

A brief note regarding the records kept on each rack may be written up and pasted on card board pieces and hung on to each rack.

Salary and other Bills and charges

Salary bills of Sub-Registrars

47. Special Sub-Registrars and Sub-Registrars will draw their pay in Form No.2 of Assam Schedule III directly from the Treasury without the countersignature of the District Registrar.

Commission bills of *ex-officio* Sub-Registrars

48. An *ex-officio* Sub-Registrar whether appointed to the charge of an *ex-officio* office or to any office temporarily during the absence of Special Sub-Registrar or Sub-Registrar may draw his commission at the end of each month on a bill countersigned by the Registrar. Commission bills must be prepared in Accountant General's Form No.3. All *ex-officio* Sub-Registrar (except the *ex-officio* Sub-Registrar of Jowai, in the United Khasi and Jaintia Hills District, and the members of the Indian Administrative Service and Assam Civil Service, Senior and Junior) when appointed as *ex-officio* Sub-Registrars, are entitled to commission at 25 per cent of the fees realised but an officer's total commission in anyone month shall not exceed Rs.60. The amount of the commission payable shall be calculated in the manner prescribed in the next following paragraph.

Mode in preparation of commission bills of *ex-officio* Sub-Registrars

49. The method of preparing commission bills of *ex-officio* Sub-Registrar is as follows :-

(1) When more than one officer held charge of a Sub-Registrar's office during the month, separate commission bills will be prepared for the amount of commission due to each officer.

(2) To ensure the correct preparation of the bill, certain calculations are necessary. Each bill will, therefore, be supported by extracts from the registers showing :

- (a) The amount of fees of documents pending at the close of the month for which the bill is drawn;
- (b) the amount of fees on documents presented and refused during the month for which the bill is drawn;
- (c) the amount of fees on documents presented in previous month, but admitted to registration during the month for which the bill is drawn.

(3) The extract register form may be included in the annual indent for forms.

(4) Those documents in respect of which no entry has been made in column 8 of the Fee Book will be entered in Abstract No.1, as pending documents.

(5) Those documents which have been refused registration will be readily identified, since the dates will be entered in red ink. They will be entered in extract No.II.

(6) Documents admitted to registration after the close of the month in which they are presented will also be easily distinguished by the date of admission. Thus if in column 8 of the Fee Book for May a document is shown as having been admitted on July 8th, the Sub-Registrar will know that in drawing his bill for July he may take credit for the documents. Such document will be entered in extract No.III.

(7) In addition to the above, commission bill will be supported by the treasury officer's receipt for the total sum remitted by the Sub-Registrars to the treasury .

Commission
bills of
Sub-Regis-
trars.

50. (1) The form to be used is Accountant General Assam's Form No.4.

(2) Commission is payable monthly.

(3) A Sub-Registrar is only entitled to commission on documents actually completed by him. He will draw no commission on documents admitted by him to registration but completed by his successor.

(4) Paragraph 49 applies to Sub-Registrars as well as to *ex-officio* Sub-Registrars.

(5) Sub-Registrars paid by commission are remunerated on the number of registration, according to the following scale :-

When the No. of Registration does not exceed 50 in a month		Rs.	
ditto exceeds	60	80	56
ditto ditto	80	125	70
ditto ditto	125	170	98
ditto ditto	170	200	119
ditto ditto	200	250	133
ditto ditto	250	300	147
ditto ditto	300	350	154
ditto ditto	350	400	161
ditto ditto	400	450	175
ditto ditto	450	500	189
ditto ditto	500		303
			210

the above rates are based on the increase of 40/- allowed with effect from 1st April 1951 vide No. LRG. 28/50/2, dated 16.1.51 accorded with the concurrence of Finance Department.

For the purposes of these calculations each miscellaneous operation on which a fee is charged will be counted as one registration. The miscellaneous operations with which Sub-Registrars are concerned are authentication of powers of attorney, commissions, visits, searches, etc. Searches made under Article H of the Table of Fees by Government officers without fee, are an exception to this order.

(6) The levy of fees under Article H(a) and H(b) of the table of Fees counts as one operation, of the applications for search and copy are filed on the same date. But if an application for copy be made on a date subsequent to that on which the search was made, it should be considered as a separate operation.

