

declaring that he shall be debarred from claiming any right to or interest in the property in suit.

(3) Any plaintiff or defendant against whom an order is made under this rule may apply to have it set aside and the provisions of sub-rules (2) and (3) of rule 2 shall apply *mutatis mutandis* to such application."—(1-10-1983).

[Gujarat].—Same as that of Karnataka.

[Karnataka].—Add the following as sub-rule (4) to rule 2:—

"(4) The provisions of section 5 of the Limitation Act, 1963, shall apply to applications under this rule."—(R.O.C. No. 2526/1959, dated 9-2-1967).

[Madhya Pradesh].—Same as that of Bombay.

ORDER XXVI

COMMISSIONS

Commissions to examine witnesses

1. Cases in which Court may issue commission to examine witness.—Any Court may in any suit issue a commission for the examination on interrogatories or otherwise of any person resident within the local limits of its jurisdiction who is exempted under this Code from attending the Court or who is from sickness or infirmity unable to attend it:

⁹¹[Provided that a commission for examination on interrogatories shall not be issued unless the Court, for reasons to be recorded, thinks it necessary so to do.

Explanation.—The Court may, for the purpose of this rule, accept a certificate purporting to be signed by a registered medical practitioner as evidence of the sickness or infirmity of any person, without calling the medical practitioner as a witness.]

Amendments : Objects and Reasons.—*Clause 78—Sub-clauses (i) and (ii).*—Order XXIV deals with commissions issued by the Courts. Commissions are of four kinds, namely, (i) to examine witnesses, (ii) to make local investigations, (iii) to examine accounts and (iv) to make partitions of immovable property. Rule 1 provides for the issue of a commission for the examination of witness on interrogatories or otherwise. An order for examination of a witness on interrogatories is sometimes issued when the examination of such witness should really be comprehensive. The rule is being amended to provide that examination on interrogatories should be ordered only in special cases. It is also being provided that for proving the sickness or infirmity of the witness, a certificate signed by a qualified registered medical practitioner should be accepted. [Statement of Objects and Reasons (Bill)—Gazette of India, Ext., dt. 8-4-1974, Pt. II, S. 2, p. 328.]

High Court Amendment—[Allahabad].—For rule 1, substitute the following rule:—

"1. *Commission to examine witness.*—Any Court may, in any suit, if for reasons to be recorded in writing, it thinks it necessary so to do in the interest of justice or expedition, issue a commission for examination of any person on interrogatories or otherwise."—(w.e.f. 22-11-1980).

2. Order for commission.—An order for the issue of a commission for the examination of a witness may be made by the Court either of its own motion or on the application, supported by affidavit or otherwise, of any party to the suit or of the witness to be examined.

3. Where witness resides within Court's jurisdiction.—A commission for the examination of a person who resides within the local limits of the

91. Added by the Code of Civil Procedure (Amendment) Act, 1976, S. 75 (w.e.f. 1-2-1977).

jurisdiction of the Court issuing the same may be issued to any person whom the Court thinks fit to execute it.

High Court Amendment—[Allahabad].—For rule 3 substitute the following:—

"3. *Commission to whom issued.*—Such commission may be issued to any Court not being a High Court within the local limits of whose jurisdiction such person resides or to any pleader or other person whom the Court thinks fit to execute it and the Court shall direct whether the commission shall be returned to itself or to any subordinate Court."—(22-11-1980).

4. Persons for whose examination commission may issue.—(1) Any Court may in any suit issue a commission ⁹²[for the examination on interrogatories or otherwise of—]

(a) any person resident beyond the local limits of its jurisdiction;

(b) any person who is about to leave such limits before the date on which he is required to be examined in Court; and

(c) ⁹³[any person in the service of the Government] who cannot, in the opinion of the Court, attend without detriment to the public service:

⁹⁴[Provided that where, under rule 19 of Order XVI, a person cannot be ordered to attend a Court in person, a commission shall be issued for his examination if his evidence is considered necessary in the interests of justice:]

Provided further that a commission for examination of such person on interrogatories shall not be issued unless the Court, for reasons to be recorded, thinks it necessary so to do.]

