



**HIGH COURT OF SIKKIM  
GANGTOK**

**SIKKIM HIGH COURT  
(PRACTICE AND PROCEDURE)  
RULES 2011**

**2021**

## **P R E F A C E**

*Initially the Rules pertaining to Practice & Procedure in the High Court of Sikkim, were the Sikkim High Court (Judicial Business) Rules, 1980, framed in exercise of the powers under Section 8 of the High Court of Judicature (Jurisdiction and Powers) Proclamation of 1955. Consequent to these Rules being repealed the Sikkim High Court Practice & Procedure Rules, 1991 came into force.*

*Due to several amendments made in the Rules of 1991 the Rules incorporating all amendments were then consolidated and published in the year 2000.*

*During 2009, in pursuance of the resolution adopted in the meeting held on 23/03/2009 with the Bar Association of Sikkim, a Committee comprising of six members headed by Hon'ble Mr. Justice A.P. Subba (since retired) was constituted vide Notification No. 3/ HCS dated 09.04.2009 to examine and suggest all procedural aspects pertaining to filing of petitions, appeals including necessary amendments to be incorporated in the Sikkim High Court (Practice & Procedure) Rules, 1991.*

*The committee was assisted by Hon'ble Mr. Justice S.P. Wangdi (the then Advocate General) and other members. The Committee after eight sittings submitted its report suggesting and recommending the amendments to the existing rules..*

*The Rules relating to filing of petitions, appeals and other procedures have now been consolidated and amended after taking into account the suggestions and recommendations of the Committee which will repeal the Sikkim High Court (Judicial Business) Rules, 1991.*

*S. W. Lepcha  
Registrar General.*



**HIGH COURT OF SIKKIM  
GANGTOK**

**SIKKIM HIGH COURT (PRACTICE & PROCEDURE) RULES, 2011**

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**HIGH COURT OF SIKKIM  
GANGTOK**

**SIKKIM HIGH COURT (PRACTICE AND PROCEDURE) RULES, 2011.**

In exercise of the powers conferred by Section 8 of the High Court of Judicature (Jurisdiction and Powers) Proclamation of 1955 as amended by the Adaptation of Sikkim Laws (No. 1) Order, 1975 and Section 23 of the Contempt of Courts Act, 1971 and all other powers enabling it in this behalf, the High Court of Sikkim with the previous approval of the Government of Sikkim makes the following rules: -

**CHAPTER – I**

**PRELIMINARY**

**1. Short Title and Commencement :-**

- (1) These Rules may be called the Sikkim High Court (Practice and Procedure) Rules, 2011.
- (2) They shall come into force on the date of their publication in the Official Gazette.

**2. Definitions:-** In these Rules, unless the context otherwise requires:-

- (a) “Administrative Judge” means any Judge who is nominated by the Chief Justice either generally or by a special order to deal with any matter connected with the establishment of the High Court;
- (b) “Chief Justice” means the Chief Justice of the High Court of Sikkim and includes any Judge appointed by the President under Article 223 to perform the duties of the Chief Justice;
- (c) “Constitution” means the Constitution of India;
- (d) “Full Court meeting” means a meeting of the Chief Justice and Judges of the High Court as provided in rule 228 of these Rules.
- (e) “Form” means a Form to these Rules;
- (f) “High Court” means the High Court of Sikkim;
- (g) “Judge” means a Judge of the High Court and includes the Chief Justice, (an Acting Chief Justice, and an acting Judge of the High Court.);
- (h) “Registrar General” means the Registrar General of the High Court of Sikkim and includes the Registrar, High Court of Sikkim;
- (i) “Schedule” means a Schedule to these Rules;
- (j) “State Government” means the Government of Sikkim;

**CHAPTER – II**  
**JUDICIAL BUSINESS**

**PART A (a): GENERAL RULES OF PROCEDURE**

**3. Appeals, etc. to be presented during Court hours : -**

- (1). (a) All Petitions / Appeals / Applications/ Counter / Objections etc. to be filed in this High Court shall be filed at the Filing Counter <sup>1</sup>[or through e-filing mode] on every day which is not a Court holiday. Petitions sent by litigants through post or unauthorised persons for taking some Judicial action shall not be entertained but returned per bearing post or per bearer.
- (b) Any Advocate/Petitioner who files Petitions/Appeals/Applications/Counter/Objections etc shall check the Notice Board of the High Court <sup>2</sup>[or the e-filing dashboard of the user interface of the e-filing application] on the next day of filing, to ascertain if any defects were detected.
- (c) The defect/defects so detected shall be rectified by the advocate/petitioner and the petition/application shall be resubmitted as per Rule 7 of the Sikkim High Court (P&P) Rules, 2011 at the Filing Counter <sup>3</sup>[or through e-filing mode].
- (d) No application, petition, affidavit etc. shall be placed before the Court under any circumstance unless the defects are rectified.
- (e) If any Advocate/Petitioner desires to seek further clarification with regard to any of the above he/she may approach the Registrar General.

Provided that appeal, petition, application, written statement, affidavits or other documents of prisoners or detainees, received through the Officer-in-charge of the prison shall be entertained by this Court.

- (2) No appeal, petition or application shall be received unless presented during the Court hours between 10 a.m. to 4 p.m.
- (3) All appeals, petitions etc. accompanied by petition to be treated <sup>4</sup>[\*\*\*] as urgent, should however, be presented personally <sup>5</sup>[or through e-filing mode] to the Registrar or Joint Registrar or Deputy Registrar on any working day before 11 a.m. but may in exceptional cases, be received not later than 1 p.m.
- (4) On receipt of the appeals, petitions, applications, written statements, affidavits or other documents sought to be presented in the High Court the Registry shall endorse therein the time, date, month and year of presentation and make a similar endorsement on the copy of the party.
- (5) All mentions shall be made only after presentation of the mention memo to the Registry in Form F 10 provided in the Schedule appended to these Rules.

Provided that during the vacation such petitions shall be presented not later than 11 a.m. on all working days during such period.

1. Inserted by the Sikkim High Court (Practice and Procedure) Amendment Rules, 2020 (Notification No. 16/Judl./HCS dated: 03.11.2020).

2. Inserted by the Sikkim High Court (Practice and Procedure) Amendment Rules, 2020 (Notification No. 16/Judl./HCS dated: 03.11.2020).

3. Inserted by the Sikkim High Court (Practice and Procedure) Amendment Rules, 2020 (Notification No. 16/Judl./HCS dated: 03.11.2020).

4. Deleted by the Sikkim High Court (Practice and Procedure) Amendment Rules, 2020 (Notification No. 16/Judl./HCS dated: 03.11.2020).

5. Inserted by the Sikkim High Court (Practice and Procedure) Amendment Rules, 2020 (Notification No. 16/Judl./HCS dated: 03.11.2020).



**Explanation:-** Wherever the words Registrar or Deputy Registrar occur in these rules, it shall include Assistant Registrar (Judl.) and in his absence Senior Reader or in his absence any other officer authorised by the Registrar General for the purpose.

#### **4. Hearing of urgent and ordinary petitions etc. : -**

- (1) The Registrar or Joint Registrar or Deputy Registrar as the case may be, on being satisfied that the petition is genuinely urgent shall fix the petition for hearing forthwith after obtaining orders from the Chief Justice or in his absence the Senior Judge present in the station. If such a petition is received or presented at a time when the Court is closed and in case no Judge is available in the station, such petition may be placed for hearing at the place of residence of the Chief Justice or Judge provided an application to the effect is filed with such petition after a copy thereof is served upon the respondents. An affidavit of service shall also be filed along with such petition.

When cases are taken up for hearing by the Chief Justice or any of the Judges at any place outside Gangtok on the request of the party such party shall bear all expenses necessary on account of T.A., D.A. and other incidental expenses of the official or officials who are required to proceed to such place(s) along with the case record.

- (2) All other appeals, petitions and applications, if found in order on scrutiny and not refused or returned for amendment, may be put up on the date as may be directed by the Registrar or such other officer as may be authorised by the Chief Justice in this behalf.
- (3) Notice of the hearing of ordinary and urgent petitions shall not be given individually to the petitioner or his counsel but a list of such petitions shall be hung up for the purpose on the notice board on the day(s) proceeding the date fixed for the hearing of these petitions giving the name of the Judge by whom the petition will be heard. A copy of the notice shall be sent to the Bar Association within the Court hours. However, the notice of hearing may also be communicated to the respondents by the petitioners.

**5.(1) Form of Pleadings:-** All pleadings including memo of appeal, application/petition, writ petition, revision application, review application, affidavit, counter-affidavit, rejoinder, annexures to the writ petition etc. shall be in English and shall be typed in double spacing on one side of the paper only on <sup>1</sup>[superior quality A4 size paper with minimum 75 GSM], if not available, on stout paper, unless a printed form is prescribed for the purpose by the High Court. It shall be headed "In the High Court of Sikkim at Gangtok" and signed by the party and also his lawyer where he is represented by a lawyer. The original typed copy and not the carbon copy shall be filed in quadruplicate in Division Bench matters and in triplicate in Single Bench matters and the original typed copy or computerised copy, and not the carbon copy, shall be filed in the court. The Registry while placing the matter before the Bench shall place the original copy along with the requisite number of duplicate copies for use of the Bench. The annexures shall be legible and if any annexure is in vernacular language, the same shall be translated by the party and shall be signed by him and his counsel, if represented by counsel, and when the annexures are not legible, typed or computerised legible annexure in double spacing on one side shall be filed, otherwise no pleading shall be entertained.

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1. Substituted by the Sikkim High Court (Practice and Procedure) Amendment Rules, 2020 (Notification No. 14/HCS dated: 10.10.2020).

- 5.(2) All Appeals, Revisions, Review Petitions etc, shall be filed in the formats as prescribed in the Schedule.

**“5A. Nomenclature for different types of cases:** - Nomenclature of the different types of cases shall be as provided in appendix A.”

**5B.** Save as otherwise specifically provided under these Rules, all applications, petitions, etc shall be in the formats provided in the Schedule appended to these Rules.

**5C.** All Writ Petitions/Appeals/Revisions/Review shall contain a brief synopsis of the case followed by a list of dates/events and shall be paginated alphabetically as A, B, C, D etc.

**5D.** All Applications/Writ Petitions/Revisions/Review/Cross-objections shall contain an index as per Form F11 provided in the Schedule appended to these Rules.

6. **Provision of enactment to be specified:** - Every memorandum of appeal, petition or application shall specify the provision of the enactment wherever applicable under which the appeal, petition or application lies.

7. **Amendment :** -

- (1) Where the memorandum of appeal or any petition or application is not drawn up in the manner prescribed herein or in the Code of Civil Procedure, 1908 the Registrar may allow the same to be amended within a time not exceeding ten days at a time and forty days in the aggregate to be fixed by him.
- (2) Where the party fails to take any step for removal of the defects within the time fixed for the same, the Registrar may for reason to be recorded in writing, decline to register the document.

8. **Power to impound documents not duly stamped:** - The Registrar is authorised to examine and impound any instrument not duly stamped.

9. **Endorsement on Memorandum of Appeal etc. as to limitation and stamp by Stamp Reporter :** -

- (1) Notwithstanding anything contained in these rules, no appeal, petition or application shall be presented for admission unless the same bears an office report as to the limitation of time, sufficiency of stamp or Court fees and whether it complies with provisions of these rules. Such report shall ordinarily be endorsed on the memorandum or application and returned by the Stamp Reporter or such other officer as the Chief Justice may appoint in this behalf before 4 p.m. on the date on which such memorandum or application was made over to him for examination.
- (2) If on scrutiny, the document is found in order, it shall be duly registered.

10. **Registration:-** Where an appeal, application or petition requiring judicial orders from the Court including Writ Petition under Article 226 of the Constitution of India and application for review or revision is duly received by the Registrar or the Deputy Registrar and after scrutiny is not refused or returned under these rules, it shall carry an endorsement showing the date of registration. The Registrar shall then cause it to be entered in the register maintained for the relevant purpose.

- 11 Process fee:** - No process shall be prepared and issued by post until proper postal charges for each summons, notice or other process to be issued by the Court are deposited with the Deputy Registrar or Assistant Registrar (Judicial) by the party at whose instance the processes are to be issued. In case of special messenger, the Deputy Registrar shall assess cost to be borne by the party seeking service by special messenger.
- “Provided that where a petition has been registered as public interest litigation the petitioner shall not be required to deposit postal charges or other charges for summons, notice or other process to be issued by the Court.”
- 12 Time for filing of requisites:** - “The petitioner/appellant shall furnish to the office necessary requisites within seven days of the order of issue of summons or notice.”
- 13 Limitation:** - The date of presentation to the Registrar or Deputy Registrar or such other officer as provided under these rules shall be deemed to be the date of presentation for the purpose of limitation.
- 14 Steps to be taken in the Registry:** - Where by these rules or by any order of the Court, any step is required to be taken in connection with any proceeding before the Court, that step shall, unless the context otherwise require, be taken in the Registry.
- 15 Period how calculated:** - Where a particular number of days is prescribed by these Rules or by or under any act, in computing the time, that day from which the said period is to be reckoned shall be excluded, and if the last day expires on a day when the office is closed, that day and any succeeding days on which the Court remains closed shall also be excluded.
- 16 Court’s Power to dispense with compliance with the Rules:** - The Court may, for sufficient cause shown, excuse the parties from compliance with any of the requirements of these Rules and may give such directions in matters of practices and procedure as it may consider just and expedient.
- 17 Power of Court to make appropriate orders:** - An application to be excused from compliance with the requirements of any of the rules shall, in the first instance, be placed before the Registrar who may without interfering or dispensing with any mandatory requirements of the rule shall place before the Court for appropriate order thereon, on a convenient day.
- 18 Inherent power of the Court not affected:** - Nothing in these Rules shall be deemed to limit or otherwise affect the inherent powers of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court.

**PART A (b) : GENERAL RULES FOR INTERLOCUTORY OR MISCELLANEOUS APPLICATIONS AND AFFIDAVITS**

- 19. Language of application:** - All applications to be filed shall be in the English language and duly stamped with a Court fee label of Rs.10/-.

- 20 Application to be filed after serving copy on opposite party:** - Every application to the High Court relating to any proceeding pending before it shall ordinarily be filed after serving a copy thereof on the opposite parties at least 24 hours before the sitting of the Court before which it is proposed to move the application. Such applications shall ordinarily be listed for hearing on the date fixed for the main proceeding, if the application is filed in the pending proceeding. An affidavit of service in this regard shall be filed by the Petitioner in the Court.
- 21 Application to be verified by affirmation:** - The facts stated in such application shall be verified by the solemn affirmation of the applicant or by an affidavit to be annexed to the application.
- 22 Consequence of non service of notice:** - In all cases in which service of notice on the opposite party is necessary, if such notice has not been duly served, the application (except in case of urgency), shall not be listed for hearing.
- 23 Affidavit:** -
- (1) Every affidavit to be used in the High Court shall be entitled "In the High Court of Sikkim at Gangtok" and shall be in the format F.1 prescribed for Writ Petitions.
  - (2) Every affidavit containing any statement of fact shall be divided into paragraphs, and every paragraph shall be numbered consecutively and, as nearly as may be, shall be confined to a distinct portion of the subject.
- 24 Particulars of person making an affidavit:** - Every person, other than a plaintiff or defendant in a suit in which the application is made, making an affidavit, shall be described in such a manner as will serve to identify him clearly, that is to say by the statement of his full name, the name of his father, his profession or trade, and the place of residence.
- 25 Affirmation or oath:** -
- (1) When the declarant in any affidavit speaks to any fact within his own knowledge, he shall do so directly and positively using the words "I affirm" (or make Oath) and "say".
  - (2) When the particular fact is not within the declarant's own knowledge, but is stated from information obtained from others, the declarant shall use the expression "I am informed" and if such be the case, should add "and verily believe it to be true", and he must also state the source from which he received such information. When the statement rests on facts disclosed in documents or copies of documents procured from any Court of Justice or other source, the deponent shall state the source from which they were procured, and his information or belief as to the truth of the facts disclosed in such documents.
- |          |               |
|----------|---------------|
| (Signed) | (Description) |
|----------|---------------|
- 26 Deponent to be identified:** - Every person making an affidavit, if not personally known to the Oath Commissioner, shall be identified to the Oath Commissioner by some person known to him, and the Oath Commissioner shall specify at the end of the application or of

the affidavit (as the case may be) the name and description of person by whom the identification is made, as well as the time and place of the identification, and of the making of the affidavit.

**27 Duty of Oath Commissioner:** - If any person making an affidavit shall be ignorant of the language in which it is written, or shall appear to the Oath Commissioner to be illiterate, or does not fully understand the contents of the affidavit the Oath Commissioner shall cause the affidavit to be read and explained to him in a language which both (he and the Oath Commissioner) understand, either doing so himself, or causing another person to do so in his presence. When any affidavit is read as herein provided, the Oath Commissioner shall certify in writing at the end of the affidavit that it has been so read or explained and that the declarant seemed perfectly to understand the same at the time of making the affidavit.

**28 When affidavits necessary:** -

- (1) When a memorandum of appeal, cross objection, petition or application in any proceeding in the High Court contains an assertion of any fact or facts contrary to or outside the record or not supported by evidence already on record, such assertion shall be supported by affidavit.
- (2) Such affidavit shall ordinarily be presented with memorandum of appeal, cross-objection, application or petition.

**29 Effect of absence of affidavit:** - Any ground contained in any such memorandum of appeal, cross-objection, application or petition containing an assertion of fact not supported by affidavit, may on the hearing thereof, be ordered by the Judge or Bench to be struck out or amended summarily, unless leave be granted to present an affidavit in support thereof.

**30 Evidence to be given by affidavit:** - When upon any application any evidence is to be given, such evidence shall ordinarily be given by affidavit as provided in Order XIX, Rule 2 of the Code of Civil Procedure 1908, and not otherwise unless a Judge or Bench may, by order, direct.

**EXPLANATION:** - Evidence given in support of any of the following or similar applications should be given by affidavit unless otherwise ordered: -

- (a) application to admit an appeal or application, which is Prima Facie barred by time.
- (b) application to add parties or to substitute representatives of parties.
- (c) application to re-admit an appeal or application which has been dismissed for default or to re-hear an appeal heard in the absence of the respondent.
- (d) application to transfer or withdraw a suit or appeal.
- (e) application to stay execution of decree or order.
- (f) application for security of costs, and
- (g) applications for leave to appeal in Forma Pauperis.

**31 Affidavit to be read after serving copy on opposite party:** - No affidavit shall ordinarily be read at the hearing of any appeal, application or other proceeding unless a copy

thereof has been served upon the other party or his Advocate at least 24 hours before such hearing.

Provided that this rule shall not apply to urgent applications or to applications made EX-PARTE,

- 32. Officers to administer oath to deponent:** - The following persons may administer oath or affirmation to the deponent for the purpose of an affidavit to be used in any proceeding in the High Court:
- (i) The Registrar for the time being;
  - (ii) (A)The Joint Registrar-cum-Sr. Reader.
  - (iii) The Deputy Registrar-cum-Senior Reader or Deputy Registrar (Administration and Protocol) or Principal Private Secretary to the Hon'ble Chief Justice or the Assistant Registrar (Judicial) ;
  - (iv) A Notary Public;
  - (v) An Oath Commissioner.
  - (vi) In case of a deponent residing or working for gain outside the State of Sikkim, the Registrar or the Deputy Registrar or any other officer authorised by the High Court within whose jurisdiction the affidavit is sworn, or a Notary Public.

**PART-B (a): THE PRESENTATION AND RECEPTION OF APPEALS,  
PETITIONS AND APPLICATION FOR REVIEW AND  
REVISION.**

- 33. Manners of drawing memorandum of appeal or cross-objection or revision:-** Every memorandum of appeal and cross-objection shall be drawn up in the manner prescribed by Order XLI, Rule 1 and 2, Civil Procedure Code 1908. Every such memorandum of appeal and of crossobjection and every application for revision shall, immediately below the title, have endorsed on it "First Appeal" or "Revision", as the case may be, and shall state –
- (a) the name and full postal address of each appellant or applicant.
  - (b) the name of each person whom it is proposed to make a respondent or opposite party;
  - (c) the Court in which and (i) in the case of first appeal or revision the name of the Judge by whom the decree or order referred to was made, (ii) in the case of second appeal the name of the presiding officer of the lower Appellate Court as well as that of the Court of first instance;
  - (d) the number and year of the suit of proceeding and the date when such decree or order was made thereon;
  - (e) the ground or grounds (number seriatim), of objection to the decree or judgment appealed from without any argument or narrative;
  - (f) the value of the appeal: Provided that in every case in which an appeal or cross-Objection is preferred to this Court and the valuation, for the purposes of Court Fees or the Court Fee paid, varies from that of the trial Court in the case of First Appeal, or from that of either the trial Court or the lower Appellate Court, in the case of

Second Appeals, the Advocate shall, at the time of filing the appeal, add below the valuation, in the Memorandum of appeal, a short explanatory note setting forth the reasons for the variation giving, if necessary, references to the certified copies of the judgment and decree, and mentioning the relevant pages thereof, which are filed with the memorandum of appeal. Any omission to file this note shall forthwith be reported to the Registrar, who may direct that the note be filed within specified period according to the circumstances of each case or direct that the matter be laid before the Division Bench;

- (g) in the case of the appeal, revision or review whether the suit in which the appeal revision or review is made has already been before the Court on appeal, revision or review.

