



ANDHRA PRADESH

Judicial Services Exam

CIVIL JUDGE (Junior Division)

High Court of Andhra Pradesh

Procedural Law

Volume - 2



ANDHRA PRADESH JUDICIARY SERVICES

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THE ANDHRA PRADESH CIVIL RULES OF PRACTICE AND CIRCULAR ORDERS, 1990

CHAPTER I Preliminary

1. Short title

These rules shall be called The Civil Rules of Practice and Circular Orders, 1980.

2. Definitions

In these rules, unless there is something repugnant to the subject or context,—

- (a) "Address for service" means the place appointed by a party, or his Advocate, at which service of summons, notice or other process may be made on such party;
- (b) "Advocate" includes a pleader;
- (c) "Application" includes execution application, execution petition, and interlocutory application, whether written or oral;
- (d) "Code" means the Code of Civil Procedure, 1908 (5 of 1908) as amended from time to time;
- (e) "Execution Petition" means a petition to the court for the execution of any decree or order;
- (f) "Execution application" means an application to the court made in a pending execution petition, and includes an application for transfer, of a decree;
- (g) "First hearing" includes the hearing of a suit for settlement of issues and any adjournment therefor;
- (h) "High Court" means the High Court of Andhra Pradesh;
- (i) "Interim decree" means a decree declaring the rights and liabilities of the several parties and providing for the determination of the particular property or sum of money to be apportioned or paid to any party, or for otherwise giving effect to such declaration;
- (j) "interlocutory application" means an application to the court in any suit, appeal or proceeding already instituted in such court, other than a proceeding for execution of a decree or order;
- (k) "Original petition" means a petition whereby any proceeding other than a suit or appeal or proceeding in execution of a decree or order, is instituted in a court;
- (l) "Proceeding" includes all documents presented to or filed in court by any party or Commissioner or other Officer of Court, other than documents produced as evidence;

- (m) "Verified" means verified in the manner provided by Order VI, Rule 15 of the Code;
- (n) "Other expressions" all other expressions used herein shall have the respective meanings prescribed by the Code or the General Clauses Act, 1897.

3. Sitting of Courts

The sitting of the Court shall ordinarily commence not later than 11 A.M. and unless the work of the day is disposed of earlier the Court shall not rise before 5 P.M.: except for lunch on between 2 and 2.30 P.M.

4. Judicial work on Sunday

No case shall ordinarily be heard and no judicial act formally announced or done on a Sunday or other Public Holiday: Provided that the Court may sit on a Sunday or other Public Holiday for the purpose of completing the examination of a witness or any other urgent proceeding then in progress which cannot be adjourned to the next working day.

5. Form

The Forms in Appendix III, Part-II, Volume II, hereto shall be used with such variations as circumstances may require.

6. Reckoning of prescribed day

In all cases in which any particular number of days, not expressed to be clear days, is prescribed by these rules, the same shall be reckoned exclusively of the first day and inclusively of the last day, unless the last day falls on a Sunday, or other day on which the office of the Court is closed, in which case the time shall be reckoned exclusively of that day also, and of any other following day or days during which the office may continue to be closed.

7. Service of notice

- (1) Except where otherwise provided by the Code, or these Rules, or any law for the time being in force, any notice, directed to be given to any party shall be in writing and may be served by the party or his Advocate on the other party, or his Advocate personally, or by sending the same by post in a registered post cover, acknowledgement due, or by speed post or by an approved courier service by fax message or by electronic mail or by such means to the address for service of the party or his Advocate.
- (2) (a) Where the party is directed/permitted by an order of the Court to takeout summons/notices by Registered Post "acknowledgement due, Or By Speed Post Or By An Approved courier service or by fax message or by Electronic

Mail service or by such means", the PRESIDING OFFICER shall handover summons/notices duly prepared and signed by the authorized Officer to the petitioner or his advocate for service on the other parties.

- (b) (i) The petitioner or his advocate shall file a memo stating the mode of service by which he effected the service enclosing the acknowledgement card or returned postal covers or any other proof."
 - (ii) The person who effects the service on behalf of the courier service and the person authorized by the Board of Courier Service Company shall give separate affidavits in the prescribed Form Nos. 14(A) & 14(B) stating the manner of service and also the persons in whose presence the service is effected enclosing the acknowledgement card/returned covers with endorsement of refusal signed by the witness/witnesses;
 - (iii) If the affidavit or any endorsement as to service is found to be false, the concerned Court shall summarily try and punish the deponent i.e., the person of the courier service or the person authorized by the Board of Courier Service Company, for perjury and the concerned Court shall also black list the Courier Service Company
- (3) The District Judge shall prepare a panel of courier services for the courts situated at the District Head Quarters and separate panels for Courts situated outside District Head Quarters for sending summons, notices, and other process by such courier service and such panels continue until further orders.