(2) Such commission may be issued to any Court, not being a High Court, within the local limits of whose jurisdiction such person resides, or to any pleader or other person whom the Court issuing the commission may appoint.

(3) The Court on issuing any commission under this rule shall direct whether the commission shall be returned to itself or to any subordinate Court.

High Court Amendments—[Allahabad].—Rule 4 omitted—(22-11-1980).

[Madhya Pradesh].—Add the following clause (d) to sub-rule (1):—

"(d) any person who by reason of anything connected with the war cannot conveniently be spared."

⁹⁵[4-A. *Commission for examination of any person resident within the local limits of the jurisdiction of the Court.*—Notwithstanding anything contained in these rules, any Court may, in the interest of justice or for the expeditious disposal of the case or for any other reason, issue commission in any suit for the examination, on interrogatories or otherwise, of any person resident within the local limits of its jurisdiction, and the evidence so recorded shall be read in evidence.]

Amendments : Objects and Reasons.—Clause 29.—Order XXVI enables the Court to issue commission only in cases where witness resides outside the local limits of the jurisdiction of the Court. It is proposed to amend Order XXIV by inserting a new rule 4-A so as to enable the Court to issue commission in any case where the interest of justice so demands. [Statement of Objects and Reasons (Bill 1999).]

⁹² Substituted for "for the examination of" by the Code of Civil Procedure (Amendment) Act, 1976, S. 75 (w.e.f. 1-2-1977).

⁹³ Substituted by A.O. 1937, for "any civil or military officer of the Government".

⁹⁴ Inserted by the Code of Civil Procedure (Amendment) Act, 1976, S. 75 (w.e.f. 1-2-1977).

⁹⁵ Inserted by the Code of Civil Procedure (Amendment) Act, 1999, S. 29 (w.e.f. 1-7-2002).

High Court Amendment—[Rajasthan].—After rule 4, add the following:—

"4-A. *Commission for examination of any person resident within Court's local limits.*—(1) Notwithstanding anything contained in these rules, any Court may, in the interests of justice or for the expeditious disposal of the case or for any other reason, issue commission in any suit for the examination on interrogatories or otherwise, of any person resident within the local limits of its jurisdiction, and the evidence so recorded shall be read in evidence.

(2) The provisions of sub-rule (1) shall apply to proceedings in execution of a decree or order."—(w.e.f. 1-12-1973).

[N.B.—Similar provision [R. 4(1)] has been incorporated in the Central Act by the 1999 Amendment Act.]

5. Commission or request to examine witness not within India.—Where any Court to which application is made for the issue of a commission for the examination of a person residing at any place not within ⁹⁶[India] is satisfied that the evidence of such person is necessary, the Court may issue such commission or a letter of request.

6. Court to examine witness pursuant to commission.—Every Court receiving a commission for the examination of any person shall examine him or cause him to be examined pursuant thereto.

7. Return of commission with depositions of witnesses.—Where a commission has been duly executed, it shall be returned, together with the evidence taken under it, to the Court from which it was issued, unless the order for issuing the commission has otherwise directed, in which case the commission shall be returned in terms of such order; and the commission and the return thereto and the evidence taken under it shall ⁹⁷[subject to the provisions of rule 8] form part of the record of the suit.

High Court Amendment—[Allahabad].—In rule 7, the words "subject to the provisions of rule 8" shall be omitted and the words "and shall be read as evidence in the suit" shall be inserted in the end.

8. When depositions may be read in evidence.—Evidence taken under a commission shall not be read as evidence in the suit without the consent of the party against whom the same is offered, unless—

(a) the person who gave the evidence is beyond the jurisdiction of the Court, or dead or unable from sickness or infirmity to attend to be personally examined, or exempted from personal appearance in Court, or is a ⁹⁸[person in the service of the Government] who cannot, in the opinion of the Court, attend without detriment to the public service, or

(b) the Court in its discretion dispenses with the proof of any of the circumstances mentioned in clause (a), and authorises the evidence of any person being read as evidence in the suit, notwithstanding proof that the cause for taking such evidence by commission has ceased at the time of reading the same.