**34. Power of Registrar to dispense with requirement:** - Where more than one appeal are preferred from a judgment governing more than one case, the Registrar may, on an application made in that behalf dispense with the filing of more than one copy of the judgment and direct analogous hearing of the appeals.

**35. Note to add to memorandum of appeal:** - In case of –

- (1) appeals from orders of the Lower Appellate Court remanding cases for retrials;
- (2) and appeals from the orders of the Lower Courts made on remand by the High Court, there shall be added at the end of every memorandum of appeal a note to the following effect.

**NOTE:** This appeal is from an order of the Lower Appellate Court, direct..... remanding the case for re-trial under Section..... Civil Procedure Code;

This appeal is from an order of the Lower Appellate Court (or the Court of the First Instance; as the case may be) made on remand by the High Court, in Appeal No.....of ..... dated the ..... in which this Appellant was Appellant or Respondent (as the case may be).

**36. To bring omission to the notice of Court:** - In the event of any omission on the part of the Advocate to append the memorandum of appeal a note in the terms required by rule 35, it shall be the duty of Deputy Registrar to bring such omission to the notice of the Court before which the appeal is pending.

**37. Memorandum of appeal to accompany copies of judgment and decree or order of both the lower Courts in Second Appeal:** - A memorandum of appeal to High Court against the judgment, decree or order passed in appeal by any Court subordinate to it shall be accompanied by certified copies of the judgment and decree or order of both the lower Courts.

Provided that in the case of an appeal against a decree or order passed after remand by this Court, copies of judgment or decree of the lower Courts passed before the case was remanded need not be furnished.

**38. Address for the purpose of notice or other process:** - Every party who files an appeal in person shall insert in his memorandum of appeal, or otherwise give in writing to the Deputy Registrar, an address at which notices and other processes in the appeal may be served upon him; and any notice or other process sent to such address by registered letter shall be presumed to have been duly served upon such party.

- 39. Registration of memorandum of appeal:** -No memorandum of appeal from an Appellate Decree or from original or Appellate Order presented in person by any party to the appeal shall be registered without an order of a Single Bench before which the party presenting the appeal shall appear in person.
- 40. Application for revision to accompany by certain documents: -**
- (1) In the case of an application for revision, the application shall be accompanied by certified copies of each of the following documents:
    - (i) the judgment, decree or order to which the application relates;
    - (ii) if the judgment, decree or order to which the application relates was a judgment, decree or order delivered by a Court sitting in appeal, the copies of decree or order of the Court of First Instance.
  - (2) Except those applications to be heard by a Single Judge, all other application shall be filed together with duplicate type-written copies of the application and the judgments or orders.
- 41. When a memorandum of appeal not in proper form: -**
- (1) When a memorandum of appeal is not in proper form and/or is not accompanied by the necessary copies of papers, the Registrar may allow time within which such memorandum must be amended, and/or the necessary papers filed, or may lay the same before the Court for orders.
  - (2) If a memorandum of appeal is presented for admission without copies of the judgment and decree or order appealed from, it shall forthwith be returned to the Advocate or party presenting it. If such copies are filed after the period of limitation has expired the memorandum shall be accompanied by an application for condonation of delay
  - (3) In case of an appeal from appellate decree or order, copies of the judgment and decree or order of the Court of First Instance shall be filed along with the memorandum of appeal. If such copies are not so filed, the appeal shall not be placed on the Monthly List for hearing under order XLI Rules 11 of the Civil Procedure Code, 1908, until they are filed.
- 42. Steps after Admission: -**
- (1) If admitted, the records of the lower Courts in First Appeals, Civil Revisions and Second Appeals, should be sent for automatically; provided that where the case is proceeding in the lower Court, the Bench admitting the case for hearing may direct that the record of the lower Courts may not be sent for.
  - (2) In appeals or revisions against interlocutory order, records of the Court below shall not be sent for unless expressly ordered by the Court. The appellant or the petitioner shall file attested copies of the pleadings, documents etc.
- 43. Notice to Advocates: -** In all cases where the matter is still pending in the Lower Court, notices may be served on the Advocate who appeared for the respondent before the Lower Court.



- 44. Application for review to contain certificate that there are sufficient grounds: -** Every application for review of judgment or order of a Division Bench or of a Single Bench of the High Court presented by an Advocate shall be signed by him and he shall certify that the grounds contained therein are good and sufficient grounds for the review sought. No Advocate shall be heard in support of an application for review of any such judgment or order unless and until he has certified in the manner above prescribed the grounds, already taken or any amended grounds of application.
- 45. When review on the ground of discovery of fresh evidence: -** When the application for review proceeds on the ground of a discovery of fresh evidence, certified copies of the documents, if any, relied upon, shall be annexed to the application, together with an affidavit setting forth the circumstances under which such discovery has been made.
- 46. When review cannot be heard as per Order XLVII, Rule 5: -** If an application for review of judgment cannot be heard as provided in Order XLVII, rule 5 of the Code of Civil Procedure 1908, such application/petition shall be laid before the Chief Justice, who shall provide for hearing of the application.

**PART-B (b):       PRESENTATION OF MEMORANDUM OF APPEAL OR  
PETITIONS FOR REVISION IN CRIMINAL CASES AND  
CERTAIN OTHER CRIMINAL MATTERS**

- 47. Statement with regard to appeal or revision: -** In every criminal appeal or revision application, the appellant or petitioner shall state that no such appeal or revision application in the same matter has previously been filed and without that statement such appeal or revision application shall not be accepted
- 48. 'Copies of Lower Courts' order to accompany petition for revision: -**
- (1) Every petition for revision of an order shall be accompanied by a copy of the order in respect of which such application is made.
  - (2) In the case of petition for revision of the order of an appellate Court, a copy of the order of first instance shall also be filed.
- 49. Copies of bail applications to be supplied to Advocate General: -** Copies of all bail applications received in the High Court relating to Criminal cases pending in lower Courts, when bail has already been refused by the lower Courts, shall be supplied to the Advocate General or concerned Public Prosecutor or the Government Advocate by the Deputy Registrar to enable him to appear, if desired, on behalf of the Government.
- Provided that hearing of any particular case by the Judge to whom it is assigned is not delayed by this procedure.
- 50. Statements to contain in bail application etc.: -** In every application for bail, application for ad-interim bail or application for anticipatory bail presented to the High Court the petitioner shall state whether similar application had been made to the Supreme Court or to any other High Court or to any Subordinate Courts as the case may be and if made shall state the particulars of the Court and the results thereof.

- 51. Documents to accompany transfer applications:** - Where a petition or application for the transfer of a criminal case from one criminal Court in the same Sessions division is made to the High Court, it shall contain an averment to the effect, that an application for the transfer of the case was made to the Sessions Judge and was rejected by him such application shall be supported by an affidavit and certified copy of the relevant order.
- 52. Documents to accompany petition for transfer or for revision of interlocutory order, calling of records:** - Petition for transfer or for revision of an interlocutory order in a pending criminal case shall not be entertained by the Deputy Registrar unless accompanied by attested copies of documents relied on by the petitioner. When such petition is admitted, the records of the lower court shall be called for only if so ordered by the court.
- 53. Copy of certain petitions to be supplied to the Advocate General:** - A copy of the petition for transfer or for Habeas Corpus or for a Criminal Writ be supplied to the Advocate General or Additional Advocate General or Public Prosecutor or Government Advocate as the case may be before it is filed in Court. The petition shall be accompanied by an affidavit of service in case service has been effected, if no service has been effected, the reasons thereof.
- 54. Steps after admission of criminal appeal:** -
- (1) When a criminal appeal has been admitted, the Registry shall send for the records and cause notice to be issued.
  - (2) The Registry shall, on receipt of the record from the Lower Court, prepare as many as four copies of paper-book of the record of the proceedings of the Court as required, whose sentence or order is under appeal, two copies for the Court, one copy for the Public Prosecutor or the Government Advocate and the other for supply free of cost to the Advocate appearing for the accused where there are more accused persons than one.  
  
Notwithstanding anything contained in this rule, the Bench may direct appellant to prepare paper-book at his expense.
  - (3) The paper book shall contain the charge-sheet including the following papers :-
    - (a) The First Information Report, if any ;
    - (b) The charges framed by the trial Court ;
    - (c) Statement under Section 161 and 164 of Cr. P.C., if any ;
    - (d) Statement under Section 313 and 281 of Cr.P.C., if any ;
    - (e) The Commitment order ;
    - (f) Post-mortem report, chemical examiner's report, Inquiry report (if any), map, if any ;
    - (g) The records of evidence with any further examination under Section 281, if any ;
    - (h) The impugned judgment ;
    - (i) Exhibits, if any; and
    - (j) Memorandum of appeal.
  - (4) The paper book shall be prepared by the parties concerned, or the Registry, as may be directed by the Court.

**55. Paper-book in criminal revision and reference: -**

- (1) The paper-book in Criminal Revision shall consist of : -
  - (i) The judgment or order of the trial Court ;
  - (ii) The petition of revision.
- (2) The paper book of criminal reference shall consist of the letter of reference and any other relevant documents.
- (3) The paper book shall be prepared by the parties concerned, or the Registry, as may be directed by the court.

**56. Register of summary trials: -** In petitions under section 401 of the Code of Criminal Procedure, 1973 against the order of a Magistrate, in cases tried summarily and in which there are no records except entries in the Register of Summary Trials certified copies of the relevant entries in the Register shall be called for instead of the Register.

**57. Copies of application filed by complainant for special leave to appeal from orders of acquittal to be supplied to the concerned Public Prosecutor: -** Copies of applications presented in the High Court by complainants under section 378(4) of the Code of Criminal Procedure, 1973 for special leave to appeal against the order of acquittal shall be supplied to the concerned Public Prosecutor and a certificate to that effect obtained from him before filing them in the High Court.

**PART C: RULES RELATING TO THE RECEPTION OF PAUPER APPEALS.**

**58. Appeals to be accompanied by application for leave to appeal as an indigent person:-** No application for leave to appeal as an indigent person shall be received unless it is accompanied by a memorandum of appeal nor shall a memorandum of appeal purporting to be on behalf of an indigent person be received unless it is accompanied by an application for leave to appeal as an indigent person. A schedule of any moveable or immovable properties belonging to the applicant, with the estimated value thereof shall be annexed thereto. This schedule shall be signed and verified in the manner prescribed for the signing and verification of pleadings.

**59. Who can present: -**

- (1) Such application and memorandum of appeal shall be presented to the Court by the applicant in person, unless he is exempted from appearing in Court, under section 132 or 133 of the Code of Civil Procedure, 1908, or under any other provision of law for the time being in force in the State of Sikkim. In the latter case, such application and memorandum of appeal can be presented by an authorised agent, who can answer all material questions relating to the applications. Such agent be examined in the same manners as the party represented by him might have been examined, had such party attended in person.

**Grounds for exemptions to be stated if not presented personally: -**

- (2) Every such application, if presented by an agent shall state that the applicant is a person exempted from appearance under section 132 or section 133 of the Code of Civil Procedure, 1908, or any other provisions of law and shall not be received unless it contains such statement.

- 60. Procedure when the application or memorandum of appeal does not conform to the Rules:-** When an application or memorandum of appeal is one that cannot be received under the foregoing rules, the Deputy Registrar shall record, or cause to be recorded thereon, the name of the person presenting such application or memorandum, the date of its presentation and an order returning the same for the presentation with the reason for such order and shall sign and date such order with his own hand.

#### **PART D: RULES RELATING TO REPRESENTATION OF MINORS AND PERSONS OF UNSOUND MIND.**

- 61. Procedure when any of the parties in an appeal is a minor:-** In every appeal presented to the Deputy Registrar in which it appears from the memorandum of appeal or the copies of the judgments filed therewith, that the appellant or any of the appellants or respondents is a minor, the Deputy Registrar shall cause a note to be appended to such appeal for the information and orders of the Judge or the Bench exercising jurisdiction in the appeal.
- 62. Appointment of next friend or guardian:** - Whenever a Judge or a Bench considers it necessary to appoint a next friend or a guardian of a minor appellant in an appeal, or of a minor respondent and an order to that effect is passed, the Registrar or Deputy Registrar shall make the necessary corrections in the memorandum of names of parties in the appeal.
- 63. Notice of appeal not to issue until guardian has been appointed:** - No notice in relation to an appeal shall be issued to any respondent who, from the memorandum of appeal or the proceedings of the lower Courts, appears to be minor, unless and until a guardian for such minor has been appointed by an order of the Court or unless the issue of such notice is authorised by the special order of a Judge.
- 64. Rules to apply to proceedings other than suits or appeals:** - The foregoing rules shall apply so far as may be to the proceedings in review of judgment or in revision and to other proceedings of Civil nature other than suits or appeals, to which Order XXXII of the Code of Civil Procedure, 1908 is applicable.
- 65. Rules to apply in case of persons of unsound mind:** - The foregoing rules relating to the representation of minors shall apply, mutatis mutandis, to the representation of persons of unsound mind, adjudged to be so under any law for the time being in force.
- 66. A single Judge may pass order:** - Nothing in the foregoing rules shall be deemed to require that any order made thereunder shall be made or signed by more than one Judge of the Court.

#### **PART E: APPLICATIONS UNDER ORDER XXII, CODE OF CIVIL PROCEDURE**

##### **(i) Legal representatives of deceased parties and appeals by persons who were not parties to the decree or order.**

- 67. Procedure to make respondent the legal representative of a deceased party who dies after the decree or order appealed from:** - Whenever a party to a decree or order, which is appealable to the High Court desires to appeal therefrom and to make as a respondent to his appeal the legal representative a person who, having been a party to such decree or order, has died after the date of such decree or order, and who, if alive, would be a necessary party as a respondent to such appeal and whose legal

representative has not as such been made a party to the decree or order, or to subsequent proceedings thereunder or thereon the party so desiring to appeal may present to the High Court for admission a memorandum of appeal with the name of such legal representative mentioned therein as such as that of a respondent if at the time when he presents such memorandum of appeal for admission he along with such memorandum of appeal, presents an application for leave to make such legal representative as such a party as a respondent to his appeal, and, except as herein after provided, an affidavit stating such facts as may be necessary in support of his application ;

Provided that the Judge of the High Court may, by an order, allow in his discretion reasonable time in that behalf for the presentation of such affidavit, if it appears to him that the applicant could not by the exercise of due diligence have procured such affidavit in time for presentation along with the memorandum of appeal.

**68. Appeals by the persons other than parties to the decree or order appealed from: -** Whenever by a decree or order which is applicable to the High Court the interest of –

- (a) a beneficiary in property which at the date of such decree or order was vested in or in the possession of a trustee, an executor, and administrator or receiver or manager appointed by a Court who as such was a party to such decree or order ; or
- (b) a legal representative as such of deceased party to such decree of order ; or
- (c) an assignee of party to such decree or order by assignment subsequent to the date of such decree or order; or
- (d) a person whose interest arose after the date of such decree or order by reasons of any creation or devolution of interest, by, through, or from any party to such decree or order; is affected and such beneficiary, legal representative, assignee, or person was not or has not been made a party to such decree or order to proceedings thereunder or thereon and desires to present to the High Court for admission a memorandum to appeal from such decree or order, he may name himself therein as an appellant if at the time when he presents such memorandum of appeal for admission he along with such memorandum of appeal presents an application for leave to make himself an applicant, and, except as year hereinafter provided, an affidavit stating such facts as may be necessary in support of his application ;

Provided that a Judge of the High Court may, by an order, allow in his discretion a reasonable time in the behalf for the presentation of such an affidavit, if it appears to him that the applicant could by the exercise of due diligence have procured such affidavit in time for presentation along with the memorandum of appeal.

**69. Procedure to make respondent the legal representative of a party who died before the decree or order appealed from: -** Whenever in any suit of appeal from the decree or order, in which an appeal may be preferred to the High Court a party has died, before the appealable decree or order in such suit or appeal has been made, and the name of such deceased party appears in such decree or order as that of a party there to, and his representative has not been brought upon the record and such deceased party would, if alive, be a necessary party to an appeal to the High Court from such decree or order, or the legal representative of a such party, having a right of appeal from such decree or order, desires to appeal from such decree or order, and to make a legal representative of

such deceased party to the appeal, he may present to the High Court for admission a memorandum of appeal with the name of such legal representative mentioned therein a party to the appeal, if at the time when he presents such memorandum of appeal presents application for leave to make such legal representative a party to the appeal and except as therein after provided an affidavit showing that he did not know, before the decree or order from which he desires to appeal was made, then such deceased party was dead and stating such order facts as may be necessary in support of his application; provided a Judge of the High Court may by an order in his discretion a reasonable time in the behalf for the presentation of such affidavit, if it appears to him that the applicant could not by the exercise of due diligence have procured such affidavit in time for presentation along with the memorandum of appeal.

- 70. Amendment of Memorandum of appeal when a deceased person made a party in ignorance of death:** - Whenever, after a memorandum of appeal has been presented to the High Court, any appellant or any party interested in the maintenance of any objection filed in the appeal under XLI, Rule 22 or 26 the Code of Civil Procedure, 1908, first ascertains that a person whose name appears in the memorandum of appeal, as that of a party to the appeal, and who if alive, would be a necessary party to such appeal or objection, had died before the memorandum of appeal was presented to the High Court or admitted such appellant or party so interested as foresaid may, but subject to the law of limitation, apply for an order that the memorandum of appeal be amended by substituting for the person, who has so died as aforesaid, his legal representative, if at the time when he presents such application, he along with such application, except as hereinafter provided, presents for filing an affidavit showing that such application is made with all reasonable diligence after the fact of the death of such person first application is made with all reasonable diligence after the fact of the death of such person first came to the knowledge of such applicant or the agent, if any, acting on his behalf in the litigation ;

Provided that a Judge of the High Court may, by an order, allow in his discretion reasonable time in that behalf for the presentation of such affidavit, if it appears to him that the applicant could not by the exercise of due diligence have procured such affidavit in time for presentation along with the application.

**(ii) General Rules as to Suits and Appeals.**

- 71. Application to bring on record legal representative of a party to show death:** - Every application –
- (a) Under Order XXII, Rule 3(i) and 11 of the Code of Civil Procedure, 1908 by a person claiming to be legal representative of deceased plaintiff or appellant to enter his name on the record in place of the deceased party ;
  - (b) Under Order XXII, Rule 4 and 11 of the Code of Civil Procedure, 1908 to make the legal representative of a deceased defendant or respondent a party in place of the deceased; and
  - (c) Under the second clause of Order XXII, Rule 3 of the Code of Civil Procedure 1908 by a defendant or respondent; shall, in addition to any particulars required by law, state the date of the death of the deceased party.
- 72. Application to set aside order of abatement or dismissal:** - Every application under Order XXII, Rule 9 read with Rule 11 of the Code of Civil Procedure, 1908 by a person claiming to be the legal representative of a deceased or the assignee or the receiver of

an insolvent plaintiff or appellant, for an order to set aside an order of abatement or dismissal, shall state the cause which prevented him from continuing the suit or appeal.

73. **Affidavit to accompany application made under Rules 71 and 72 and application to add or substitute a party:** - Every application of the kind specified in Rules 71 and 72 of these rules and every application under Order XXII, Rule 10 of the Code of Civil Procedure, 1908 to make the petitioner or some other person an additional or substituted party in a suit or appeal, shall, as to the allegations of fact contained in such application, be verified by affidavit.
74. **Mode of presentation:** - Every application under Order XXII of the Code of Civil Procedure, 1908 shall ordinarily be presented to the Deputy Registrar, who shall cause the date of presentation to be entered thereon.
75. **Return for amendment:** - The Deputy Registrar shall examine the application, and if it does not satisfy the requirement of the Code or of these rules in that behalf, may return it to the person presenting it, for amendment and representation within a time to be noted on such application under his signature, or may refer the application to a Judge for orders.
76. **Effect of addition or substitution of the name of legal representative of deceased :** - When an application to have the name of the legal representative of a deceased party or the name of an additional or substituted party brought on the record or to have the name of a party struck off the record is granted by order of a Judge or Bench, as the case may be, the Deputy Registrar shall cause the record of the proceeding in the High Court to be amended in conformity with such order.
77. **Form of amendments:** - Every person admitted on the record as the legal representative of a deceased plaintiff, appellant or respondent shall be described as “the legal representative of A.B., deceased plaintiff or defendant, appellant or respondent, as the case may be, and similarity in the case of an insolvent plaintiff, defendant, appellant or respondent.”

### **(iii) Special Rules as to Suits**

78. **Application in original suits to be granted by the trial Judge:** - Application under Order XXII of the Code of Civil Procedure 1908, in original suit, when presented to the Deputy Registrar shall, subject to rule 75, be laid by him for orders before a Judge who shall ordinarily be the Judge before whom the suit to which it relates as pending.
79. **Orders to be granted by Judge :** - Every application under Order XXII of Code of Civil Procedure 1908 shall be laid before a Judge for orders.

### **(iv) Rules as to proceedings other than Suits and Appeals.**

80. **Rules to apply to other proceedings:** - The foregoing rules shall apply to all proceedings of a Civil nature, other than suits or appeals, to which Order XXII of the Code of Civil Procedure 1908 is applicable.

