

## CHAPTER XII

### Preparation of Paper Books

#### (A) GENERAL

1. Paper books shall when printed be in accordance with the following directions :--
  - (a) The size shall be 32 by 64 cms. of foolscap folio.
  - (b) The type used in the text shall be pica modern, solid, with italics where necessary but long primer shall be used in printing accounts, tabular matter and notes.
  - (c) Every tenth line on each page shall be numbered, the tenth line shall be numbered 10, the 20<sup>th</sup> line 20 and so on:

Provided that ordinarily paper books shall be typed or cyclostyled as provided hereinafter.

2. To every paper book shall be prefixed a table of contents with reference to pages. The documents put in by both parties shall in the table of contents be shown in the order of the exhibit marks.
3. Every paper book shall have attached to it a fly leaf in the prescribed form.
4. In every case in which an appeal or an application for revision or review has been admitted, the Registrar shall, at once on receipt of the record and of the prescribed cost if any due from the appellant or the petitioner, cause a paper book to be prepared in accordance with the rules of this chapter:

Provided that upon good cause being shown the Registrar may in any case instead of causing the paper book to be prepared in the office, direct the preparation in type at the cost of the appellant of so many copies as he may consider necessary.

Exception 1 – In an appeal which is to be heard under Order XLI, Rule 11 of the Code of Civil Procedure no paper book shall be prepared unless and until an order for service of notice on the respondent has been made.

Exception 2 – In a miscellaneous case not provided for in the rules of this Chapter, it shall not be necessary to prepare a paper book, but the Registrar may, if he thinks fit, direct that a paper book be prepared and may also direct what papers it shall contain.

**(B) APPEALS FROM ORIGINAL DECREES**

5. Every party who files an appeal in person shall insert in his petition of appeal or otherwise give in writing to the Deputy Registrar, an address within Cuttack at which notices and other processes in the appeal may be served upon him; and any notice or other process left for him at that address or sent thereto by registered letter shall be presumed to have been duly served upon him.
6. Upon receipt, of the record, and in no case later than seven days, the Deputy Registrar shall serve a notice on the appellant and the respondent to prepare and deliver a list of the exhibits to be inserted in the paper book. The list shall be in the following form and shall show the documents in chronological order, but in all cases documents relating to the same series or to the same subject (e.g., series of correspondence or proceedings in a suit other than the one under appeal) shall be kept together. The correct and full description of each document must be given when documents such as rent receipts, account books, chalans, etc. are to be included in the paper book.

**FORM**

**In the High Court of Orissa, Cuttack**  
 ..... No. .... of 20

*Appellant*

*Versus*

*Respondent*

List of documents filed by appellant/respondent for inclusion in the Paper Book

Serial No.	Description of Document	Ext. mark in the trial court	Date of document	Whether the document was admitted into evidence with or without objection or after dispensing with formal proof	Gist as to how the document is relevant for disposal of the appeal	Remarks
1	2	3	4	5	6	7

7. The appellant and the respondent shall, within thirty days after service of notice required by Rule 6, deliver to the Deputy Registrar the list prepared in accordance therewith:

Provided that the appellant shall serve a copy of the list on the respondent immediately after his appearance and the respondent shall serve a copy of the list on the appellant before its delivery to the Deputy Registrar.

8. The appellant shall along with the list as required under Rule 7 supply the requisite number of copies of typed/cyclostyled paper books containing the following documents duly certified to be true copies by his Advocate(s) :-

- (a) plaint;
- (b) written statement or written statements;
- (c) issues;
- (d) judgment or order against which the appeal is preferred;
- (e) decree;
- (f) memorandum of appeal
- (g) depositions.

9. Within a week after expiry of the period of thirty days provided in Rule 7, the case shall be listed before the Bench for determination as to which of the documents shall be included in the paper book. Upon hearing the appellant and the respondent the Court shall decide the particular exhibits to be included in the paper book which shall be called Part II.

10. It shall ordinarily be unnecessary to include in the paper book any of the following papers, viz. :-

- (a) Schedules;
- (b) Maps and plans in all cases other than chur, partition and boundary cases;
- (c) Accounts, jama-wasil-baki and similar papers except particular entries relevant for the decision of the appeal;
- (d) Leases, pattas and Kabuliyats;
- (e) Receipts and chalans;
- (f) Record of rights;
- (g) Bulky documents;
- (h) Registers;
- (i) Specimen signatures and finger prints; and
- (j) Photographs.

