

**Code of Civil Procedure, 1908**

**Appendix H - Miscellaneous**

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**APPENDIX H**

**MISCELLANEOUS**

**No. 1**

**agreement of parties as to issues to be tried**

(Order XIV, rule 6)

(Title)

whereas we, the parties in the above suit, are agreed as to the question of fact [or of law] to be decided between us and the point at issue between us is whether a claim founded on a bond, dated the ..... day of..... 19...../20....,and filed as Exhibit..... in the said suit, is or is not beyond the statute of limitation (or state the point at issue whatever it may be):

We therefore severally bind ourselves that, upon the finding of the Court in the negative [or affirmative] of such issue, ..... will pay to the said ..... the sum of Rupees ..... (or such sum as the Court shall hold to be due thereon), and I, the said ..... , will accept the said sum of Rupees ..... (or such sum as the Court shall hold to be due) in full satisfaction of my claim on the bond aforesaid [or that upon such finding I, the said ..... , will do or abstain from doing, etc.]

.....Plaintiff.

.....Defendant.

vs.

Witnesses:

1.

2.

Dated the .....day of .....19...../20..... .

**No. 2**

**NOTICE OF APPLICATION FOR THE TRANSFER OF A SUIT TO ANOTHER COURT FOR TRIAL**

(Section 24)

In the Court of the District Judge of .....

No.....of 19...../20..... .

To

whereas an application, dated the ..... day of..... 19 ...../20...., has been made to this Court by ..... the ..... in Suit No ..... of 19 ...../20...., now pending in the Court of the ..... at ..... in which ..... is plaintiff and ..... is defendant, for the transfer of the suit for trial to the Court of the..... at ..... :-

You are hereby informed that the ..... day of ..... 19 ...../20...., has been fixed for the hearing of the application, when you will be heard if you desire to offer any objection to it.

given under my hand and the seal of the Court, this ..... day of ..... 19...../20..... .

Judge

**1 [No.2A**

**LIST OF WITNESSES PROPOSED TO BE CALLED BY PLAINTIFF/DEFENDANT**

(Order XVI, Rule 1.)

| Name of the party which proposes to call the witness | Name and address of the witness | Remarks] |
|------------------------------------------------------|---------------------------------|----------|
|                                                      |                                 |          |

**No. 3**

**NOTICE OF PAYMENT INTO COURT**

(Or. XXIV, r . 2)

(Title)

take notice that the defendant has paid into Court Rs. ....and says that sum is sufficient to satisfy the plaintiffs claim in full.

X. Y., Pleader for the defendant.

To Z., Pleader for the plaintiff..

**No. 4**

**notice to show cause (general form)**

(Title)

To

.....

.....

Whereas the above-named ..... has made application to this Court that .....

You are hereby warned to appear in this Court in person or by a pleader duly instructed on the ..... day of..... 19...../20....., at ..... O'clock in the forenoon, to show cause against the application, failing wherein, the said application will be heard and determined ex parte.

given under my hand and the seal of the Court, this.....day of..... 19...../20.....

Judge

**No. 5**

## LIST OF DOCUMENTS PRODUCED BY PLAINTIFF/DEFENDANT

(Order XIII, rule 1.)

(Title)

| No. | Description of document | Date, if any, which the document bears | Signature of p |
|-----|-------------------------|----------------------------------------|----------------|
| 1   | 2                       | 3                                      | 4              |
|     |                         |                                        |                |

### No. 6

#### NOTICE TO PARTIES OF THE DAY FIXED FOR EXAMINATION OF A WITNESS ABOUT TO LEAVE THE JURISDICTION

(Order XVIII, R. 16.)

(Title)

To

.....Plaintiff (or defendant)

whereas in the above suit application has been made to the Court by.....that the examination of.....a witness required by the said .....in the said suit may be taken immediately; and it has been shown to the Court's satisfaction that the said witness is about to leave the Court's jurisdiction (or any other good and sufficient cause to be stated);

Take notice that the examination of the said witness ..... will be taken by the Court on the .....day of .....19...../20.....

Dated the ....., day of..... 19...../20.....

Judge

### No. 7

#### commission to examine absent witness

(O. XXVI, rr. 4, and 18.)

(Title)

To

.....

.....

whereas the evidence of ..... is required by the ..... in the above suit; and whereas .....; you are requested to take the evidence on interrogatories [or viva voce] of such witness ..... and you are hereby appointed Commissioner for that purpose. The evidence will be taken in the presence of the parties or their agents if in attendance, who will be at liberty to question the witness on the points specified, and you are further requested to make return of such evidence as soon as it may be taken.