High Court Amendment—[Allahabad].—Rule 8 omitted—(w.e.f. 22-11-1980).

Commissions for local investigations

9. Commissions to make local investigations.—In any suit in which the Court deems a local investigation to be requisite or proper for the purpose of

⁹⁶ Substituted by Act 2 of 1951, S. 3, for "the States".

⁹⁷ Substituted by the Code of Civil Procedure (Amendment) Act, 1976, S. 75, for "subject to the provisions of the next following rule".

⁹⁸ Substituted by A.O. 1937, for "civil or military officer of the Government".

elucidating any matter in dispute, or of ascertaining the market-value of any property, or the amount of any *mesne profits* or damages or annual net profits, the Court may issue a commission to such person as it thinks fit directing him to make such investigation and to report thereon to the Court:

Provided that, where the State Government has made rules as to the persons to whom such commission shall be issued, the Court shall be bound by such rules.

High Court Amendments—[Calcutta].—Omit proviso to rule 9:

[Gauhati].—Same as that of Calcutta.

10. Procedure of Commissioner.—(1) The Commissioner, after such local inspection as he deems necessary and after reducing to writing the evidence taken by him, shall return such evidence, together with his report in writing signed by him, to the Court.

(2) **Report and depositions to be evidence in suit.**—The report of the Commissioner and the evidence taken by him (but not the evidence without the report) shall be evidence in the suit and shall form part of the record; but the Court or, with the permission of the Court, any of the parties to the suit may examine the Commissioner personally in open Court touching any of the matters referred to him or mentioned in his report, or as to his report, or as to the manner in which he has made the investigation.

(3) **Commissioner may be examined in person.**—Where the Court is for any reason dissatisfied with the proceedings of the Commissioner, it may direct such further inquiry to be made as it shall think fit.

⁹⁹[*Commissions for scientific investigation, performance of ministerial act and sale of movable property*]

10-A. Commission for scientific investigation.—(1) Where any question arising in a suit involves any scientific investigation which cannot, in the opinion of the Court, be conveniently conducted before the Court, the Court may, if it thinks it necessary or expedient in the interests of justice so to do, issue a commission to such person as it thinks fit, directing him to inquire into such question and report thereon to the Court.

(2) The provisions of rule 10 of this Order shall, as far as may be, apply in relation to a Commissioner appointed under this rule as they apply in relation to a Commissioner appointed under rule 9.

10-B. Commission for performance of a ministerial act.—(1) Where any question arising in a suit involves the performance of any ministerial act which cannot, in the opinion of the Court, be conveniently performed before the Court, the Court may, if, for reasons to be recorded, it is of opinion that it is necessary or expedient in the interests of justice so to do, issue a commission to such person as it thinks fit, directing him to perform that ministerial act and report thereon to the Court.

(2) The provisions of rule 10 of this Order shall apply in relation to a Commissioner appointed under this rule as they apply in relation to a Commissioner appointed under rule 9.

10-C. Commission for the sale of movable property.—(1) Where, in any suit, it becomes necessary to sell any movable property which is in the custody

⁹⁹Inserted by the Code of Civil Procedure (Amendment) Act, 1976, S. 75 (w.e.f. 1-2-1977).

of the Court pending the determination of the suit and which cannot be conveniently preserved, the Court may, if, for reasons to be recorded, it is of opinion that it is necessary or expedient in the interests of justice so to do, issue a commission to such person as it thinks fit, directing him to conduct such sale and report thereon to the Court.

(2) The provisions of rule 10 of this Order shall apply in relation to a Commissioner appointed under this rule as they apply in relation to a Commissioner appointed under rule 9.

(3) Every such sale shall be held, as far as may be, in accordance with the procedure prescribed for the sale of movable property in execution of a decree.]