(7) Commission bills require the Registrar's countersignature before payment, but he may delegate this duty to the Special Sub-Registrars.

Officers holding temporary charge not entitled to Commission.

51. When an officer is temporarily placed in charge of the office of the registering officer of any class, during his absence on casual leave or on inspection duty in the interior of district, he is not entitled to any remuneration, and the fixed pay or commission, as the case may be. For that period shall be retained by the permanent incumbent.

Method of filling up District Return No.4

52. In reporting the amount of commission paid to Sub-Registrars, the full amount should be debited against the Registration Department and entered in District Return No.4. Deductions on account of funds, income-tax, etc " are independent transaction between the Sub-Registrar personally and the fund concerned the State Government respectively.

Deduction on account of income-tax

53. Deductions on account of income-tax should be made on the gross amount of commission payable to Sub-Registrars, before the submission of the bills for countersignature.

Pay bills of permanent establishment

54. Salary bills for permanent establishments will be drawn by the head of the office in the prescribed forms.

Pay bills of extra establishment.

55. Bills for extra establishments shall be drawn in the same way as those for permanent establishment, the orders sanctioning their entertainment being always quoted in the bill.

Travelling
allowance
bills.

56. Travelling allowances for registering officer and the office assistants will be drawn in the prescribes form and in both cases they must be submitted to the Registrar for counter signature before payment.

Rates and
Taxes

57. In the case of a registration office occupying one or more rooms in the Collectorate building, such office is not liable to be assessed separately to municipal rates and taxes. In other cases, registering officers other than those paid by commission, will defray charges on account of municipal rates and taxes from their permanent advance, and the charge will be debited to the sum provided in the district budget under the head "Regular Contingencies".

Duplicate
bills.

58. A duplicate bill should never be submitted unless the original has been lost in transit, or otherwise, in which case a certificate should be attached, to the effect that the bill has not been cashed at the treasury. The previous sanction of the Comptroller to its payment must be obtained, before such a bill is presented for encashment at the treasury.

Purpose of
permanent
advances

59. A permanent advance for the whole district is allowed to each Registrar who will apportion the amount to the Sub-Registrars to meet the cost of (1) Contingencies, (2) Service Postage, (3) Refund of Registration Fees, (4) Cost of Remitting Fees to the treasury, etc. On the 15th of April, each year the Registrar will sent acknowledgment of the entire advance to the Comptroller, in the printed form supplied by officer.

Recoup-
ment and
acknowledge-
ment of
permanent
advances

60. The advance received by a Sub-Registrar shall not be repaid into the treasury, but shall be recouped from time to time, when necessary, by the submission to the Registrar of abstract bills supported by vouchers. On the first day of April in each year or should the office be closed on first day thereafter on which the office shall be opened the officer holding the advance shall forward an acknowledgment for its receipt to the Registrar.

Payment
from per-
manent
advance.

61. All Sub-Registrars shall meet from their permanent advance charges for refunds, the cost of the postal money orders for remitting registration fees of postage on "bearing cover" and of transit charges of records and forms. The cost of binding or rebinding register

in registration office should be paid from the district grant for contract contingencies. A contingent register in the prescribed form shall be maintained in each Sub-Registry office.

Contingent
Expenditure

62. Contingent expenditure will be regulated by the General Rules prescribed from time to time by the State Government in this behalf. The entire grant for the district will be retained by the Registrar under his own control and will not be distributed to subordinate offices. On receipt of a contingent bill from a subordinate office, the Registrar, after checking the items the vouchers and entering the bill in his contingent register, shall fill in the memorandum of allotment. Debiting the expenditure against the district grant as most convenient and either return the bill to the drawing officer for encashment after countersignature by himself, or by the Special Sub-Registrar if authorised in this behalf by him, or recoup the amount from his permanent advance and cash the bill himself.

Drawal and
Disburse-
ment of
contingent
grant

63. The disbursing officer is responsible for keeping and for producing when required, any Sub-Vouchers for expenditure from his contract contingent grant, except those which he is authorised to destroy. Bills required to be preserved which are received by the Registrar as Vouchers from subordinate offices should be filed in the Sadar Office. A bill shall be drawn, on or immediately before 31st March, of each year, for all expenditures actually incurred on account of contract contingencies upto date, whether the allotment has been expended or not but over-drafts must be reported at once to the Inspector General.