## CHAPTER III

### SPECIAL PROCEDURES

#### PART A : RULES REGULATING PROCEEDINGS UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

##### PART I – GENERAL

- 81. Definition:-** In these rules, unless the context otherwise requires.
- (a) “Chief Justice” means the Chief Justice of the High Court of Sikkim and includes a Judge of that Court appointed under Article 223 of the Constitution of India to perform the duties of the Chief Justice.
  - (b) “Court” means the High Court of Sikkim and includes any Single Bench or Division Bench of the Court.
  - (c) “Deputy Registrar” shall include an Assistant Registrar as may be so designated by the Chief Justice.
  - (d) “Form” means a Form appended to these rules.
  - (e) “Judge” means a Judge of the Court.
  - (f) “pleading” shall mean a petition under Article 226 of the Constitution of India or a written statement or a return thereto and shall include such a replication or rejoinder as may be presented by leave of the Court.
- 82. Criminal Writ Petition: -** A petition for the issuance of a writ in the nature of habeas corpus or relating to investigation or trial of criminal cases shall be styled as “Criminal Writ Petition”.
- 83. Civil Writ Petition: -** A petition for the issuance of any other writ, i.e. a Writ in the nature of Mandamus, prohibition, quo warranto or certiorari or any other appropriate Writ, order or direction, shall be styled as “Civil Writ Petition”.
- 84. Evidence: -** The Court may, in order to discover or obtain proper proof of relevant facts, examine or direct the examination of any person, whether a party to the proceedings or not, either before it or by a Court subordinate to it or on commission and may order the production of any documents or thing at any time.
- 85. Form of writs etc: -** Every Writ, notice, order, warrant or other process shall be signed and dated by the Deputy Registrar and shall be sealed with the seal of the Court. The forms set out in the Schedule to these rules with such variations as circumstances may require, shall be used in cases where the same are appropriate.
- 86. Court Fee: -** All petitions under Article 226 of the Constitution other than petitions for habeas corpus and petitions arising out of criminal proceedings shall bear a Court fee of Rupees two hundred and fifty, provided that no Court fee shall be payable if the petition is treated as Public Interest Litigation.



## **PART II – HABEAS CORPUS**

- 87. Persons entitled to move:** - A petition for the issuance of a writ in the nature of habeas corpus shall be made by the person arrested or detained or on his behalf by a person acquainted with the facts of the case.
- 88. Content of petition and affidavit:** - The petition shall contain all relevant facts showing the circumstances and nature of the restraint and whether any previous petition was made by the detenu or on his behalf by some other person and in case such a petition was filed, its full particulars and result. The petition shall be accompanied by an affidavit in support thereof.
- 89. Expeditious transmission of petition:** - If the detenu desires to make a petition for the issuance of a writ in the nature of habeas corpus he shall be given every lawful facility for the purpose by the authority or the person in whose custody he is held. Such a petition shall be forwarded to the Deputy Registrar by such authority or person without any avoidable loss of time in a cover bearing the caption "Habeas Corpus Petition" in bold letter.
- 90. Procedure on receipt of petition: -**
- (1) On receipt of a petition referred to in rule 87 or rule 89, the Deputy Registrar shall cause it to be entered in the Register of Criminal Writ Petitions and after entering the serial number thereof on the opening sheet, post the same, as soon as may be before the Court.
  - (2) If such a petition is received or presented at a time when the Court is closed, it shall be laid before the Deputy Registrar who shall enter the same in the said register and place it for hearing as soon as may be, before a Judge of the Court in station.
- 91. Preliminary hearing and issue of notice:-**
- (1) After reading the petition and hearing the petitioner or his counsel, if present, the Court may dismiss the petition in limine if it so thinks fit.
  - (2) If the Court, on the other hand, is of the opinion that a prima facie case for granting the petition is made out, notice in Form F 12 shall be issued calling upon the person or persons against whom writ is sought, to appear on a day to be named therein to show cause why such writ should not issue and at the same time to produce in the Court the body of the person or persons alleged to be illegally or improperly detained then and there to be dealt with according to law and a notice shall be issued to Advocate General of the State concerned in Form F13.
  - (3) The Court may at the time of issuing a notice, also issue a search warrant and the person to whom the warrant is directed may in accordance therewith search for the person said to be confined who if found, shall be immediately brought before the Court which shall make such order as may be deemed appropriate in the circumstances of the case.
  - (4) The provisions of the Sections 38, 70, 72, 74, 77, 78 and 79 of the Code of Criminal Procedure, 1973 shall be followed as may be found applicable to all search warrants issued under subrule (3).

- (5) If the Court issuing a search warrant under sub-rule (3) has reason to believe that the person to whom the warrant has been directed may not be able to identify the person confined; the Court may name the person in the warrant for the assistance of the person to whom the warrant is directed for its execution.
92. **Return:** - On the date fixed for appearance, the respondent shall file a return stating whether detenu is in his custody, whether he arrested him, and if so, whether the detenu was released before the issuance of notice, and if it is claimed that the detention is legal, then all the facts relevant thereto. Such return shall be supported by an affidavit of the respondent filing the return.
93. **Advance copy of a return:** - A copy of the return shall, if reasonably practicable, be supplied by the respondent to the petitioner or his counsel before the date fixed for appearance.
94. **Counter affidavit:** - The petitioner may be permitted to file a counter affidavit to controvert the truth of the statements made in the return. Such counter affidavit shall be filed within such time as the Court may allow, after an advance copy thereof has been served on the respondent or his counsel, if any. Thereafter, the Court may, if it thinks fit, direct the Court of Sessions or Chief Judicial Magistrate or a Judicial Magistrate to take evidence and remit the same within the time fixed by it.
95. **Second petition when not competent:** - No petition for the issuance of a writ in the nature of habeas corpus shall lie in respect of the detention of a person on a ground on which a similar petition has already been dismissed. However, a second petition against the legality of the detention may be filed on the basis of a ground which has arisen after decision of earlier petition, or was omitted there from for a reason which the Court regards as exceptional and allows to be taken for the ends of justice.
96. **Justification for second petition:** - Where a second petition is competent after the dismissal of the first, it shall state explicitly the factor of dismissal of the first, it shall state explicitly the factor of dismissal and the reason why the new ground sought to be urged in support of the fresh petition could not be taken earlier.
97. **Annexure to second petition:-** Such second petition shall, wherever possible, be accompanied by a copy of the earlier petition and the order passed by the Court thereon.
98. **Costs:** - In disposing of any petition, the Court may in its discretion make such order as to costs as it may deem fit.

### **PART III**

#### **(Mandamus, Prohibition, Certiorari, Quo-warranto an other directions or orders).**

99. **Index:** - The opening sheet of a petition for the issuance of a writ in the nature of mandamus, prohibition, quo-warrant to or certiorari or any other direction or order shall be the index of the petition and the document annexed thereto in Form F-11. It shall be signed by the petitioner or his counsel and shall state the serial numbers of the pages and the paragraph which contain the points of law canvassed in the petition.

#### **100. Contents of petition: -**

- (1) Every petition shall consist of paragraphs numbered consecutively and shall contain –
  - (i) the name, description sufficient for identification and place of residence or business of each person joined as a petitioner or a respondent ;
  - (ii) a concise statement of relevant facts in chronological order alongwith dates ;
  - (iii) particulars of the defect in the exercise of jurisdiction or the grounds on which the legality or validity or an order, act or default of the State or other authority is impugned, and any final or interim relief sought ;
  - (iv) in concise and precise form in a separate paragraph immediately following the one in which the grounds are specified, points of law canvassed in the petition ;
  - (vi) statement about any alternative remedy which was available to the petitioner, whether such remedy was availed of, and if not, the reasons therefore, and if availed with what results ;
  - (vii) a statement whether a similar petition has been made to the Supreme Court or previously in the Court or in any other Court in respect of the same matter, and if made, with what result; and
  - (vii) detailed particulars and adequate reasons for the delay, in case the petition is prima facie belated.
- (2) In a petition where an interim relief is claimed, the petitioner shall ordinarily furnish to the party against whom such petition is filed copies of such petition and of all documents in support of the plea for such interim relief and the petition shall contain a statement to that effect.
- (3) Every petition shall be signed and verified in the manner prescribed by rules 16 and 17 of Order VI of the Code of Civil Procedure, 1908.
- (4) An application under Article 226 of the Constitution of India shall be in Form F1 as provided in the Schedule appended to these Rules.

**101. Joinder of respondents-** Every person who is likely to be affected in any manner by the result of a petition shall be joined as a respondent thereto. Any petition in which a necessary party is not impleaded shall be liable to be dismissed.

#### **102. Petition and annexures thereto.**

- (1) Every petition shall be accompanied by –
  - (i) such documents on which the petition relies or their certified or Photostat copy or copies attested either by the petitioner's counsel or sworn to by the petitioner to be true copies of the originals and where such documents happen to be in a language other than English, their translation certified by counsel to be correct ; and
  - (ii) a correct copy meant for the use of the Court, type written (first carbon impression), cyclostyled or printed of the petition and the annexures thereto.
- (2) Every document shall bear an annexure mark on the right hand top corner of its opening sheet. Each annexure mark shall consists of the letter 'P' followed by the serial number of the documents; for example, P1, P2, P3.

- (3) Every petition and the copies of translations attached thereto shall be type written, cyclostyled or printed in double space on <sup>1</sup>[superior quality A4 size paper with minimum 75 GSM].

**103. Supply of copies to respondent:** - Within three days of the service of a notice of motion or of admission of the petition, the petitioner shall furnish to the Office as many copies of the petition and the annexures thereto as there are respondents to which the notice is issued or against whom the petition is admitted.

Provided that it shall not be necessary to supply such a copy on admission of the petition for the use of respondent to whom one has already been delivered. Provision of this rule shall not apply to Public Interest Litigation registered as a Writ Petition. The petitioner whose petition has been entertained as public interest litigation shall also not be required to furnish copies of the rejoinder and any other application filed by him.

**104. Service of notice:** - Any notice or communication sent by the Registry of the Court to the address of the petitioner as supplied by him in the petition, under a certificate of posting or registered post shall be deemed to have been duly served on him, where the petition has not been filed through counsel. In all other cases, notice to counsel shall be deemed to be sufficient notice to the party. Any change in the address of the petitioner shall be communicated by him to the Court and thereafter the changed address shall be deemed to have been incorporated in the petition.

**105. Petition to be made on motion after notice and procedure of its service: -**

- (1) All petitions under Article 226 of the Constitution of India shall be made on motion after notice to the parties affected thereby.
- (2) The notice referred to above shall ordinarily be served along with a copy of the Petition and annexures thereto, personally or through registered post with acknowledgment due on the concerned Department or Officer and on other parties. An affidavit of service shall be filed along with the writ petition or afterwards before the same is placed for orders.
- (3) The main petition shall be accompanied with evidence that the notice referred to in subRule (2) above has been duly served.
- (4) If the petition is not made on the date intimated to the opposite party or parties, it shall be incumbent on the petitioner to serve notice of his intention to move the petition in accordance with the provisions of sub-rule (1) above.
- (5) Unless the Court otherwise orders for special reasons to be recorded, no interim order for stay or injunction shall be made against the State without filing evidence before the Court that the notice of the intention to move the Court at a specified relief has been duly served on the designated officer of the State or local authority likely to be affected not less than 24 hours before the petition is filed.
- (6) The notices referred to in sub-rule (2) and (5) shall also be served upon the Advocate General or Government Advocate or the Standing Counsel concerned.

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1. Substituted by the Sikkim High Court (Practice and Procedure) Amendment Rules, 2020 (Notification No. 14/HCS dated: 10.10.2020).

- (7) Where the delay caused by notice is likely to entail serious hardship an application may be made for an and interim exparte order duly supported by an affidavit and the Court, if satisfied that the delay caused by notice would entail serious hardship may make an order exparte upon such terms as to costs or otherwise and subject to such undertaking, if any, as the Court may think just and proper.

**106. Procedure when the Court is closed: -**

- (1) At any time when the Court is closed, a petition which is within the competence of Division Bench may be presented to the senior-most Judge in station if :-
- (a) interim relief of an urgent nature is prayed for ;
  - (b) irreparable loss is likely to be occasioned to the petitioner in case he waits for the institution of the petition till the Court reopens, and the petitioner was unable to present the petition to the Court on its last working day for reasons beyond his control.
- (2) On such presentation the Judge may pass such orders in relation to the interim relief as he may deem just.

**107. Form of notice: -**

- (1) Notices of motion and admission of petitions shall be issued in Form F- 14. Any notice so issued shall be made returnable on a date fixed by the Court and when no such date has been fixed, on a date not less than twenty-one days from the date of the issue of the notice;

Provided that where an interim relief is granted the notice shall be made returnable within a period of fourteen days from the date of the order.

- (2) Every notice shall be served, as far as may be, within seven days of the date of issue.

**108. No notice when respondent attends hearing: -** Service of a notice issued under rule 107 shall not be necessary on a respondent who is present before the Court at the motion hearing and whose presence is noted in the order passed by the Motion Bench.

**109. Consequence of non-prosecution: -**

- (1) If the petitioner does not furnish the process fee, postal charges, the required number of copies of the petition and the annexures thereto, or does not comply with any order issued by the Court, the office shall place the case for proper orders before the appropriate Bench.

**110. Counter Affidavit or return: -**

- (1) A counter affidavit or a return to the petition shall answer each paragraph of the petition separately.
- (2) The provisions of rules 20 and 22 of Order VIII of the Code of Civil Procedure, 1908, shall apply mutatis mutandis to counter affidavit and returns.
- (3) Every document accompanying a counter affidavit or return shall bear an annexure mark on the right hand top corner of its opening sheet. Each annexure mark shall consist of the letter "R" followed by the serial number of the document; for example R1, R2, R3.

- 111.** Reserved judgments should ordinarily be pronounced within six weeks of the conclusion of the arguments. In the event of the judgments not being pronounced within three months of the conclusion of the arguments, the Chief Justice may either post the case for delivering judgment in open Court or withdraw the case and post it for disposal before an appropriate Bench.
- 112 Compliance with judgment:** - Within fifteen days of the receipt of judgment in a petition by the office, or such further period as the Court may allow, the Deputy Registrar shall issue a copy thereof to each of the respondents who are expected to comply with the same, along with a covering letter in Form F-15. The cost for the same shall be borne by the party at whose instance or for whose benefit the direction/judgment has been passed.
- 113. Application of C.P.C.:-** In all matters for which no provision is made by these rules, the provisions of the Code of Civil Procedure, 1908, shall apply mutatis mutandis, in so far as they are not inconsistent with these rules.

**FORM F 12**

**( See Rule 91 (2) )**

**IN THE HIGH COURT OF SIKKIM AT GANGTOK  
CRIMINAL WRIT JURISDICTION.**

Criminal Writ Petition No..... of 20 .....

..... Petitioner (s).

- versus -

..... Respondent (s)

**NOTICE**

To

Whereas a petition under Article 226 of the Constitution of India, wherein you have been joined as respondent and of which a copy is enclosed, has been presented to this Court with a prayer for the issuance of a writ in the nature of habeas corpus ;

And whereas the said petition has been fixed for hearing on ..... day of 20..... at 10.00 a.m. (Actual).

You are hereby required to appear before the Court on the said date and time and to show cause why such writ should not issue and at the same time to produce before the Court the body of ..... who is alleged to be in your custody, then and there to be dealt with according to law;

You are further required to file a return supported by an affidavit stating whether you arrested him and if so whether he was released before the issuance of notice, and if it is claimed that the detention is legal, then all the facts relevant thereto;

And you are further required to supply, a copy of the return, if reasonably practicable, to the petitioner or his counsel before the date above mentioned ;

And also take notice that in case of default you shall be answerable for contempt in not obeying the orders of this Court.

Given under my hand and the seal of the Court this ..... day of ..... 20 .....

BY ORDER OF HIGH COURT OF SIKKIM AT GANGTOK

(Seal)

(Signature)  
Deputy Registrar.

**FORM F 13.**

**( See Rule 91 (2) )**

**IN THE HIGH COURT OF SIKKIM AT GANGTOK  
CRIMINAL WRIT JURISDICTION.**

Criminal Writ Petition No..... of 20 .....

..... Petitioner (s).

- versus -

..... Respondent (s)

To,

The Advocate General,  
..... Gangtok.

Whereas the petitioner above named has presented under Article 226 of the Constitution of India for the release of the detenu named therein ;

And whereas the said petition, a copy of which is enclosed, has been admitted to a hearing by this Court.

Notice is hereby given to you that the case will be laid before the Court on the ..... day of ..... 20 ..... (Actual date).

Should you consider that the State of ..... should be represented at the hearing in this Court, you may take necessary steps in that behalf.

Given under my hand and the seal of the Court this ..... day of ..... 20.....

BY ORDER OF HIGH COURT OF SIKKIM AT GANGTOK.

(Seal)

(Signature)  
Deputy Registrar.



**FORM F - 14**

**( See Rule 107 (1) )**

**IN THE HIGH COURT OF SIKKIM AT GANGTOK**

**Civil Writ Petition No..... of 20.....**

..... Petitioner (s).

- versus -

..... Respondent (s)

**NOTICE OF MOTION / ADMISSION OF PETITION**

To

.....

Whereas a petition under Article 226 of the Constitution of India, wherein you have been joined as respondent and of which a copy is enclosed, has been presented to this Court.

You are hereby informed that the said petition has been fixed for hearing on ..... day of ..... 20 ..... (Actual /Tentative) and that if you wish to urge anything in reply to the petition, you may appear in this Court on that date and file your written statement on or before that day either in person or through advocate duly instructed ;

Take notice that in default of your appearance on the date aforementioned the case shall be heard and decided in your absence.

Given under my hand and the seal of the Court this ..... day of ..... 20.....

BY ORDER OF HIGH COURT OF SIKKIM AT GANGTOK.

(Seal)

(Signature)  
Deputy Registrar

**FORM F - 15**

**( See Rule 112 )**

**IN THE HIGH COURT OF SIKKIM AT GANGTOK**

No...../

Dated.....

To

.....

Subject – Civil Writ Petition No..... of 20.....

..... Petitioner (s).

- versus -

..... Respondent (s)

I am directed to forward herewith for immediate compliance a copy of the judgment, dated ..... passed by this Court in the abovementioned case.

Given under my hand and the seal of the Court this ..... day of .....  
20 .....

(Seal)

(Signature)  
Deputy Registrar

## CHAPTER - IV

### [PREPARATION OF PAPER BOOKS AND RECORDS.]

#### **PART A ; The preparation of Paper Books in First Appeals:-**

**114. Preparation of paper books in all appeals from orders:-** In first appeals from orders admitted to a hearing, a typed paper book shall be prepared by the Registry unless otherwise ordered by the Court.

Provided that the Court may, either on its own motion or on the application of any of the parties to the appeal, dispense with the preparation of the paper book.

**115. Preparation of paper books in all appeals from decree: -** In first appeals from decree admitted to a hearing, a typed paper book shall be prepared by the Registry unless otherwise ordered by the Court.

Provided that the Court may, either on its own motion or on the application of any of the parties to the appeal, dispense with the preparation of the paper book.

#### **116. Contents of paper book: -**

(1) In the absence of an order to the contrary, the paper book under rules 114 and 115 shall consist of such number of parts as may be found necessary and which shall contain the following:-

- (i) the pleading of the parties and issues ;
- (ii) the transcript of the evidence of the witnesses ;
- (iii) the judgment and decree ;
- (iv) the ground of appeal ;
- (v) the order of the Bench admitting the appeal ; and
- (vi) documents allowed to be included by and order under rule 119.
- (vii) All documents which have been duly exhibited and proved by either party in the trial Court, and such other documents which may be allowed by the Court.

Provided that Part 1 of the appeal shall consist of the Pleadings of the parties, Issues, Judgment, Decree and the other volumes may consist of such other necessary records as provided above.

(2) Each paper book shall contain an index as prescribed in Schedule A appended to these Rules.

**117. Records not included in the paper book may be referred to at the hearing: -** Any part of the record not included in the paper book under Rule 116 may be referred to at the hearing with the permission of the Court.

#### **118. Custodian of all disposed of and current judicial records:-**

(1) Deputy Registrar (Judicial) and Office Superintendent, Judicial Section shall be the custodian of all disposed of and current judicial records and Deputy Registrar

(Judicial) shall remain in-charge of all judicial record and if any file is lost from the custody of either of them they shall be held personally liable and disciplinary action shall be initiated forthwith in such manner as may be considered expedient.

- (2) For maintaining proper records of all judicial files and their movement a register shall be maintained by the Deputy Registrar (Judicial) and also Office Superintendent (Judicial) and whenever any judicial record is given to any person, the same shall be entered in such register by the person giving such judicial record and no judicial record shall be given to any other person from the judicial section except by Deputy Registrar (Judicial) or Office Superintendent (Judicial).
- (3) Whenever, any judicial record is to be given to Reader or Senior Reader, necessary entry shall be made in the register by either Deputy Registrar (Judicial) or Office Superintendent (Judicial) and an acknowledgment/receipt shall be obtained from the Reader after handing over the judicial file and till the file is returned to the Judicial Section or till the file is handed over to other authority, Reader or Senior reader shall be the custodian of the said Judicial record and if it is lost from his/her custody he/she shall be held personally liable and disciplinary action may be initiated against him/her.
- (4) Whenever a case record is handed over to Judgment Writer by either Deputy Registrar (Judicial) or Office Superintendent (Judicial) or Reader or Senior Reader or by Private Secretary or by Personal Assistant the Judgment Writer shall be the custodian of judicial record and he shall maintain a register showing from whom such file was received and to whom he has handed over such judicial record and if such file/judicial record is lost from his custody he shall be personally liable and disciplinary action may be initiated against him.
- (5) Movement of original judicial records to the residence of Hon'ble Chief Justice and Hon'ble Judge shall be avoided as far as practicable and where original files are to be sent, the same shall be sent through Principal Private Secretary/Private Secretary/Personal Assistant against receipt and they shall afterwards return the files to Reader or Senior Reader or to any other person from whom the file was taken against receipt and necessary entries in the register shall be made by the person concerned.