Amendments : Objects and Reasons.—*Clause 78—Sub-clause (iv).*—Consequent on the amendment of section 75, new rules 10-A to 10-C are being inserted to provide for the issue of commissions for scientific investigation, performance of a ministerial act, or sale of movable property. [*Statement of Objects and Reasons (Bill)*—*Gazette of India, Ext., dt. 8-4-1974, Pt. II, S. 2, p. 328.*]

Commissions to examine accounts

11. Commission to examine or adjust accounts.—In any suit in which an examination or adjustment of the accounts is necessary, the Court may issue a commission to such person as it thinks fit directing him to make such examination or adjustment.

12. Court to give Commissioner necessary instructions.—(1) The Court shall furnish the Commissioner with such part of the proceedings and such instructions as appear necessary, and the instructions shall distinctly specify whether the Commissioner is merely to transmit the proceedings which he may hold on the inquiry, or also to report his own opinion on the point referred for his examination.

(2) **Proceedings and report to be evidence.** Court may direct further inquiry.—The proceedings and report (if any) of the Commissioner shall be evidence in the suit, but where the Court has reason to be dissatisfied with them, it may direct such further inquiry as it shall think fit.

Commissions to make partitions

13. Commission to make partition of immovable property.—Where a preliminary decree for partition has been passed, the Court may, in any case not provided for by section 54, issue a commission to such person as it thinks fit to make the partition or separation according to the rights as declared in such decree.

14. Procedure of Commissioner.—(1) The Commissioner shall, after such inquiry as may be necessary, divide the property into as many shares as may be directed by the order under which the commission was issued, and shall allot such shares to the parties, and may, if authorized thereto by the said order, award sums to be paid for the purpose of equalizing the value of the shares.

(2) The Commissioner shall then prepare and sign a report or the Commissioners (where the commission was issued to more than one person and they cannot agree) shall prepare and sign separate reports appointing the share of each party and distinguishing each share (if so directed by the said order) by metes and bounds. Such report or reports shall be annexed to the

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commission and transmitted to the Court; and the Court, after hearing any objections which the parties may make to the report or reports, shall confirm, vary or set aside the same.

(3) Where the Court confirms or varies the report or reports it shall pass a decree in accordance with the same as confirmed or varied; but where the Court sets aside the report or reports it shall either issue a new commission or make such other order as it shall think fit.

High Court Amendments—[Orissa].—Same as that of Patna.

[Patna].—Substitute the following for sub-rules (2) and (3):—

"(2) The Commissioner shall then prepare and sign a report or the Commissioners (where the commission was issued to more than one person and they cannot agree) shall prepare and sign separate reports appointing the share of each party and distinguishing each share (if necessary) by metes and bounds. The Commissioner or Commissioners shall append to the report, or where there is more than one, to each report a schedule showing the plots and areas allotted to each party and also, unless otherwise directed by the Court, a map showing in different colours, the plots or portions of plots allotted to each party. In the event of a plot being sub-divided, the area of each sub-plot shall be given in the schedule and also measurements showing how the plot is to be divided. Such report or reports with the schedule and the map, if any, shall be annexed to the Commission and transmitted to the Court; and the Court, after hearing any objections which the parties may make to the report or reports, shall confirm, vary or set aside the same.

(3) Where the Court confirms or varies the report or reports it shall pass a decree in accordance with the same as confirmed or varied and, when drawing up the final decree shall incorporate in its decree the schedule and the map, if any, mentioned in sub-rule (2) above, as confirmed or varied by the Court. The whole report or reports of the Commissioner or Commissioners shall not ordinarily be entered in the decree. When the Court sets aside the report or reports it shall either issue a new commission or make such other order as it shall think fit."—(4-3-1932).

General provisions

15. Expenses of commission to be paid into Court.—Before issuing any commission under this Order, the Court may order such sum (if any) as it thinks reasonable for the expenses of the commission to be, within a time to be fixed, paid into Court by the party at whose instance or for whose benefit the commission is issued.

High Court Amendments—[Andhra Pradesh].—Same as that of Madras.

[Karnataka].—Same as Madras except that for the words "foreign Courts under the provisions of section 78", the words "any of the Courts mentioned in clause (c) of section 78 of this Code", are substituted—(R.O.C. No. 2526/1959, dated 9-2-1967).

[Kerala].—Same as that of Madras—(9-6-1959).

