

CHAPTER XIV

Probate and Letters of Administration

1. Every petition or caveat made under this Chapter shall set forth the petitioner's or caveator's full name, the name of such petitioner's or caveator's father, his rank or degree in life, profession, occupation or trade and his true place of residence.
2. The word "will" in this Chapter includes a "codicil".
3. When an application for grant of probate or letters of administration is made, a copy of the application and of the valuation statement required by section 19-I (1) of the Court-Fees Act, VII of 1870 shall be sent together with the notice under section 19-H(2) of the said Act to the Chief Controlling Revenue Authority.
4. Every application for probate or for letters of administration with or without the will annexed shall be accompanied by –
 - a. A certificate of the Registrar as to duty having been paid or a certificate of the Taxing Officer that no duty is payable.
 - b. A certificate of the Registrar that no intimation has been received by the Court from any other High Court or from any District Court of any grant of probate or letters of administration of the property and credits of the deceased with effect throughout the whole of India.
5. The Registrar may, if he deems it necessary, require proof in addition to the usual statement required to be made in the petition of the identity of the deceased or of the party applying for the grant.
6. No person who renounces probate of a will or letters of administration of the property of a deceased person in one character shall without the leave of a Judge take out representation to the same deceased in another character.
7. In all applications by a creditor for letters of administration, it shall be stated particularly how the debt arose and whether the applicant has any and what security for the debt.
8. Where the application for probate is not verified by more than one witness to the will in the manner prescribed by section 281 of the Indian Succession Act, XXXIX of 1925, the application shall be accompanied by a further affidavit setting forth the mode in which the alleged will was attested and that the requirements of section 63 of the Indian Succession Act, XXXIX of 1925 were complied with.

This rule applies also to the probate of wills governed by the Hindu Wills Act, XXI of 1870.

9. Where a will contains a reference to any paper, memorandum or other document of such a nature as to raise a question whether it ought not to form a constituent part of the will, such paper, memorandum or other document shall be produced in order to show whether it is entitled to probate, and, where not produced, its non-production must be accounted for. No paper, memorandum or other document can form part of a will unless it was in existence at the time when the will was executed.
10. On an application for letters of administration, unless otherwise ordered, a citation shall issue to all persons having a right to take the grant prior or equal to that of the applicant, unless such persons have signified their consent to the application, and, if so directed, a general citation shall be issued to all persons claiming to have any interest in the estate of the deceased.
11. Where letters of administration are applied for by a creditor, a special citation shall be issued to the widow, if any, and to the next-of-kin, provided they shall be resident within the jurisdiction of the Court or have any known agent or agents residing within such jurisdiction and to the Administrator-General of Orissa, and a general citation shall be issued to all persons claiming to have any interest in the estate of the deceased.
12. Under ordinary circumstances the date fixed for the hearing of the application for probate or letters of administration shall not be earlier than fourteen days from the date of despatch of the valuation statement.
13. Every person to whom a grant of letters of administration other than grant under section 241 of the Indian Succession Act, XXXIX of 1925 is committed, shall give a bond to and in the name of the Chief Justice with one or more sufficient sureties to be approved by the Registrar. Such bond shall, in all cases, be prepared in the office of the Registrar in the prescribed form and shall, unless otherwise ordered by the Court, be given for the full value of the property for which the grant is to be made.
14. With every certificate sent to a High Court under the provisions of section 274 of the Indian Succession Act, XXXIX of 1925 or section 24 of the Administrator-General's Act, III of 1913 the Registrar shall send a copy of so much of the schedule of the property and credits of the deceased as relates to the estate within the jurisdiction of such Court.
15. Only the grant and the will, if any, shall be copied in the register. Where the will is in a foreign language or in any vernacular other than Oriya the official translation only shall be copied.