**119. Applications for inclusion of documents in the paper book and cost of typing:-**

- (1) The Court may, either on the application made by the appellant within fifteen days from the date of the admission of the appeal or on the application of the respondent within fifteen days from the date of service of notice of the appeal, permit the inclusion in the paper book all or any of the documents duly proved by either party in the trial Court after being translated in English, if in vernacular by the Registry unless otherwise ordered by the court.
- (2) the cost of including the documents specified in clauses (i) to (v) of rule 116 shall be borne by the appellant and paid as provided for under rules 122 and 123 below.
- (3) The cost of including the documents specified in clause (vi) of rule 116 shall be borne by the party at whose instance they are so included, the cost being shared equally where a document is included at the instance of more than one party. The cost shall be paid within thirty days from the date of order under sub-rule (1)

**120.** All documents included in the paper book shall be typed according to their serial order, first those produced by the plaintiff and then those produced by the defendant. On each document shall be endorsed the order by, and date on which it was admitted by the trial Court.

Provided that when counsel for both the parties agrees that the documents should be arranged for convenience in a different order, the documents shall be typed in that order. In that case, a footnote shall be added on the first page of the volume of documents that the documents have been typed in the order by counsel for the parties.

**121. Translation of vernacular documents:-** Vernacular documents typed by desire of parties under rule 119 shall ordinarily be translated and not transliterated, unless especially desired by the party at whose instance they are included in the typed record.

**122. Initial deposit by appellant:-** In every appeal in which under the rules a paper-book has to be prepared the appellant shall, with his appeal, attach a receipt for a sum of as per the rates specified in schedule **B** appended hereto which should be deposited with the Accounts Officer of the High Court to cover the cost of typing the record. No first appeal from a decree shall be received unless it is accompanied by such receipt.

**Exception:-** This rule does not apply to an appeal filed in forma pauperis in which case the appellant will be required to pay the approximate cost of typing or copying of such portion of the record as the Judge admitting the appeal, may under rule 115 order.

**123. Further deposit:-**

(1) If the deposit required under rule 122 proves insufficient to cover the cost of that part of the typed paper-book which is to be borne by the appellant, the Deputy Registrar may, by a notice in writing, require that such further deposit as seems to him necessary shall be made within fifteen days at the rate prescribed in the Schedule B hereto.

(2) If such further deposit is not made within fifteen days of the date of receipt of the notice, the appeal shall, on the expiry of that period, be laid before a Judge for orders, who may, in his discretion, grant further time or dismiss the appeal. The Judge may further, in his discretion discharge or modify any ad-interim orders passed earlier in the case. The case shall be laid before a Judge for orders every time the default is repeated. If the default is made by the respondent then the Judge may pass an order that the paper book be prepared according to appellant(s) list or he may pass such other order as he thinks fit.

**Note:-** If the total sum required as deposits under rule 122 and 123 exceeds Rupees two thousand and five hundred only the matter will be reported for the orders of the Judge.

**124. Period for further deposit may be enlarged:-** The period fixed by rule 123 for the payment of the deposit may, on cause being shown in an application duly stamped, be enlarge by an order of the Court so as to permit the amount of such deposit to be paid by instalments.

**125. Number of paper-books to be prepared:-** In the absence of a special order in any particular case, six copies of the record shall be prepared.

**126. Supply of copies of paper books to parties:-** The appellant and respondent may each obtain one copy of the typed paper-book free of charge. Additional copies, if available, may be purchased at the rate prescribed in the Schedule “B” appended to these Rules per page of the paper book.

**127. Copies to be supplied before hearing:-** Parties and counsel shall be entitled to receive copies of the paper book on application to the Registrar or Deputy Registrar at least fifteen days before the date fixed for hearing.

**128. Typing expenses to be included in costs and refund of balance of cost:-**

- (1) At the end of every paper book shall be noted the amount of typing and incidental charges, and the party from whom levied and such amount shall be included in the cost of the appeal unless the Court shall in any case otherwise direct.
- (2) Should the amount so charged be less than the sum or sums deposited under rules 119, 122 and 123 the Registrar or the Deputy Registrar shall refund the unexpended balance to the party by whom the deposit was made. Should it be more he will take action under rules 123 or 125.

**129. Matters to be referred to Court:-** The Registrar or the Deputy Registrar may and, if so required by either party by petition duly stamped shall refer to the Court any matter not herein expressly required to be referred.

**130. Reference to be dealt with by one Judge:-** For the purposes of these rules, when an order of the Court is required, the order of one Judge shall be sufficient and such orders shall, subject to reconsideration by the Bench hearing the appeal, be conclusive.

**131. Supplementary typed paper book:-**

- (1) When an order has been made by the Court, under order XLI, rule 25 or rule 27 of the Code of Civil Procedure, 1908, in an appeal to which these rules have been applied and additional evidence has been taken in pursuance of such order, a Judge may, at any time after completion of the record of the enquiry make an order that two supplementary typed paper book be prepared of-
  - (i) the order made under order XLI, Rule 25 or Rule 27 Civil Procedure Code, 1908, and
  - (ii) the proceedings taken there under or any part thereof.
- (2) The order shall direct that the expense of preparing the supplementary record or of any part thereof shall be borne by the party or parties in the first instance.
- (3) When a Judge's order for the preparation of a supplementary record has been made the Registrar or the Deputy Registrar shall deal with the matter under the foregoing rule so far as applicable.

## SCHEDULE A

Index of the papers included in the paper book.

Civil First Appeal No..... of

(Name) (Plaintiff/Defendant)..... Appellant.

-versus-

(Name) (Defendant/Plaintiff).....Respondent.

Serial No.	Date of the documents, etc.	Description of the documents, etc.	Page.
1.		Petition or Plaint.	
2.		Written Statement of Defendants.	
3.		Plaintiff's replication to above.	
4.		Defendant's rejoinder to above.	
5.		Issues.	
6.		Plaintiff's oral evidence (each witness by name)	
7.		Defendant's oral evidence (each witness by name)	
8.		Notes of the arguments advanced by the parties.	
9.		Judgment of the trial Court.	
10.		Decree of the trial Court.	
11.		Petition of the appeal to the High Court	
12.		Order of the Judge admitting the appeal to a bench.	
13.		Documents referred to in the Plaint or considered in the Judgment or duly proved by either of the parties in the trial Court.	

N.B.: - *Intermediate orders of the Court should be inserted in chronological order as they occur.*

## SCHEDULE - B

The work of transcribing, transliterating, translating and typing record will be charged for at the following rates under rules 119 and 123.

	Rs. P.
(i) Transcribing the record, per page	1. 50
(ii) Transliterating the record, per page	5.00
(iii) Translating and revising the record, per page	10.00
(iv) Typing charges of the record, per page	1.50

## **PART B- THE PREPARATION OF PAPER BOOKS IN SECOND APPEALS AND REVISIONS**

**132. Paper books when to be typed/cyclostyled:-** Typed/Cyclostyled/photocopy paper books shall be prepared in all second appeals admitted to a hearing unless the Bench admitting the case directs otherwise.

**133. Contents:-** The paper-book shall consist of:-

- (a) Copies or translations of the Judgments of the Lower Courts and the decree of the Lower Appellate Court;
- (b) The grounds or appeal or revision and a memorandum of the names of parties or, if the Appeal or revision was filed in vernacular, a translation thereof; and
- (c) A copy of the order of the Judge admitting the case to a Bench.

**134. (1)** In every appeal in which a paper-book has under these rules to be prepared the appellant shall, within seven days of the date of the order admitting the appeal deposit with the Accounts Officer of the High Court, a sum of Rupees two hundred and fifty only to cover the cost of the paper-book at the rates specified in the Schedule 'B'. In the case of cross-appeals the cost of the paper books shall, however, be paid by the parties in proportion to the amount involved, unless a Judge otherwise directs.

- (2) An additional sum of Rupees fifty only for translating the plaint and pleas shall be similarly deposited in every case in which the plaint and the pleas are to be included in the paper-book. The plaint and pleas shall not, however, be typed except at the express request of the parties or their counsel, or, when so directed by the Judge or Judges admitting the appeal.

**135. Procedure on non-payment of deposit:-** If the appellant or respondent fails to deposit the some or sums required under rule 134 within the prescribed period, the procedure laid down in subrule (2) of rule 123 shall be followed.

**136. Number of copies to be typed:-** Six number of copies of the paper book shall be typed/ cyclostyled unless the Court by general rule in that behalf or special order in a particular case, directs otherwise.

**137. Supply of copies to parties:-** Each appellant and the respondent appearing separately may obtain two copies of the typed paper book free of charge, and additional copies, if available may be purchased at the rates prescribed in Schedule A appended hereto.

**138. Typing expenses to be included in costs and refund of balance of cost:-**

- (1) At the end of every typed/cyclostyled/photocopied paper book shall be noted the amount of typing and other charges, and the party from whom levied, and such amounts shall be included in the costs of appeal, unless the Court shall in any case otherwise direct.
- (2) Should the amount so charged be less than the sum or sums deposited under rule 134, the Deputy Registrar shall refund the unexpended balance to the party by whom the deposit was made should it be more he will take action under rule 135.



- 139. Paper-books in revision:-** For the purpose of rules 134 to 138, the expression “Appeal” shall include a petition for revision admitted to a hearing and the expression “Appellant” shall include a petitioner in the revision petition.

**PART C – THE TRANSLATION OF CERTAIN VERNACULAR DOCUMENTS  
PRESENTED TO THE HIGH COURT**

- 140. Translation of vernacular documents:-** All documents if filed in local vernacular languages in any proceeding filed in the High Court shall be translated to English and subject to sub-rule (4) of rule 142, the expense(s) of such translation shall be borne by the concerned parties.

Provided that the Court may exercise its discretion to exempt any party from making such payment as it deems fit.

- 141. Agency for translation and scale of charges:-** The translation shall be made by the Translation Section of the Registry of the High Court and certified by such officer of the Registry as the Court may from time to time appoint, and the maximum total charge shall not exceed Rupees twenty for one thousand words.

**142. Initial deposit:-**

- (1) On the admission of an appeal, revision petition or civil writ petition, to a hearing, the appellant or the petitioner shall deposit within a period of fifteen days from the date of such admission, the amount required to defray the cost of translation of the vernacular documents, if any.
- (2) If the deposit under sub-rule (1) is deemed insufficient to cover the cost of translation, the Registrar or the Deputy Registrar, may, by a notice in writing, require that such further deposit as seems to him necessary shall be made within fifteen days of the service of notice.
- (3) If the deposit under the foregoing rules be not made within the period prescribed, the case shall on the expiry of that period, be laid before a Judge for orders who may, in his discretion grant further time or dismiss the appeal or the revision or the writ petition. The Judge may further in his discretion discharge or modify any ad-interim order passed earlier in the case. The case shall be laid before a Judge every time the default is repeated.
- (4) The Registrar or the Deputy Registrar shall refund the deposit or the unexpended balance to the party by whom the deposit was made, in those cases which are disposed of by compromise or otherwise, before the translation of the vernacular documents or where this deposit exceeds the actual charges.

**CHAPTER V**

**JURISDICTION**

**PART A RULES RELATING TO ARGUMENTS BEFORE THE HIGH COURT**

**143. Postponement of cases:-**

- (1) An application for adjournment of a case shall be presented to the Deputy Registrar at least two days before the date fixed and shall not be taken direct to a Judge.

- (2) Case may be adjourned 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 other wise incomplete;
  - (b) if, before the day of hearing, the death of a party is announced and adjournment is hereby necessitated;
  - (c) if the lower Courts have not complied with a precept or process.
- (3) Except as provided in sub-rule (2), 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 made.
- (4) Ordinarily part-heard case will be proceeded with on the following day or days till they are concluded.
- (5) No cases shall be adjourned during the course of hearing of arguments except for reasons.

**144. Oral arguments:-** In second appeals, all interlocutory matters, civil revisional applications, Criminal Appeals except those where the sentence exceeds six months, the oral arguments should not ordinarily exceed three hours on the whole.

**145. Synopsis of argument:-** Unless otherwise ordered by the Court, in all regular first appeals and petitions under article 226 of the Constitution of India other than those seeking Habeas Corpus to be heard before the High Court, the Advocate for the parties shall draw up a concise statement setting out briefly the facts giving rise to the dispute, the points at issue, the propositions of law or facts to be canvassed and the relief claimed. It shall be filed in the Court prior to the commencement of oral arguments after serving copy or copies thereof to the other party or parties. The Court shall not ordinarily permit the Advocate to travel outside such a statement or to cite authorities not included therein.

#### **PART B: JURISDICTION OF DIVISION BENCH AND OF SINGLE BENCH.**

**146. All cases to be disposed of by a Single Bench save as provided by law or these rules:-** Save as provided by law or by these rules all cases shall be heard and disposed of by Chief Justice or by a Judge sitting singly or by Division Bench, as the Chief Justice may direct by general or special order.

Provided that if no Division Bench is sitting or available it shall be competent for Chief Justice or Judge sitting singly to pass any interlocutory orders in any appeal, application or matter preferable before a Division Bench as provided by law or by these rules and direct the same for placing before Division Bench for orders;

Provided further that where a matter was pending before a Division Bench and either the Chief Justice or the Judge constituting the Bench has been transferred or has

demitted office such matter shall be heard and disposed of by the remaining Judge or he may refer the matter to a Division Bench if the new Judge or Chief Justice has assumed office.

**147. Constitution of Full Bench:-** On the requisition of any Division Bench, or whenever he thinks fit, the Chief Justice may appoint a Full Bench, to consist of not less than three Judges, for the hearing of any particular case or any particular question of law arising in any case or any other matters.

**148. Letter Patent Appeals:-**

- (1) An appeal shall lie to the Division Bench from the Judgment (not being a judgment passed in the exercise of appellate jurisdiction in respect of a decree or order made by a Court subject to the superintendence of the High Court, and not being an order made in the exercise of revisional jurisdiction, and not being sentence or order passed or made in exercise of Criminal jurisdiction) of a Judge of the High Court sitting singly.
- (2) The period of limitation for an appeal under this rule shall be thirty days from the date of the Judgment, decree or final order, as the case may be.

**149. 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 while acting in the long vacation as a vacation Judge, may exercise the original and appellate jurisdiction vested in the Court 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.

**150. Transaction of judicial business during long vacation:-**

- (1) The Chief Justice shall nominate any Judge of the High Court by name to be a vacation Judge, to hear matters which may require to be immediately or promptly dealt with during long vacation.
- (2) Limitation will not run for the purpose of institution of Civil and Criminal cases during the long vacation.
- (3) The Court will be opened daily during the winter vacation except on authorised holidays, for the transaction of judicial business between the hours of 11.a.m. and 3 p.m.;

Provided that the timings of the sitting of the Court for the transaction of Judicial business may be changed during the Winter vacation, as the Senior Judge may fix and notify for any such vacation.

Provided further that the place of the sitting of the Court may be changed by the vacation Judge at the instance of the parties in the dispute during the vacation.

- (4) Appeals, applications or other proceeding which are to be filed on the reopening day may also be preferred, made or instituted in regular course between 11 a.m. to 2 p.m for the convenience of the parties.

## CHAPTER-VI

### RULES UNDER SPECIAL ACTS.

#### PART A - RULES REGARDING TRIAL OF ELECTION PETITIONS UNDER PART VI OF THE REPRESENTATION OF THE PEOPLE ACT, 1951, AS AMENDED

**151. Definitions:-** In this chapter, unless the context otherwise requires:-

- (i) "Act" means the Representation of the People Act, 1951, as amended from time to time.
- (ii) "Advocate in charge" means the Advocate through whom the petition has been filed other than the Senior Advocate, if any, instructed by him.
- (iii) "Candidate" means a person, who has been or claims to have been duly nominated as a candidate at any election, and any such person shall be deemed to have been a candidate as from the time when with the election in prospect he began to hold himself out as a prospective candidate.
- (iv) "Chief Justice" means the Chief Justice and shall include an Acting Chief Justice of the High Court;
- (v) "designated Judge" means any Judge of the High Court assigned by the Chief Justice under section 80-A(2) of the Act for the purpose of trial of Election Petitions;
- (vi) "Elector" means a person, who was entitled to vote at the election, of which the election petition relates, irrespective of the fact whether he has actually voted at such election or not;
- (vii) "Form" means a form appended to this chapter;
- (viii) "High Court" means the High Court of Sikkim;
- (ix) "Petition" means an election petition filed under sections 80 and 81 of the Act;
- (x) "Prescribed" means prescribed under these rules or the rules made under the Act or the Code of Civil Procedure, 1908;
- (xi) "Registrar General" means the Registrar General of the High Court which includes Deputy Registrar and any other official of the Registry authorised by the Chief Justice to discharge the functions of the Registrar General under this Chapter;
- (xii) Any other words or phrases used in this Chapter, but not herein defined, shall be given the meaning prescribed to them in the Act or in the Code of Civil Procedure, 1908, as the case may be.

**152. Designation of Judges:-** The Chief Justice shall, from time to time, assign one or more Judges of the High Court for the purpose of trial of petitions.

**153. Benches:-**

- (1) The petitions shall ordinarily be tried by any one other designated Judges.
- (2) Where more election petitions than one are presented to the High Court in respect of the same election, all of them shall be referred for trial to the same designated Judge, who may, in his discretion, try them separately or in one or more groups.

#### **154. Security of costs:-**

- (1) At the time of presenting an election petition, the petitioner shall deposit in the State Bank of Sikkim, a sum of Rupees ten thousand only as security for costs of the respondents under the following head:-

Major Head	-	8443.
Sub-Major Head	-	Civil Deposits.
Minor Head	-	121(3) Deposits made for Election petitions.

- (2) During the course of the trial of the petition, the High Court may, at any time, call upon the petitioner to give such further security for costs as it may direct.

**155. Security from added respondent:-** No person shall be entitled to be joined as a respondent under sub-section(4) of section 86 of the Act unless he has given such security for costs as the High Court may direct. In the absence of a specific order in that respect, such a respondent shall be required to deposit a sum of Rupees five thousand only as security for costs in the State Bank of Sikkim.

#### **156. Contents of petition:-**

- (1) A petition may be presented either in person or through an Advocate in charge, for calling in question any election on one or more of the grounds specified in sub-section (1) of section 100 and section 101 of the Act by any candidate at such election or any elector, and
- (a) shall contain a concise statement of the materials facts on which the petitioner relied, arranged as far as possible in strictly chronological order;
  - (b) shall set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice and
  - (c) shall be signed and verified by the petitioner in the manner laid down in order VI rule 15 of the Code of Civil Procedure, 1908 for the verification of pleadings.
- (2) The petition shall be presented to the Registrar within Office hours on any working day and his receipt showing the date and time of filing of the petition shall be obtained. The receipt shall also indicate the date on which the petitioner or his Advocate, if any, shall appear before the Registrar for removal of formal defects, if any. The said receipt shall be in Form F 16 relating to the Chapter VI.
- (3) Any documents other than the election petition itself, but connected with the petition which is not filed with election petition may be filed either with the Registrar with an endorsement in Form F 21 relating to the Chapter VI of the date of filing the same made on the first page of such document under the dated signature of the party filing the documents or his Advocate.

- (4) Any inward diary or a receipt register shall be maintained in the Judicial Branch in which receipt of all petitions, applications, documents and papers connected with election petitions shall be entered on the very day on which those are received in the Branch.

**157. Papers accompanying the petition:-** Every petition shall be accompanied by-

- (a) where the petitioner alleges any corrupt practice in the petition, an affidavit, in the Prescribed form, duly sworn before a competent judicial authority or an Oath Commissioner under his seal or stamp in support of the allegation of such practice and the particulars thereof.

In the verification the petitioner shall separately specify, by reference to the numbered paragraphs of the affidavit, the facts which he verifies of his personal knowledge and those which are verified on information received and believed to be true. In the latter class of averments, the petitioner shall further specify the source of his information;

- (b) schedules or annexures to the petition referred to in the body of the Petition-such Schedules or annexure shall also be signed by the petitioner and verified in same manner as the petition;
- (c) the documents in the possession or power of the petitioner, on which he relies in support of his petition, together with a list thereof in Form F 17 relating to the Chapter VI;
- (d) a list of any other documents on which the petitioner relies in support of his claim which shall be in Form F 18 relating to the Chapter VI and where any such documents is not in possession or power of the petitioner he shall, if possible, state in whose possession or power it is;
- (e) the original Bank receipt for the deposit of security for costs;
- (f) a cloth-lined strong envelope of the size of not less than 10'x15' for keeping documents;
- (g) twice as many copies of the election petition as there are respondents mentioned in the petition. Every such copy shall be attested by the petitioner under his own signature to be true copy of the petition, and
- (h) as many pre-paid Registered Acknowledgement Due Postal Covers as there are respondents mentioned in the petition, with the address of all those respondents being inscribed either in type or in neat and legible manuscript on the respective covers. The petitioner or the Advocate incharge should ensure that the postage pre-paid on the covers is enough to cover the requisite postage keeping in view the weight of the copy of the petition and its annexures and schedules, if any, which have to be despatched therein. If necessary, special postal covers may be got prepared for the purpose which should be of such size as may be able to contain conveniently a copy each of the election petition and its annexures and schedules.
- (i) a statement giving an address at which service of notices or other process may be made on the petitioner. The said address shall be within the local limits of the High

Court. Where the petitioner fails to file the said address, his petition shall be liable to be dismissed. Due service of all processes and communications shall be deemed to have been effected on him by properly addressing, pre-paying and posting by registered post, a letter containing the said processes or communications and unless the contrary is proved the service shall be deemed to have been effected at the time at which the letter would be delivered in the ordinary course of post. Service of all processes and communications on the counsel for the petitioner, if any, shall be deemed to be due service of the same on the petitioner.