Sums which cannot be disbursed before the close of the financial year shall, in no circumstances, be drawn from the treasury.

Printing charges not to be incurred without sanction

64. No charge for printing shall be incurred without the special sanction of the Inspector General.

Cost of Stationery article.

65. The cost of stationery articles purchased locally in accordance with the Assam Contingency Manual may be included in the monthly contingent bill.

Monthly
returns
described

66. The following is a brief description of the 1 monthly returns to be submitted by District Registrars to the Inspector General :-

District Return No.1 is the statement of immovable property registered in Book I and the value of such property transferred by registered instruments, together with the fees thereof.

District Return No.2 is the statement of instrument of movable property registered in Book IV, and of wills and authorities to adopt registered in Book III and of the value of such property transferred by registered instruments together with the fees thereof and all the grand totals.

District Return No.3 is the statement of operations other than registration Books I, II and III and of income from fees realised there under together with the income from fees on registration showing the gross total income.

District Return No.4 is a statement of expenditure showing the amount actually disbursed.

District Return No.5 is the statement of principal operations other than registration in Books I, II and III.

District Return No.6 is the classified statement of fees realised.

District Return No.7 is the statement showing the progress made in the work of copying, etc., and indexing during the month.

General instructions for the preparation of returns

67 (a) Details regarding those documents only the registration of which has been completed will be entered in the District Return Nos.1 and 2.

(b) The aggregate of the fees levied on all documents presented for registration will be entered in District Return No.6, on the date of presentation. No distinction being made between those levied on pending documents which have been admitted to registration.

Verification of District return No. 6

(c) District Return No.6 must be verified and countersigned by the Treasury Officer, and the District Registrar is required to certify that he has checked the figures therein with those furnished by subordinate offices, that they agree with the treasury figures, and that any discrepancies have been reconciled

- (d) Security bonds, indemnity bonds, transfer, transfer of leases, agreement release reconveyance of mortgaged property, etc., should be shown under the head "Other instruments" in the appropriate returns.
- (e) Sale certificates should be included with sale and shown under heading 3 or 17 of District Return No. 1. Fees should be charged *advalorem*. A certified copy of a decree or order of a court should be included under heading 29 of District Return No. 1, the fee being charged under Article D.
- (f) Fraction of a rupee should be counted as a whole rupee in calculating values.

Remittance to be made to the treasury

68. As the monthly accounts of sub-divisional treasuries are closed on fixed dates, it is essential, in order that the total realisations and remittances shown in District Return No. 6 should agree with the monthly statement of a credits in each district forwarded by the Comptroller to the Inspector General, that Sub-Registrars in sub-divisions should forward the fees, etc., realised by them sufficiently early to reach and be credited into the sub-divisional treasury on or before the latest date fixed as aforesaid, and that Sub-Registrar at Sub-divisional headquarters should also deposit on the same date the fee realised by them. In Sadar sub-divisions, however, the latest dates on which the registering officers should deposit the fees collected by them is the last working day of the month, as the District Treasury Accounts are closed on that day. Only the sums paid in up to those dates will be shown in the column "Total amount paid in to the treasury during the month" in the above return, subsequent payments being entered in the return for the succeeding month.

69. Deleted.

Entries of pattas and Kabuliyat relating to the same land

70. When a Patta and Kabuliyat relating to the same land are registered together, they should be entered as one transaction only, and the value, that is the annual rent, shown once only in the District Return No. 1 or 3 as the case may be.

Classification of leases and Kabuliyats, etc.

71. (a) In the case of a lease in respect of which a premium has been paid the amount of the premium should be divided by the term of years and the quotient added to the annual rent, in order to arrive at the value for purposes, of District Return No. 1 or 3 as the case may be.

- (b) The distinction between Pattas and Kabuliyat should be clearly understood and followed: where leases are executed in counterpart, the Patta is the lease and the Kabuliyat the counterpart.

The Indian Stamp Act expressly excludes counterpart from its definition of leases, but the Registration Act expressly includes them, the distinction however, is to be clearly maintained in returns with a view to obtaining statistics of the number of pattas granted in proportion to Kabuliyats.