11. Exhibits not included and printed in the paper book in accordance with Rules 7 and 9 shall not be referred to at the hearing of the appeal and the appellant and the respondent shall be precluded from relying upon the same without the special leave of the Court obtained on making a petition therefor.

This rule shall not preclude the Court from referring to any paper to which it consider, a reference necessary for the ends of justice.

12. In case the appellant expresses a desire to include the depositions in Part II of the paper book as per the list filed by him they shall be included in the paper book to be prepared by the office at the cost of the appellant.
13. At the time of determination of inclusion of exhibits in accordance with Rule 9 the Court shall give necessary direction for apportionment of costs between the appellant or appellants and the respondent or respondents in the preparation of the paper book taking into consideration the exhibits included on behalf of either party.
14. (1) The paper book shall be prepared in the office unless by orders of the Bench any of the parties are permitted to prepare the same. The Deputy Registrar shall within seven days after determination by the Bench as to which of the exhibits shall be included in the paper book in accordance with Rule 9 deliver to the appellant and to the respondent separate estimates of the costs of preparing their portions of the paper book.
- (2) The cost of printing of depositions shall be included in the estimate delivered to the appellant.
- (3) Estimate shall be prepared at the following rates :--

		Cost Rs. P.
Counting fee per 10,000 words	..	2.00
Copying fee	..	The rates specified in Chapter XIX, Rule 5.
Printing for 20 copies	Ordinary matter per page ..	6.00
	Tabular work more than one-tenth of the whole of any paper book per page. ..	8.00
	..	0.50
Registration fee and postage	..	According to existing postal rates

Checking fee per page .. 0.20

- (4) In preparing the index of the exhibits or documentary evidence care should be taken to give a correct and full description of each document. The description furnished in the lists prepared by the Subordinate Courts or filed by the Advocates in this Court should not be relied upon but the documents themselves should be consulted in order that a full and accurate description may be given to the index.
- (5) A quarter page shall be taken as the unit of measurement for charges when printing does not cover the whole page; that is to say, the charges will be one-fourth of the rate for a page for printing occupying one-fourth of the page or less, half of the rate for a page for printing exceeding one-fourth and not exceeding half of a page, three-fourth of the rate for a page for printing exceeding half and not exceeding three-fourth of a page, the full rate for a page for printing exceeding three-fourth of a page.
- (6) For rates of printing maps and plans see Rule 8 of Part III, Chapter XVII.
- 15.** The appellants and the respondents shall within twenty-one days after the delivery to them respectively of the estimates prepared in accordance with the last preceding rule, deposit in the office by chalan the amount of the respective estimates.
- \* Provided that the High Court office shall prepare paper book in First Appeals of the first instance either for the appellant or respondent as the case may be where the advocate has been engaged on behalf of the Legal Aid and Advice Board, Cuttack and submit the bills to the Member-Secretary, Legal Aid and Advice Board for its payment.**
- 16.** If the parties fail to make the deposit as required by Rule 15, the matter shall be laid with office note before the Bench for consideration which may, unless satisfied that there was reasonable ground for default, in the case of default by the appellant direct the appeal to be dismissed for want of prosecution and in the case of default by the respondent direct that the paper book be prepared excluding the exhibits of the respondent, or may pass such other orders as may be deemed proper under the circumstances of the case.
- 17.** The paper book shall include the whole of the papers determined to be included therein. All papers shall be printed and arranged in the order prescribed by Rule 13 of Chapter XIX, Part III.

NOTE – Maps forming part of a paper book shall be included in the table of contents, but shall not be bound up with other papers in the paper book. Such maps may be drawn or printed on durable paper and they shall form a separate packet with a separate list.

