

RULES MADE BY THE HIGH COURT UNDER SECTION 80.

Prior approval of the Government under section 80(2) of the Tamil Nadu Court-fees and Suits Valuations Act, 1955 to make rules by the High Court of Madras.

Abstract.

Rules - Civil Rules of Practice and Circular Orders, Volume I - Rules under Court-fees Act VII of 1870 and Suits Valuation Act 1887 - Revised - Draft Rules - Approved.

G.O.Ms. No. 336, Home (Courts. I), dated 14-2-1990

Read again :

1. G.O.Ms.No. 188, Law, dated 17-4-56
2. G.O.Ms.No. 358, Law, dated 23-8-56
3. G.O.Ms.No. 2084, Home, dated 20-6-61

ORDER :

The High Court, Madras has taken up the comprehensive revision of the Rules framed by the High Court under the Court-fees Act VII of 1870 and Suits Valuation Act, 1877, Schedule of Process Fees, rules relating to the service of Process and Circular Orders issued thereunder, incorporated in Part II, Chapter I of the Civil Rules of Practice and Circular Orders, Volume I, 1941 Edition, for the guidance of the Subordinate Courts, in accordance with the Tamil Nadu Court-fees and Suits Valuation Act, 1955 (Tamil Nadu Act XIV of 1955), after ascertaining the views of the District Judges, since most of the rules and circular orders incorporated in the said edition have become obsolete and required deletion. The Registrar, High Court, Madras has sent the draft rules as revised under section 80(2) of the Tamil Nadu Court-fees and Suits Valuation Act, 1955 and requested approval of Government to incorporate in the Civil Rules of Practice and Circular Orders Volume I. The Government examined the draft rules carefully in consultation with the Commissioner of Revenue Administration, Madras and approve it.

2. In exercise of the powers conferred by sub-section (2) of section 80 of the Tamil Nadu Court-fees and Suits Valuation Act,

1955 (Tamil Nadu Act XIV of 1955), the Governor of Tamil Nadu hereby confirms the revised draft rules in Part II, Chapter I of the Civil Rules of Practice and Circular Orders, Volume I, proposed by the Registrar, High Court, Madras and appended hereto.

3. The Registrar, High Court, Madras is requested to arrange for the publication of the revised draft rules in *Tamil Nadu Government Gazette*.

Sd.
Secretary to Government.

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Rules made by the High Court of Madras under section 80 of the Tamil Nadu Court-fees and Suits Valuation Act, 1955 with previous approval of the Government in G.O.Ms. No. 336, Home (Courts I) Department, Dated 14-2-1990 which form part of Civil Rules of Practice and Circular Orders - Volume-I.

CIVIL RULES OF PRACTICE AND CIRCULAR ORDERS - VOLUME - I.

Part - II.

RULES MADE UNDER SPECIAL ENACTMENTS.

Chapter - I.

Rules under the Tamil Nadu Court-fees and Suits Valuation Act, 1955.

A. (A) - Court-fees and Court-fee Stamps.

I. (I) - Computation of fees payable

1. (I) Valuation in a suit for recovery of Lands only (and not buildings).— In a suit for land, except in cases to which clauses (a) to (f) of sub-section (2) of section 7 of the Tamil Nadu Court-fees and Suits Valuation Act, 1955 apply, the valuation should be based on the value of the lands, trees and the wells taken together.

II. (II). Rules for the stamps to be used.

(a) *Adhesive Stamps and impressed Stamps when to be used respectively.*— (i) When in any case the fee chargeable under the said Act is less than Rs. 25, such fee shall be denoted by adhesive stamps bearing the words "Court-fee" and containing three lines in the middle with Ashoka Chakra Emblem and value printed on the left side, or adhesive stamps of any shape, size or pattern bearing words "Court-fees" which may hereafter be issued for use in supersession, of or in addition to, the adhesive stamps now in use.

(ii) When in any case the fee chargeable under the said Act amounts to or exceeds Rs. 25, such fee shall be denoted by impressed stamps bearing the words "Court-fees", adhesive stamps being only employed to make up fractions of less than Rs. 25.

(b) *Single stamps to be used as far as possible.*—(1) When in the case of fees amounting to less than Rs. 25, the amount can be denoted by a single adhesive stamp, such fee shall be denoted by a single adhesive stamp of the required value. But, if the amount cannot be denoted by a single adhesive stamp, or if a single adhesive stamp of the required value is not available, the next lower value available shall be used and the deficiency shall be made up by the use of one or more additional adhesive stamps of the next lower values, which may be required to make up the exact amount of the fee.