Process to compel the attendance of the witness will be issued by any Court having jurisdiction on your application.

A sum of Rs. .... being your fee in the above, is herewith forwarded,

given under my hand and the seal of the Court, this ..... day of..... 19  
...../20.....

Judge

**No. 8**

**letter of request**

(O. XXVI, r. 5.)

(Title)

(Heading: -To the President and Judges of, etc., etc., or as the case may be.)

whereas a suit is now pending in the.....in which A. B. is plaintiff and C.D. is defendant;  
And in the said suit the plaintiff claims.

(Abstract of claim.)

And whereas it has been represented to the said Court that it is necessary for the purposes of justice  
and for the due determination of the matters in dispute between the parties, that the following persons  
should be examined as witnesses upon oath touching such matters, that is to say:

.....E .F., of.....

.....G. H., of.....and

.....I. J., of.....

And it appearing that such witnesses are resident within the jurisdiction of your honourable Court;

Now I..... , is the..... of the said Court, have the honour to request, and do  
hereby request, that for the reasons aforesaid and for the assistance of the said Court, you, as the  
President and Judges of the said .....or some one or more of you, will be pleased to summon  
the said witness (and such other witnesses as the agents of the said plaintiff and defendant shall  
humbly request you in writing so to summon) to attend at such time and place as you shall appoint  
before the some one or more of you or such other person as according to the procedure of your Court  
is competent to take the examination of witnesses, and that you will cause such witnesses to be  
examined upon the interrogatories which accompany this letter of request (or viva voce) touching the  
said matters in question in the presence of the agents of the plaintiff and defendant, or such of them as  
shall, on due notice given, attend such examination.

And I further have the honour to request that you will be pleased to cause the answers of the said  
witnesses to be reduced into writing, and all books, letters, papers and documents produced upon such  
examination to be duly marked for identification, and that you will be further pleased to authenticate  
such examination by the seal of your tribunal, or in such other way as is in accordance with your  
procedure, and to return the same, together with such request in writing, if any, for the examination of  
other witnesses to the said Court.

(Note--If the request is directed to a Foreign Court, the words "through [2](#) [the Ministry of External  
Affairs of the Government of India] for transmission" should be inserted after the words "other  
witnesses" in the last line of this form.)

**No. 9**

**commission for a local investigation, or to examine accounts**

(O. XXVI, rr. 9, 11.)

(Title)

To

whereas it is deemed requisite, for the purposes of this suit, that a commission for.....should be issued; You are hereby appointed Commissioner for the purpose of .....

Process to compel the attendance before you of any witnesses, or for the production of any documents whom or which you may desire to examine or inspect, will be issued by any Court having jurisdiction on your application.

A sum of Rs. ....being your fee in the above, is herewith forwarded.

given under my hand and the seal of the Court, this ..... day of .....19...../20.....

Judge

**No. 10**

**COMMISSION TO MAKE A PARTITION**

(O. XXVI, r. 13.)

(Title)

To

whereas it is deemed requisite for the purposes of this suit that a commission should be issued to make the partition or separation of the property specified in, and according to the rights as declared in, the decree of this Court, dated the .....day of..... 19...../20.....; You are hereby appointed Commissioner for the said purpose and are directed to make such inquiry as may be necessary, to divide the said property according to the best of your skill and judgment in the shares set out in the said decree, and to allot such shares to the several parties.

You are hereby authorized to award sums to be paid to any party by any other party for the purpose of equalizing the value of the shares.

Process to compel the attendance before you of any witnesses or for the production of any documents, whom or which you may desire to examine or inspect, will be issued by any Court having jurisdiction on your application.

A sum of Rs. . ....being your fee in the above, is herewith forwarded.

given under my hand and the seal of the Court, this ..... day of ..... 19...../20.....

Judge

**3 [No. 11**

**NOTICE TO CERTIFICATED, NATURAL, OR, DE FACTO GUARDIAN**

(Order XXXII, rule 3.)

(Title)

To

.....(Certified/Natural/de facto Guardian)

whereas an application has been presented on the part of the plaintiff<sup>36</sup>/ on behalf of the minor defendant\* in the above suit for the appointment of a guardian for the suit for the minor defendant..... you (insert the name of the guardian appointed or declared by Court, or natural guardian, or the person in whose care the minor is) are hereby required to take notice that unless you appear before this Court on or before the day appointed for the hearing of the case and stated in the

appended summons, and express your consent to act as guardian for the suit for the minor , the Court will proceed to appoint some other person to act as a guardian for the minor, for the purposes of he said suit.

given under my hand and the seal of the Court, this..... day of.....  
19...../20.....