**158. General requirements regarding petitions:-**

- (1) All petitions shall be clearly typed or cyclostyled or printed on only one side of <sup>1</sup>[superior quality A4 size paper with minimum 75 GSM] in double space with at least a quarter margin.
- (2) All copies of the petition shall be similarly prepared, but on ordinary paper.
- (3) All copies of the petition shall conform to the original and all copies of the petition shall be exact copies of the original.
- (4) The original petition, the copies thereof, the Annexures and Schedules if any, shall be paginated legibly.
- (5) All petitions shall contain an index indicating the serial number of the document, its date, particulars and the page or pages on which it occurs in the papers filed by the petitioner or the Advocate in charge and shall be signed and dated by the petitioner or such Advocate.
- (6) The petition and its annexures and schedules shall be in English. Any original documents or any copy of a document, which is not in the said language shall be accompanied by its translation into English, duly certified by the petitioner or the Advocate in charge to be a correct translation of the original or of the copy, as the case may be.
- (7) The petitioner or the Advocate in-charge shall ensure that the petition does not suffer from unnecessary prolixity and does not contain any scandalous or vexatious allegations which are not necessary to be made for deciding the matters in issue.

**159. Scrutiny of papers:-**

- (1) The Registrar shall cause the petition and its accompanying documents to be scrutinised under his personal supervision. On the conclusion of such scrutiny the Registrar shall make an endorsement on the back of the last page of the index to the effect that papers have been scrutinised and the same have been found to be in order. If the Registrar finds that the papers are not complete or do not, otherwise, comply with the requirements of these rules or the provisions of Part VI of the Act, an endorsement to that effect would be made specifying the defaults or the omissions which require rectification. The endorsement would also show separately if the security for costs referred to above has been deposited by the petitioner before the filing of the petition, and if the petition has been filed within limitation.

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1. Substituted by the Sikkim High Court (Practice and Procedure) Amendment Rules, 2020 (Notification No. 14/HCS dated: 10.10.2020).

- (2) On such scrutiny, if it is found that the petition does not comply with the requirements of section 81 or section 82 or section 117 of the Act, the Registrar shall make specific endorsement to that effect.
- (3) If some other defect is detected in the petition or it is found that it does comply with any other rules, the petition shall be returned with such endorsement as hereinbefore specified, to the petitioner or the Advocate in-charge, on the date specified in the receipt. The said endorsement shall specify the time within which the defects or defects mentioned therein shall be removed and the said time shall not exceed seven days in any case. The rectified Petition shall be refilled by the petitioner or the Advocate in-charge within the time so specified.
- (4) It shall be the duty of the Petitioner or the Advocate in-charge to bring to the notice of the Registrar the fact of the removal of the defects of any one or more of the defects pointed out by the office on the very day on which the defect or defects are removed. The fact of removal of defect or defects having been brought to the notice of the Registrar General shall be endorsed on the petition by the Registrar General in his own handwriting under his dated signature specifying with reference to the serial number of the defects or otherwise the particular defects which have been removed.
- (5) A list of all the petitions, which are not in conformity with the mandatory provisions of sections 81, 82 or 117 of the Act shall be put on a special notice-board meant for notices relating to election petitions on the day preceding the date for which these petitions are directed to be placed before any one of the designated Judge. The list shall specify the date on which and the name of the designated Judge before whom the petition will be placed for necessary directions or orders in respect of non-compliance with the rules. Such date of hearing shall also be communicated to the petitioner or the Advocate in-charge.

#### **160. Preliminary hearing of defective petitions:-**

- (1) All such petitions,
  - (i) which have been prima facie found by the Registry as not complying with the provisions of section 81 or Section 82 or Section 117 of the Act; or which have been filed incomplete or in any other way not complying with these rules and which the petitioners or the Advocates in-charge may not have taken back; or
  - (ii) which may have been re-filed without necessary compliance; or
  - (iii) which may have been re-filed after the expiry of the period allowed by the Registry, shall be brought up before any of the designated Judges on a date which has wither been noted by the petitioners or the Advocates in-charge or which has been specified in the list prepared, notified, and which has been notified to the petitioners or the Advocate in-charge by registered post.
- (2) If the petition does comply with the provisions of the aforesaid three sections of the Act, but does not comply with any of the other rules or requirements contained in this Chapter, the High Court may allow the petitioner or the Advocate in-charge such further time not exceeding one week to do the needful on such terms as it may deem fit to impose.



- (3) If the High Court finds that section 81, 82 and 117 of the Act have been duly complied with and that there has been substantial compliance with the other rules and it is not necessary to have any other rectification or amendment made in the petition or other papers, the High Court shall order notice of the petition to issue to the respondent or respondents, as the case may be.

**161. Issue of Process:-** In all cases covered by sub-rule 160 and where the petition is on scrutiny, found by the Registrar to be in order, the Registry shall issue in Form 18 accompanied by a copy of the petition, together with copies of the schedules and annexures, if any, to each of the respondents named in the petition under Registered (Acknowledgment Due) postal covers filed by the petitioner as also in the ordinary manner through the Administrative Subordinate Judge or the Senior Subordinate Judge or any other Civil Court of the district or place within whose jurisdiction the respective respondent is stated to reside or carry on business. The endorsement on the notice requiring such Subordinate Judge or Civil Court to effect service on the respondent shall specify that the aforesaid Subordinate Judge or Civil Court to effect service on the respondent shall specify that the aforesaid Subordinate Judge or Court shall make every effort to have service effected immediately and, in any event, to submit a detailed report of service well within time so as to reach the Registry of this Court before the date of scrutiny. The notices shall be for the settlement of issues and shall not be more than four weeks ahead of the date on which the notices are despatched. The notices shall specify, inter alia -

- a) the date on which the respondents are required to appear in person or by an Advocate;
- b) the date of scrutiny on which the case will be put up before one of the designated Judges with a full and complete report of the office about service of notices; and
- c) a direction to the effect that the case would be heard ex-parte if the respondent does not put in appearance in the Registry of the Court and serve notice of having done so on the petitioner or the Advocate in-charge before the date of hearing.

**162. Substituted service:-** If on the date fixed for scrutiny the designated Judge, before whom the case is put up, finds from the office report or the report of the process serving agency or the postal authorities that any one or more of the respondents in any particular cases appears to be evading service or it is otherwise not possible to effect personal service on him expeditiously, he may direct substituted service to be effected on such respondent in any of the customary modes including publication in a newspaper.

**163. Appearance:-** Any appearance, application or act required or authorised by the Act or these rules to be made or done by a party may be made or done by the party in person or by his recognised agent, or by an Advocate, appearing, applying or acting, as the case may be, on his behalf.

Provided that any such appearance shall, if the High Court so directs, be made by the party in person;

Provided further that unless the context otherwise requires, the recognised agent of a party shall be deemed to be the petitioner or the respondent, as the case may be, for the purpose of these rules.

**164. Scrutiny:-** It shall be the duty of the petitioner or the Advocate in-charge to appear before the Court on the date of scrutiny and to comply with the order or directions that may be given by the designated Judge at the time of the scrutiny.

**165. Appearance of respondents:-**

- (1) As soon as possible after the receipt of notice of the petition, each respondent shall enter before the Registrar General appearance in writing. The appearance may be entered through an Advocate or in person. In either event the full, complete and detailed address of the respondent shall be entered on the memorandum of appearance. Thereafter, service of any notice or order of the Court or of the Registry shall be deemed to be sufficient if it is either communicated to the Advocate, or, in a case where the respondent is not so represented, sent by ordinary post to such address of the respondent as has been furnished by him.
- (2) Immediately after entering appearance, the respondent or his Advocate, as the case may be, shall serve on the Advocate in-charge of the case or on the petitioner, if he is not represented by counsel, a notice of having entered appearance.
- (3) Any respondent, who does not admit the correctness of the allegations or the claim made in the petition, shall file a written-statement in the Registry of the Court at least two days before the date of hearing, replying to the petition and the allegations of the petitioner para-wise.
- (4) The written-statement shall be typed, written or cyclostyled or printed in double space on one side of fullscap <sup>1</sup>[superior quality A4 size paper with minimum 75 GSM] and shall be signed and verified in the manner laid down in the Code of Civil Procedure, 1908, for the verification of pleadings.
- (5) A spare copy of the written-statement shall be filed in the Registry which shall be attested by the respondent concerned, or by his Advocate to be a true copy of the original written-statement.
- (6) The written-statement shall be in English and any documents attached to it or filed by the Respondent subsequently shall be with either in English or be accompanied by their respective translation into English which should be certified by the respondent concerned or by his Advocate to be true and correct translation of the original documents, in question.
- (7) The written-statement shall be accompanied by all documents in the possession or power of the respondent on which he bases his defence. Where he relies on other documents in support of his defence, he shall enter such documents in a list to be added or annexed to the written statement. A document which ought to be entered in the list, referred to above but which has not been so entered shall not, without the leave of the High Court, be received in evidence on the respondent's behalf at the hearing of the petition. The document produced shall be accompanied by a list in Form F 17.
- (8) The written-statement shall, also be accompanied by a cloth-lined strong envelope which shall not be smaller in size than 10" X 15" for keeping documents.

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1. Substituted by the Sikkim High Court (Practice and Procedure) Amendment Rules, 2020 (Notification No. 14/HCS dated: 10.10.2020).

- (9) The respondent shall serve on the advocate in-charge or the petitioner himself, if he is not represented by an advocate, an exact copy of the written-statement and its enclosures, if any at least two days before the date of hearing.

**166. Commencement of Trial:-**

- (1) The trial of a petition shall be deemed to commence on the date fixed for the respondents to appear before the High Court and to answer the claim or claims made in the petition.
- (2) At the commencement of the trial or on such adjourned date for which all the respondents have been served or are deemed to have been served, the High Court shall scrutinise the pleadings of the parties and may, within such time as it may deem fit, permit the petitioner to file a replication in reply generally to any written-statement or direct him to file a better statement or better particulars in respect of any matter brought out in any written-statement.
- (3) At the hearing of the petition, after pleadings have been filed, the High Court shall proceed to frame issues arising out of the pleadings of the parties which are necessary for the determination of the matters in controversy between the parties and postpone further hearing of the petition, but shall fix a day for the production of such evidence as the case requires. The Court shall also fix an intermediary date to watch the return of the summons of the witnesses. The parties or their counsel shall appear before the Registrar on the said date and obtain necessary orders with regard to re-summoning or otherwise the witnesses who might not have been served by the said date.
- (4) Within 5 days of the framing of the issues, the parties shall file any other or additional documents which are in their possession or power, and also, file within the same period a list of all the documents which are not in such possession or power of the respective parties, but on which they propose to rely at the trial of the case indicating therein the person in whose possession, power or custody of such documents may be available, and the relevancy of such documents.
- (5) Within ten days of the date on which the issues are framed, the parties shall admit or deny the respective documents filed by the other side in the Registry of the Court by making an endorsement on each document under the signatures of the party concerned or his advocate wither the document is admitted or denied, or how much of a document is admitted or denied.
- (6) The preceding sub-rules shall not derogate from the right of the parties to serve on the counsel for the other side notice of admission or denial of documents or of admission or denial of facts.
- (7) Parties may also, with the leave of the Court, serve interrogatories on the counsel for any other party for being replied to in accordance with law.

**167. Application requiring attendance of witness or witnesses:-**

- (1) A party desirous of requiring the attendance of his witnesses at the trial of the petition through the process of the High Court shall, within fifteen days of the settlement of the issues, make an application for the purpose, to the Registrar. The

said application shall contain the names of the said witnesses and a gist of the facts to be proved by each one of them. A copy of the said application shall, also be delivered by the party or his advocate to the advocate for the opposite party or if the same is not represented by an advocate to the said party, at the same time it is made to the Registrar.

- (2) The said application shall be listed for hearing before the designated Judge by the Registrar on the next day of its filling in the Registry of the Court for passing necessary orders for summoning the witnesses provided that the designated Judge may refuse, for reasons to be recorded in writing to summon any witness or witnesses if he is of the opinion that evidence of such a witness or witnesses is not material for the decision of the petition or that the party summoning such witness or witnesses is doing so on frivolous grounds or with a view to delay the proceedings.
- (3) After the designated Judge has made necessary orders on the said application, the party concerned shall, within a period of three days pay into the High Court such sum of money as is ordered by the Registrar to defray travelling and other expenses for one day's attendance of the witness or witnesses ordered to be summoned. In fixing the said amount regard shall be had to the scale given under Rule 168 below.
- (4) The summons to a witness shall be in Form F 20 and the witness shall be paid his travelling and other expenses by the Registrar after he has attended the High Court on the date mentioned in the summons.
- (5) Service on a witness by registered post shall be deemed to be sufficient service for all purposes including those of Order 16, rule 12 of the Code of Civil Procedure, 1908.

**168. Travelling allowances etc. for witness:-** Travelling allowance for the journey from place of residence to the place where evidence is required to be given and back to the place of residence, daily allowance, and local conveyance allowance shall be paid to the witness accordingly to the rates prescribed under the Sikkim State Travel Allowance Act 1980 as amended from time to time.

**Note 1.** In the case of experts and professional persons and in cases in which the Court thinks special rates should be awarded the Court may award higher rates of diet allowance than provided for in this scale.

**Note 2.** In case not fully or clearly covered by this scale or in cases where the Court thinks special considerations should prevail, the Court shall award such amounts for travelling allowance, diet allowance and local conveyance allowance as it deems proper.

**169. Costs:-**

- (1) Costs shall be in the discretion of the High Court:

Provided that where a petition is dismissed under clause (a) of section 98 of the Act the returned candidate shall be entitled to the costs incurred by him in contesting the petition and accordingly the High Court shall make an order for costs in favour of the returned candidate.

- (2) If the costs have not been fixed by the designated Judge under Clause (b) of Sub section (1) of section 99 of the Act, the costs shall be taxed by the Registrar within a week after the conclusion of the trial of the petition at a time of which at least two days' notice will be given to all the Advocates of the parties who were represented by counsel.

**170. Communication of orders of the High Court:-** The Registrar shall, as soon as may be after the conclusion of the trial of an election petition, intimate the substance of the decision to the Election Commission and the Speaker or Chairman, as the case may be, of the House of Parliament or of the State Legislature concerned and, as soon as may be thereafter, shall send to the Election Commission an authenticated copy of the decision.

**171. Arrangements of files:-** At any time before the commencement of hearing of a petition and before every adjourned hearing thereafter, the Registrar shall arrange the file of each election case into the following six parts in Part A:-

- Part I - Orders in the main case and Miscellaneous Petitions filed therein.
- Part II - Pleading and issues
- Part III - Evidence.
- Part IV - Documents filed by the petitioner.  
(To be kept in the cover filed by the petitioner)
- Part V - Documents filed by the respondents.  
(To be kept in the cover filed by the respondent concerned).

Separate covers of different respondents shall be marked with the number of the party concerned in the array of respondents.

- Part VI - Miscellaneous application and replies thereto.
- Note - Part B of the case will contain the following:-
  - (a) Notices;
  - (b) Office notes and correspondence;
  - (c) Reports of service; and
  - (d) Other miscellaneous papers

**172. Paging and Indexing:-** The office shall check, paginate and index each case file before the case is sent to the designated Judge a day before each date fixed for hearing.

**173. Copies of evidence, etc:-** On an application moved by any party to the petition, the Registrar may allow copies of the evidence and of all or any of the interlocutory orders being given to the applicant or his counsel on paying for the same at the rates mentioned in rule 217 of these rules.

And copies shall be issued only after the Judge has signed the original record and correction, if any, have been carried out in the copies.

**FORM F 16**

**(See Sub-rule(2) of rule 156)**

Serial No.....

Received from Shri.....

Election Petition No..... of 19

..... Petitioner.

Versus

..... Respondent.

entered in the register relating to Election Petitions at Serial No..... this.....day  
of.....20 The petitioner/Shri.....Advocate, to appear before the  
Registrar for removal of formal defects, if any, on.....

**Registrar  
High Court of Sikkim,  
Gangtok.**

Counterfoil.....

Signature of the Petitioner/Shri.....

.....Advocate in token of having obtained the receipt.

**FORM F 17**

**(See Clause(c) of rule 157)**

**LIST OF DOCUMENT PRODUCED BY PETITIONER/RESPONDENT IN THE HIGH COURT OF SIKKIM AT GANGTOK.**

Election Petition No..... of 20

.....Petitioner

Versus

.....Respondent.

List of documents produced with the petition(or at first hearing) on behalf of petitioner or respondent.

The list was filed by.....this..... day of .....20.

.....

1	2	3	4	5	6.
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.....

Sl. No.	Description and date, if any, of the document.	What the document is intended to prove.	What became of the document ..... If brought on the record, the Exhibit mark put on the document position this under Col.5	If rejected, date of return to the party and signature of party or pleader to whom the document was returned	Remarks
---------	--	---	--	--	---------

.....

Signature of party or Advocate producing the list

**FORM F 18**

**(See clause (d) of rule 157)**

**List of document relied upon by the petitioner/respondent.  
IN THE HIGH COURT OF SIKKIM AT GANGTOK**

Election Petition No..... of 20

.....Petitioner

Versus

.....Respondent

This list was filed by.....this..... day of .....19.

1	2	3	4	5	6	7
Sl. No.	Description and date, if any, of the Document.	What the document is intended to prove.	In whose possession the document is.	<u>What became of the document</u>		REMARKS
				If brought on record the Exhibit on the document	If rejected, the date of return to the party, or Advocate/pleader to whom the document was returned.	
.....						

Signature of party or Advocate producing the list.



**FORM F 19**

**(See Rule 161)**

**IN THE HIGH COURT OF SIKKIM AT GANGTOK  
NOTICE TO THE RESPONDENT**

Election Petition No..... of 20

.....Petitioner

Versus

.....Respondent.

To

Shri/Shrimati.....

Whereas Shri/Shrimati..... has instituted an election petition against you, you are hereby required to appear in this Court in person or by an Advocate, duly instructed and able to answer all material questions relation to the petition, on the .....day of..... at 10.30 a.m. to answer the petition and to produce on the day:

- a) all the documents in your possession or power on which you intend to rely in support of your defence, and
- b) a list of other documents on which you rely and which are not in your possession or power.

Take notice that if you do not appear in the Registry of this Court and serve notice of having done so on the Advocate in-charge of the case or on the petitioner himself, if he is not represented by an advocate, before the aforesaid date and do not serve on the said Advocate or the petitioner an exact copy of the written statement and its enclosures, if any, to be filed by you, at least two days before the aforesaid date, the petition will be hard and determined in your absence.

Also note that the case will be put up before one of the designated Judges for scrutiny on.....day of.....20. A copy each of the petition and its annexures and enclosures is enclosed.

By order,

**REGISTRAR**

Endorsement No.....dated the .....

Forwarded the Senior Subordinate/Administrative/Subordinate Judge..... for effecting service on the respondent/respondents. Service may please be effected immediately and a detailed report marked "IMMEDIATE-ELECTION PETITION" be sent to the Assistant Registrar(Judl.) High Court of Sikkim, Gangtok, so as to reach him before the .....day of .....20.....without fail

**REGISTRAR**

**FORM F 20**

**(See sub-rule (4) of rule 167)**

**IN THE HIGH COURT OF SIKKIM AT GANGTOK.  
SUMMONS TO WITNESS**

Election petition No..... of 20.....

.....Petitioner

Versus

..... Respondent

To

Shri/Shrimati.....

.....

Whereas your attendance is required to..... on behalf of the.....petition/respondent in the above-noted petition you are hereby required (personally) to appear before this Court on the .....day of .....20 ..... At 10.30.a.m and to bring with you (or send to this Court).

.....

If you fail to comply with this order without lawful excuse, you will be subject to the consequence of non-attendance laid down in rule 12 of Order XVI of the Code of Civil Procedure,1908.

Given under my hand and the seal of the Court, this .....day of .....20.....

By Order.

**Assistant Registrar  
Judicial Branch.**

Notice-(1) If you are summoned only to produce a document and not to give evidence, you shall be deemed to have complied with the summons if you cause such document to be produced in this Court on the day and hour aforesaid.

(2) If you are detained beyond the day aforesaid, a sum of Rs.....will be tendered to you for each day's attendance beyond the day specified.

By Order of the Hon'ble the Chief Justice and Judges.

**FORM F 21**

Facsimile of the rubber stamp to be used in the Election Branch for making endorsement on the documents filed in that Branch as required by sub-rule(3) of Rule 156.