18. There shall ordinarily be prepared ten copies of the paper book, but Registrar may, when necessary, direct a larger number to be prepared. The appellant and the respondent shall be entitled to have, free of charge, as many copies as they have Advocates engaged in the appeal. In any case they shall each be entitled to three copies.
19. An entry of a case in the Weekly Cause List shall be notice to all concerned that the paper book is ready and copies may be obtained. The issue of a paper book to the Advocate of a party shall be notice to the party that the case is ready for hearing.
20. In appeals in which the respondent has not appointed an Advocate up to the date of preparation of the paper book, an appendix containing the deposition of the serving officer and the return and the remarks of the Subordinate Court as to the service shall be added to the paper book in transcript unless it is in a vernacular other than Oriya in which case it shall be in translation.
21. (1) There shall be printed at the end of every paper book in the following form a statement in which shall be specified each item of the costs incurred in its preparation by the appellant and the respondent respectively :--

Estimating, Copying, etc. (as in Rule 14)	By the Appellant			By the Respondent		
	No. of pages	Rate of charge	Amount	No. of pages	Rate of charge	Amount

- (2) Any surplus remaining after deducting the costs actually incurred by each party from the amount deposited therefor shall be refunded upon request to the party by whom deposit was made.
- (3) If there is a deficit the office shall be a written notice call upon the party to make good the deficit within five days of the receipt of the notice or within the time that may be extended by the Registrar and on his failure to make good the deficit in time the matter shall be placed before the Court for orders for non-prosecution.
22. The cost incurred in the preparation of the paper book not exceeding the amount calculated at the rates prescribed in Rule 14, shall be costs in the appeal, unless as to the whole or any portion thereof the Court which hears the appeal shall disallow the cost of preparation of the paper book in respect of the unnecessary

- documents included in the paper book of the appeal as a penalty on the party responsible for inclusion of such documents in his paper book.
23. An appeal against a grant, or refusal of grant or revocation of probate or letters of administration or refusal of revocation shall be governed by the rules of this Chapter.
  24. When the rules of this Chapter direct or allow an act to be done by or any notice to be given to an Appellant or Respondent such act may be done by or such notice given to the Advocate of such appellant or respondent.
  25. When a return has been made to an order of reference to the Court, a copy of such order of reference and a copy of such return and a copy of any memorandum of objection to such return shall be added to the paper book in the case.
  26. If the respondent does not enter appearance or does not deliver the list in accordance with Rule 6, the paper book shall be prepared in accordance with the list submitted by the appellant.

**(C) APPEALS FROM APPELLATE DECREES AND APPEALS UNDER THE  
ORISSA HIGH COURT ORDER ARISING THEREFROM**

27. <sup>[1]</sup> There will be paper book in all appeals from appellate decrees when referred to a Division Bench consisting of the following papers originally in vernacular other than Oriya being translated into English by the Party, the original language and script being indicated in brackets :-

- (a) Plaintiff;  
NOTE – Lengthy schedules and descriptions of boundaries appended to plaint may ordinarily be omitted.
- (b) The plaintiff's written statement, if any;
- (c) The defendant's written statement;  
NOTE – When there are several sets of defendants in a suit, the written statements of defendants not parties to the Second Appeal either as appellants or respondents may be omitted.
- (d) The judgment of the Court of first instance;
- (e) The judgment of the lower appellate Court;
- (f) Any judgment or orders of remand passed in the case either by the lower appellate Court in appeal or by the High Court on Second Appeal;
- (g) The memorandum of Second Appeal;

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[1] Substituted vide C.S. No.59

- (h) A front leaf containing the number of the case, names of the Judges of the two Courts below, names of the parties and of their Advocates, date of the institution of the suit, date of the judgment of the first Court, date of the judgment of the lower appellate Court, date on which the Second Appeal was filed, date of service of notice upon the respondents and date on which the case was ready for hearing; and
- (i) The substantial question of law formulated in the Second Appeal.

Provided that no paper book shall be prepared in Second Appeal when it is heard by the Single Judge. A brief be prepared consisting of the papers required to be included in the paper book as provided in this Rule.

28. (1) The appellant or respondent shall, before the hearing of the appeal, supply the Court and the opposite-party with copies of any document upon the consideration of which he considers the determination of the appeal depends. Such copies shall be of translation of such documents when in a vernacular other than Oriya. The copies must have been legibly written or typed in case of documents in the English language or translation in the said language on paper of good quality of the foolscap size.

(2) Such documents shall not, in any case, be referred to without the special leave of the Court, but this rule shall not preclude the Court from referring to any paper to which it considers a reference necessary for the ends of justice.