CHAPTER II

Form of Proceedings

8. Form of complaints, etc.

All complaints, written statements, applications, affidavits, memorandum of appeal and other proceedings presented to the Court, shall be written, typewritten or printed, fairly and legibly on stamped paper or on substantial foolscap folio paper, with an outer margin of about two inches and an inner margin about one inch wide, and separate sheets shall be stitched together book wise. The writing or printing may be on both sides of the paper, and numbers shall be expressed in figures.

9. Cause-title of complaint etc.

- (1) A complaint, or original petition, shall be headed with a cause-title, as in Form No. 1. The cause title shall set out the name of the Court, and the names of the parties, separately numbered, and described as plaintiffs and defendants or petitioners and respondents as the case may be.
- (2) Cause title of memorandum of appeal:—A memorandum of appeal shall be headed with a cause-title setting out the names of the courts to and from which the appeal is brought, the names of the parties, separately numbered and described as appellants and respondents, and also the full cause title of the suit or matter in the lower court, as in Form No. 2.
- (3) Cause-title of subsequent proceedings:—All proceedings, subsequent to a complaint or original petition shall be headed with cause-title as in Form No. 1 and all proceedings subsequent to a memorandum of appeal shall be headed with a cause-title as in the first part of Form No. 2.
- (4) Description of contents:—Every proceedings shall also contain, immediately after the cause-title, a short description of its contents, as in Form Nos. 5 and 6.

10. Names etc. of parties

The full name, residence, and description of each party, and if such is the case, the fact that any party uses or is used in a representative character, shall be set out at the beginning of the complaint, original petition, or memorandum of appeal, as in Form No. 5, and need not be repeated in the subsequent proceedings in the same suit, appeal or matter.

11. Address for Service

- (1) Every pleading shall contain the address for service, which shall be within the local limits of the jurisdiction of the Court in which the suit is filed or of the District Court in which the party ordinarily resides. The address for service shall contain particulars such as the Municipal or Panchayat number of the house, name of the street and locality.
- (2) A party who desires to change the address for service given by him as aforesaid shall file a verified petition and the court may direct the amendment of the record accordingly. Notice of every such petition be given to all the other parties to the suit.
- (3) The address so given shall be called the registered address of the party and shall, until duly changed as aforesaid, be deemed to be address of the party for the purpose of service of all processes in the suit or in any appeal from the decree or order therein made and for the purpose of execution.

12. Suits by or against numerous parties

- (1) An application under Order I, Rule 8 of the Code shall be supported by an affidavit stating the number or approximate number of the Parties, and the places where they respectively, reside; that they have all the same interest in the subject-matter of the suit, and the nature of the said interest, and the best means of giving notice of the institution of the suit to the said parties, and the probable cost thereof. If the application is made by the plaintiff, it may be made in Form No. 10 and the estimated costs of giving notice of the institution of the suit shall at the same time be deposited in Court.
- (2) The plaint shall state that the plaintiff sues on behalf of himself and all other persons interested in the subject-matter of the suit, or sues the defendant as representing all persons so interested and the summons to the defendant shall contain the notice set forth in Form No. 11.

13. When application is made by defendant

If the application is made by a defendant, notice thereof shall be given to all parties to the suit; and if permission is granted, the plaint shall be amended by inserting a statement that the defendant is with the leave of the Court, sued as the representative of all persons interested in the subject-matter of the suit.

14. Proceedings in respect of immovable property

Every plaint, original petition and memorandum of appeal, in which relief is sought with respect to immovable property, shall state, as part of the description thereof the registration district, sub-district, the name of the village, Municipality or Corporation in which the property is situate, the survey number or the house

number, if any, the market value of the property and the value for purpose of court-fee and jurisdiction as computed according to provisions of the Andhra Pradesh Court Fees and Suits Valuation Act, 1956 and in cases where the court-fee payable on the rental value, the annual rental value of the property for which it is let, and there shall be annexed thereto a statement duly filled in and signed by the party of the particulars mentioned in Form No.8. In the absence of the said particulars, the proceedings may be received but shall not be admitted or filed until the provisions of this Rule have been complied with.