(c) When, in the case of fees amounting to, or exceeding Rs. 25, the amount can be denoted by a single impressed stamp, the fee shall be denoted by a single impressed stamp of the required value. But, if the amount cannot be denoted by a single impressed stamp, or if a single impressed stamp of the required value is not available, an impressed stamp of the next lower value available, shall be used, and the deficiency shall be made up by the use of one, or more additional impressed stamps of the next lower value available which may be required to make up the exact amount or the fee in combination with adhesive stamps to make up fractions of less than Rs. 25.

(3) Any adhesive stamp which may be used under the foregoing rule (2) shall be affixed to the impressed stamp of the highest value employed in denoting the fee.

(4) When two or more impressed stamps are used to make up the amount of the fee chargeable under the Court-fees and Suits Valuation Act, a portion of the subject-matter shall, ordinarily, be written on each stamped sheet. Where this is impracticable or seriously inconvenient, the document shall be written on one or more sheet bearing impressed stamps of the highest value, and the remaining stamps shall be punched and cancelled by the Court or its Chief Ministerial Officer and attached to the grant, a certificate being recorded by the Court or its Chief Ministerial Officer on the face of the first sheet of the documents to the effect that the Court-fee (Rs. . . .) has been paid in stamps. The writing on each stamped sheet shall be attested by the signature of the person or persons executing the documents.

(5) When one or more impressed stamps used to denote a fee are found insufficient to admit of the entire document being written on the side of the paper which bears the stamp, so much plain paper may be joined thereto as may be necessary for the

complete writing of the document and the writing on the impressed stamps and on the plain paper shall be attested by the signature of the person or persons executing the document.

(6) In the blank space left in the adhesive stamps, the vendor shall insert the name of the purchaser, the date of sale and his own ordinary signature.

III. Monetary limit up to which R.D.Os., Tahsildars and Deputy Tahsildars can exercise powers of Collector under section 78 of the Act.— The powers of the “Collector” in section 78 of the Tamil Nadu Court-fees and Suits Valuation Act, 1955 (Tamil Nadu Act XIV of 1955) in the matter of making allowances for damaged or spoiled stamps shall be exercisable by all Revenue Divisional Officers and all Tahsildars and Deputy Tahsildars in independent charges up to the monetary limit specified below subject to the conditions and restrictions laid down in the Standing Orders issued with the Board’s Proceedings specified in the note below :—

Revenue Divisional Officer	- Rs. 500 (Rupees five hundred only).
Tahsildars and Deputy Tahsildars	- Rs. 300 (Rupees three hundred only).

1. B.P. No. 2986, dated the 8th August 1984.
2. B.P. No. 206, dated the 3rd March 1888.
3. B.P. No. 245, dated the 10th May 1890.
4. B.P. No.11, dated the 14th March 1893.
5. B.P. No. 434, dated the 9th September 1895.
6. B.P. No. 42, dated the 24th February 1899.
7. B.P. No.198, dated the 31st July 1900.
8. B.P. No. 610-R, Ms., dated the 7th April 1905.
9. B.P. No. 28/461-R, Salt, dated the 6th February 1908.
10. B.P. No. 132/770-R, Ms., dated the 9th June 1909.
11. B.P. No. 165/1105-R, Ms., dated the 7th September 1912.
12. B.P. No. 750-R, Ms., dated the 22nd May 1915.
13. B.P. No. 352-R, Ms., dated the 6th March 1915.

14. B.P. No. 158/567-R, Ms., dated the 27th April 1916.
15. B.P. No. 62-D, Ms., dated the 11th January 1918.
16. B.P. No. 20/408-R., Ms., dated the 25th March 1919.
17. B.P. Ms. No. 512, dated the 29th August 1935.
18. B.P. Ms.No. 1557, dated the 7th May 1936.
19. B.P. No. 507, dated the 29th February 1940.
20. B.P. No. 1066, dated the 13th May 1942.
21. B.P. Ms. No. 933, dated the 21st June 1945.

IV. Commencement of Tamil Nadu Court-fees and Suits Valuation Act, 1955.— In exercise of the powers conferred by sub-section (3) of section (1) of the Tamil Nadu Court-fees and Suits Valuation Act, 1955 (Tamil Nadu Act XIV of 1955), the Governor of Tamil Nadu hereby appoints the 19th May 1955, as the date on which the said Act shall come into force.