[Madras].—Re-number the existing rule 15 as rule 15(1) and insert the following as sub-rule (2):—

"2. Before executing and returning any commission issued by foreign Courts under the provisions of section 78, the Court or the Commissioner required to execute the commission may levy such fees as the High Court may from time to time prescribe in this behalf in addition to the fees prescribed for the issue of summons to witnesses and for expenses of such witnesses under rule 2 of Order 16."

[Orissa].—At the end of rule 15, add the following:—

"and after the issue of such commission, may order such further sums to be paid into Court from time to time by either party as the Court may consider necessary."—(7-3-1954).

16. Powers of Commissioners.—Any Commissioner appointed under this Order may, unless otherwise directed by the order of appointment,—

(a) examine the parties themselves and any witness whom they or any of them may produce, and any other person whom the Commissioner thinks proper to call upon to give evidence in the matter referred to him;

(b) call for and examine documents and other things relevant to the subject of inquiry;

(c) at any reasonable time enter upon or into any land or building mentioned in the order.

[16-A. Questions objected to before the Commissioner.—(1) Where any question put to a witness is objected to by a party or his pleader in proceedings before a Commissioner appointed under this Order, the Commissioner shall take down the question, the answer, the objections and the name of the party or, as the case may be, the pleader so objecting:

Provided that the Commissioner shall not take down the answer to a question which is objected to on the ground of privilege but may continue with the examination of the witness, leaving the party to get the question of privilege decided by the Court, and, where the Court decides that there is no question of privilege, the witness may be recalled by the Commissioner and examined by him or the witness may be examined by the Court with regard to the question which was objected to on the ground of privilege.

(2) No answer taken down under sub-rule (1) shall be read as evidence in the suit except by the order of the Court.]

Amendments : Objects and Reasons.—*Clause 78—Sub-clause (v).*—New rule 16-A is intended to provide that where a question put to a witness is objected to in proceedings before the Commissioner, the Commissioner shall take down the question, the answer, the objections and the name of the person so objecting. Any such answer can be read as evidence in the suit only by the order of the Court to that effect. [*Statement of Objects and Reasons (Bill)*—*Gazette of India, Ext., dt. 8-4-1974, Pt. II, S. 2, p. 328.*]

Clause 75—(Original clause 78).—(i) Under the provisions of proposed new rule 16-A of Order XXVI, the Commissioner has been authorised to take down the question, the answer and the objection etc. Occasions may arise where the objection to the question put to the witness may be raised on the ground of privilege. If, in such a case, the Commissioner is required to take down the answer to the question, then, the privilege claimed would be lost. The Committee are, therefore, of the view that, in such a case the Commissioner should not be allowed to take down the answer to a question but might be allowed to continue with the examination of the witness leaving the party to get the question of privilege decided by the Court. A proviso to sub-rule (1) of the proposed new rule 16-A of Order XXVI has been inserted accordingly. [*Report of the Joint Committee—Gazette of India, Ext., dt. 1-4-1976, Pt. II, S. 2, p. 804/17-18.*]

17. Attendance and examination of witnesses before Commissioner.—

(1) The provisions of this Code relating to the summoning, attendance and examination of witnesses, and to the remuneration of, and penalties to be imposed upon, witnesses, shall apply to persons required to give evidence or to produce documents under this Order whether the commission in execution of which they are so required has been issued by a Court situate within or by a Court situate beyond the limits of¹[India], and for the purposes of this rule the Commissioner shall be deemed to be a Civil Court:

1. Inserted by the Code of Civil Procedure (Amendment) Act, 1976, S. 75 (w.e.f. 1-2-1977).

2. Substituted by Act 2 of 1951, S. 3, for "the States".

³[Provided that when the Commissioner is not a Judge of a Civil Court, he shall not be competent to impose penalties; but such penalties may be imposed on the application of such Commissioner by the Court by which the commission was issued.]

(2) A Commissioner may apply to any Court (not being a High Court) within the local limits of whose jurisdiction a witness resides for the issue of any process which he may find it necessary to issue to or against such witness, and such Court may, in its discretion, issue such process as it considers reasonable and proper.