15. Leave to sue

- (1) If under Section 20(b) of the Code, leave to institute a suit is required, the plaint shall contain a prayer that leave may be granted, and shall be accompanied by an affidavit stating the residences and occupations of the several defendants and the reasons for instituting the suit in the court.
- (2) If leave to sue is granted, the summons to the defendant shall contain the notice set out in Form No. 9.
- (3) The Court may, in its discretion, issue notice of the application to the defendants before passing an order thereon.

16. List of documents filed along with the plaint

Every plaint shall at the foot thereof, contain a list, to be signed by the plaintiff or his advocate, of the documents filed therewith, in Form No. 7 or a statement, signed as aforesaid, that no document is filed therewith.

17. Form prescribed for list filed under Order XIII, Rule 1

The list of documents, if any filed, by the parties under Order XIII, Rule 1 of the Code, shall be in Form No. 7. In the case of a document produced by a witness or person summoned to produce a document, the form shall be supplied by the party at whose instance the document was produced. The list as well as the documents shall be immediately entered in the general index.

18. Translation of documents

Every document produced by a party or his witness not written in the language of the Court or in English shall be accompanied by a correct translation of the document into the language of the Court or in English. The translation is correct. If the party is not represented by an Advocate, the Court shall have the translation certified by any person appointed by it in this behalf at the cost of the concerned party.

19. Note on defaced documents

When a document produced with any pleading appears to be defaced, torn, or in any way damaged, or where its condition or appearance required special notice, a note of its condition and appearance shall be made on the list of documents by the party producing the same and should be checked and initialled, if correct, by the receiving officer.

20. Presentation of proceedings

- (1) All plaints, written statements, applications, and other proceedings and documents may be presented to or filed in court by delivering the same by the party in person or by his recognized agent or by his Advocate or by a duly registered clerk of the Advocate to the Chief Ministerial Officer of the Court or such other officers as may be designated for the purpose by the Judge before 4.00 P.M. on any working day. Provided that in case where the limitation expires on the same day they may be received by a Judge even after 4.00 P.M.
- (2) The Officer to whom such documents were presented shall at once endorse on the documents the date of presentation, the value of the stamp fixed, and if the proceedings, are thereby instituted, shall insert the serial number.
- (3) In case of paper bearing court fee stamps, he shall, if required issue a receipt in Form No. 17 in Appendix III-L to these rules.
- (4) Every plaint or proceeding presented to or filed in Court shall be accompanied by as many copies on plain paper of the plaint or proceeding and the document referred to in Rule 16, as there are defendants or respondents unless the Court otherwise dispenses with such copies of the documents by reason of their length or for any other sufficient reason.

21. Date of pleadings

Every pleading or other document filed in a Court shall bear the date on which the signature of the party is affixed, the date of its presentation and the date of its filing in Court.

22. Procedure on presentation

- (1) On presentation of every plaint the same shall be entered in Register No. 17 in Appendix II, Part-II, Volume II and examined by the Chief Ministerial Officer of the Court
- (2) If he finds that the plaint complies with all the requirements, he shall make an endorsement on the plaint 'Examined and may be registered' with the date and his signature and placed before the Judge. The Chief Ministerial Officer shall also endorse on the plaint or proceeding if any caveat has been filed. If he thinks that the plaint shall be returned for presentation to the proper court or

be rejected under Order VII Rule 11 or for any other person, he shall place the matter before the Judge for orders.

- (3) Subject to the provisions of sub-rule (2), any non-compliance with these rules or any clerical mistake may be required by the Chief Ministerial Officer to be rectified. Any rectification so effected, shall be initialled and, dated by the party or his advocate making the same and the Chief Ministerial Officer shall note the number of corrections in the margin and shall initial and date the same. In the event of such rectification not being made within the time specified, the Chief Ministerial Officer shall place the matter before the Judge for Orders.

23. Registration of plaint

Where, upon examination, the plaint is found to be in order, it shall be entered in the register of suits, and the Judge shall pass orders as to the issue of summons or otherwise.

24. Documents or proceedings not to be sent by post or telegraph

No document or proceeding required to be presented to, or filed in, Court which is sent by post or telegraph, shall be received or filed in Court.

Provided that in cases where the Official Assignee or an Official Receiver does not intend to defend or contest any proceeding before a Court in which he is impleaded as party, he may inform the Court accordingly by a statement in writing in the form appropriate to the proceeding, and send it to the Court by post or personal messenger. Such statement shall form part of the record of the proceeding.