- (c) A Kabuliyat is not necessarily a counterpart of a lease. A counterpart means the duplicate of a conveyance, settlement, mortgage deed or lease such duplicate not having been deed executed by the granter, settler, mortgagor or lessor, but by some other party to the instrument. It includes a Kabuliyat where a lease has been granted. Care should, therefore, be taken to mark with K only such instruments as are executed by a party to the deed in favour of a lessor who is competent, in return to grant a patta or lease and other descriptions of so called Kabuliyat should be returned under their proper headings an agreements to accept a grant, settlement of mortgage, as the case may be. The letter P, therefore, in the returns is to be taken as denoting every kind of agricultural lease granted by a lessor, while the letter K is to denote not only the counterparts of such leases where executed, but also any documents which could be the counterpart of a lease, or which is granted, to a lessor in consideration of an implied lease. In indexing pattas and Kabuliyats the words "lessor and lessee" are to be used for both descriptions of documents.

- (d) When documents are presented in duplicate triplicate, etc., at the same time, the value should be shown once in the rough draft statements I and II.

Instructions for preparation of monthly return by Sub-Registrars

73. The instructions for preparing the District Returns apply to the returns submitted by Sub-Registrars.

Date of despatching monthly returns

74. Registrars should invariably despatch their monthly returns to the Inspector General's Office not later than the 15th of the month following that to which the returns refer. *Ex-officio* Sub-Registrars elsewhere than at Sadar, and Sub-Registrars should as a rule, submit their returns to the district office not later than the 2nd of the month.

Procedure when delay occurs in submission of returns

75. The monthly returns should invariably be accompanied by an explanation of the cause of any arrears. When delay occurs in the submission of the monthly returns, the reason therefore, should be stated. When District Returns have been delayed in consequence of the dilatoriness of subordinate offices, a statement should be appended showing the date of the receipt of the returns of subordinate offices, the date of their return for correction, and the date of receipt of the revised return.

Arrears of previous year

76. When there are arrears from previous years, a special report should be furnished with each month's returns showing the progress made in clearing them off.

Rough drafts

77. The rough drafts of monthly return should be filled up at the close of each day's work. In offices where registration exceeds 4,000, Sub-Registrars may entrust the preparation of the rough draft to their office assistance, in other offices, the Sub-Registrar should himself prepare the rough drafts. They should, in all cases be scrutinised and initialled daily by registering officers.

78. Deleted.

District Annual and Triennial Reports

79. The District Registration Report should be prepared for the calendar year, and forwarded to the Inspector General of Registration not later than the 15th January.

A full report should be submitted every third year in the intermediate years a note explaining any striking variations in the statistics of the year is all that is required. This note should be in a narrative form, should contain no subsidiary statements, and should be confined to a clear, but brief discussion of the result of the year.

The four Central statements in Forms Nos. 42, 45, 47, 48 and 49 of Schedule LIII-I and provincial statement in Form No.50 should be appended. In the triennial report the statistics for the preceding three years should be reviewed, and a full account of the working of the Department during the triennium should be furnished. This report should also be a narrative form, and should follow the skeleton form appended below :-

General

1. Introductory.
2. Brief summary of results-total registration (Form III, Columns 18-23).
3. Classification of deeds registered (Forms I and II).
4. Value of deeds registered (Forms I and II).
5. Operation other than registration (Form III, Columns 1-17). Refusal, bills, appeals, registration ordered by Civil Court, sale certificate, memo.
6. Working of the Muhammadan Marriages and Divorces Registration Act.
7. Miscellaneous including legislation, kabinmahs, documents destroyed, unclaimed or impounded, searches, applications for copies and prosecution.

Financial

8. Receipts.
9. Expenditure.
10. Financial result
11. Financial result of the opening of new Sub-Registry Offices.

Micellaneous

12. Average time taken to complete registration.
13. Office and records.
14. Inspections and conditions of offices.
15. Conduct of officers and general remarks on the results of the triennial period.