Judge

1 [No. 11A

**notice to minor defendant**

(Order XXXII, rule 3)

(Title)

To

.....Minor Defendant.

whereas an application has been presented on the part of the plaintiff in the above suit for the appointment of ..... \*as guardian for the suit for you, the minor defendant, you are hereby required to take notice to appear in this Court in person on the ..... day of.....  
19.....at..... O'clock in the forenoon to show cause against the application, failing which the said application will be heard and determined ex parte.

given under my hand and the seal of the Court, this. .... day of.....  
19...../20.....

Judge]

**No. 12**

**notice to opposite party of day fixed for hearing evidence of pauperism**

(O. XXX, r. 6.)

(Title)

To

.....

.....

whereas.....has applied to this Court for permission to institute a suit against.....in forma pauperis under Order XXXIII of the Code of Civil Procedure, 1908; and whereas the Court sees no reason to reject the application; and whereas the..... day of ..... 19...../20....., has been fixed for receiving such evidence as the applicant may adduce in proof of his pauperism and for hearing any evidence which may be adduced in disproof thereof:

Notice is hereby given to you under rule 6 of Order XXXIII that in case you may wish to offer any evidence to disprove the pauperism of the applicant, you may do so on appearing in this Court on the said. .... day of. .... 19...../20.....

given under my hand and the seal of the Court, this ..... day of.....  
19...../20.....

Judge

**No. 13**

**NOTICE TO SURETY OF HIS LIABILITY UNDER A DECREE**

(Section 145)

(Title)

To

.....

.....

Whereas you . ..... did on ..... become liable as surety for the performance of any decree which might be passed against the said . ..... defendant in the above suit; and whereas a decree was passed on the..... day of. .... 19...../20....., against the said defendant for the payment of.....and whereas application has been made for execution of the said decree against you :

Take notice that you are hereby required on or before the..... day of ..... 19...../20....., to show cause why the said decree should not be executed against you, and if no sufficient cause shall be, within the lime specified, shown to the satisfaction of the Court, an order for its execution will be forthwith issued in the terms of the said application.

given under my hand and the seal of the Court, this ..... day of .....19...../20.....

Judge

**No. 14**

**REGISTER OF CIVIL SUITS**

(O. IV, r. 2)

COURT OF THE ..... OF .....AT.....

**Register of Civil Suits in the year 19...../20.....**

| <b>Plaintiff</b>               | <b>Defendant</b>   | <b>Claim</b>                     | <b>Appearance</b>         | <b>Judgment</b>            |
|--------------------------------|--------------------|----------------------------------|---------------------------|----------------------------|
| Date of presentation of plaint | Name               | Particulars                      | Day for parties to appear | Date                       |
| Number of suit                 | Description        | Amount of value                  | Plaintiff                 | For whom                   |
| Name                           | Place of residence | When the cause of action accrued | Defendant                 | For what or amount         |
| Description                    |                    |                                  |                           | Date of decision of appeal |
| Place of residence             |                    |                                  |                           |                            |
|                                |                    |                                  |                           |                            |

**No. 15**

## REGISTER OF APPEALS

(O. 41, R. 9)

COURT (OR HIGH COURT) AT.....

Register of Civil Suits in the year 19...../20.....

|                    |                  | <b>Appellant</b>   | <b>Respondent</b>  | <b>Decree appealed from</b> | <b>Appearance</b>         | <b>J</b>            |
|--------------------|------------------|--------------------|--------------------|-----------------------------|---------------------------|---------------------|
| Date of memorandum | Number of appeal | Name               | Name               | Of what Court               | Day for parties to appear | Date                |
|                    |                  | Description        | Description        | Number of Original Suit     | Appellant                 | Con<br>rese<br>vari |
|                    |                  | Place of residence | Place of residence | Particulars                 | Respondent                | For<br>am           |
|                    |                  |                    |                    | Amount or value             |                           |                     |

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1. Inserted by Act 104 of 1976, section 96 (w.e.f. 1-2-1977).
  2. Substituted by the A.O. 1950, for "His Majesty's Secretary of State for Foreign Affairs".
  - \*. Strike off the words which are not applicable.
  3. Subs. by Act of 1976, sec 96, for Form 11 (w.e.f. 1-2-1977).