25. Connected pleading

Where two or more suits are in any way connected with each other, the party or his Advocate shall file a Memo describing the cases which are so connected.

26. Signature of the party on the pleadings

- (1) The parties shall sign at the foot of the pleading and any one of them shall also sign at the end of each of the other pages: Provided that if impressed stamp papers are tacked on to a plaint for purposes of Court-fee, such papers may be signed either by the party or the Advocate concerned.
- (2) Verification of pleadings shall be made next below the paragraph claiming relief and also at the foot of the schedule, if any, appended thereto.

27. Adding plaintiff or next friend

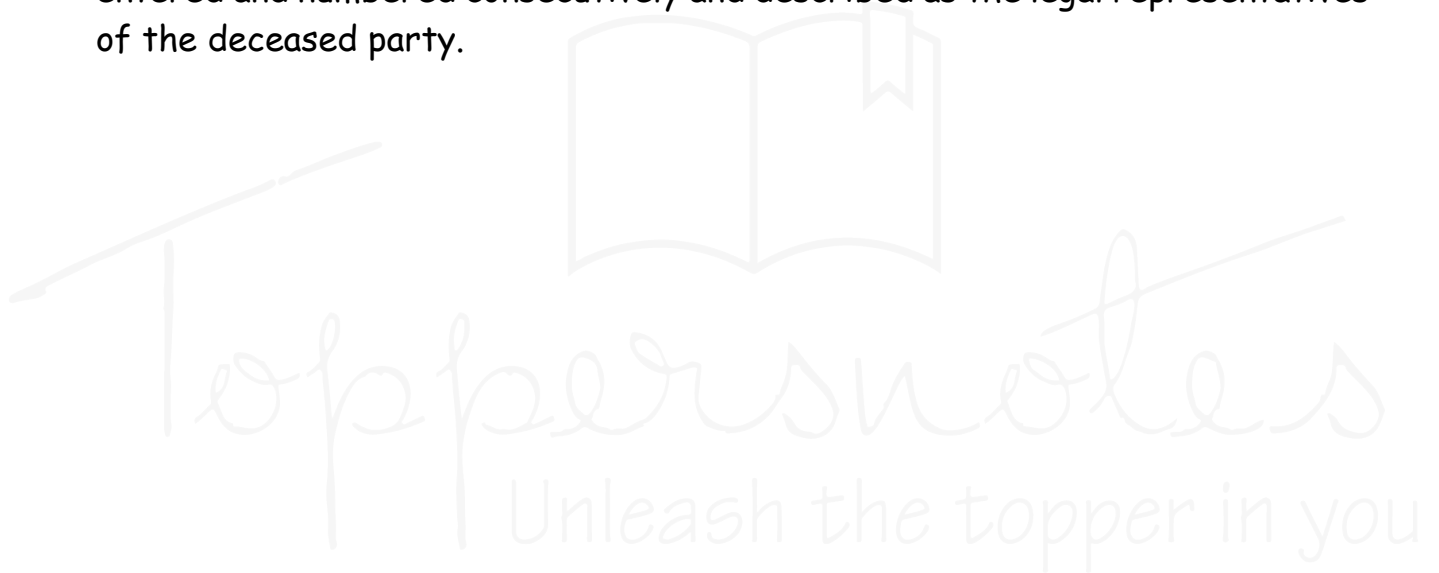
If an application is made to add any person as plaintiff, or as the next friend of a plaintiff, he shall either appear in person, in which case his consent to be so added shall be recorded by the Judge in writing or a written consent thereto signed by him, and authenticated by a person authorized to take affidavits shall be filed in Court.

28. Amendment in pleadings

An application for amendment made under Order 1, Rule 103, Order 6, Rule 17, or Order 22 of the Code, shall also contain a prayer for all consequential amendments. The Presiding Officer shall reject the application if it is not in accordance with the law or these rules: Provided that verbal corrections may at any time be made in pleadings with permission of the Court.

29. Legal Representatives on record

- (1) When a party dies pendente lite' a note to that effect shall be added against the name of the party and necessary consequential amendments in the body of the pleading shall also be made as prayed for.
- (2) When the heirs of a deceased party are substituted for him they shall be entered and numbered consecutively and described as the legal representatives of the deceased party.



CHAPTER III

Advocates and Recognized Agents

30. Form of Vakalat

Every Vakalat shall unless otherwise ordered by the Court, be in Form No. 12 and shall authorise the Advocate to appear in all execution and miscellaneous proceedings in the suit or matter subsequent to the final decree or order passed therein.