In addition to four Central Statements in Forms Nos. 42,45,47,48 and 49 and a Provincial Statement in Form No. 50 a Subsidiary Statement in the form given below should be included in the body of the triennial report :-

Subsidiary Statement

	Number of Registration				Total receipts	Total expenditure	Surplus	Number of registration offices (average)
	Affecting immovable property		Other Registration	Total				
	Compulsory	Optional						
Total of three years :								
Ditto ditto								
Ditto ditto								

At the same time that the district annual or triennial report is submitted, the District Registrar will forward a confidential report on the character and work of the Special Sub-Registrar and of each of Sub-Registrar in his district.

80. Deleted.

81. Every District Registrar and Sub-Registrar should submit his annual indent for register books and forms under different Schedules to the Secretary to the Government of Assam, in the Printing and Stationery Department on the date fixed by Government from time to time.

82. Deleted.

Supply and
custody of
forms

83. The rules framed by Government from time to time for the supply and custody of forms must be strictly observed. An Office Assistant should be placed in charge of the forms and stocks should be taken annually by the Sub-Registrars. A register of printed forms in Form No. 119 of Schedule II should be maintained in every office, and all entries therein must be initialled by the Office Assistant in charge. The Inspector of Registration Offices should, in course of his inspection, verify the balances of a percentage of the forms and satisfy himself that the rules are being observed.

Indents for
seals, etc.

84. When rubber seals, rubber rollers, printer's ink and apparatus for taking thumb impression, and other articles which are supplied to Sub-Registrars free of cost are required, an indent in the proper form should be submitted. Applications in letter form should not be made. In the case of indent for a new rubber seal, an impression of the old seal should be enclosed with the indent.

Supply of
stationery
articles to
Sub-Regis-
trars under
commission
system.

85. Sub-Registrars paid by commission may be supplied with registration ink and other stationery from the district office at cost price, which should be ascertained from the Controller of Stationery. The machine made medium paper required for copies under sections 64 and 65 will be supplied to them *gratis*. They are also supplied with registers, index books and printed forms free of charge. Salaried and *ex-officio* Sub-Registrars are supplied with books, forms, articles of stationery, and registration ink free of cost.

Stationery
indent.

86. All District Registrars shall send to the Inspector General of Registration an indent, in the prescribed form for stationery articles to be obtained from the Central Stationery office (including Registration ink) which will be required for the registry offices on or before the date fixed. Indents from the Sub-Registrars shall be submitted to the district office, at least a month before the date fixed by Government. The District indent shall include all ink and other stationery articles likely to be required by officers subordinate to the District Registrar.

MiscellaneousCorrection
slips to
Manual.

87. A note in the following form should be entered at the end of the Registration and the Stamp Manuals to be filled in as correction slips are received :-

Number and year of slips	Date of receipt	Page in which corrections have been made
1	2	3

Correspon-
dence

88. In Sub-Registry Offices, correspondence may conveniently be arranged in three collections, viz., General, Account and Statistics. A Sample list of files is given below. It is not intended that this list should be strictly adhered to, as additional files should be opened when necessary. All offices must maintain a Register of letters received and a Register of letter issued in the prescribed forms.

SAMPLE LIST OF FILES OF CORRESPONDENCE**General Department**

1. Annual reports.
2. Appeals.
3. Complaints.
4. Appointments.
5. Arrears.
6. Civil Court . Memoranda.
7. Civil Court Sale Certificates.

8. Construction of new offices.
9. Copies and memoranda.
10. Destruction of records.
11. Fees.
12. Holidays.
13. Improvements made in registration office.
14. Indexes.
15. Indents.
16. Inspections.
17. Leave.
18. Nomination rolls.
19. Power-of-attorney.
20. Prosecutions.
21. Registration of deeds.
22. Registration of births and deaths.
23. Registration of Civil Marriages (Act III of 1872).
24. Registration of Muhammadan Marriages (Assam Act IX of 1935).
25. Sub-Registry Offices.
26. Searches.
27. Security bonds.
28. Stamps.
29. Summonses.
30. Transfer of charges.
31. Transfer of records.
32. Visits and commissions.
33. Wills and iron-safe.
34. Miscellaneous.

Account Department

1. Comptroller.
2. Budget.
3. Commission (Salary).
4. Salary of Special Sub-Registrar.
5. Salaries of Sub-Registrars.
6. Salary of establishment (permanent).
7. Salary of temporary establishment.
8. Travelling allowance.
9. Contingencies.
10. Permanent advance.
11. Furniture.
12. Refunds of fees.
13. Rent of offices.
14. Service labels.
15. Stationery account.
16. Miscellaneous.