Amendments : Objects and Reasons.—*Clause 78—Sub-clause (vi).*—A proviso is being added to sub-rule (1) of rule 17 to clarify that it will not be open to the Commissioner to impose penalties, but may apply to the Court for the imposition of penalties. [Statement of Objects and Reasons (Bill)—*Gazette of India, Ext., dt. 8-4-1974, Pt. II, S. 2, p. 328.*]

18. Parties to appear before Commissioner.—(1) Where a commission is issued under this Order, the Court shall direct that the parties to the suit shall appear before the Commissioner in person or by their agents or pleaders.

(2) Where all or any of the parties do not so appear, the Commissioner may proceed in their absence.

High Court Amendments—[Allahabad].—In sub-rule (1) after the words "by their agents or pleaders", substitute a comma for the full stop and add:—"and shall direct the party applying for examination of the witness, or in its discretion any other party to the suit, to supply the Commissioner with a copy of the pleadings and issues."—(24-7-1961).

[Orissa].—Same as that of Allahabad—(29-12-1961).

18-A. Application of Order to execution proceedings.—The provisions of this Order shall apply, so far as may be, to proceedings in execution of a decree or order.

18-B. Court to fix a time for return of commission.—The Court issuing a commission shall fix a date on or before which the commission shall be returned to it after execution, and the date so fixed shall not be extended except where the Court, for reasons to be recorded, is satisfied that there is sufficient cause for extending the date.]

Amendments : Objects and Reasons.—*Clause 78—Sub-clause (viii).*—New rule 18-A provides that the provisions with regard to issue of commissions shall apply to execution proceedings as well. [Statement of Objects and Reasons (Bill)—*Gazette of India, Ext., dt. 8-4-1974, Pt. II, S. 2, p. 329.*]

Clause 75—(Original clause 78).—(ii) The Committee are of the view that in order to avoid delay, the Court issuing a Commission should fix a date by which the Commission should be returned to it after execution. New rule 18-B in Order XXVI has been inserted accordingly. [Report of the Joint Committee—*Gazette of India, Ext., dt. 1-4-1976, Pt. II, S. 2, p. 804/18.*]

⁵[Commissions issued at the instance of foreign Tribunals]

19. Cases in which High Court may issue commission to examine witness.—(1) If a High Court is satisfied—

(a) that a foreign Court situated in a foreign country wishes to obtain the evidence of a witness in any proceeding before it,

3. Inserted by the Code of Civil Procedure (Amendment) Act, 1976, S. 75 (w.e.f. 1-2-1977).

4. Inserted by the Code of Civil Procedure (Amendment) Act, 1976, S. 75 (w.e.f. 1-2-1977).

5. Inserted by Act 10 of 1932, S. 3.

(b) that the proceeding is of a civil nature, and
 (c) that the witness is residing within the limits of the High Court's appellate jurisdiction,
 it may, subject to the provisions of rule 20, issue a commission for the examination of such witness.

(2) Evidence may be given of the matters specified in clauses (a), (b) and (c) of sub-rule (1)—

(a) by a certificate signed by the consular officer of the foreign country of the highest rank in India and transmitted to the High Court through the Central Government, or

(b) by a letter of request issued by the foreign Court and transmitted to the High Court through the Central Government, or

(c) by a letter of request issued by the foreign Court and produced before the High Court by a party to the proceeding.

20. Application for issue of commission.—The High Court may issue a commission under rule 19—

(a) upon application by a party to the proceeding before the foreign Court, or

(b) upon an application by a law officer of the State Government acting under instructions from the State Government.

21. To whom commission may be issued.—A commission under rule 19 may be issued to any Court within the local limits of whose jurisdiction the witness resides, or "[* * *] where the witness resides within the local limits of [the ordinary original civil jurisdiction of the High Court], to any person whom the Court thinks fit to execute the commission.

High Court Amendment—[Kerala].—For rule 21, the following rule shall be substituted, namely:—

"21. *To whom commission may be issued.*—A commission under rule 19 may be issued to any Court within the local limits of whose jurisdiction the witness resides, or to any person whom the Court thinks fit to execute the commission."—(9-6-1959).

