf for an order under Section 10(2) of the Indian Bar Councils Act, 1926, as to whether it be rejected summarily or whether an inquiry be held. If an inquiry is ordered, the case shall, after receipt of the findings of the Tribunal or the District Judge, be heard by a Bench of three Judges.

(ii) Bench in cases of misconduct of Pleaders—A disciplinary case against a Pleader, under the Legal Practitioners Act, in which the Honourable the Chief Justice or a Judge nominated in this behalf considers that there are grounds for proceeding further shall be heard by a Bench of two Judges.

(iii) Bench for review of orders in such cases—An application for the review of an order, passed in a case of misconduct against an Advocate or Pleader shall be laid before the Bench which made the order under review:

¹⁹ Provided that if, for any reason, a member of the Bench is unable to sit on the Bench for the reconsideration of its order, the Honourable the Chief Justice may nominate another Judge in his place.

3. Jurisdiction of a Vacation Judge sitting singly—Except in a case which the law requires to be heard by a Bench of two or more Judges, a single Judge whilst acting in the long vacation as a Vacation Judge, may exercise the original and appellate jurisdiction vested in the Court (i) in any criminal case other than one mentioned in exceptions (a), (b), (c), (d), and (e) of clause (xix) of Rule 1; (ii) in any matter, which he considers urgent, connected with relating to arising out of the execution of a decree; and (iii) in any miscellaneous business, which in his opinion requires immediate attention.

Provided that in exercise of this power a case may be admitted or dismissed at the stage of preliminary hearing but a motion matter normally entertainable by a Bench of two Judges may only be admitted in the discretion of the Judge but not dismissed.

4. All cases to be disposed of by a Bench of two Judges save as provided by law or by these rules—Save as provided by law or by these rules or by special order of the Chief Justice, all cases shall be heard and disposed of by a Bench of two Judges.

²⁰ **[5. Hearing of review applications**—In cases not provided for by Order XLVII, Rule 5 of the Code of Civil Procedure, the following rule shall apply to an application for a review of a decree or order:—

19. Added vide Notification No. 55/Rules, dated 10-5-1973.

20. Rule 5 substituted vide Notification No. 14/Rules/DHC dated 21-1-1993.

Where the Judge or 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 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, 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.]

6. Constitution of Full Bench—A Full Bench shall ordinarily be constituted of three Judges, but may be constituted of more than three Judges in pursuance of an order in writing by the Chief Justice.

7. Judges of Full Bench shall be nominated by the Chief Justice—The Chief Justice shall nominate the Judges constituting a Full Bench.

8. Judge or Judges who refer a case shall ordinarily sit on the Bench which considers the reference—The Judges of a Bench by whom any question or case is referred shall ordinarily be members of the Division Bench or Full Bench, as the case may be appointed to consider such question or case.

9. Case when a Full Bench shall consist of four or more Judges—If a majority of a Full Bench of three Judges so determine, by order in writing at any time before final decision, the Full Bench for the decision of any question or cases referred to a Full Bench of three Judges shall be constituted by four or more Judges according to such direction.

Part C

POWERS DELEGATED TO THE REGISTRAR FOR DISPOSAL OF CERTAIN JUDICIAL MATTERS

1. Powers delegated to the Registrar in civil cases—In accordance with the powers vested in them by clause 35 of the Letters Patent, the Honourable the Chief Justice and Judges of the Punjab High Court has been pleased to delegate the following functions to the Registrar. These functions shall be performed by the Registrar subject to such general or special orders as may, from time to time, be passed by the Honourable the Chief Justice:

(i) Power to issue notices on an application for Probate or Letters of Administration or for revocation of the same.

(ii) Power to dispose of all matters relating to the service of notices or other processes, including substituted service, except the power to dispense with service on *pro forma* respondents.

(iii) Power to receive and dispose of an application under Order XXII, Rules 2, 3, 4 and 10 of the

Code of Civil Procedure, and to amend the record, if necessary, except in cases under appeal to the Supreme Court.

(iv) Power to appoint or discharge a next friend or guardian *ad litem* of a minor or person of unsound mind, except in cases under appeal to the Supreme Court, and to amend the record accordingly.

(v) Power to receive and dispose of an application for the withdrawal of an appeal or a consent-decree or order.

(vi) Power to receive and dispose of an application under Order XLI, Rule 10, of the Code of Civil Procedure.

(vii) Power to receive an application under Order XLV, Rule 15, of the Code of Civil Procedure, and to issue notice thereon.

(viii) Power to receive an application for substitution of names in an appeal to the Supreme Court, and to issue notice thereon.

(ix) Power to receive and dispose of an application for the return of a document.

(x) Power to require any person or party to file an affidavit with respect to any application or matter in respect of which he has power to exercise any discretion or to make any order.

(xi) Power to call for a further deposit when the deposit already made by the appellant in an appeal to the Supreme Court is not sufficient to defray the cost of preparing the record.