Statistics

1. Annual returns.
2. Monthly returns.
3. Miscellaneous returns.

It will probably be convenient in Sadar offices to open a separate file for each subordinate office.

Postage labels.

88.A. A defect register in the prescribed form shall be maintained in all registration offices wherein shall be noted all defects noticed in course of inspection and the steps taken to remove them. The entries in column 4 of the register shall be made by the registering officer himself.

Mode of submission of returns.

89. The postage on all official letters and covers sent by post from any registration office must be prepaid by service labels. These labels will be supplied to Sub-Registrars (on application) by Registrars who will disallow unreasonable and excessive demands. An account book of service labels will be kept in every registration office, in Form No.51, Schedule II.

90. Bills, monthly returns, applications for sanction to temporary establishment, and regular indents, should not be accompanied by covering letters. The envelopes containing them should be marked "returns." Letters and urgent should be separately sent.

Appeals under section 72, applications under section 73, and inquiries under section 74

Presentation of appeal of application

91. An appeal under section 72 of the Act or an application under section 73 shall be presented in writing to Registrar of the District, or to the officer in charge of the Registrar's office, accompanied by a copy of the order of refusal appealed against and the original document in respect of which the order was passed.

Admission of appeal or application pending production of document.

92. When the document is stated to be in the possession of some person other than appellant or the applicant and the latter desires time to obtain and produce it or to take steps for the issue of a summons for its production, the request may be complied with and the appeal or application admitted pending receipt of the document.

Persons entitled to file appeals under section 72 and applications under section 73

93. (i) An application under section 73 shall be presented either by the applicant or by his agent holding a power-of-attorney authenticated as laid down under the section 33 of the Act.

(ii) An appeal under section 72 shall be presented either by the executant or by the claimant or by the agent of either of them.

(iii) An appeal or an application shall not be accepted or acted upon if sent by post.

Appearance of unauthorised persons in appeals applications and enquiries.

94. In an enquiry connected with a will or an authority to adopt under section 41 (2) of the Act or an appeal under section 72 or an application under section 73 or in an original enquiry under section 74, persons not qualified under the Legal Practitioners' Act shall not be allowed to appear. Such persons are not, however debarred from acting as agents if authorised by a duly authenticated power-of-attorney.

Application under sections 73 and 74 to be promptly disposed of

95. The Sub-Registrars at the headquarters of a district who have been empowered by the State Government to perform the functions of a Registrar under section 7 of the Act should bear in mind the desirability of promptly disposing of cases under sections 73 and 74 of the Indian Registration Act. The question at issue, in these cases, is whether the document has been executed by certain persons and to determine this, Witness should be examined and evidence, if any, produced by the claimant, should be taken without delay after giving notice of the case to the opposite party. The enquiring officer is bound by law (section 75 of the Registration Act) to come to a decision as to the question of execution and should, without unnecessary delay, either order registration of the document or refuse such registration. Numerous adjournments on inadequate grounds, without coming to a decision as to whether or not the document was executed by the party by whom it is alleged to have been executed, are objectionable and inspecting officers will examine the records under section 73 and 74 carefully in order to see whether unnecessary delays have been made in the disposal of these cases.

To ensure that the recording of the evidence of the parties and their witnesses is not put off by reason of the Sadar Sub-Registrar's absence from headquarters on tour, the date of hearing of a case should be entered as a forward entry in his diary which be consulted when the Sadar Sub-Registrar's tour programme is prepared

Application under Section 73 cannot be struck off for simple non-appearance.

96. (a) An application under section 73 of the Indian Registration Act, XVI of 1903, should not be "struck off" by the District Registrar for the non appearance of the parties, but he would be justified in passing a formal order refusing to direct registration on the ground that execution has not been proved. He can also adjourn the case to some future date if he thinks fit.

Review of order.

(b) Where orders have been passed refusing to direct registration for reasons such a default of appearance of a party or non-payment of process fee, such order may be reviewed and the appeal or application may be re-admitted if the Registrar is satisfied that there is sufficient reason for its re-admission.