**ELECTION BRANCH**

**RE:**

Election Petition No..... of 20.....

Date of filing

Serial number in the receipt register.....

Diarist:

**HIGH COURT OF SIKKIM AT GANGTOK**

**PART B: RULES FRAMED UNDER SECTION 23 OF THE CONTEMPT OF COURTS  
ACT, 1971 (70 OF 1971) TO REGULATE CONTEMPT PROCEEDINGS**

**174. Short Title:-** These rules may be called the Contempt of High Court of Sikkim and Courts Subordinate to it (Regulation of Proceedings) Rules, 1991.

**PART I**

**175. Cognizance of Contempt:-** <sup>1</sup>[In the case of a criminal contempt] other than the contempt referred to in subsection(1) of Section 14 of the Contempt of Courts Act, 1971(70 of 1971), the High Court may take cognizance of <sup>2</sup>[criminal] contempt -

- (a) Suo motu;
- (b) Upon a petition made by the Advocate-General of the State of Sikkim;
- (c) Upon a petition presented by any other person with consent in writing of the Advocate-General;
- (d) Upon a reference made by a Court subordinate to it relating to contempt of such subordinate Court.

**176. Documents etc. to accompany petition:-**

- (1) Every petition under clauses (b) and (c) of rule 175 shall contain-
  - (i) The name, description and place of residence of the petitioner and of the person charged;
  - (ii) Nature of the contempt alleged and such material facts, including the date or dates of commission of the alleged contempt, as may be necessary for the proper determination of the case;
  - (iii) If any petition had been previously made by him on the same facts, the result thereof.
- (2) Every such petition shall be supported by affidavit.
- (3) No court-fee shall be charged on any such petition.
- (4) Where the petitioner relies upon any document or documents in his possession or power, he shall file such document or documents or true copies thereof along with the petition.

**177. Preliminary hearing:-**

- (1) Every petition under clauses(b) and (c) of rule 175 shall be posted before the Court for preliminary hearing and for orders as to issue of notice. Upon such hearing, the Court, if satisfied that a prima facie case has been made out for issue of notice, shall direct issue of notice to the contemner to show cause why proceeding under the Contempt of Courts Act 1971 may not be initiated against him and when no prima facie case is found, the petition shall be dismissed.

1. Substituted by the Sikkim High Court (Practice and Procedure) Amendment Rules, 2020 (Notification No. 16/Judl./HCS dated: 03.11.2020).

2. Inserted by the Sikkim High Court (Practice and Procedure) Amendment Rules, 2020 (Notification No. 16/Judl./HCS dated: 03.11.2020).

- (2) In matters covered by clause(a) of rule 175, if the Court is satisfied that there is a prima facie case it shall issue notice to contemner either to show cause as to why proceeding under the Contempt of Courts Act 1971 may not be initiated against him or why he may not be suitably punished.

**178. References made by the subordinate courts:-**

- (1) All references made by the subordinate Courts under clause (d) of rule 175 shall contain the particulars as mentioned in sub-clauses(i) and (ii) of clause(1) of rule 176.
- (2) The subordinate Courts shall transmit all relevant document or copies thereof alongwith the letter of reference.
- (3) All references made under clause (d) of rule 175 by the subordinate Courts except the Courts of District and Sessions Judges shall be forwarded to the respective District and Sessions Judges for report who shall transmit the same to the High Court expeditiously.

**179. Matters covered by rule 175(d) to be placed before Division Bench:-** Matters covered by clause(d) of rule 175 shall be placed before a Division Bench presided over by the Hon'ble Chief Justice, and in his absence before a Division Bench presided over by the senior most Puisne Judge who will take such decision regarding initiation of the proceeding as may be deemed fit and proper and the same will be dealt with in accordance with the provisions contained in rule 177 as far as practicable.

**180. Criminal contempt to be heard by Division Bench:-** All proceedings under the Contempt of Courts Act,1971 in respect of criminal contempts only shall be heard by a Division Bench of the court.

**181. Forms and procedure:-**

- (1) Every petition for initiating proceedings under the Act, shall be registered as Civil Misc.Case(Contempt) in respect of cases relating to civil contempt and Original Criminal Misc.Case(Contempt) in respect of proceedings relating to criminal contempt.
- (2) The Registrar shall cause the notice to be served to the person charged in Form F 22 as appended hereto. The person charged shall appear in person before the Court on the date fixed for hearing of the proceeding, and shall continue to remain present during hearing unless otherwise directed.
- (3) Notice to the contemner to show cause why proceedings under the Contempt of Courts Act, 1971 may not be initiated against him shall be issued in Form F 25 as appended hereto.
- (4) When action is initiated on a petition, a copy of the petition alongwith the annexures and affidavits shall be served upon the person charged.
- (5) In all proceedings started suo motu or on a reference made by a Court subordinate to the High Court, a copy of the notice in Form F 22 shall be sent to the Advocate-General.

**182. Civil Contempt Cases:-** If any information is lodged even in the form of a petition inviting this Court to take action under the Contempt of Courts Act, 1971 and the Rules framed there under or Article 215 of the Constitution of India, where the Informant is not one of the persons named in Section 15 of the said Act, it should not be styled as a petition and should not be placed for admission on the Judicial side rather such a petition should be placed before the Chief Justice for orders in chambers who may decide himself on in consultation with the other Judge or Judges whether to take any cognizance of the information.

**183. Description of parties in certain cases:-** In all cases, cognizance of which has been taken suo motu or on reference made by the sub-ordinate Court, the State of Sikkim shall be described as the petitioner and the Advocate-General shall conduct prosecution for contempt in such cases;

Provided that in a case where cognizance has been taken suo motu, the Court may direct that the Registrar or any other Officer of the Court shall be the Prosecutor.

**184. Documents to accompany reply:-** The person charged shall file his reply duly supported by an affidavit or affidavits and shall enclose all documents on which he proposes to rely.

**185.** No further affidavit or document shall be filed except with the leave, or under direction of the Court.

**186. (1)** The Registrar may issue fresh notice if he considers that the service of notice is not sufficient.

(2) If the Registrar considers service to be sufficient and the person charged with contempt does not appear on the date fixed, the matter shall be posted for orders of the Court.

**187. Procedure in cases where contemner is absconding or evading service:-**

(1) If the Court is satisfied that the service of notice is sufficient or it has reason to believe that the person charged is absconding or is otherwise evading service of notice or if he fails to appear in person or continues to remain absent in spite of notice, it may direct issue of warrant bailable or non-bailable for his arrest, addressed to one or more police officers or may order attachment of property. The warrant shall be issued under the signature of the Registrar. The warrant shall be in Form F 23 and shall be executed, as far as may be, in the manner provided for execution of warrants under the Code of Criminal Procedure 1973.

(2) The warrant shall be executed by the Officer to whom it is directed any may also be executed by any other police officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed.

(3) Where a warrant is to be executed outside the State of Sikkim, the Court may, instead of direction such warrant to a Police Officer, forward it to the Magistrate of the district or the Superintendent of Police or the Commissioner of Police of the district within which the person charged is believed to be residing. The Magistrate or the Police Officer to whom the warrant is forwarded shall endorse his name thereon and shall cause it to be executed.

(4) Every person who is arrested and detained shall be produced before the nearest Judicial Magistrate or the Metropolitan Magistrate, as the case may be, within a

period of 24 hours of such arrest excluding the time necessary for the journey from the place of arrest to the Court of the said Magistrate and no person shall be detained in custody beyond the said period without the authority of either a Judicial Magistrate or a Metropolitan Magistrate, as the case may be.

- 188. Cross-examination:-** The Court may, either suo motu or on motion made for the purpose, order the attendance for cross-examination of a person whose affidavit has been filed in the matter.
- 189. Securing attendance of witness:-** The Court may order for the purpose of securing the attendance of any person to be examined as a witness and for discovery or production any document.
- 190. Rules to apply:-** The Rules of the High Court of Sikkim, as amended from time to time shall apply to matters not specifically provided for in this Part of the Rules.

## **PART II**

- 191. Paper-Books:-** In all proceedings under the Contempt of Courts Act, 1971 at least five copies of the paper book shall be prepared, one for the prosecutor and another for the contemner and the remaining for the use of the Court. The paper-book in each case shall be prepared at the expense of the State. The paper-book shall contain the following papers namely.
- (i) Petition and affidavit filed by petitioner and where the charge of contempt is based on the content of a document/documents, the same;
  - (ii) A copy of a statement relating to the matter constituting the alleged contempt;
  - (iii) Notice to show cause containing the particulars of the alleged contempt against the contemner;
  - (iv) Affidavit or other documents intended to be relied upon as evidence by the contemner in support of his case which are received or produced in the Court;
  - (v) Any other document which the Court directs for inclusion.

## **PART III**

- 192. Warrant of commitment:-** If a person charged with contempt is adjudged guilty and is sentenced to suffer imprisonment, a warrant to commitment and detention shall be made out in Form 22 under the signature of the Registrar. Every such warrants shall remain in force until it is cancelled by order of the Court or until it is executed. The Superintendent of Jail shall, in pursuance of the warrant, detain the contemner in custody for the period specified therein subject to such further direction as the Court shall give.
- 193. Subsistence allowance:-**
- (1) The Court shall fix the subsistence allowance when the contemner is committed to Civil Prison in accordance with his status.
  - (2) In cases of suo motu proceedings and proceedings under reference where the State of Sikkim is the prosecutor, such subsistence allowance shall be borne by the State.

- (3) In other proceedings where the prosecutor is a private party, the contemner shall not be arrested unless and until the subsistence allowance, as fixed by the Court, is deposited into the Court.

**194. Procedure when a sentence of fine is not paid:-** If the Court awards a sentence of fine and the fine amount is not paid at once within such time as may be granted by the Court, the Registrar shall take action in any one of the ways as provided in Section 421 of the Code of Criminal Procedure, 1973.

**195. Costs:-** (1) The Court may award such cost as it may deem fit in the circumstances of the case.

- (2) Where the costs are awarded in a proceeding relating to criminal contempt, the same shall be recoverable as if it were fine.
- (3) Where the costs are awarded in a proceeding relating to civil contempt, the order shall be deemed to be a decree under the Code of Civil Procedure, 1908 and may be recovered by execution.

**FORM F 22**

**(See sub-rule(2) of rule 181)**

**NOTICE TO A PERSON CHARGED WITH CONTEMPT OF COURT  
IN THE HIGH COURT OF SIKKIM, GANGTOK**

**ORIGINAL CRIMINAL MISC.CASE NO..... OF .....**

..... Petitioner.

Versus

..... Opposite-Party.

To

WHEREAS it appears that you by your acts, conduct, utterances and writings committed contempt of Court in the facts and circumstances stated herein below:-

(Briefly state the facts and circumstances and the nature of contempt)

YOU SHRI..... are hereby required to appear in person (or by advocate, if the Court has so ordered) and show cause before the Court at Gangtok on the ..... Day of.....20 at ..... A.M. why you shall not be punished or other appropriate order be not passed against you for contempt of the High Court of Sikkim/Subordinate Court(name of the Court)

You shall attend the Court in person on.....day of ..... at.....A.M. and shall continue to attend the court on all dates thereafter to which the case may stand adjourned until final orders are passed on the charge against you.

Herein fail not.

Given under my hand and the seal of the Court, this the .....day of.....20

**REGISTRAR**

**FORM F 23**

**(See sub-rule (1) of rule 187)**

**IN THE HIGH COURT OF SIKKIM, GANGTOK.  
ORIGINAL CRIMINAL MISC.CASE NO..... OF**

To

(Name and designation of the person or persons who is or are to execute the warrant)

WHEREAS.....of.....is charged with committing contempt of this Court, you are hereby directed to arrest the said.....and to produce him before this Court.

Herein fail not.

(If the Court has issued aailable warrant, the following endorsement shall be made on the warrant).

If the said.....shall give bail in the sum of Rs.....with one surety in the sum of Rs.....(or two sureties each in the sum of Rs..... to attend before this Court on the .....day of.....20 and to continue so to attend until otherwise directed by this Court, he may be released.

Dated this the .....day of.....20

**REGISTRAR**

**FORM F 24**

**(See rule 192)**

**Warrant of Commitment for Contempt.**

**IN THE HIGH COURT OF SIKKIM, GANGTOK.  
ORIGINAL CRIMINAL MISC.CASE NO. OF**

To

The Superintendent (of Keeper) of the Jail at

WHEREAS this Court on this the day of 20 adjudged (name of the contemner with address) guilty of wilful contempt of Court, and he has been sentenced to suffer imprisonment for a term and/or to pay a fine of rupees.....

This is to authorise and require you, the Superintendent (or Keeper) of the said Jail to receive the said (name of the contemner) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (term of imprisonment) or for such shorter period as may hereafter be fixed by order of this Court and intimated to you. You are directed to return this warrant with an endorsement certifying the manner of its execution.

You are further directed that while the said..... is in your custody, produce the said..... before the Court, at all times when the Court shall so direct.

Given under my hand and the seal of the Court, this the.....day of.....20.....

**REGISTRAR**



**FORM F 25**  
**(See Sub-rule (3) of Rule 181)**

**IN THE HIGH COURT OF SIKKIM**  
**GANGTOK**

**No...../JUDL/HCS.**

**Dated:.....**

Original Criminal/Civil Misc.Case No..... of.....

Petitioner.  
Versus.  
Opp.Party.

To

Whereas in the proceeding of.....it has been observed as to why contempt proceeding shall not be initiated against you for the reasons stated in the order dated.....(copy enclosed). You are hereby required to show cause before the High Court at Gangtok on..... at 10.30 a.m. in person as to why a proceeding shall not be initiated against you under the contempt of Courts Act.

In default of your showing cause this Court will proceed to consider the matter and pass suitable orders in accordance with law.

Given under my hand and the seal of the Court this the..... day of.....20.....

**BY ORDER OF THE COURT.**

**REGISTRAR**

**CHAPTER VII**  
**RECORDS: THEIR INSPECTION AND GRANT OF COPIES**  
**PART A - THE INSPECTION OF RECORDS**

**196. Inspection of decided cases:-** The inspection of records of decided cases will be allowed only under the orders of the Registrar.

**197. Inspection of pending cases by parties or agents:-** Records of pending cases will be open, as of right, to the inspection of parties or their authorised agents or any Advocate of the Court, who is duly authorised to act in the case as junior counsel whether he be an advocate or a pleader of such duly authorised advocate provided the latter certifies on the application that he has authorised his junior to inspect the record for him.

Provided that an advocate of the Court may inspect the record of any such case on giving an assurance that he is in communication with one of the parties with a view to being retained in it;

Provided further that the inspection of a record will not be permitted on the date fixed for hearing without the special order of the Judge or one of the Judges before whom the case is pending.

**198. Access to records:-** With the exception of the persons above mentioned no one will be allowed access to the record of a pending case without the special order of a Judge.

**199. Court-fee on application for inspection:-** Applications under rules 196 and 197 shall be made by petition duly stamped with a court-fee Rupees ten only. Other applications for inspections shall be made by petition to which must be affixed a court-fee label of the value prescribed below:

- (a) If ordinary inspection \_\_\_\_\_ a court-fee of Rupees ten only.
- (b) If urgent inspection on the date of hearing or on a day other than the date of hearing \_\_\_\_\_ a court fee of Rupees twenty only.

**Note-1:-** No fees should be charged for the inspection of records in Civil and Criminal cases by the Advocate General or the Public Prosecutor or by the counsel appearing for Government in Civil and Criminal cases or by counsel appearing for accused or appellant in cases, where the latter is a pauper or is defended by counsel provided at Government expense.

**Note-2:-** No fee shall be charged for inspection by parties and counsel in Criminal cases except in the following cases:

- (a) Second inspection of the same record, or
- (b) Inspection on the day the application for inspection is made.

**200. Contents of application and when and to whom to be presented:-** Application must distinctly specify the record of which inspection is desired and shall be presented to the Assistant Registrar (Judl.) or Deputy Registrar (Judl.) or in his absence the senior-most Reader or in his absence any officer authorised by the Registrar.

- (a) When ordinary inspection on a day other than the date of hearing is applied for, between the hours of 10. a.m. and 3.p.m and
- (b) When urgent inspection is applied for on the date of hearing, between 10 a.m. and 11a.m.

**201. Restrictions in marking on records:-** No mark shall be made on any record or paper inspected. The copying of any document or portion of the record in pen and ink is strictly prohibited.

**202. Inspection of records on a single fee:-** Except in the case of connected records, inspections of which has been permitted for a single fee access will be permitted to the record of one case only at a time.

**203. Inspection of records for more than one day:-** The fee provided in rule 200 shall entitle the applicant to inspect the record on one day only. If inspection of the record is applied for on another day, a fresh application shall be required and a fresh fee paid.

**204. Procedure for ordinary and urgent applications:-** Ordinary applications shall be taken up in the ordinary course of business. Urgent applications shall be disposed of at once, by the office.

- 205. Advance notice for inspection:-** In the case of an application for ordinary inspection of pending matter, the applicant shall give Assistant Registrar (Judl.) or Deputy Registrar (Judl.) or in his absence the senior most Reader or in his absence any officer authorised by the Registrar a days notice of the day and the time on which it is applied for to inspect such record

## **PART B- THE GRANT OF COPIES AND TRANSLATION OF RECORDS**

### **(a) PERSONS ENTITLED TO COPIES**

- 206. Copy to be granted to person entitled:-** A copy of translation of a judicial record may be granted in the manner prescribed by these rules to any person who is legally entitled to receive it.
- 207. Party entitled to copies of records and exhibits:-** A party to a proceeding or appeal is entitled at any stage of the proceeding or appeals, to obtain on payment copies of the record of the proceeding or appeal, including exhibits which have been put in and finally accepted by the Court in evidence.
- 208. Grants of certain copies to strangers:-** A stranger to the proceeding or appeal may, after decree, obtain as of right, on payment copies of the plaint, memorandum of appeal, written statements, affidavits and petitions filed in the proceeding or appeal; and may, for sufficient reason shown to the satisfaction of the Court; obtain copies of any such documents before decree.
- 209. Grant of certain copies to Stranger:-** A stranger to the proceeding or appeal may also obtain as of right, on payment, copies of judgments, decree or orders, at any time after they have been passed or made.
- 210. Grant of copies of exhibits to strangers:-** A stranger to the proceeding or appeal has no right to obtain copies of exhibits put in evidence, except with the consent of the person by whom they were produced or under the orders of the Court.
- 211. Grant of copies of lower court records:-** When in the course of a judicial proceeding pending in the High Court any judicial record of a Subordinate Court has been called by the High Court, any party may, on payment, obtain a copy of the records of the Subordinate Court if that party would have been entitled to the copy, if he had made the application before the Subordinate Court.
- 212. Grant of translation:-** Any person entitled to obtain a copy of a judicial record may apply for a translation thereof.

### **(b) APPLICATIONS FOR COPIES AND TRANSLATION OF RECORD**

- 213. Presentation of application: -** Save as otherwise provided in these Rules copies or translation of judicial record of the High Court shall be supplied on application made to the Court. Every such application shall be duly stamped with a court-fee of Rupees ten.
- 214. Contents of applications :-** Every application for a copy of translation shall contain the following particulars, namely:-
- (a) the name of the cause;

- (b) if the cause is pending, the date of institution thereof, and the date fixed for hearing, if any;
- (c) if the cause has been decided, the date of decision;
- (d) where the information referred to in clause (b) and (c) is not available to the applicant, such other information as may be sufficient to enable the cause to be identified and traced;
- (e) the nature of the document, the copy or translation of which is required;
- (f) purpose for which the copy or translation is required;
- (g) the name and full postal address of applicant.

**215. Procedure of dealing with application:-**

- (1) Upon the presentation or receipt of an application for a copy or translation, the concerned officer shall-
  - (a) endorse or cause to be endorsed thereon the date of presentation;
  - (b) initial the endorsement;
  - (c) cause the application to be registered as hereinafter provided; and
  - (d) cause the court-fee thereon to be cancelled according to law.
- (2) The application will then be examined and an order passed thereon as hereinafter prescribed.
- (3) The copyist shall make proper entries in the register of application for copies in the prescribed form (Reg.1) as appended to this Chapter. The Copyist shall send the application to the Concerned Officer of the record who will make entry and signature in the appropriate column of register No.1 as appended to this Chapter. The Concerned Officer of the record shall send the record to the Copyist expeditiously.

**Note:** The Assistant Registrar (Judl.) or Deputy Registrar (Judl.) or in his absence the senior-most Reader or in his absence any officer authorised by the Registrar is authorised to deal with applications for copies and translations under these rules.

**216. Procedure for disposal of applications :-**

- (1) If the application is in proper form and is one which may properly be granted under the rules and practice of the Court an order will be recorded thereon directing the copy or translation required to be made and delivered.
- (2) If the application is not in proper form or is one which may not properly be granted under the rules and practice of the Court, an order will be recorded thereon specifying the requirements to be complied with and directing its return to the applicant, or refusing the application and directing that it be filed, according to the circumstances of the case.
- (3) As soon as the application for copies or translation is received, the Copyist shall prepare an estimate of the requisite charges. If the amount deposited is deficient, the applicant shall be informed of the deficiency by notice or by affixing on the Notice Board and the deficiency shall be made good within one month of the affixation of

such notice. If the deficiency is not made good within aforesaid period the application shall be rejected. The notice shall be given in the prescribed Form (F.26).

