

Code of Civil Procedure, 1908

Appendix G - Appeal, Reference and Review

APPENDIX G

APPEAL, REFERENCE AND REVIEW

No. 1

memorandum of appeal (O.XLI, r.1)

(Title)

The.....

..... above-named appeals to the Court at from the decree of
..... in Suit No. of 19..... dated the day of
..... 19....., and sets for the following grounds of objection to the decree appealed from,
namely:--

No. 2

security bond to be given on order being made to stay execution of decree

(O. XLI, r. 5)

(Title)

To

This security bond on stay of execution of decree executed by witnesseth:--

Thatthe plaintiff in Suit No of 19 having sued

the defendant, in this Court and a decree having been passed on the day of
.....19....., in favour of the plaintiff, and the defendant having preferred an appeal from the
said decree in the..... Court, the said appeal is still pending.

Now the plaintiff decree-holder having applied to execute the decree, the defendant has made an application praying for stay of execution and has been called upon to furnish security. Accordingly I, of my own free will, stand security to the extent of Rs mortgaging the properties specified in the schedule hereunto annexed, and covenant that if the decree of the first Court be confirmed or varied by the Appellate Court the said defendant shall duly act in accordance with the decree of the Appellate Court and shall pay whatever may be payable by him thereunder, and if he should fail therein then any amount so payable shall be realized from the properties hereby mortgaged, and if the proceeds of the sale of the said properties are insufficient to pay the amount due, I and my legal representatives will be personally liable to pay the balance, To this effect I execute this security bond this day of19...../20....

Schedule

(Signed)

Witnessed by

1.

2.

Note : Unless appropriately altered, the printed form binds the surety only to an immediate appeal from the decree mentioned in the bond, and does not cover any obligation in respect of any further appeal.

And further, in Form No. 3 of the said Appendix G, for the opening words "This security bond on stay of execution of decree executed by.....witnesseth--".

Substitute the following:--

"This security bond, on order being made for execution of decree, executed by
..... witnesseth--".

No. 3

security bond to be given during the pendency of appeal

(O. XLI, r. 6)

(Title)

To

This security bond on stay of execution of decree executed by witnesseth :--

That the plaintiff in Suit No of 19, having sued, the defendant, in this Court and a decree having been passed on the day of 19..... in favour of the plaintiff, and the defendant having preferred an appeal from the said decree in the Court, the said appeal is still pending.

Now the plaintiff decree-holder has applied for execution of the said decree and has been called upon to furnish security. Accordingly I, of my own free will, stand security to the extent of Rs. mortgaging the properties specified in the schedule hereunto annexed, and covenant that if the decree of the first Court be reversed or varied by the Appellate Court, the plaintiff shall restore any property which may be or has been taken in execution of the said decree and shall duly act in accordance with the decree of the Appellate Court and shall pay whatever may be payable by him thereunder, and if he should fail therein then any amount so payable shall be realized from the properties hereby mortgaged, and if the proceeds of the sale of the said properties are insufficient to pay the amount due, I and my legal representatives will be personally liable to pay the balance. To this effect I execute this security bond this day of 19.....

Schedule

(Signed)

Witnessed by

1.

2.

No. 4

SECURITY FOR COSTS OF APPEAL

(O, XLI, r. 10)

(Title)

To

Tins security bond for costs of appeal executed by. witnesseth :--

This appellant has preferred an appeal from the decree in Suit No. of 19....., against the respondent, and has been called upon to furnish security. Accordingly I; of my own free will, stand security for the costs of the appeal, mortgaging the properties specified in the schedule hereunto annexed. I shall not transfer the said properties or any part thereof, and in the event of any default on the part of the appellant. I shall duly carry out any order that may be made against me with regard to payment of the costs of appeal. Any amount so payable shall be realized from the properties hereby mortgaged, and if the proceeds of the sale of the said properties are insufficient to pay the amount due I and my legal representatives will be personally liable to pay the balance. To this effect I execute this security bond this day of 19.

Schedule

(Signed)

Witnessed by

- 1.
- 2.

No. 5

intimation to lower court of admission of appeal

(O. XLI, r. 13)

(Title)

To

You are hereby directed to take notice that the in the above suit, has preferred an appeal to this Court from the decree passed by you therein on theday of 19.....,

You are requested to send with all practicable despatch all material papers in the suit. Dated the day of 19.....,

Judge

No. 6

NOTICE TO RESPONDENT OF THE DAY FIXED FOR THE HEARING OF THE APPEAL

(O. XLI, r. 14)

(Title)

Appeal from the of the Court of dated theday of 19

To

.....Respondent

take notice that an appeal from the decree of in this case has been presented by and registered in this Court, and that the day of 19 has been fixed by this Court for the hearing of this appeal.

If no appearance is made on your behalf by yourself, your pleader, or by some one by law authorized to act for you in this appeal, it will be heard and decided in your absence.