V. Court-fees stamps of Tamil Nadu State alone to be used.—In exercise of the powers conferred by sub-section (1) of section 82 of the Tamil Nadu Court-fees and Suits Valuation Act, 1955 (Tamil Nadu Act XIV of 1955), the Governor of Tamil Nadu hereby makes the following rule :—

Court-fee stamps purchased in the Tamil Nadu State shall alone be used for the payment of all fees chargeable under the Tamil Nadu Court-fees and Suits Valuation Act, 1955.

VI. Form for determination of market value of the subject-matter of the suit under section 10 of the Court-fees Act.— In exercise of the powers conferred by section 82 read with section 10 of the Tamil Nadu Court-fees and Suits Valuation Act, 1955 (Tamil Nadu Act XIV of 1955), the Governor of Tamil Nadu hereby makes the following rule :—

The Statement of particulars of the subject matter of a suit and the plaintiff's valuation thereof referred to in section 10 of the said Act shall be in the form annexed to this rule and shall contain the particulars mentioned thereunder.

ANNEXURE.

Form.

Particulars of immovable property.

(Cause title)

Valuation of immovable property for the purposes of Court-fees.

Section and sub-section of the Act.	Nature of suit.	The annual assessed revenue/lease/rent payable for the lands.	Market value.	Value for the purposes of Court-fees.
(1)	(2)	(3)	(4)	(5)

Instruction-I.—In the case of lands, the market value of which is to be fixed under section 7(2) of the Act, the following particulars should be furnished :—

(i) In the case of lands coming within the scope of section 7(2)(a) to (c) and (f) of the Act, the annual survey assessment revenue or rent payable for the lands should be given.

(ii) In the case of lands which are “Estates” within the meaning of section 7 (2) (d) of the Act “the peishkush” recorded in the Collectors’ Registers or if no peishkush is recorded, the annual melwaram realisable from the Estates should be furnished.

(iii) In the case of “Minor Inam Lands”, the assessments noted in the Village ‘B’ Register should be furnished.

II. In the case of immovable properties not covered by instruction I above, the following particulars should be furnished :—

(a) In the case of lands other than building sites, buildings, gardens—

(i) the market value as estimated by the plaintiff with details as to how it is calculated ;

(ii) the annual net profits realised or realisable from the lands for the three years preceding the date of plaint.

(b) In the case of building sites, buildings, gardens, etc.—

(i) the market value as estimated by the plaintiff with details as to how it is calculated ; and

(ii) the annual rental value of the property as entered in the register of the Municipality or the Panchayat, if any, within whose jurisdiction the property is situated.

III. In addition to the particulars required by Instructions I and II above, the plaintiff may also furnish such additional information which he considers material to his own valuation.

VII. Collection of Court-fee refunded in cases where remand orders are set aside.— In exercise of the power conferred by sub-section (1) of section 82 of the Tamil Nadu Court-fees and Suits Valuation Act, 1955 (Tamil Nadu Act XIV of 1955) the Governor of Tamil Nadu hereby makes the following rule :—

RULE.

Where under section 67 of the Tamil Nadu Court-fees and Suits Valuation Act, 1955 (Tamil Nadu Act XIV of 1955), a party obtains refund of the Court-fee paid on a Memorandum of Appeal and where on further appeal or revision, the order of remand is set aside and the appeal is remanded to the lower Appellate Court, the Court setting aside the order of remand shall direct that the Court-fee originally paid and subsequently refunded to the party shall be repaid by him.

Where under section 67 of the said Act, a party obtains refund of the fee paid on a, second appeal and the fee paid on the first appeal preferred to the lower Appellate Court or the fee paid on the second appeal alone, as the case may be, on a remand order passed by the High Court in the second appeal, the Court-fee so refunded in pursuance of the first mentioned order shall be directed to be repaid by the party who had taken the refund.

VIII. Determination of market value under section 7 of the Act.— In exercise of the powers conferred by sub-section (1) of section 82 of the Tamil Nadu Court-fees and Suits Valuation Act, 1955 (Tamil Nadu Act XIV of 1955), the Governor of Tamil Nadu hereby makes the following rules :—

RULES.