- (4) If the copy is not claimed by the applicant within 12 months of the date fixed for collecting the same, it shall be destroyed.
- (5) Every copy shall bear an endorsement showing the following particulars:-
  - (a) the number of the application on the register and the year;
  - (b) the date of presentation of application;
  - (c) the date on which the defect was notified;
  - (d) the date on which the defect was removed;
  - (e) date of delivery;
  - (f) amount of copying fees paid;
  - (g) number of pages.

### **(c) DESCRIPTION OF COPIES**

**217. Uncertified copies:-** Uncertified copies of running depositions prepared by Court stenographers under the orders of the Presiding Judge when application is made before hand, shall ordinarily be supplied to parties at the rate of Rupees three per page.

**218. Attested copies and fee chargeable therefore:-**

- (1) Consolidated fees at the following rates shall be charged:-

(a) for ordinary copies	Rupees three only per page;
(b) copies of judgment supplied for purpose of reporting to the reporters of Private Law Journals or to the authorised representatives of newspapers which give an undertaking that copies so supplied will be used only for the purpose of reporting and such copies to be stamped for reporting only.	Rupees fifty only per copy for judgment of ten pages or less Rupees hundred only per copy for judgments of eleven pages or more;
(c) copies of judgment not approved for reporting will not be supplied at consolidated rates. If however, somebody wants to have one, it will be made available at the rate applicable to an ordinary copy.	
- (2) The entire proceeds from sale of copies shall be credited under the following head in State Bank of Sikkim:-

Major Head	0070 other Administrative Services.
Sub-Major Head	01 Administration of Justice
Minor Head	501 Service and service fees.

**<sup>1</sup>[219 Copies required by public officers:-** Copies of records required for public purposes by public officers as defined in sub-section (17) of Section 2 of the Code of Civil Procedure, 1908 of the Central or State Government of India, shall be supplied free of charge, provided the application for copy is endorsed by the Head of the Department /Law Officer (which shall include Advocate/Counsel/Retainer) appointed by concerned department of the Government.]

**Note:** For the purpose of above rule, only one copy of the document applied for shall be supplied free of charge.

**220. Copies to the accused person:-** Copies of judgments of the High Court in Criminal Cases shall, on application made in this behalf by the accused person, be supplied free of cost;

- (a) In every case in which a sentence of death or transportation for life has been passed or confirmed by the High Court;
- (b) in every case where the accused person wishes to file an application for special leave to appeal to the Supreme Court in forma pauperis; and
- (c) in any other case if the High Court so directs.

**221. Signatures of Presiding Officers to be excluded when photocopying:-** Wherever a photocopy of any document containing the signature of the Hon'ble Judges of the High Court of Sikkim or any Presiding Officer of Subordinate Court is prepared, it shall be prepared by excluding the signature thereon and in place thereof the word signed shall be written in hand or typewriter.

**222. Copies of certain documents not to be granted:-** Except for special reasons to be noted by the Deputy Registrar upon the back of the application, no copy shall be granted (1) on official correspondence and reports and (2) of a document which is itself a copy.

**223. Copies to be certified:-** All copies shall bear the seal of the Court and shall be "certified to be a true copy" and be signed by an officer authorised to do so by the Registrar.

**<sup>2</sup>[223A. Supply of e - authenticated copies of Order received from the Hon'ble Supreme Court of India through FASTER system for immediate compliance:**

This High Court shall recognise e-authenticated copies of the interim orders, stay orders, bail orders and record of proceedings received from Hon'ble Supreme Court through FASTER system and shall forthwith transmit copies thereof to the concerned subordinate court/ jail for immediate compliance.]

1. Substituted vide Notification No. 21/HCS/Judl. dated 19.10.2015.

2. Inserted vide Notification No. 29/Judl./HCS dated 20.12.2022.

**REGISTER NO.1**  
**(Rule 215 (3))**

**Register of Application**

Sl. No.	Date of application	Nature of application whether ordinary or urgent.	Name of applicant	Party	Whether Stranger
1	2	3	4	5	6

Particulars of record from which a copy applied for.	Document or documents of which copy applied for.	Estimate of the requisite charge.
7	8	9

Date on which defects, if any removed by the Applicant.	Date & hour when application received by the record keeper or clerk in-charge or record.	Date & hour when the record was received by the Head Copyist.
10	11	12

Head Copyist. Date on which the copy was ready for delivery	Total amount of copying fee.	Date of delivery of copy and signature of recipient.	Remarks.
13	14	15	16

**FORM F 26**

**NOTICE TO APPLICANT TO MAKE UP DEFICIENCY OF COPYING FEE  
HIGH COURT OF SIKKIM AT GANGTOK**

Notice is hereby given that the value of the copying fee filed with the application in the following case is less than the copying fees leviable and this, if in any case, the deficiency is not made up by depositing copying fee by the .....day of.....  
19.....the copying application shall be rejected.

Sl. No.	Date of application	Sl.No of application	Name of applicant	No. of title of case from which copy required.	Value of additional copying fee required	Remarks
1	2	3	4	5	6	7

Signature.....

Dated:.....

Designation.....



## CHAPTER-VIII

### EXECUTIVE AND ADMINISTRATIVE BUSINESS

#### PART A: RULES FOR THE DISPOSAL OF EXECUTIVE AND ADMINISTRATIVE BUSINESS

224. **Administrative business:-**The Chief Justice shall be in control of the administrative and executive work of the High Court and its distribution amongst the Judges.
225. **Matters which shall be disposed of at a Judges meeting:-** Notwithstanding anything contained in the preceding Rules, the following matters shall invariably be taken up and disposed of at a Full Court meeting:-
- (i) All matters involving questions of principle and policy;
  - (ii) All cases relating to amendments to be made to existing laws or to the statutory rules of the Court;
  - (iii) All matters concerning the High Court as such or all the Judges;
  - (iv) All matters on which the opinion of all the Judges is invited by the Government;
  - (v) The suspension of the Judges of the subordinate judiciary;
  - (vi) The promotion and transfer of Judges of the subordinate judiciary;  
<sup>2</sup>[Provided, for any administrative exigency and in the interest of better administration of justice or in public interest, the Hon'ble, the Chief Justice, shall have the sole prerogative to transfer any judicial Officer of any rank, at any point of time.]
  - (vii) Recommendation for the grant of pensions to the Judges of the Subordinate Judiciary where it is proposed to recommend that the full pension earned be not allowed;
  - [(viii)\*\*\*]
  - <sup>1</sup>(viii) All matters relating to entitlement of the sitting and retired Judges including the sitting and retired Chief Justices;
  - <sup>1</sup>(ix) Audit objections;
  - <sup>1</sup>(x) Any other matter which may be referred by the Chief Justice to a Full Court meeting.
226. **Referring a matter to Judges meeting:-** The Judge placed in charge of any branch of the executive or administrative business of the Court may refer any matter relating to that branch to a Full Court meeting of the Judges.
227. **Holding of Full Court meeting:-** Full Court meeting shall be called by the Chief Justice when there is business for such meetings.
228. **Quorum of Full Court meeting:-** At all Full Court meetings two Judges shall form a quorum if the actual strength of the High Court consists of two or more Judges. In case the actual strength at any time consists of only the Chief Justice or Acting Justice, he alone shall constitute the quorum.
229. **Mode of decision in case of difference of opinion:-** In case of difference of opinion at a meeting, the decision shall be in accordance with the opinion of the majority of the Judges present, and in case the Judges present be equally divided the Chief Justice shall have as 1 casting vote.

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1. Sub-rule (viii) deleted and sub-rules (ix), (x) and (xi) renumbered as sub-rules (viii), (ix) and (x) respectively by Sikkim High Court (Practice and Procedure) Amendment Rules, 2016. (Notification No. 20/HCS/Judl. Dated 22.07.2016)

2. Inserted vide Notification No. 57/Judl./HCS dated 09.11.2021.

- 230. Record of proceedings of Judges meeting:-** The Registrar General or in his absence the Registrar shall attend all judges meetings as and when directed to do so and shall be responsible for maintaining records of the proceedings of such meeting.
- 231. Circulation of proceedings of Judges meeting:-** As soon as may be convenient, after the proceedings of a meeting have been recorded they shall be signed by the Chief Justice and circulated to the Judges.
- 232. Custody of proceedings of Judges meeting:-** The original proceedings of the meeting shall be kept in the General Record Room in a separate file and shall not be removed from the Court building except by the Registrar General with the sanction of the Chief Justice.
- 233. Delegation of power to Registrar General or Registrar:-** The Chief Justice may empower any person holding the post of Registrar General or Registrar of the High Court by name, to perform all or any of the branch of the executive and administrative business of the Court.
- 234. Administrative business during vacation:-** If so authorised by the Chief Justice, during the vacation, the Administrative and Executive work of the High Court may be carried out by the senior Vacation Judge present at the Court, who may in his discretion pass such orders as may be necessary provided that any matter decided by a Vacation Judge under this Rule, which would otherwise fall for decision by all the Judges or the Chief Justice, as the case may be, for confirmation after the vacation.
- 235. Repeal and Saving: -**
- (1) The Sikkim High Court (Judicial Business) Rules, 1991 are hereby repealed.
  - (2) Notwithstanding such repeal, anything done or any action taken under the said rules shall be deemed to have been done or taken under the corresponding provisions of these rules, as if these rules had come into force in 1991.

**BY ORDER**

**REGISTRAR GENERAL  
HIGH COURT OF SIKKIM  
GANGTOK**

## APPENDIX-A

### **(I) ORDINARY CIVIL PROCEEDINGS/SUBORDINATE COURTS AND HIGH COURTS. (APPELLATE SIDE)**

<b>NATURE OF PROCEEDING</b>	<b>ABBREVIATED FORM</b>
(1) Civil Suit	CS
(2) First Appeals :-	
(a) First Appeal from Judgment and Decree in Suit	RFA
(b) Cross Objections in First Appeal	CO
(c) First Appeal from Orders	FAO
(3) Second Appeals :-	
(a) Second Appeal from Judgment and Decree	RSA
(b) Appeal from Appellate order	SAO
(4) Letters patent Appeal or Special Appeal before Division Bench against judgment or order of Single Judge in appeal or original Civil proceeding	LPA/sp.A
(5) Revision Petition	CRP
(6) Review Petition	Review Pet.
(7) Reference	C.Ref.
(8) Execution Petition	Ex.P.
(9) Execution First Appel	Ex.FA
(10) Execution Second Appeal	Ex.SA
(11) Interlocutory Applications in pending suits/appeals IA	
(12) Miscellaneous Application, e.g. Leave to sue as indigent person, restoration application, condonation of delay,etc.	CM Appl
(13) Transfer Petition under Section 24 C.P.C. Person, restoration application, condonation of delay, etc.	Tr.P.(C)

**(II) OTHER CIVIL PROCEEDINGS**

**NATURE OF PROCEEDING**

**ABBREVIATED FORM**

(1) Writ Petition under Articles 226 & 227 of the Constitution.	WP(C)
(2) Appeal before Division Bench against judgment or order of Single Judge in a Writ Petition	WA
(3) Petition for Leave to appeal to Supreme Court.	SCLP
(4) Proceedings under Companies Act:-	
(a) Original Petition	Co.Pet.
(b) Application in pending proceeding	Co.Appl.
(c) Matters transferred under Sec. 446 (3)	Co.Case.
(d) Appeals against judgments/ Orders in Company Petitions	Co.App.
(5) Proceedings under Banking Regulation Act.	Bkg.P.
(6) Matrimonial Cases:	
(a) Suits/Petitions	Mat.Cas.
(b) References	Mat.Ref.
(c) Appeals	Mat.App.
(d) Revisions under Section 19 of the Family Courts Act	RP(FAM.CT.)
(7) Testamentary and Intestate Cases:-	
(a) Testamentary cases, e.g., Probate or Letters of Administration etc.	Test.Cas.
(b) Intestate Cases e.g., Succession Certificates, etc.	Intest.Cas.
(8) Petitions under Guardianship and Wards Act.	Gua.P.
(9) Land Acquisition Act:-	
(a) Reference	LA.Ref.
(b) Appeals	LA.App.
(10) Rent Control Matters:-	
(a) Original Suit/Petition	RCC
(b) First Appeal	RCFA
(c) Second Appeal	RCSA
(d) Revision	RC Rev.

(11) [a]	Motor Accident Claims	MAC
	[b] Motor Accident Appeals	MAC App.
(12) [a]	Election Petitions	El. Pet.
	[b] Appeal from Judgements in Election Petition	El. App.
(13)	Proceeding under Insolvency Act:-	
	(a) Main Petition	IP (M)
	(b) Application submitted after Adjudication	IP (Appl.)
(14) (a)	Petitions under Indian Arbitration Act.	Arb .P.
	(b) Appeals under Indian Arbitration Act.	Arb. A.
(15) (a)	Reference under Insurance Act.	Insurance Ref.
	(b) Appeals under Insurance Act.	Insurance App.
(16)	Contempt of Court cases relating to Civil contempt	
		Cont. Cas(C)
(17)	Appeals against orders in Civil Contempt matters	
		Cont. App.(C)
(18)	First Appeal against judgments in special jurisdiction cases	
		MFA (Name of Act)
(19)	Second Appeal from judgments in miscellaneous cases	
		MSA
(20)	Special jurisdiction cases assigned to High Courts e.g. Trust Act, Lunacy Act, Trade & Merchandise Act, Trade Marks Act, Copyrights Act, Patent Act and other enactments.	SP.JC
		[Name the Act]
<sup>1</sup> (21)	Appeals under the Commercial Courts Act, 2015	Com. A.

### ***III. TAXATION MATTERS***

<b><i>NATURE OF PROCEEDING</i></b>	<b><i>:</i></b>	<b><i>ABBREVIATED FORM</i></b>
(1) Income Tax Act:-		
(a) Reference under Section 256(1)	:	ITR
(b) Application under Section 256(2)	:	ITA
(2) Gift Tax Act/Wealth Tax Act/Estate Duty Act:-		
(a) Reference to High Court	:	GTR/WTR/FDR
(b) Application for direction to make a reference	:	GTA/WTa/FDA
(3) (a) Reference under Customs Act	:	Cus.Ref.
(b) Reference under Central Excise Act.	:	CE. REF.
(4) Sales Tax Act:-		
(a) Reference	:	ST.Ref.
(b) Application for direction to make a reference	:	ST.Appl.
(c) Revision	:	ST.Rev.
(5) Other Tax Reference Cases	:	OTR
(6) Other Tax Cases	:	OTC
(7) Other Tax Applications	:	OT Appl.

### ***IV CIVIL ORIGINAL JURISDICTION OF THE HIGH COURTS***

<b><i>NATURE OF PROCEEDING</i></b>	<b><i>:</i></b>	<b><i>ABBREVIATED FORM</i></b>
(1) Civil Suits		CS(OS)
(2) First appeal from Judgments in original suits		FA(OS)
(3) Execution Application	:	Ex.Appl.(OS)
(4) Miscellaneous Summons e.g., Summons for Judgment, Chamber Summons		M.S.[S.J.,C.S. and so on]
(5) Notice of Motion		N.M
(6) Admiralty Suits		Adml.S

**(B) CRIMINAL PROCEEDINGS**

<b>NATURE OF PROCEEDING</b>	<b>:</b>	<b>ABBREVIATED FORM</b>
(1) Original Trial		Crl.Tr.
(2) Appeal against judgment/sentence		Crl.A.
(3) Confirmation Case under Section 336 Cr.P.C.		Death Sentence Ref.
(4) Revision		Crl.Rev.P.
(5) Reference		Cr.Ref.
(6) Application under Section 482 Cr.P.C.		Crl.M.C.
(7) Bail Application		Bail Appln.
(8) Other Miscellaneous Application		Crl.M.Appl.
(9) Petition under Article 226 for Writ of Habeas Corpus and other relief in relation to a criminal proceeding:		WP(Crl.)
(10) Proceedings relating to Criminal Contempt.		Cont.Cas.(Crl.)
(11) Appeals against orders in Criminal Contempt matters		Cont.App.(Crl.)
(12) Application for leave to appeal under Section 378 Cr. P.C. or under the relevant corresponding proceedings		Crl.L.P.
(13) Transfer Petition for transfer a Criminal proceeding		Tr.P.(Crl.)

**FORM F – 1**

DISTRICT \_\_\_\_\_ :

IN THE HIGH COURT OF SIKKIM AT GANGTOK  
(CIVIL EXTRA ORDINARY JURISDICTION)

WP (C) NO. /20

To,

The Hon'ble Shri \_\_\_\_\_, the Chief Justice of the Hon'ble  
High Court of Sikkim and His Lordship's Companion Justices of the said Hon'ble Court.

**IN THE MATTER OF :**

An application under Article 226 of the Constitution of India for issuance of a writ of or in the nature of Mandamus/Certiorari and/ or any other appropriate writ, order or direction of like nature.

-AND-

**IN THE MATTER OF :**

Enforcement of the petitioner's fundamental rights guaranteed under Part – III of the Constitution of India and also for enforcement of other legal rights of the petitioner.

-AND-

**IN THE MATTER OF :**

(Here describe the impugned order/action/policy/circular/Decision etc.....)

-AND-

**IN THE MATTER OF :**

Violation of provision of (state the provisions of law).

-AND-



**IN THE MATTER OF :**

Shri \_\_\_\_\_  
Son of \_\_\_\_\_  
Resident of \_\_\_\_\_ P.S. \_\_\_\_\_  
Dist. \_\_\_\_\_

... Petitioner(s)

-Versus-

1. \_\_\_\_\_  
2. \_\_\_\_\_  
3. \_\_\_\_\_

... Respondent(s).

The humble petition of the above named petitioner –

**MOST RESPECTFULLY SHEWETH :**

(Number the  
Paragraphs as  
Per requirement)

(...) \_\_\_\_\_  
\_\_\_\_\_  
(...) \_\_\_\_\_  
\_\_\_\_\_

A copy of the \_\_\_\_\_  
\_\_\_\_\_

is annexed herewith and marked as  
Annexure – 1.

(...) \_\_\_\_\_  
\_\_\_\_\_

(...) \_\_\_\_\_  
\_\_\_\_\_

A copy of the \_\_\_\_\_  
\_\_\_\_\_

is annexed herewith and marked as  
Annexure – 2.

(...) \_\_\_\_\_  
\_\_\_\_\_

A copy of the \_\_\_\_\_  
\_\_\_\_\_

is annexed herewith and marked as  
Annexure – 3.

(...) \_\_\_\_\_  
\_\_\_\_\_

(...) \_\_\_\_\_  
\_\_\_\_\_

That being aggrieved by the impugned action/order/etc (fill in the appropriate impugned order) the petitioner humbly prefers/brings this petition on, amongst others, the following :

### G R O U N D S

- (I) For that.....
- (II) For that.....
- (III) For that.....
- (IV) For that other grounds shall be urged at the time of hearing.

Last paragraphs should be as follows :-

(Number the  
Paragraphs as  
Per requirement)

- (...) The petitioner(s) demanded justice but the same has been denied to him/them.
- (...) That there is no other efficacious and alternative remedy except this application before the Hon'ble Court.
- (...) That the remedy sought herein would be just, adequate and proper, if so granted.
- (...) That this application has been filed bonafide and for the ends of justice.
- (...) That the Petition does not suffer from any delay and laches. (or in case if there is any delay, explain the delay)

Under the above facts and circumstances, it is, therefore, prayed that this Hon'ble Court may be pleased to admit this petition, call for the records and issue Rule calling upon the Respondents to show cause as to why a writ of Mandamus/Certiorari and appropriate writ / order or direction may not be issued.

commanding/directing the respondent authorities to.....  
and after perusal of the records, causes shown if any and upon hearing the parties, may be pleased to make the Rule Absolute and/ or pass any other order/orders/directions as Your Lordships deem fit and proper for the ends of justice.

-AND -

Further, it is prayed that pending disposal of the Rule the Hon'ble Court may direct the respondent authorities to refrain from.....  
..... interest of.....

And for which the Petitioner as in duty bound shall ever pray.

Petitioner(s)

**IN THE HIGH COURT OF SIKKIM**  
**GANGTOK.**

**A F F I D A V I T**

I, Sri/Smt./Miss \_\_\_\_\_, S/W/D of \_\_\_\_\_, aged about \_\_\_\_\_ years, resident of \_\_\_\_\_ P.O.&P.S. \_\_\_\_\_ by occupation \_\_\_\_\_, do hereby solemnly affirm and state as follows :

- 1) That I am the petitioner of the accompanying petition and am well acquainted with the facts and circumstances of the case.
- 2) That the statements made in this affidavit and the paragraph from \_\_\_\_\_ to \_\_\_\_\_ of the petition are true to my knowledge, that contents of para \_\_\_\_\_ to \_\_\_\_\_ are derived from the records which I believe to be true and the rest are my respectful submissions before this Hon'ble Court.
- 3) That the annexure annexed to the petition are true copies of their respective originals.

I sign this affidavit on this the \_\_\_\_\_th day of \_\_\_\_\_ 20 at \_\_\_\_\_ Identified by me

**D E P O N E N T**

(Para 2 of the format of affidavit may be modified to suit specific requirements)

**V E R I F I C A T I O N**

I, the above named petitioner, herein do hereby state and solemnly declare that what is stated in the petition in paragraph nos \_\_\_\_\_ to \_\_\_\_\_ is on information and belief which I believe to be true and nothing material has been concealed therefrom.

