

PART II
Procedure and Practice
CHAPTER VI

General Rules regarding Applications and Affidavits

1. Every application to the High Court shall be a petition written in the English language.
2. Every petition shall state concisely and clearly:
 - (i) the facts, matters and circumstances upon which the applicant relies;
 - (ii) the matter of complaint, if any, and the relief sought.
 - (iii) ^[1] If any other application for similar or identical relief basing on the same subject matter being filed by the applicant, his/her authorized agent or any other person involved with him/her in the matter is pending in or disposed of by the Court.
3.
 - (i) The facts stated in every petition shall be verified either by affirmation or on oath of the petitioner or by a separate affidavit annexed to the petition; the solemn affirmation or oath being made in every case before a Commissioner for affidavits or other officer appointed for the purpose.
 - (ii) Affidavits may also be filed in support of facts brought to the notice of the Court otherwise than by petitions referred to in sub-rule (i). The solemn affirmation or oath required for such affidavits shall also be made before the Commissioner for affidavits or other officer appointed for the purpose.
 - (iii) The facts stated in a petition of appeal presented under section 382 or section 383 of the Code of Criminal Procedure need not be supported by affirmation or on oath of the petitioner or by a separate affidavit annexed to the petition.
 - (iv) ^[2] Affidavits shall be filed in the following format:

FORM OF AFFIDAVIT
IN THE HIGH COURT OF ORISSA: CUTTACK

In the matter of:

- (1) Name, Address, Occupation, age of the deponent/ declarant/ petitioner/ Advocate.
- (2) Father's name:
- (3) Number of proceeding(s) pending in the High Court or would be instituted (Caveat).
- (4) Statement of facts:

[1]inserted vide C.S No.77

[2] Added vide c.s. No.68

(5) If the facts stated are true to the best of the knowledge and belief of the deponent/ declarant/ petitioner/ Advocate or otherwise.

(Declaration in the following proforma)

“ I.....the Applicant/ Respondent/Petitioner/ Opposite Party/ Deponent above named do hereby solemnly affirm that the facts stated in Paragraphsand..... are true to my own knowledge and in paragraph and are true to the best of my information which I obtained from the following sources :-
.....

I believe the information to be true for the following reasons:

Solemnly declare atthe above said this.....day of20.....

SIGNATURE BEFORE ME

COMMISSIONER OF OATH

Solemnly affirmed before me bywho is identified before me by who I personally know.

This theday of20.....

4. Every petition and every affidavit shall be entitled “In High Court of Orissa” and shall be:
 - (i) neatly typed on foolscap ^[3] **thick white paper with a margin of five centimetres and shall contain approximately twenty-four lines in each full page and only one side of the paper shall be used;**
 - (ii) couched in proper language; and
 - (iii) signed and dated either by the petitioner or declarant or his advocate

Provided that in case where the petition is filed from the judgment or order of a Subordinate Court as in the case of Civil Revision, Criminal Revision and Civil Review and where the facts are borne out by the records of the Court, an affidavit signed and dated by the Advocate’s clerk may be accepted and the parties’ affidavit dispensed with.

- (iv) presented either by the petitioner or declarant or his recognised agent or his Advocate or some person appointed in writing in each case by such Advocate to present the same.

5. Where a petition is expected to be lodged or has been lodged, which does not relate to any pending appeal of which the record has been registered in the Registry of the Court, any person claiming a right to appear before the Court on the hearing of such petition may lodge a caveat in the matter thereof, and shall thereupon be entitled to receive from the Registrar notice of the lodging of the petition if at the time of the lodging of the caveat such petition has not yet been lodged and, if and when the petition has been lodged, to require the petitioner to serve him with copy of the petition and to furnish him, at his own expense, with copies of any papers lodged by the petitioner in support of his petition. The caveator shall forthwith, after lodging his caveat, give notice thereof to the petitioner if the petition has been lodged.

Note—This rule shall apply, as far as possible, to vakalatnamas, process fee sheets and other similar papers.

[3] Substituted vide c.s. No.89

6. When a Vakalatnama is given by a party, who can sign his or her name, it must be signed by the party. When the party cannot sign his or her name, the Vakalatnama must be endorsed as follows:

I,, A, B, do hereby appoint, C, D, Advocate to act for me in the above named clause in token whereof I have affixed my left thumb impression in the presence of E, F.

Left thumb impression.

and I, E, F, do hereby attest the above thumb impression as having been affixed in my presence by A, B, who is known to me.

Signature

7. Every petition to be presented and every affidavit to be used in support of or in opposition to an application relating to any cause, appeal or proceeding shall be entitled in such cause, appeal or proceeding. If there is no such cause, appeal or proceeding in the Court, the petition or affidavit shall be entitled "In the High Court of Orissa, in the matter of a petition of"
8. Every petition shall, immediately after the cause title, state the section and statute under which it is made.
9. Every petition or affidavit containing any statement of facts shall be divided into paragraphs; every paragraph shall be numbered consecutively and, as nearly as may be, shall be confined to a distinct portion of the subject.
10. Every petition or affidavit shall set forth the petitioner's or declarant's full name if he is the plaintiff or defendant in a suit or the appellant or respondent in an appeal or petitioner or opposite-party in any case in which the application is made; it shall also set forth the name of such petitioner's or declarant's father, his age, his profession, calling, occupation or trade and his true place of residence.
11. Every person referred to in a petition or affidavit shall be described therein in such manner as will serve to identify him clearly, that is to say, by the statement of his correct name and address and such further description as may be necessary for his identification.
12. Every place referred to in a petition or affidavit shall be correctly described.
13. Every petition shall, when presented by an Advocate, bear his signature as Advocate.
14. When the petitioner in any petition or the declarant in any affidavit speaks to any fact within his knowledge he must do so directly and positively using the words "I affirm (or make oath) and say".
15. When in an affidavit on an interlocutory application the declarant makes a statement of his belief he shall, if the facts are ascertained-
- (i) from another person, give such details of such person as are required by Rule 11;