(1) When a part of an estate paying annual revenue to the Government under a settlement which is not permanent is recorded in the Collector's Register as separately assessed with such revenue, the value of the subject matter of a suit for the possession of, or to enforce a right of presumption in respect of a fractional share of that part shall, for the purposes of the

computation of the amount of the fee chargeable in the suit, be deemed not to exceed five times such portion of the revenue separately assessed on that part as may be rateably payable in respect of the share.

(2) The market value of part of a land falling under clauses (b) to (f) of section 7 (2) of the above mentioned Act and which has not been separately assessed to revenue shall be determined in accordance with the following principle, namely :—

Where the land forms part of a survey field and is not separately assessed to revenue, the value of such part shall be deemed to be thirty times such proportion of the survey assessment as the part bears to the entire survey field.

Explanation.—Lands in the areas in which the Malabar Tenancy Act, 1929 (Tamil Nadu Act XIV of 1930) is in force shall be regarded as ryotwari lands.

IX. Court-fee in suits by Religious Trusts.—In exercise of the powers conferred by section 73 of the Tamil Nadu Court-fees and Suits Valuation Act, 1955 (Tamil Nadu Act XIV of 1955), the Governor of Tamil Nadu hereby reduces to a maximum of rupees fifteen, the fee payable under the said Act in respect of suits filed by all Religious Trusts to recover possession of immovable property.

X. Court-fee in suits by Tamil Nadu Wakf Board.—In exercise of the powers conferred by section 73 of the Tamil Nadu Court-fees and Suits Valuation Act, 1955 (Tamil Nadu Act XIV of 1955), the Governor of Tamil Nadu hereby reduces to a maximum of rupees fifteen, the fees payable under the said Act in respect of all fresh suits filed for setting aside the sale deeds to recover the properties compromised by the erstwhile Tamil Nadu Wakf Board during the period from 1971 to 1976. This concession shall be made applicable only for a period of two years on and from the date of publication of this notification in the *Tamil Nadu Government Gazette*.

XI. Refund of Court-fee paid by mistake or inadvertence, etc.— (i) When a suit is filed for the recovery of a debt in ignorance of an application filed earlier for a declaration of the amount of the debt due under sub-section (1) of section 19-A of the Tamil Nadu Agriculturists' Relief Act, 1938 (Tamil Nadu Act IV of 1938) and the suit is rejected in pursuance of sub-section (9) of that section, the value of the stamp on the plaint shall be refunded

on presentation of an application to the Collector of the district in which the Court which rejected the suit is situated, together with a certificate from the Court which dismissed the suit that it was dismissed under the circumstances above described.

(ii) When a plaint presented to any Civil or Revenue Court is returned for compliance of certain defects and such plaint has not been re-presented, but a fresh plaint has subsequently been duly presented on the same cause of action, or

(iii) When a plaintiff withdraws from a suit or abandons a part of a claim with the permission of the Court to institute a fresh suit on the same cause of action in respect of the subject-matter of the suit or part of the claim so abandoned, and has presented a fresh suit accordingly, the Court shall give a certificate recommending the refund of the Court-fee paid on the former plaint or part of the claim abandoned, as the case may be, and on application made by the plaintiff to the Collector of the district in which the Court is situate together with the certificate specified above, the refund of the Court-fee as recommended in the certificate shall be made.

XII. Refund of Court-fee under section 69 of the Act.— A question has been raised as to the meaning of the (half the amount of all fees paid in respect of the claim or claims in the suit) occurring in section 69 of the Tamil Nadu Court-fees and Suits Valuation Act, 1955 and also as to whether only half the amount of fees paid on the plaint is refundable under that section or half the amount paid on vakalatnamas, process fees, fees fixed to certified copies of proceedings filed along with the plaint, etc., is refundable.

The High Court considers that the expression “fees paid in respect of the claim or claims in the suit” in section 69 of the Tamil Nadu Court-fees and Suits Valuation Act, 1955 does not include the stamp on the vakalat, process fee or fees on enclosures to the plaint, *i.e.*, documents filed along with the plaint nor on interlocutory applications pending the suit. It has to be remembered that the words of section 69 are not “fees” paid in respect of the suit, but fees in respect of “claims” in the suit. The word “claim” carries out the same idea as the word “relief” in section 6 of the Act. The refund will refer only to the fees paid on the plaint which will include fees paid on written statements as well (*vide* section 8 of the Court-fees Act) and other claims subsequent to the plaint.