31. Appointment of Advocate

- (1) Save as provided in sub-rule (3) of this rule, every Vakalatnama shall be executed or its execution attested before a judicial functionary, a Gazetted Officer, a member of the State Legislature or a member of Parliament or a member of the Gram Panchayat, Sarpanch, Upa-Sarpanch constituted under the Andhra Pradesh Gram Panchayats Act, 1964, or a member of the Panchayat Samithi or Zilla Parishad, a Municipal Councillor, Village Headman or a retired Gazetted Officer receiving pension from the Government or before a Commissioned Military Officer or an Advocate either than the Advocate in whose favour the Vakalatnama is executed or appointment, made or as defined in the Notaries Act, 1952 (Act LIII of 1952) before any Sub-Registrar of the Registration Department who shall subscribe his own signature with designation on the vakalatnama in authentication of its execution or attestation.
- (2) When a vakalatnama is executed by any person who appears to the officer before whom it is executed, or the execution is attested to be illiterate, blind, or unacquainted with the language, in which the vakalatnama is written the officer shall certify that the vakalatnama was read, translated or explained in his presence to the executant, that he seemed to understand it and that he made his signature or mark, in the presence of the officer.
- (3) When the executant of a vakalatnama is himself a public officer of whose signature a court may take judicial notice, authentication on the vakalatnama may not be necessary.
- (4) A statement of the advocate's address for service shall be endorsed on the vakalatnama and subscribed with his own signature by the advocate.
- (5) Where the attesting officer is not personally acquainted with the executant of a vakalatnama, the attesting officer shall mention the name and address of the person who identifies the executant and obtain his signature.

32. Party appearing by Agent

- (1) When a party appears by any agent, other than an advocate, the agent shall, before making of or doing any appearance, application, or act, in or to the court, file in court the power of attorney, or written authority, thereunto authorising him or a properly authenticated copy thereof together with an affidavit that the said authority still subsisting; or, in the case of an agent carrying on a trade or business on behalf of a party, without a written authority, an affidavit stating the residence of his principal, the trade or business carried on by the agent on his behalf and the connection of the same with the subject-matter of the suit, and that no other agent is expressly authorised to make or do such appearance, application, or act.
- (2) The Judge may there upon record in writing that the agent is permitted to appear and act on behalf of the party; and unless and until the said permission is granted, no appearance, application, or act, of the agent shall be recognized by the Court.

33. Signing or verification by Agent

If any proceeding, which under any provision of law or these rules, is required to be signed or verified by a party, is signed or verified by any person on his behalf, a written authority in this behalf signed by the party shall be filed in court, together with an affidavit verifying the signature of the party, and stating the reason of his inability to sign or verify the proceeding, and stating the means of knowledge or the facts set out in the proceeding of the person signing or verifying the same and that such person is a recognized agent of the party as defined by Order III, Rule 2 of the Code and is duly authorized and competent so to do.

CHAPTER IV

Affidavits

34. Interpretation of words

The word 'affidavit' in this Chapter shall include any document required to be sworn; and the words 'swear' and 'sworn' shall include 'affirm' and 'affirmed';

35. Form

Every affidavit shall be drawn up in the first person and divided into paragraphs numbered consecutively, and each paragraph as nearly as may be, shall be confined to a distinct portion of the subject.

Every affidavit shall be written or typed or printed and stitched book wise. The deponent shall sign at the foot of each page of the affidavit.

Note: - For forms of Oath and affirmation refer the Schedule to the Indian Oaths Act, 1969.

36. Description of deponent

Every person making an affidavit shall subscribe his full name, the name of his father, his age, place of residence and his trade or occupation.

37. Title of affidavits

Every affidavit shall be entitled as in the suit or matter in which it is filed but in every case in which there are more than one plaintiff or defendant, it shall be sufficient to state the full name of the first plaintiff or defendant, respectively and that there are other plaintiffs or defendants as the case may be.

38. Before Whom may be sworn

Affidavits intended for use in judicial proceedings may be sworn before any Court or Magistrate or a Member of Nyaya Panchayat constituted under the A.P. Gram Panchayats Act, 1964, or a Sub-Registrar, Nazir, or Deputy Nazir or a member of the State Legislature or a Member of Parliament, or a Municipal Councillor or a Member of Zilla Parishad or any Gazetted Officer in the service of the State Government or the Union Government or a Notary as defined in the Notaries Act, 1952, or a retired Gazetted Officer receiving pension from Government or a commissioned Military Officer or an Advocate other than the Advocate who has been engaged in such proceeding or any Superintendent in the Office of the Commissioner for the Andhra Pradesh Hindu Religious Institutions and Charitable Endowments.