- (ii) from a document or copy of a document, state the source from which it was procured and shall state his belief as to the truth of such fact.
16. Every Commissioner before whom a petition is verified or an affidavit is made shall, at the end of the petition or affidavit, certify the verification of the petition or making of the affidavit in the prescribed form. He should also sign each page of the petition or the affidavit.
 17. Every document referred to in an affidavit shall be marked as an exhibit and shall bear the certificate of the Commissioner before whom the affidavit was made in the prescribed form.
 18. Except under the special orders of the Registrar no document, being an exhibit to an affidavit or verified petition, or the materials for any application, shall be given back unless the document is an original document, in which case it may be taken back on an order of the Registrar, a certified copy being retained.
 19. Every person verifying a petition or making an affidavit, if not personally known to the Commissioner before whom the petition is verified or the affidavit is made, shall be identified to such Commissioner by some one known to him; and the Commissioner shall state at the foot of the petition or affidavit, as the case may be, the name, address and description of the person by whom the identification was made as well as the time and place of the identification and of making of the affidavit.
 20. Every paradanashin woman verifying a petition or making an affidavit shall be identified in the manner specified in the preceding rule and every such petition or affidavit shall be accompanied by the affidavit of identification of such woman made at the time by the person who identified her.
 21. The Commissioner before whom any verification of a petition or any affidavit is about to be made shall, before the same is made, ask the person proposing to make such clarification or affidavit if he has read the petition or affidavit and understands its contents, and if the person proposing to make such verification states that he has not read the petition or affidavit or appears not to understand its contents, the Commissioner shall, before allowing the verification or affidavit to be made, cause it to be read and explained to the declarant in a language which he understands.
 22. Every interlineation, alteration or erasure in a petition or affidavit shall be authenticated by the initials of the Commissioner before whom the petition was verified or the affidavit was made, and shall be so made as not to render it impossible or difficult to read either the interlineation, alteration or erasure or the original word or figure which may have been altered or erased.
 23. ^[4] In administering oaths and affirmation to declarants, the Commissioner shall be guided by the provisions of the Oaths Act, 1969 (Act No.44 of 1969) and the following forms shall be used:-

[4] Substituted vide c.s. No.53

**Form No.4 (Affidavit)
OATH**

I, do swear, in the name of God that this is my name and signature (or mark) and that the contents of this my affidavit are true.

AFFIRMATION

I,do solemnly affirm that this is my name and signature (or mark) and that the contents of this my affidavit are true.

24. No affidavit shall 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 seven days before the hearing, or if the affidavit is only in answer to the opponent’s affidavit at least twenty-four hours before the hearing:

Provided that this rule shall not apply to urgent motions or applications or to motions or applications made *ex parte* or where *ex parte* proceedings have been order by the Court.

25. The Registrar or any other officer so authorised by him may permit clerical errors in any memorandum of appeal, application or affidavit which has been filed in the Court to be corrected in his presence by the appellant, applicant or declarant or by his Advocate:

Provided that the Registrar or any other officer so authorised by him shall initial and date every such correction.

26. No petition or affidavit shall be read or used in the High Court which does not comply with the provisions of this Chapter.

27. ^[5] (a) – A party seeking an interim relief like stay, injunction, appointment of receiver, appointment of guardian, modification of order, analogous hearing vacation of order of stay, injunction, appointment of receiver and discharge of guardian and for any other interim relief in civil cases and for release on bail, stay or any other interim relief in Criminal cases is required to file separate petition for the same.

(b) All miscellaneous applications and petitions filed in the following cases, shall be registered as miscellaneous cases:-

CIVIL CASES

1. First Appeal
2. Second Appeal
3. Miscellaneous Appeal
4. Civil Revision
5. Civil Review
6. Civil Reference

[5]Inserted vide c.s. No.2

7. Original Jurisdiction Cases
8. Special Jurisdiction Cases
9. Supreme Court Appeals
10. Tax Appeals
11. Company Act Cases
12. Election Petition
13. Admiralty Suit
14. Original Suit
15. Execution Cases
16. Appeal against High Court Orders

CRIMINAL CASES

1. Criminal Appeals
2. Government Appeals
3. Criminal Revision
4. Death Reference
5. Criminal Reference
6. Matrimonial Reference
7. Original Criminal Miscellaneous (Contempt)

28. ^[6] Every application, memorandum of appeal and cross objection shall include a synopsis and a list of dates and events, in separate sheets and shall be presented along with a duly filled up Coding Sheet, an Index and a list of documents accompanying the application, as nearly as possible in the manner provided for each of them under Appendix-II to XI” as follows:-

| | | |
|---------------|-----|--|
| Appendix-II | ... | Index |
| Appendix-III | ... | Writ Jurisdiction |
| Appendix-IV | ... | Review Petition arising out of Writ Petition |
| Appendix-V | ... | Caveat Petition |
| Appendix-VI | ... | Civil Appellate Jurisdiction |
| Appendix-VII | ... | Cross Objection arising out of the Appeal |
| Appendix-VIII | ... | Review Petition arising out of Appeal |
| Appendix-IX | ... | Original Jurisdiction |
| Appendix-X | ... | Criminal Jurisdiction |
| Appendix-XI | ... | List of documents” |

[6] Inserted vide c.s. No. 90