CIRCULAR ORDERS.

I. *Cancellation of stamps.*

1. Check of stamps on papers received by Chief Ministerial Officer and their punching under his immediate supervision.—All applications, petitions, etc., intended for presentation to the lower Court shall be presented to the Court itself or to its Chief Ministerial Officer, whose duty it will be to examine and punch the stamps, and who will be held responsible for the receipt of any stamps which have previously been used.

The District Judges are requested to make it a rule, for strict observance in the Courts within their jurisdiction that the Serishtadar in the Superior Courts and Head Clerk in the District Munsif's Courts, shall personally attend to, and be personally responsible for the strict fulfilment of the duty of receiving documents to be filed, examining the correctness of the stamps attached thereto and immediately cancelling such stamps as required by section 77 of the Tamil Nadu Court-fees and Suits Valuation Act, 1955. There will be no objection to the Ministerial Officers named employing trust-worthy subordinates to do the mere manual work of cancelling the stamps, but it will be on the distinct understanding that the Serishtadars or the Head Clerks, as the case may be, will be personally responsible for the due execution of the duty and for any defalcation or fraud that may occur in connection with it. The District and Subordinate Judges and District Munsifs are expected so to inspect and test the work of their officers, from time to time, as to ensure attention to the duty and to limit opportunities for fraud.

2. Cancellation of adhesive Court-fee labels to prevent re-use thereof.—The following instructions are issued with regard to the best method of cancelling the adhesive stamps and Court-fee labels so that they may not be fraudulently used again.

(a) *Second punching thereof by the Record-Keeper.*— Under section 77 of the Court-fees Act, Court-fee labels are cancelled by punching out the figure-head, but this does not perhaps afford sufficient protection. It is, therefore, directed that the Record-Keeper of every Court shall when a case is decided and record consigned to his custody, punch a second hole in each label distinct from the first and note the date of his doing so at the same time. The second punching should not remove so much of the stamp as to render it impossible, or difficult to ascertain its value or nature.

The above directions apply only to adhesive labels used under the Court-fees Act. Impressed stamps used for denoting Court-fees need not be cancelled or punched otherwise than as required by section 77 of the Court-fees Act.

Under the provisions of the Court-fees Act, the cancellation of stamps must be effected by the Court or Office receiving the document to which a stamp has been affixed.

(b) Labels affixed to certified copies, certificates, etc., should be cancelled before issue.— The Court or Office issuing copies, certificates or other similar documents liable to stamp duty shall before use, cancel the labels affixed to them by punching out a portion of the label in such a manner as to remove neither the figure head nor that part of the label upon which its value is expressed. As an additional precaution, the signature of the Officer attesting the documents with the date should be written across the label and upon the paper on either side of it as is frequently done by the persons signing stamped receipts.

(c) Second punching thereof by the Court on receiving them and third punching on being consigned to the record.— The Courts issuing the certified copy or certificate should, before issue, cancel the labels affixed thereto by punching out a portion of them, but not the figure-head or that part upon which their value is expressed, the attesting officer also writing his name and date across them, and it is the Court in which such certified copy or certificates is produced, that should require the receiving officer at once to punch out the figure-head as directed by section 77 of the Court-fees Act before the document is filed or acted on. When the copy or certificate is with the record of the case in which it is filed, transferred to the custody of the Record-Keeper, he should punch a third hole in each label distinct from the previous two holes and at the same time, note the date of his doing so. He need not necessarily write across the stamp, though it will be well to do so, if there still room.

3. Record-Keeper to examine papers as soon as they are consigned to his custody and on each occasion on which they are received back after being taken for reference.— On receiving stamped documents into the record room, the Record-Keeper shall examine the stamps, report if they are incorrect, note any erasures or suspicious appearances they may present and be held responsible for their safe custody thereafter. If a record or any document forming part of a record is taken from the record

room for any purpose, it shall be his duty to denote to whom and for what purpose, it has been delivered and on its return to examine it and ascertain if it be in the same condition in which it was issued from his office and if it be not in the same condition, to bring the circumstances to notice.