39. Statement of Officer before whom affidavit is sworn

The Officer before whom an affidavit is sworn or affirmed shall state the date on which, and the place where, the same is sworn or affirmed and sign his name and description at the end as in Form No. 14; otherwise the same shall not be filed or read in any matter without the leave of the Court.

40. Interlineations, alterations, etc.

No affidavit having in the Jurat or body thereof any interlineation, alteration or erasure shall, without the leave of the Court, be read or filed or made use, of unless the interlineation or alteration (other than by erasure) is authenticated by the initials of the Officer taking the affidavit, nor in the case of an erasure, unless the words or figures, appearing at the time of taking the affidavit to be written on the erasure, are re-written and initialled in the margin of the affidavit by the officer taking it. An Officer may refuse to take an affidavit where, in his opinion, the interlineation or alterations, or erasures are so numerous as to render it necessary that the affidavit should be rewritten.

41. Deponent to be identified

Every person making an affidavit for use in the Court shall if not personally known to the person before whom the affidavit is made, be identified by some one known to him, and the person before whom the affidavit is made shall state at the foot of the affidavits, the name, address, and description of the person by whom the identification was made.

42. Identification of a Purdahnashin woman deponent

Where the deponent is purdahnashin woman and has not appeared unveiled before whom the affidavit is made, she shall be identified by a person known to him and such person shall at the foot of the affidavit certify that the deponent was identified by him and shall sign his name giving his name and address.

43. Blind or illiterate deponent

When an affidavit is sworn or affirmed by any person who appears to the officer taking the affidavit to be illiterate, blind, or unacquainted with the language in which the affidavit is written the Officer shall certify that the affidavit was read, translated or explained in his presence to the deponent, and that the deponent seemed to understand it and made his signature or mark in the presence of the Officer, as in Form No. 15 otherwise the affidavit shall not be used in evidence: Provided that where the deponent, due to physical deformity or any other cause, is unable to sign or affix his mark on the affidavit, such affidavit may be received in evidence, if the Officer before whom the affidavit is subscribed certifies, that the

contents of the affidavit were read over and explained to the deponent and admitted by him to be correct.

44. Filing

Before any affidavit is used it shall be filed in Court but the Judge may, with the consent of both parties, or in case of urgency, allow any affidavit to be presented to the Court and read on the hearing of an application.

45. Notice of filing

The party filing an affidavit intended to be read in support of an application shall give not less than two days' notice thereof to the other parties, who shall be entitled to inspect and obtain copies of the same, and to file counter-affidavits and shall give notice thereof to the applicant, who may inspect and obtain copies of the same; and file affidavits in reply but except with the leave of the Court no further affidavit shall be filed or read. If any party fails to give notice of filing an affidavit the Court may grant an adjournment of the hearing and order the party in default to pay the costs thereof.

46. Affidavits not to be filed without proper endorsement

No affidavit shall be filed in the Court unless properly endorsed with the number and title of the suit or matter, the name of the deponent, the date on which it is sworn and by whom and on whose behalf it is filed.

47. Description of the person or place

When in an affidavit any person is referred to, the correct name and address of such person and further description as may be sufficient for the purpose of the identification of such person, shall be given in the affidavit. When any place is referred to in an affidavit, it shall be correctly described.

48. Affidavit on information and belief

Every affidavit containing statements made on the information or belief of the deponent shall state the source or ground of the information or belief.

49. Affidavit stating matter of opinion

Every affidavit stating any matter of opinion shall show the qualification of the deponent to express such opinion, by reference to the length of experience, acquaintance with the person or matter as to which the opinion is expressed, or other means of knowledge of the deponent.

50. Striking out scandalous matter

The Court may suo motu, or on application order to be struck out from any affidavit any matter with which is scandalous and may order payment of costs of the application, if any, filed for that purpose.

51. Documents referred to in affidavit

Documents referred to by affidavit shall be referred to as exhibits and shall be marked in the same manner as exhibits admitted by the Court and shall bear the certificate in Form No. 16 which shall be signed by the Officer before whom the affidavit is taken.

52. Cross-examination on affidavit

The Court may, at any time direct that any person shall attend to be cross-examined on his affidavit.