29. (1) No charge shall be levied from the parties on account of the preparation of this paper book, the original papers or certified copies filed being used for the composition thereof, if clean and clearly legible and the front leaf being prepared in the office of the Court. The parties may, however, obtain copies of such paper books, not exceeding two in number, for each set of them prepared in the office of the Court at their cost on their applying therefor within seven days of the case appearing in the Weekly Cause List:

Provided that if the Court so direct and if the papers specified in (a), (b) or (c) of rule 27 are in a vernacular other than Oriya, the appellant shall furnish English translation thereof within ten days of the order for issue of notice on the respondent and thereafter the necessary copies shall be typed in the office of the Court at the cost of the appellant.

(2) If a Second appeal is to be placed before a Division Bench for hearing or in the case of an appeal under the Orissa High Court Order arising therefrom, four copies of the paper book shall ordinarily be prepared in type in the office of the Court, out of which one copy shall be supplied to the appellant and one to the respondent who has appeared or puts in his appearance first.

(3) The Deputy Registrar shall, as soon as possible, make and deliver to the appellant an estimate of costs and the appellant shall within to weeks of the delivery of the estimate to him deposit by challan the amount of such estimate. In case the estimated cost exceeds Rs.12 the respondent who has appeared or puts in



his appearance first shall deposit half the amount of such excess subject to a maximum of Rs.12 within two weeks of a notice to that effect being served on him by the Deputy Registrar.

(4) In case of the appellant or the respondent failing to make the necessary deposit as above, the Registrar shall cause the appeal to be placed before a Bench for such order as it may deem proper.

(5) Any surplus remaining after deducting the cost actually incurred from the amount deposited therefor shall be refunded on application to the party or parties entitled as the case may be.

(6) If more than one copy is required by any of the above parties or if any respondent appearing subsequently requests for a copy, the same shall be supplied on payment of the extra costs thereof:

Provided that a memo to that effect is filed in the case of a Second Appeal within seven days of the order referring it to a Division Bench and in the case of an appeal under the Orissa High Court Order along with the memorandum of appeal so far as the appellant is concerned and within ten days of the service of notice so far as the respondent is concerned.

(7) Papers or copies, dirty or not clearly legible, will not be accepted but will be replaced by typed copies prepared in the Court's office at the cost of the parties filing them.

30. Additional paper books supplied at the request of the parties shall be charged for at the rate of Rs.20 per copy.

31. In cases governed by one judgment the Registrar, on application, may make a special order.

32. The Registrar may, upon the application of any party and upon good and sufficient reason shown, give such special directions as to any of the matters to which the rules of this part relate as may be deemed fit, and may by special order exempt any party from the operation of any portion of the rules.

33. In every appeal under the Orissa High Court Order from the decision of a Single Judge in Second Appeal, the office shall ordinarily prepare four well typed copies of the memorandum of appeal under the Orissa High Court Order. The paper books for use at the hearing of the appeal under the Orissa High Court Order shall be prepared from the paper book used at the hearing of the Second Appeal.

**(D) APPEALS FROM ORDERS AND APPLICATIONS FOR REVIEW AND REVISION**

34.(1) The rules for the preparation of paper books in appeals from original decrees prescribed in Part B of this Chapter shall apply to every first appeal from an order (including an order under section 47 of the Code of Civil Procedure) passed by a Subordinate Court, not being an order under Order XXI, Rule 23 of the same Code, with the following modifications, viz :--

(a) that six copies only of the paper book should be prepared. Two copies of the paper book shall be retained for the Court; one copy of the paper book shall be served on Counsel for the appellant and one copy on each set of respondents appearing through separate Advocates. Where there are more than three respondents in any appeal, within two weeks of the respondents entering appearance in the appeal, intimation must be given by filing of a memorandum that a copy of paper books is required by such respondent. Where the demand for paper book is more than six, the matter shall be placed before the Bench for appropriate direction. If there be failure to intimate the requirement of a copy of the paper book in the manner indicated above, the respondents shall not be entitled to a copy of the paper book;

(b) that for the papers required to be included in Part I of the paper book the following shall be substituted :--

- (j) the application or proceeding on which the order appealed against was passed;
- (ii) the petition, if any, filed in answer;
- (ii) the order appealed against; and
- (iii) the memorandum of appeal;

Provided that no paper book shall be prepared in appeals from orders to be heard by a Single Judge. If the Advocate wants to refer to any evidence or document, he shall be required to file attested typed copies thereof after service of copies of the same on the Advocate appearing for the other side within seven days after the case is shown ready in the Weekly Cause List.