16. An exemplification or official copy under the signature of the Registrar and the seal of the Court of a grant so entered in the register or of a will in respect of which a grant has issued may be obtained on payment of the prescribed fees.
17. Any person intending to oppose the issue of a grant of probate or letters of administration must either personally or by his Advocate file a caveat before the Registrar. Notice of the filing of the caveat shall be given by the Registrar to the petitioner or his Advocate in the prescribed form.
18. Where a caveat is entered after an application has been made for a grant of probate or letters of administration with or without the will annexed, the affidavit or affidavits in support shall be filed within eight days of the caveat being lodged, notwithstanding the long vacation. Such affidavit shall state the right and interest of the caveator and the grounds of the objection to the application.
19. Where an application for grant of probate or letters of administration with or without the will annexed is presented after a caveat has been filed, the Registrar shall forthwith issue notice to the caveator calling upon him to file his affidavit or affidavits in support of his caveat within eight days from the service of the notice.
20. Where the caveator fails to file an affidavit in support of his caveat in compliance with rule 18 or in compliance with the notice issued under rule 19 the caveat may be discharged by the Court.
21. Upon the affidavit in support of the caveat being filed (notice whereof shall immediately be given by the caveator to the petitioner), the proceeding shall be numbered as a suit in which the petitioner for probate or letters of administration shall be the plaintiff and the caveator shall be the defendant; the petition for probate or letters of administration being registered as and deemed a plaint filed against the caveator and the affidavit filed by the caveator being treated as his written statement in the suit. The procedure in such suit shall, as nearly as may be, be according to the provisions of the Code of Civil Procedure.
22. The party opposing a will may, with his affidavit, give notice to the party settling up the will that he merely insists upon the will being proved in solemn form of law and only intends to cross-examine the witness produced in support of the will, and he shall thereupon be at liberty to do so, and shall not, in any event be liable to pay the costs of the other side, unless the Court is of opinion that there was no reasonable ground for opposing the will.
23. The Court may, on the application of the petitioner, before making the order mentioned in Rule 21 direct the trial of an issue as to the caveator's interest. Where, upon the trial of such issue, it appears that the caveator has no interest, the Court shall order the caveat to be discharged, and may order the issue of probate or letters of administration, as the case may be.

24. Where the gross value of the estate as shown in the affidavit of valuation does not exceed Rs.2,000, no court-fee other than court-fee under Article 11, Schedule I of the Court-Fees Act on an estate the net value of which exceeds Rs.1,000 shall be charged, provided the petitioner undertakes to pay the court-fees leviable to the Government or other party entitled thereto, in case the estate shall thereafter be found to be of greater gross value than Rs.2,000.
25. The Court may, on the application of the Advocate-General or of any person claiming to be entitled to the fees payable under an undertaking given in accordance with Rule 24, call upon the executor or administrator liable under the undertaking to pay such fees, and upon the hearing of the application, discharge the same, or make an order absolute for the payment of such fees, together with such order touching the costs of the application as it shall see fit, and every such order shall be enforceable in the same manner as any other order of Court whereby any party is directed to pay money or costs.
26. In cases not provided for by this Chapter or by the rules of procedure laid down in the Indian Succession Act, 1925 or the Administrator-General's Act, 1913 or the Code of Civil Procedure, 1908 the practice and procedure of the Probate Division of the High Court of Justice in England shall be followed so far as they are applicable and not inconsistent with this Chapter and the said Acts.
27. The Registrar shall transmit direct to the Indian Mission quarterly, true and attested copies of the wills of persons of European extraction of which probates have been granted, and of inventories and accounts filed by the executors and administrators and a schedule of letters of administration of estates of persons of European extraction granted during the preceding three months.
28. Wherever a grant of probate or letters of administration is made and it appears from the application or is otherwise brought to the notice of the Court or the Registrar that any revenue-paying estate or share of such estate is included in the estate of the deceased in respect of which the grant is made, the Registrar shall notify the grant to the Collector of the district in which such estate or part of an estate is situated.
29. Nothing in the rules in this Chapter shall apply to applications or acts to be done by the Administrator-General, in so far as they conflict with the provisions of the Administrator-General's Act, III of 1913.
30. The inventory and account to be furnished by an executor or administrator under section 317 of the Indian Succession Act, XXXIX of 1925 shall be in the prescribed forms and shall be verified in the manner follows :-
 "I,, the executor (or administrator) named in the above account do hereby declare that the said account is in every respect true, perfect and correct to the best of my knowledge, information and belief and that the same contains a full, true and perfect inventory of all the property in the

possession of the deceased at the date of his death, and of all credits owing to him and of all debts owing by him.”

“I,, the executor (or administrator) named in the above account do hereby declare that the said account is true, perfect and correct to the best of my knowledge, information and belief, and that it gives a full, true, and perfect account of all the estate and effect of the deceased which has or have come into my hands, possession, power, control, custody or knowledge and of the disposition of the same.”

Every such inventory or account and verification shall be subscribed by the executor or administrator in the presence of the Registrar of the Court or of some District Judge or Justice of the Peace.