(xii) Power to order payment of the interest accruing on Government Promissory Notes deposited under Order XLV, Rule 7, of the Code of Civil Procedure, and to order the refund of any unexpended balance under order XLV, Rule 12.

(xiii) Power to direct in what newspapers the publication referred to in Order XLV, Rule 9A, of the Code of Civil Procedure, shall be made.

(xiv) Power to pass orders under the note to Rule 10, Chapter 2-A, Rules and Orders, Volume V.

(xv) Power to pass orders admitting those persons as Advocates and pleaders whose admission does not in any way conflict with any rule or order of the Court. Cases in which the rules and order of the Court are not fully satisfied should be referred to the Honourable the Chief Justice for orders. No person should be refused admission except by the order of a Judge.

(xvi) Power to dispose of reference under Rule 2 of Chapter 6-F(b). Rules and Orders, Volume V, in cases in which it is considered that the license should be renewed with a formal warning without charging the fees for the period for which the license has been renewed. In any case in which it is considered that full fees for such period should be charged, the matter should be referred to the Honourable the Chief Justice for orders.

(xvii) Power to grant time for making up deficiency in Court-fees in cases referred to him as Taxing Officer under Section 5 of the Court-fees Act, 1870. No application for extension of the time will be refused without the orders of the Court.

Provided that the Registrar may refer any matter under this rule to the Court for orders.

Note—The powers delegated to the Registrar under clauses (i) to (xvi) may also be exercised by the Deputy Registrar subject to general or special orders passed from time to time by the Honourable the Chief Justice.

2. Power delegated to the Registrar in Criminal cases—Under the Code of Criminal Procedure, the Registrar has been delegated with the following functions:

Power to sign complaints under the proviso to Section 476(1), Criminal Procedure Code. [New Code clause (a) of Sub-section (3) of Section 340].

3. Duties which the Registrar may be empowered by name to perform—In accordance with the powers vested in them by Clause 35 of the Letters Patent, the Honourable the Chief Justice and Judges of the Punjab High Court have been pleased to direct that any person holding the post of Registrar or the Deputy Registrar of the High Court may be empowered by name by the Honourable the Chief Justice to perform any of the following duties :

(a) To decide the question of the necessity for transcribing and printing any documents not specifically applied for by the parties to an appeal to the Supreme Court.

(b) To enquire into complaints against legal practitioners and to dismiss *in limine* those in which no *prima facie* grounds appear to him to have been made out, either without or after reference to the Bar Council.

(c) To issue notice to parties in Criminal References.

(d) To hear motions for the admission of first appeals and either to admit them or to direct them to be laid before a Bench for orders.

(e) To hear appeals from, or petitions for revision of the order of District Judges in cases affecting their establishment or those of the Courts subordinate to them and to advise the Chief Justice what orders should be passed.

4. The Registrar or the Deputy Registrar shall be deemed to be performing judicial or quasi-judicial functions with the meaning of Section 128(2)(i) of the Code of Civil Procedure when exercising powers referred to in Rules 1 to 3 above and their proceedings will be subject to revision by a Single Judge on the motion of the party aggrieved.

5. The Registrar or the Deputy Registrar may exercise all the powers of a Court under Section 152 of the Civil Procedure Code in respect of their own judicial or quasi-judicial orders.

Note—The duties assigned to the Deputy Registrar in the various chapters of this Volume shall be performed by the Assistant Registrar in respect of appeals petitions and applications etc., filed in the Circuit Court at Delhi.

Part D

APPEALS FROM DECREES IN COMMERCIAL MATTERS

1. “Commercial causes” include causes arising out of the ordinary transactions of merchants, bankers and traders, such as those relating to the construction of mercantile documents, export or import of merchandize, affreightment, carriage of goods by land, insurance, banking and mercantile documents, export or import of merchandize, mercantile agency, mercantile usage and infringements of trade marks and passing off actions. Suits on ordinary loans and mortgages are not “Commercial causes.”

2. The Chief Justice shall, from time to time, nominate one of the Judges of the Court to hear “Commercial causes”.

3. (a) All cases under the Companies Act, 1956 and cases affecting the responsibility of a Railway Administration as carriers, will be treated as “Commercial causes.”

(b) The Honourable Judges may, however, mark any other case as a “Commercial cause” either

at the request of the parties or *suo motu*, if satisfied that the said case is a “Commercial cause” as defined in Rule 1.

4. All appeals, which have been marked as “Commercial causes” by order of a Judge under Rule 3 shall be brought to a hearing as early as may be practicable, and shall, as far as possible, be set down before the Judge appointed from time to time by the Chief Justice to hear “Commercial causes,” or before a Bench of which such Judge is a member. Such causes shall be given priority on the day of hearing over all other appeals except part-heard appeals and cases frequently postponed.