Verified and signed this Affidavit on this the \_\_\_\_\_ day \_\_\_\_\_ at Gangtok, East Sikkim.

Identified by me

**D E P O N E N T**

**FORM F – 2**

DISTRICT:

IN THE HIGH COURT OF SIKKIM AT GANGTOK  
(CRIMINAL APPEAL JURISDICTION)

Crl. A. /20

To,

The Hon'ble Mr. Justice \_\_\_\_\_, the Chief Justice of the  
Hon'ble High Court of Sikkim and his Lordship's Companion Justices of the said Hon'ble Court.

**IN THE MATTER OF:**

An application under Section 374(2) of the Criminal Procedure Code, 1973.

-AND-

**IN THE MATTER OF:**

Judgment and Order dated \_\_\_\_\_ passed by the learned Sessions  
Judge, \_\_\_\_\_ in Sessions Trial Case No. \_\_\_\_\_, convicting  
the accused/. Appellant under Section \_\_\_\_\_ and sentenced to  
undergo \_\_\_\_\_ with fine of Rs.....and in  
default to suffer further \_\_\_\_\_

-AND-

**IN THE MATTER OF:**

\_\_\_\_\_  
\_\_\_\_\_

...Accused(s) / Appellant(s)

-Versus \_\_\_\_\_

...Respondent(s)

The humble petition of the above-named

Accused(s)/ Appellant(s) –

**MOST RESPECTFULLY SHEWETH:**

(Number the  
Paragraphs as  
Per requirement)

(...) The appellant was convicted by the .....  
.....  
(...) The prosecution case in brief was that .....  
.....  
(...) .....  
(...) .....  
(...) .....

The appellant begs to prefer this appeal on amongst others the following grounds:-

**-: G R O U N D S :-**

- i) For that .....
- ii) For that .....
- iii) For that .....
- iv) For that in any view of the matter, the impugned Judgment of conviction and sentence is liable to be set aside.

In the premises aforesaid, the accused-appellant respectfully prays that Your Lordships may be pleased to admit this appeal petition, call for the records, issue notice calling upon the respondent to show cause as to why the impugned judgment and order dated ....., passed by the learned Sessions Judge, ..... passed in Session Case No. \_\_\_\_\_, convicting and sentencing the accused-appellant under Section \_\_\_\_\_ shall not be set aside and quashed and upon hearing the parties and on perusal of the records set aside the Judgment and Order dated ..... passed by the learned Sessions Judge, \_\_\_\_\_ in Session Case No. \_\_\_\_\_, convicting and sentencing the accused-appellant under Section \_\_\_\_\_ and or pass such further order/ orders as your Lordships may deem fit and proper. Pending final disposal of the appeal be pleased to suspend the sentence passed by the learned Sessions Judge, \_\_\_\_\_ by its Judgment and Order dated \_\_\_\_\_ U / S. \_\_\_\_\_ and the accused-appellant may be enlarged on bail.

-AND-

For this act of kindness, the accused-appellant as in duty bound shall ever pray.

**Appellant(s)**

## **CERTIFICATE**

Certified that the grounds as set for above are good grounds and I undertake to support them at the time of hearing.

**ADVOCATE.**

### **Enclosure :**

1.	Vakalatnama	- 1 No.
2.	Appeal Memo.	- 1 No.
<hr/>		
3.	Judgment/Order Of Sessions Court.	- 1 No.
	Total	- 3

**FORM F – 3**DISTRICTIN THE HIGH COURT OF SIKKIM AT GANGTOK  
(CIVIL APPELLATE JURISDICTION)

RFA NO. \_\_\_\_\_/20

To,

The Hon'ble Mr. Justice \_\_\_\_\_,  
Chief Justice of the Hon'ble High Court of Sikkim and his Lordship's Companion  
Justices of the Hon'ble High Court.

**IN THE MATTER OF:**

An Appeal under Order XLI, Rules 1 and 2 of the Code of Civil  
Procedure, 1908.

AND

**IN THE MATTER OF:**

Memorandum of Appeal against the Judgment dated \_\_\_\_\_ and  
Decree dated \_\_\_\_\_ passed by \_\_\_\_\_  
the \_\_\_\_\_ in \_\_\_\_\_ No. \_\_\_\_\_

AND

**IN THE MATTER OF:**

1. \_\_\_\_\_  
2. \_\_\_\_\_  
3. \_\_\_\_\_  
4. \_\_\_\_\_

... Plaintiff(s)/Appellant(s)

Versus

1. \_\_\_\_\_  
2. \_\_\_\_\_  
3. \_\_\_\_\_

... Defendant(s)/ Respondent(s).

**Appeal valued at Rs. /-**

Humble appeal on behalf of the Appellants beg to state FOLLOWS :-

1. That this is a First Appeal against the Judgment dated \_\_\_\_\_ and  
the Decree dated \_\_\_\_\_ (or the Judgment and decree  
dated \_\_\_\_\_) passed by \_\_\_\_\_ in \_\_\_\_\_ No. \_\_\_\_\_ of \_\_\_\_\_  
dismissing the suit filed by the plaintiff (if the appeal is by defendants then  
to mention accordingly) and ordering \_\_\_\_\_ .

2. That the brief facts and circumstances leading to filing of this appeal are narrated hereunder:-  
(Facts and circumstances are to be described here in Serial Nos. like: (i), (ii), (iii) . . . etc.)
3. That the appellants assail the impugned Judgment and Decree dated \_\_\_\_\_ (Annexure \_\_\_\_\_) interalia on the following grounds.

### **G R O U N D S**

Appellants have to mention here the grounds of objection as contemplated in Order XLI, Rule 1 (2) and each ground shall be marked with serial nos. like (i), (ii) , (iii) . . . . . etc.)

4. That the appellants have deposited advalorem Court fees amounting to Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_) as valued in the plaint in the State Bank of Sikkim vide Challan No. \_\_\_\_\_ dated \_\_\_\_\_.
5. That the appeal is within time (if not, the appellants are to explain the delay and to file a separate application for condonation of delay). (Copies of the Judgment and Decree are filed and marked **Annexures A-1 and A-2**).

### **P R A Y E R S**

In the facts and circumstances it is most humbly prayed that the Hon'ble Court may be pleased to admit this appeal; call for the records of \_\_\_\_\_ No. \_\_\_\_\_ of 20 \_\_\_\_\_ from the Court of Ld. \_\_\_\_\_ and after hearing the parties and upon perusal of the records to kindly set aside the Judgment and decree dated \_\_\_\_\_ and to pass a decree in favour of the appellants thereby decreeing the suit.

-AND-

In the meantime to stay the operation of the impugned Judgment and decree until final disposal of the appeal.

And for this act of kindness the plaintiffs/ appellants as in duty bound shall ever pray.

### **A P P E L L A N T ( S )**

- 1.
- 2.

### **C E R T I F I C A T E**

I, Shri./Smt./Ms. \_\_\_\_\_, Advocate, do hereby certify that each of the grounds taken above are legal and valid and I undertake to support those at the time of hearing.

### **A D V O C A T E**



**FORM F – 4**

DISTRICT :

IN THE HIGH COURT OF SIKKIM AT GANGTOK  
(CIVIL APPELLATE JURISDICTION)  
Second Appeal arising out of the suit for \_\_\_\_\_.  
Memorandum of Appeal from the Appellate Decree.

RSA No.\_\_\_\_\_/20

To,

The Hon'ble Mr. Justice \_\_\_\_\_, the Chief Justice of the Hon'ble  
High Court of Sikkim and his Lordship's Companion Justices of the said Hon'ble Court.

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_

Appellant(s).  
Plaintiff(s).

- Versus -

1. \_\_\_\_\_
2. \_\_\_\_\_

...Defendant(s)  
Respondent(s)

The appeal is valued at Rs.\_\_\_\_\_ (Rupees \_\_\_\_\_) only as in the plaint  
and advalorem Court fee Rs.\_\_\_\_\_ has been paid accordingly.

1. Being aggrieved by and dissatisfied with the impugned Judgment dated \_\_\_\_\_ and  
decree dated \_\_\_\_\_ passed by the Learned \_\_\_\_\_ in Title Appeal  
No.\_\_\_\_\_ of \_\_\_\_\_ of his/her Court

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_,the appellant begs to prefer this appeal on the following :-

### **SUBSTANTIAL QUESTIONS OF LAW**

- A. \_\_\_\_\_
- B. \_\_\_\_\_
- C. \_\_\_\_\_
- D. \_\_\_\_\_

2. That the appeal is within time (if not to explain the delay and file separate application U/S 5 of the Limitation Act, 1963 for condonation of the delay).

**SIGNATURE**

### **C E R T I F I C A T E**

I, Sri/Smt. \_\_\_\_\_, Advocate, for the Appellant(s) do hereby certify that each of grounds / substantial questions of law taken above are good grounds and I undertake to support at the time of hearing.

**ADVOCATE**

### **L I S T O F D O C U M E N T S**

1.	Memo of Appeal	...	1.
2.	Certified copy of the Impugned Judgment & Decree	...	1.
3.	Copies of the Plaints, W/S.	...	2.
4.	Vakalatnama	...	1.
Total			<hr/> 5

FORM F - 5

DISTRICT:

IN THE HIGH COURT OF SIKKIM AT GANGTOK  
(CRIMINAL REVISIONAL JURISDICTION)

Crl. Rev. P.No. /20

To,

The Hon'ble Shri ....., the Chief Justice of the Hon'ble High Court  
of Sikkim and His Lordship's Companion Justices of the said Hon'ble Court.

**IN THE MATTER OF :**

An application under Section 307 and 401 read with Section 482 of the Code of  
Criminal Procedure, 1973.

-AND-

**IN THE MATTER OF :**

Order dated \_\_\_\_\_  
passed by learned \_\_\_\_\_ dismissing the  
Complaint Case No. \_\_\_\_\_ for default.

-AND-

**IN THE MATTER OF:**

\_\_\_\_\_  
\_\_\_\_\_

..... PETITIONER(s)/COMPLAINANT(s)

-Versus-

\_\_\_\_\_  
\_\_\_\_\_

.....OPPOSITE PARTY(s)/ACCUSED(s)

The Petitioner above-named

**MOST RESPECTFULLY SHEWETH:**

1. That the Petitioner.....  
.....
2. That the Petitioner filed a complaint.....  
.....
3. That.....  
.....
4. That being highly aggrieved by and dissatisfied with the Order dated.....petitioner begs to move this Petition on, amongst others, the following:

**G R O U N D S**

- ( I ) For that .....  
( II ) For that.....  
( III ) For that.....  
( IV ) For that.....

5. That the impugned order was passed on ..... Application for certified copy thereof was filed on ..... which was made ready on ..... in the Copying Section of the District Courts and was received by the appellant on ..... Therefore the petition is within time (or if there is delay, please explain the delay and also file a separate application for condonation of delay u/S 5 of the Limitation Act).
6. That this petition is made bonafide and for the ends of justice. In the premises aforesaid, the humble Petitioner prays that Your Lordships may be pleased to admit this Petition, call for the records of the \_\_\_\_\_ case\_\_\_\_\_ and issue

notice calling upon the Respondent to show cause as to why the impugned Order dated\_\_\_\_\_passed by the learned \_\_\_\_\_ should not be set aside and quashed and upon perusal of the records and hearing the parties, be pleased to set aside and quash impugned Order dated\_\_\_\_\_ passed by the learned \_\_\_\_\_in\_\_\_\_\_ case No. \_\_\_\_\_and/or pass such further or other order or orders as Your Lordships may deem fit and proper.

For which act of kindness the Petitioner as in duty bound, shall ever pray.

**Date & Place**

**Signature**

**IN THE HIGH COURT OF SIKKIM**  
**GANGTOK.**

**A F F I D A V I T**

I, Sri/Smt./Miss \_\_\_\_\_, S/W/D of \_\_\_\_\_, aged about \_\_\_\_\_ years, resident of \_\_\_\_\_ P.O. & P.S. \_\_\_\_\_ by occupation \_\_\_\_\_, do hereby solemnly affirm and state as follows :

1) That I am the revisionist of the accompanying petition and am well acquainted with the facts and circumstances of the case.

2) That the statements made in paragraph \_\_\_\_\_ to \_\_\_\_\_ of the petition are true to my knowledge that contents of para \_\_\_\_\_ to \_\_\_\_\_ are derived from the records which I believe to be true, and the rest are my respectful submissions before this Hon'ble Court.

And I sign this affidavit on this the \_\_\_\_\_th day of \_\_\_\_\_ 20  
at \_\_\_\_\_ .

Identified by me

**REVISIONIST**

\* (Para 2 of the format of affidavit may be modified to suit specific requirements)

FORM F – 6

DISTRICT:

IN THE HIGH COURT OF SIKKIM AT GANGTOK  
(CIVIL APPELLATE JURISDICTION)

MAC App. No. / 20

To,  
The Hon'ble Shri ..... , the Chief Justice of the Hon'ble High Court  
of Sikkim and His Lordship Companion Justices of the said Hon'ble Court.

**IN THE MATTER OF :**

An appeal u/s \_\_\_\_\_ of the Motor Vehicles Act, 1988.

-AND-

**IN THE MATTER OF :**

Judgment and award dated \_\_\_\_\_ passed by the learned Member, Motor  
Accidents Claims Tribunal, \_\_\_\_\_ in **MAC Case No.** \_\_\_\_\_  
directing the appellant-insurer to pay **Rs.** \_\_\_\_\_ as compensation  
inclusive of no fault award with interest @ \_\_\_\_\_ per annum from \_\_\_\_\_ till  
payment.

-AND-

**IN THE MATTER OF :**

.....  
.....  
.....

**...Appellant(s)/Insurer(s)**

**-Versus-**

1. \_\_\_\_\_
  2. \_\_\_\_\_
  3. \_\_\_\_\_
  4. \_\_\_\_\_
  5. \_\_\_\_\_
  6. **... Respondent(s)-Claimant(s)**
- \_\_\_\_\_

**... Respondent(s)**

**Owner of vehicle No.**

7. \_\_\_\_\_  
\_\_\_\_\_

... Respondent(s)

**Owner of vehicle No.**

The appeal is valued at Rs. \_\_\_\_\_ being the amount awarded as compensation before the learned Member, MACT, \_\_\_\_\_ for the purpose of jurisdiction and Court fee of Rs. \_\_\_\_\_ is paid thereon.

The Humble application of the appellant above named MOST RESPECTFULLY SHEWETH:

(Insert number of facts) (...) \_\_\_\_\_  
(...) \_\_\_\_\_  
(...) \_\_\_\_\_

Being aggrieved by and dissatisfied with the judgment and award dated \_\_\_\_\_ passed by Mr/Ms/ \_\_\_\_\_ Member, MACT, \_\_\_\_\_ in MAC Case No. \_\_\_\_\_ in awarding a sum of Rs. \_\_\_\_\_ inclusive of no fault award together with \_\_\_\_\_ % interest from \_\_\_\_\_ till payment and directing the appellant to pay \_\_\_\_\_ % of the same to the claimants-respondents No. \_\_\_\_\_ to \_\_\_\_\_, the humble appellant-insurer of vehicle No. \_\_\_\_\_ begs to prefer this appeal before this Hon'ble Court on the following amongst others:

**G R O U N D S**

1. For that the impugned judgment and award is bad in law and is liable to be set aside;
2. For that .....  
.....
3. For that .....  
.....
4. For that .....  
.....
5. For that .....  
.....
6. For that at any rate the impugned judgment and award is bad in law and is liable to be set aside.

7. The appeal is within time. (If not please explain delay and file a separate application u/S 5 of the Limitation Act, 1963 for Condonation of the delay).

**SIGNATURE**

Certified that the grounds set forth above are good grounds of appeal and I agree to support them as and when called upon.

**Advocate**

Enclosed:-

1. Memo of Appeal
2. Impugned Award
3. Photo/Typed Copy of judgment and award
4. Cheque/Money Receipt for Rs. \_\_\_\_\_
5. Vakalatnama.



**FORM F – 7**

DISTRICT:

IN THE HIGH COURT OF SIKKIM AT GANGTOK  
(CIVIL EXTRA ORDINARY JURISDICTION)

WP(PIL) No. \_\_\_\_\_/20

To,

The Hon’ble Mr. Justice \_\_\_\_\_, the Chief Justice of the Hon’ble High Court of Sikkim and his Lordship’s Companion Justices of the said Hon’ble Court.

**IN THE MATTER OF:**

A PIL relating to \_\_\_\_\_

AND

**IN THE MATTER OF:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

.... Petitioner(s)

-Versus-

1. \_\_\_\_\_  
2. \_\_\_\_\_

... Respondent(s)

The Petition on behalf of the petitioner abovenamed:-

**MOST RESPECTFULLY SHEWETH:**

1. That the petitioner has preferred the instant Public Interest Litigation .....
2. That the applicant .....
3. That the applicant further .....

**SIGNATURE**

(For remaining refer to form F.1. appended to the schedule).

**A F F I D A V I T**

(Same as F-1)

**FORM F – 8**

DISTRICT:

IN THE HIGH COURT OF SIKKIM AT GANGTOK  
(\_\_\_\_\_JURISDICTION)

CM Appl. No. \_\_\_\_\_ / 20

In

\_\_\_\_\_No. \_\_\_\_\_/20

To,

The Hon’ble Mr. Justice \_\_\_\_\_, the Chief Justice of the Hon’ble High Court of Sikkim and his Lordship’s Companion Justices of the said Hon’ble Court.

**In the matter of :**

An application under Section 5 of the Limitation Act, 1963, praying for condonation of delay of \_\_\_\_\_ days in filing the instant \_\_\_\_\_

-And-

**In the matter of:**

\_\_\_\_\_  
\_\_\_\_\_

-And-

**In the matter of :**

\_\_\_\_\_

.....Applicant(s)

-Versus-

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

....Respondent(s).

The humble application of the applicant above named

**MOST RESPECTFULLY SHEWETH :**

1. That the applicant having filed the above noted.  
.....
2. That .....
3. That .....
4. That .....
5. That this application is made bonafide and for the interest of justice.

In the premises aforesaid, it is most respectfully prayed that this Hon'ble Court may be graciously pleased to condone the delay of \_\_\_\_\_ days in filing the instant appeal and/or pass such other order/orders as may deem fit and proper.

And for which the applicant as in duty bound shall ever pray.

**Signature(s)**

**A F F I D A V I T**

(As in form F-1 subject to modification as per specific requirements).

**FORM F - 9**

**N O T I C E**

(Under Rule 107 of the High Court of Sikkim (Practice & Procedure) Rules, 1991)

From :-

Mr/Ms \_\_\_\_\_,  
Advocate,  
High Court of Sikkim,  
Gangtok.

To,

The Government Advocates/Central  
Govt. Counsel/Standing Counsel,  
High Court of Sikkim,  
Gangtok.

Sub: An application under Articles 226/227 of the Constitution of India.

Sir,

Please find herewith a copy of the above mentioned petition which is going to be filed before the Hon'ble High Court.

Please acknowledge the receipt thereof.

Yours faithfully,

Advocate

Date & Place. \_\_\_\_\_

Received by me.

Government Advocate/ Central Govt. Counsel/Standing Counsel,  
High Court of Sikkim,

**FORM F – 10**

**IN THE HIGH COURT OF SIKKIM AT GANGTOK**

**MENTIONING MEMO<sup>1</sup>**

Court No. \_\_\_\_\_

Filing No. \_\_\_\_\_

- |     |                                 |   |                         |
|-----|---------------------------------|---|-------------------------|
| 1.  | Case No                         | : |                         |
| 2.  | Nature of the Case              | : |                         |
| 3.  | Name of parties                 | : |                         |
| 4.  | Party seeking posting           | : |                         |
| 5.  | Advocate for the party          | : |                         |
| 6.  | Advocate for the other party    | : |                         |
| 7.  | Mention for                     | : | Motion/Admission/Orders |
| 8.  | Reason for the mention          | : |                         |
| 9.  | Date on which posting is sought | : |                         |
| 10. | Date & Time of filing           | : |                         |
| 11. | Date of last posting            | : |                         |

Dated Gangtok the  
 .....the .....  
 No. ....  
 Bench Section .....

**SIGNATURE OF ADVOCATE**

Dy. Registrar (J)  
 .....  
 .....  
 .....

**By order**  
**COURT READER**

<sup>1</sup> Substituted by the Sikkim High Court (Practice and Procedure) Amendment Rules, 2025 (Notification No. 20/Judl./HCS dated: 10.07.2025).

**FORM F – 11**

DISTRICT :

**IN THE HIGH COURT OF SIKKIM AT GANGTOK**

(\_\_\_\_\_)

**IN THE MATTER OF :**(Here insert the name/name  
of the petitioner and the address)

....Petitioner(s)/Appellant(s)/Applicant(s)

**-VS-**(Here insert the name/names  
of the respondent and the address)

....Respondent(s)

**I N D E X**

<b>Sl. No.</b>	<b>Particulars</b>	<b>Annexures</b>	<b>Page Nos.</b>
1.	Synopsis and list of Dates & Events		
2.	Petition with affidavit		
3.	Certified copy of the impugned Order/Judgment/Notification/action/ Policy/Circular/Decision dated.....		
4.	(Here describe the document(s))		
5.	Vakalatnama		

**Filed by :****Petitioner(s)/Appellant(s)/Applicant(s)****Through****(Name/address of the Advocate)**