35. (1) In Second Appeals from orders (including orders under section 47 of the Code of Civil Procedure) of the value below **Rs.1,00,000** and in appeals from remand orders under Order XLI, Rule 23 of the same Code, the paper book shall consist of :--

- (a) The order or orders, judgment or judgments of the Subordinate Court or Courts; and
- (b) The memorandum of appeal to the High Court.

(2) The provisions of rule 29 regarding the mode and the cost of the preparation of paper books shall, as far as practicable, apply to this rule.

(3) If a Second Appeal from an order is to be placed before a Division Bench for hearing or the appeal is valued at **Rs.1,00,000** and upwards, six copies of the paper books shall ordinarily be prepared by roneo process in the office of the Court for use by the Court and the parties concerned.

(4) If a Second Appeal from order is to be placed before a Single Judge for hearing the original papers and certified copies filed by the appellant may be used for the composition of the paper book if clean and clearly legible. Otherwise the papers will be typed in the office at the cost of the appellant.

(5) If a Second Appeal from order is to be placed before a Division Bench for hearing four copies of the paper-book shall ordinarily be prepared in type in the office of the Court, out of which one copy shall be supplied to the appellant and one to the respondent first appearing.

(6) The provisions of Rule 29 regarding preparation and cost of paper book shall, as far as practicable, apply to this rule.

36.(1) In the case of applications for review or revision, the paper book shall be in type. The original papers and certified copies filed by the applicant may be used for the composition of the paper book, if clean and clearly legible. Otherwise, the papers will be typed in the office at the cost of the appellant.

(2) If an application for review or revision is to be placed before a Division Bench for hearing four copies of the paper book shall ordinarily be prepared in type in the office of the Court, out of which one copy shall be supplied to the petitioner and one to the opposite-party first appearing. The provisions of Rule 29 regarding preparation of paper book shall, as far as practicable, apply to this rule.

37. In an application for review of judgment the paper book shall contain :--

- (i) the application;
- (ii) any affidavit filed with the application;
- (iii) any affidavit in reply; and
- (iv) the judgment and the decree or order to which the application relates.

38. In an application for revision the paper book shall contain –

- (i) the application;
- (ii) the judgment, decree or order to which the application relates; and
- (iii) if the judgment, decree or order to which the application relates was a judgment decree or order delivered by a Court sitting in appeal then a copy of the judgment decree or order of the Court of first instance, a copy of the memorandum of appeal to the appellate Court, a copy of any memorandum of objection to the decree of the Court of first instance, a copy of any order of remand, a copy of any return to any such order of remand and a copy of any memorandum of objection to such return.

**(E) SPECIAL PROVISIONS**

39. (1) Notwithstanding anything contained in the rules of this Chapter, paper books in appeals from original decrees valued at Rs.20,000 or upwards shall be cyclostyled except in cases where the appellant intimates in writing that he wishes to go up in appeal to the Supreme Court when the paper books shall be printed:

Provided that the paper book in an appeal from a decree in a suit for partition shall not be printed in the form required by the Supreme Court unless the Registrar, in his discretion, so directs:

Provided further that the appellant shall supply five copies of typed paper books prepared in accordance with rules when there is one respondent only. If there are more than one respondent as many additional copies of paper books shall be supplied as there are respondents in excess of one.

(2) The Registrar, in his discretion, may direct the paper book in any appeal governed by Rule 34 to be printed in the form required by the Supreme Court.

(3) The parties to any other appeal may apply to have the paper book prepared in the form required by the Supreme Court. Such application shall be in the form appended to this rule and shall be signed by all the parties on both sides or their Advocates and must be made to the Registrar before the deposit for printing is made. The Registrar may, for reasons to be recorded in writing, reject any such application.

(4) When the paper book is prepared in the Supreme Court form, the charges for the preparation of the record shall be the same as in cases of appeals to the Supreme Court and no extract from any paper other than an account shall be inserted in the paper book.

(5) When the paper book is printed under this rule in the Supreme Court form, forty-five copies shall, ordinarily, be printed of which twenty copies shall be reserved to meet the contingency of an appeal to the Supreme Court.

**FORM**

We the undersigned, request that the record in ..... be printed in the form required for appeals to the Supreme Court and agree to bear the extra cost occasioned thereby.