Admission of evidence voluntarily produced or otherwise available in appeal cases.

97. In an appeal under section 72, the Registrar is precluded from enforcing the attendance of witnesses by coercive processes, but there is no objection to his admitting evidence when it is available or voluntarily produced by the parties.

Enquiry into fact of execution on disproof of minority, idiocy or lunacy

98. In an appeal under section 72 preferred against an order of refusal to register on the ground that the executant is a minor, an idiot, or a lunatic, the Registrar shall, when he finds the executant to be a major or of sound mind, as the case may be, also enquire, into the fact of execution of the document in question. If execution is admitted, he shall direct registration.

Scope of enquiry under section 74.

99. When a Registrar exercises his discretion in receiving for registration a document under sub-section (1) of section 30 of the Registration Act and the executant or his representative or assign denies its execution, the Registrar is not, like a Sub-Registrar, to refuse its registration forthwith, but he will proceed under section 74 to enquire into the points mentioned in clauses (a) and (b) of that section.

Mode of recording evidence in enquiries under section 74.

100. (a) In enquiries under section 74, Registrars shall, if they examine witnesses, record their evidence in the manner provided in the Code of Civil Procedure, 1908.

(b) When it is necessary to examine any witness on commission, the procedure laid down in Order XXVI of the Civil Procedure Code should be followed.

Costs under section 75.

101. Costs decreed under section 75 shall be recovered by the Collectorate establishment acting under the orders of the Registrar.

Care should be taken to use the title of Registrar in the processes issued in such cases. The costs shall be paid to the party or remitted to the treasury as revenue deposit when realised.

Appeals under section 72 how to be stamped

102. The original memorandum of appeal under section 72 shall be charged with a court-fee stamp under Article 11, Schedule II, of the Court-fee Act, 1870 as amended from time to time.

Applications under section 73 not to be stamped.

103. An application made to a Registrar under section 73 is not assessable to duty either under Article 1 (b), Schedule II, of the Court-fee Act, 1870, or under Article 11, Schedule II of the same Act as amended. Such applications should therefore be made on plain paper only.

Mode of issuing summons and its cost to be realised.

104. (a) Every application for summons must be accompanied by the sum payable the witnesses as expenses, as well as the amount of peon's fees usually chargeable by the Revenue Officer or Civil Court through which the summons is to be issued, and in forwarding for compliance an application for summons, the registering officer shall also forward the sums deposited to meet the witnesses expenses and the peon's fee, together with the summons in duplicate.

(b) In the event of a person summoned under section 37 neglecting to appear, or if a summons under that section cannot be served, the registering officer may call upon the Revenue Officer or Civil Court through whom his summonses are served to take any further action authorised by the law for the time being in force, for the purpose of securing the attendance of the person whose evidence is required, and as such a requisition must be accompanied by the proper fee. It rests with the registering officer to specify the nature of action to be taken.

(c) All processes issued under statutory order No.5 to any district, the vernacular of which differs from that in which the process is written, shall invariably be accompanied by a translation in English.

- (d) A summons under section 75 is issued direct by the Registrar in accordance with the provisions of order No. XVI, First Schedule of the Code of Civil Procedure.
- (e) If the summons be addressed to a person who is alleged to have executed the document, it shall require him to attend in person or by agent : if it be addressed to any person whose evidence is required to prove the fact, it shall require him to attend in person.
- (f) Processes cannot be issued against a person exempted from personal appearance at the registration office under the provision to section 33 and under section 38. In such cases the registering officer shall either himself go to the house of the person to be examined or to the jail in which he is confined, or issue a commission for his examination.
- (g) Section 36 of the Indian Registration Act empowers an officer to issue a summons requiring appearance personally or by agent. Section 38, read with section 132 of the Civil Procedure Code, lays down that *Pardanashin* women shall not be required so to appear. It follows therefore that a summons cannot be issued to secure the attendance of a *Pardanashin*. The procedure indicated in section 38 (2) should be followed in regard to a *Pardanashin* executant, and if she declines to appear before the Commissioner or officer paying the visit, or to answer his question, the registering officer is competent to refuse registration.

Syed I. Hussain, IAS.

Inspector general of Registration, Assam,

Rupnagar : Guwahati - 32

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