22. Issue, execution and return of commissions, and transmission of evidence to foreign Court.—The provisions of rules 6, 15, ⁶[sub-rule (1) of rules 16-A, 17, 18 and 18-B] of this Order in so far as they are applicable shall apply to the issue, execution and return of such commissions, and when any such commission has been duly executed it shall be returned, together with the evidence taken under it, to the High Court, which shall forward it to the Central Government, along with the letter of request for transmission to the foreign Court.]

Amendments: Objects and Reasons.—*Clause 78—Sub-clause (viii).*—The amendment of rule 22 is a consequential one. [Statement of Objects and Reasons (Bill)—Gazette of India, Ext., dt. 8-4-1974, Pt. II, S. 2, p. 329.]

Clause 75—(Original Clause 78).—(iii) Amendment made in sub-clause (viii) of this clause is consequent upon the insertion of new rule 18-B in Order XXVI. [Report of the Joint Committee—Gazette of India, Ext., dt. 1-4-1976, Pt. II, S. 2, p. 804/18.]

6. Certain words omitted by A.O. 1937.

7. Substituted by A.O. 1937, for certain words.

8. Substituted by the Code of Civil Procedure (Amendment) Act, 1976, S. 75, for "16, 17 and 18" (w.e.f. 1-2-1977).

Order 26, Rules 23 and 24

High Court Amendments—[Andhra Pradesh].—Same as that of Madras.

[Karnataka].—After rule 22, add the following rules:—

"23. (1) The Court may in any suit issue a commission to such person or persons as it thinks fit to translate accounts and documents which are not in the language of the Court.

(2) Before issuing such a commission the Court may order such sum, if any, as it thinks reasonable for the expenses of the commission to be paid into Court by the party at whose instance or for whose benefit the commission has been issued within such time as may be fixed by the Court.

(3) The report of the Commissioner shall be evidence in the suit and shall form part of the record.

(4) Where however a translation as required by rule 12 of Order XIII of this Code, has already been filed into Court, no further commission under this rule need be issued.

(5) A translation submitted by the Commissioner or Commissioners under this rule shall be verified in the manner prescribed in rule 12 of Order XIII of this Code.

24. The provisions of this Order shall apply so far as may be, to proceedings in execution of a decree or order."—(R.O.C. No. 2526/1959, dated 9-2-1967).

[Kerala].—Same as that of Madras—(9-6-1959).

[Madras].—After rule 22, the following rule shall be inserted, namely:—

"23. *Application of Order to execution proceedings.*—The provisions of this Order and of Order XXVI-A, shall apply, so far as may be, to proceedings in execution of a decree or order."

[Orissa].—After rule 22 insert the following:—

"23. (i) The Court may in any suit issue a commission to such persons as it thinks fit to translate accounts or other documents which are not in Court language or to inspect documents for purposes to be specified in the order appointing such Commissioner.

(ii) The report of the Commissioner shall be evidence in suit and shall form part of the record.

(iii) Before issuing commission under this rule the Court may order such sums (if any) as it thinks reasonable for the expenses of the commission to be, within a time to be fixed, paid in the Court, by the party at whose instance or for whose benefit the commission is issued.

24. *Application of Order to execution proceedings.*—The provisions of this Order shall apply, as far as may be, to proceedings in execution of a decree or order."—(29-12-1961).

Order 26-A

High Court Amendments—[Andhra Pradesh].—Same as that of Madras.

[Kerala].—Same as that of Madras—(9-6-1959).

[Madras].—Insert the following as Order XXVI-A:—

"ORDER XXVI-A

1. The Court may, in any suit issue a commission to such person, as it thinks fit, to translate accounts and other documents which are not in the language of the Court.

2. The report of the Commissioner shall be evidence in the suit and shall form part of the record.

3. Before issuing any commission under this Order, the Court may order such sum (if any) as it thinks reasonable for the expense of the commission to be, within a time to be fixed, paid into Court by the party at whose instance or for whose benefit the commission is issued."