

## CHAPTER XV

## RECORDS

**PRESERVATION AND DESTRUCTION OF CIVIL AND CRIMINAL RECORDS**

*Rules framed by the High Court of Assam*

*in the exercise of its power under Section 3(2) (a) of Act V of 1917.*

1. Every record, unless otherwise provided, shall consist of two parts to be styled, respectively, Parts I and II. These two parts shall be maintained separately in stiff covers in the prescribed forms, the cover provided for Part I being coloured white and that for Part II being coloured blue (see forms Nos. 17 and 17-A (Civil) (See at page No 218 & 219) and 7 to 20 (Criminal) (See at page Nos. 235 - 242) Appendices I and II respectively.

2. Part I shall be preserved for ever, and Part II for three years, after the expiry of which it shall be destroyed.

3. The distribution of the papers to the appropriate parts (Parts I and II) of the record shall in all cases be made in the office before the record is deposited in the Record room.

4. The period of three years mentioned in R. 2 above shall be calculated from the date of final decree or order which, in cases of appeal to the Supreme Court will be that of the decree or order of that Court.

5. All copies of paper books (both bound and unbound) in excess of the number to be preserved permanently in part I of the High Court records as directed in these rules, shall be kept separate from the records to which they relate and be destroyed on the expiry of the periods prescribed for their preservation as under-

(i) Bound copies.-All surplus copies of these in Civil appeals and Death Reference Cases shall be preserved for three years from the date of the decree or order of the High Court or in cases appealed to the Supreme Court as many copies of the paper-book as may be available, shall be preserved for three years from the date of final decree or order of that Court for sale or use in any subsequent appeal, or for any other purpose authorised by the registrar during the period.

(ii) Unbound copies.-All such copies as may have been printed for use in the case of an appeal to the Supreme Court shall be preserved for two years from the date of the final decree or order of the High Court.

Note- In the case of an appeal to the High Court against preliminary decree the unbound copies shall be preserved for five years; provided that at the time of filing his list under R.12, Chapter IX these rules the appellant records in writing on such list that the appeal is against a preliminary decree and asks that such unbound copies be preserved for this longer period.

(iii) Destruction of the surplus copies of bound and unbound copies of paper-books shall, as provided in sub-Rr (i) and (ii) of this rule, be duly under taken without any reference to litigants or advocates concerned, provided, however, that where such litigants apply to the Registrar through their advocates for the return of such copies, they may be returned to such advocates; provided that the application for return is made at least one calendar month before the expiry of the period prescribed for their preservation. No notice to take back such copies will be issued from the High Court.

6. If copies of printed paper-books are available and parties desire to purchase them they shall be supplied with copies at the rate of six annas per page subject to a maximum of Rs. 7-8-0 per volume. Type-written paper-books of second appeals will be charged for at the rate prescribed at R.56, Chapter IX and paper-books in criminal cases will be charged for at the rate prescribed in R. 11-A, Chapter XI.

#### CIVIL RECORDS

7. Part I of all civil records shall contain the following papers;

- (i) the order-books
- (ii) the memorandum of appeal;
- (iii) the copies of the judgment and decree filed with the memorandum of appeal and not inserted in the paper-book of the case;
- (iv) the memorandum of cross objection (if any);
- (v) vakalatnamas;
- (vi) applications for substitution, addition or removal of parties, and the affidavits filed therewith;
- (vii) award or arbitrators or petitions of compromise, if given effect to in the decree, also in the case of minors or lunatics, the order of the court sanctioning the compromise;
- (viii) remand order of the court, if any;
- (ix) copy of the finding of the Lower Court upon remand, if any;
- (x) final judgment of the High Court;
- (xi) decree;
- (xii) applications for the return of documents when they have been rejected or on which special orders have been passed;
- (xiii) paper-books, two copies, when printed, and one copy when not printed;
- (xiv) any paper the preservation of which may be directed by the Presiding Judge or Judges or by the Registrar;

- (xv) orders of the Court other than those recorded on the order sheets; and
- (xvi) applications for review, and orders relating to such applications.

Part II shall contain all other papers.

Note (i)— Certified copies of the judgment and decree of the High Court filed with the applications for leave to appeal to the Supreme Court shall be kept in Part II.

Note (ii)— Copies of the judgment and decree filed with the memorandum of appeal which, or the translation of which, have been inserted in the paper- book, may, with the permission of the Registrar, be returned to the party after the disposal of the appeal.

Note (iii)— Exhibited documents or any other paper not received with the Lower Court's record but filed in the High Court under special orders should not be deposited in the record room but returned to the parties after the disposal of the case in which they were filed. If they are not taken back before the despatch of Lower Court's record, they should be sent to the Lower Court along with its record together with a copy of the order under which such papers were filed and with instructions to that Court to return the same when returning other documents to the parties.

Note (iv)— Papers which are to be preserved under the rules of this Chapter shall be repaired, where necessary, at the expenses of the Court; but documents which are filed by the parties in the High Court or are filed in the Lower Court and transmitted to the High Court and which are ultimately returned to them after the disposal of the case in which they are filed shall be repaired, if and when necessary, at the expense of the party filing such documents. An estimate of the cost of repairs shall be prepared and served on the advocate for the party and the amount due under the estimate shall be deposited with the accountant of the Court within seven days from the date of service. All cases of default as regards the deposit shall be reported to the Registrar.

8. Rule 7 shall also apply mutatis mutandis, to the records of all Civil Revision cases and references.

### CRIMINAL RECORDS

9. Part I of the record in criminal appeals, revision cases, references and miscellaneous cases shall contain the following papers:

- (i) the order-books;
- (ii) the Judgment of the High Court;
- (iii) the memorandum of appeal (or petition for revision or letter of reference);
- (iv) vakalatnamas;

- (v) applications for the return of documents when they have been rejected or on which special orders have been passed;
- (vi) the judgment of the Lower Court;
- (vii) paper-books; two copies when printed and one copy when not printed;
- (viii) any paper the preparation of which may be directed by the presiding judge or judges or by the Registrar; and
- (ix) orders of the Court other than those recorded on the paper sheets. Part II shall contain all other papers.

Note (i)— Certified copies of orders or of judgment in criminal cases filed with applications for revision or memoranda of appeal which have been inserted in the paper-books of such cases, may, with the permission of the Registrar, be turned to the parties filing them after the disposal of cases.

Note (ii)— Sub-rule (vii) above will not apply to cases instituted prior to 16th November, 1920, the number of copies, if any, already with the record being deemed sufficient.

10. Applications for bail and suspension of sentence and orders thereon which are treated as miscellaneous cases shall be preserved for three years from the date of the order.

#### REQUISITION FOR RECORDS UNDER ORDER XIII, RULE 10, CIVIL PROCEDURE CODE

11. (a) Ordinarily certified copies are to be filed in respect of original papers, civil or criminal requisitioned at the instance of the parties, under Order XIII, R. 10, Civil Procedure Code, from Part I of a High Court Record. Such certified copies shall be returned with the original documents called for when the requisition is complied with. Certified copies may, however, be dispensed with in respect of (1) items (vi) and (xii) of Rs. 7 of this chapter, (2) item (v) of Rs. 9 *ibid*, and (3) provided the papers, have been printed in the paper book of the case - item (ii) and (iv) of Rs. 7 and item (iii) of R. 9 *ibid*

(b) In regard to papers of part II of both Civil and Criminal Records, no certified copy need be demanded except under the orders of the Registrar.

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