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

Judge

[Note.-If a stay of execution has been ordered, intimation should be given of the fact on this notice.]

No. 7

NOTICE TO A PARTY TO A SUIT NOT MADE A PARTY TO THE APPEAL BUT JOINED BY THE COURT AS A RESPONDENT

(O. XLI, r. 20)

(Title)

To

whereas you were a party in Suit No of 19 in the Court of, and whereas the has preferred an appeal to this Court from the decree passed against him in the said suit and it appears to this Court that you are interested in the result of the said appeal;

This is to give you notice that this Court has directed you to be made a respondent in the said appeal and has adjourned the bearing thereof till the day of 19.....at a.m. If no appearance is made on your behalf on the said day and at the said hour the appeal will be heard and decided in your absence.

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

Judge

No. 8

memorandum of cross objection

(O. XLI, r. 22)

(Title)

whereas the has preferred an appeal to the Court at from the decree of in Suit No. of19.....dated the day of19..... and whereas notice of the day fixed for hearing the appeal was served on the on the day of 19 the files this memorandum of cross objection under rule 22 of Order XLI of the Code of Civil Procedure, 1908, and sets forth the following grounds of objection to the decree appealed from, namely:-

.....
.....

No.9

DECREE IN APPEAL

(O. XLI, r. 35)

(Title)

Appeal No. of 19 from the decree of the Court of dated the day of 19....

Memorandum of Appeal

.....Plaintiff.

.....Defendant.

Theabove-named appeals to the Court at from the decree of..... in the above suit, dated the day of 19....., for the following reasons, namely: -

This appeal coming on for hearing on theday of 19 before in the presence of for the appellant and of for the respondent, it is ohlered-

The costs of this appeal, as detailed below, amounting to Rs. are to be paid by The costs of the original suit are to be paid by

given under my hand and the seal of the Court, this day of19.....

Judge

Costs of appeal

Appellant	Amount			Respondent	Amount		
	Rs.	A.	P.		Rs.	A.	P.
1. Stamp memorandum of appeal				Stamp for powers			
2. Do. for power							
3. Service of processes				Do. for petition.			
4. Pleader's fee on Rs.				Service of processes			
				Pleader's fee on Rs.			
Total				Total			

No. 10

application to appeal in forma pauperis

(O. XLIV, r. 1)

(Title)

I..... the above-named, present the accompanying memorandum of appeal from the decree in the above suit and apply to be allowed to appeal as a pauper.

Annexed is a full and true schedule of all the movable and immovable property belonging to me with the estimated value thereof.

Dated the day of 19.....

(Signed)

[Note.-Where the application is by the plaintiff he should state whether he applied and was allowed to sue in the Court of first instance as a pauper.]

No. 11

NOTICE OF APPEAL IN FORMA PAUPERIS

(O. XLIV, r. 1)

(Title)

whereas the above-named..... has applied to be allowed to appeal as a pauper from the decree in the above suit dated the..... day of 19..... and whereas the day of 19..... has been fixed for hearing the application, notice is hereby given to you that if you desire to show cause why the applicant should not be allowed to appeal as a pauper an opportunity will be given to you of doing so on the afore-mentioned date.

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

Judge

No. 12

NOTICE TO SHOW CAUSE WHY A CERTIFICATE OF APPEAL TO THE 1 [SUPREME COURT] SHOULD NOT BE GRANTED

(O. XLV, r. 8.)

(Title)

To

2 [TAKE notice that.....has applied to this Court for a certificate-

(i) that the case involves a substantial question of law of general importance, and

(ii) that in the opinion of this Court the said question needs to be decided by the Supreme Court.]

The..... day of 19...../20...., is fixed for you to show cause why the Court should not grant the certificate asked for.

given under my hand and the seal of the Court, thisday of19.....

Registrar

No. 13

NOTICE TO, RESPONDENT OF ADMISSION OF APPEAL TO THE [SUPREME COURT]

(O. XV, r. 8.)

(Title)

To

.....

.....

whereas the in the above case, has furnished the security and made the deposit required by Order XLV, rule 7, of the Code of Civil Procedure, 1908;.

Take notice that the appeal of said to 263 [the Supreme Court] has been admitted on the day of 19.....

given under my hand and sea of the Court, this.....day of 19.....

No. 14

notice to show cause why a review should not be granted

(O. XVII, r. 4.)

(Title)

To

take notice that..... has applied to this Court for a review of its decree passed on the day of 19..... in the above case. The..... day of..... 19.....is fixed for you to show cause why the Court should not grant a review of its decree in this case.

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

Judge

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1. Substituted by the A.O. 1950 for "KING IN COUNCIL".
 2. Substituted by Act 49 of 1973, section 4, for the former paragraph.
 3. Substituted by the A.O. 1950 for "His majesty in Council".