(H.C. Cir. 2131 of 1881)

4. Stamps affixed to documents to be punched before any action is taken.— The attention of the Presiding Officer is drawn to the instructions laid down in the Standing Order No. 83 contained in Chapter VII of the Stamp Manual (4th Edition) under which it is the duty of every Officer before whom a document bearing an adhesive stamp labels is produced to see that it has been properly punched and cancelled before any action is taken on it. The rule laying down that every person who submits for orders a document bearing adhesive stamps shall be responsible for seeing that it has been duly punched, should be strictly enforced. There is reason to believe that serious loss of revenue is caused by the improper use a second time of the adhesive stamps which have not been duly cancelled on first presentation.

Standing Order No. 86 (Now 83).— Every Officer presiding over a Court or office and receiving a document liable to stamp duty under the Court-fees and Suits Valuation Act and stamped with adhesive stamps should, after satisfying himself that the document is properly stamped, see that a date stamp is applied to it in such a manner as to cover for touch some part of the stamps, but not in such a way as to obliterate the entries thereon or to render the detection of forgeries more difficult. The stamps should then be cancelled by punching out the figure-head. The punch used for this purpose should be large enough completely to remove the figure-head.

5. Instruction to prevent re-use or re-introduction of old punched adhesive stamps.— In order to prevent fraud on the part of the Ministerial Servants in a Court or Office who might connive at old punched adhesive stamps being re-introduced, the Record-Keeper of every Court or Office shall, as soon as the record is made over to his custody, punch a second hole in each adhesive label with a wedcutter punch of Diamond shape before putting the document into the record room. The second punching should not remove so much of the stamp as to render it difficult to ascertain its value or nature. Impressed stamps used for denoting Court-

fees need not be cancelled or punched otherwise, than as required by section 77 of the Court-fees Act.

Standing Order No. 88 (Now 85).— It is the duty of every Officer to whom a document liable to stamp duty under the Court-fees Act is submitted for order to see that any adhesive stamps thereon have been properly purchased. The section head or other responsible Ministerial Officer submitting papers for orders shall see that all adhesive stamps thereon contained have been punched and defaced as directed in Standing Order No. 83 and any section head or other Ministerial Officer submitting a document bearing an unpunched adhesive stamp shall be required to pay the value of the stamp.

Officers receiving documents liable to stamp duty under the Court-fees Act should also look at the date of sale recorded on adhesive stamps and if they find that the date of sale as recorded on the stamp is suspiciously remote, they should enquire into the history of the stamp.

6. Stamps in excess of legal requirements—Punching of refund of the excess value.— All stamps affixed to documents received in Courts, including those in excess of legal requirements, should invariably be punched. The party who has affixed stamps in excess will be allowed a refund of their value less 5 paise in the rupee or 10 paise according as the stamps are Judicial or Non-judicial, except in cases in which the amount of the excess value is less than a rupee. Stamps affixed in excess should on no account be removed from the documents and returned to the party, but the Presiding Officer of the Court will give him a certificate in (Form No.L-1st Portion) Appendix II to the Stamps Manual (4th Edition) to the effect that he is entitled to receive back their value less discount within 90 days at a specified Treasury and at the same time send an advice in Form No.L-2nd portion to the Treasury Officer. The certificate will become *null* and *void* after the expiry of the 90 days and refund will not be admissible thereafter.

The Presiding Officer of the Court will note under his initials, the date and number of the certificate on the stamps affixed in excess so as to prevent fraud.

(Adapted from High Court Dis. 1328 of 1916.)

The following instructions are issued with regard to the deduction of 5 per cent provided for in section 78 (1) of the Tamil Nadu Court-fees and Suits Valuation Act, 1955, on the refund of

Court-fee ordered by Court in pursuance of a clarification sought for as to whether the bills for refund of Court-fees contemplated under section 78 (2) of the Tamil Nadu Court-fees and Suits Valuation Act, 1955, and rule 3 of the Tamil Nadu Court-fees Refund (By Order of Court) Rules, 1976, may be presented by the Court after making the deduction of 5 per cent or without making such deduction.

Section 78(1) of the Tamil Nadu Court-fees and Suits Valuation Act, 1955, deals with the case of damaged or spoiled stamps and it has nothing whatever to do with the Court-fee directed to be refunded by an order of the Court. Sub-section (2) of section 78 of the aforesaid Act deals with the Court-fee directed to be refunded by an order of Court and it states that such refund shall be given effect to in such manner and subject to such conditions as may be prescribed. Rule 3 of the Tamil Nadu Court-fees Refund (By Order of Court) Rules, 1976 framed by the Government under section 82(2) of the Tamil Nadu Court-fees and Suits Valuation Act, 1955, deals with the certificate to be issued by the Court and the form of the bill expressly refers to the deduction as per section 78 of the Court-fees Act. From this, the necessary inference is that the Government have prescribed under section 78(2) of the aforesaid Act that the refund of the Court-fee ordered by the Court must be subject to the deduction contemplated by section 78(1) of the aforesaid Act. In view of this, the Court which issues a refund certificate will have to provide for the deduction.

The High Court, therefore, directs all the Subordinate Courts to see that while directing the refund of the Court-fee, they make an order that such refund is subject to the deduction provided for by section 78(1) of the aforesaid Act.

7. Checks against fraud.— The attention of all Judicial Officers is invited to the rules intended to serve as checks against stamp fraud, published at pages 405 to 407 of the Stamp Manual, 4th Edition. The High Court considers that in addition to the strict observance of those rules, it is necessary that adhesive stamps should not be allowed to be affixed on papers in a way so as to overlap each other. Unless this precaution is observed, it is possible to introduce old punched adhesive stamps by affixing them on papers in such a way as to cancel the second diamond punch hole made in them by the Record-Keeper and the rule requiring the Record-Keeper to make such diamond punch hole in the adhesive stamps would be rendered in effective as a protection against fraud.

II. Reporting cases of infringement of the rules for the sale of stamps.— All Officers presiding over Civil Courts are requested to bring to the notice of the Revenue Divisional Officers cases which may come to their notice of infringement of note 2 to rule 37 contained at pages 321 and 322 of the Stamp Manual, 4th Edition, prohibiting a licensed vendor from attempting to supply a stamp higher in value than the highest he is authorised to sell, by the sale of a number of impressed sheets of lower value. They are not expected to hold any inquiry as to whether the rule has been actually infringed or not, but merely to give information of the cases to Revenue Department with the particulars such as the serial numbers of the stamps, their value, date of their sale and name of the vendor and purchaser appearing on the stamps themselves.

III. Levy of stamp duty under Article 24, Schedule I of the Stamp Act on certified copies granted by Courts.— It has come to the notice of the High Court that the practice prevailing in regard to the levy of stamp duty on certified copies granted by Courts is not uniform. The High Court directs that the instructions given below be observed so as to secure uniformity of practice.

2. Copies coming under Articles 5, 7 and 9 of Schedule II to the Court-fees Act are not liable to stamp duty under Article 24 of the Stamp Act as they do not cease to be chargeable under the law relating to the Court-fees within the meaning of Article 24 of Schedule I of the Stamp Act by the mere fact that Court-fees thereon have been remitted by the Government by Notification No. 358, dated the 10th September 1921. They would, however, be liable to Court-fee if filed in Court subsequently.

3. The High Court considers that Article 9 of Schedule II of the Court-fees Act does not apply to all documents generally. The words "or the like" suggest the application of the *ejusdem generis* rule of constructions and must be taken to cover only documents akin to those mentioned previously, *viz.*, account, statement and report. The characteristic feature of these three classes of documents that distinguishes them from other documents seems to be that when presented in or before a Court or Office, they become (whether they are private documents filed by parties or proceedings of quasi-public officers) part of the record of the Court or Office unlike documents such as deeds or letters or account books which though exhibited in Court or filed in an Office, are

ultimately returned to the party. By way of illustration, the following documents may be mentioned as coming under this category accounts, statements, etc., filed by parties in suits for partition, partnership, administration, etc., in which after the preliminary decree, a party is called upon to file statements of accounts or statements surcharging or falsifying accounts or inventories of properties, etc., filed by the opposite party. "Statement" would include even affidavits, as in every affidavit the deponent makes a statement. A Commissioner's report and a Village Officer's Report may also be covered by the Article. Statements by private parties before an Inam Commissioner or a Revenue Officer would be governed by the Article, as also statements and accounts filed by a land-holder under section 80 of the Tamil Nadu Local Boards Act.

4. (4). It will therefore follow that certified copies of all documents other than those coming under Article 9 of Schedule II of the Court-fees Act are chargeable with stamp duty under Article 24 of Schedule I of the Stamp Act, *i.e.*, they should be granted by Courts only on production of the requisite non-judicial stamp paper together with the copy stamp papers required under the Copyist Rules. No Court-fee stamp need be affixed to such certified copies when they are filed in any proceeding before a Court.

5. (5). Where certified copies of documents other than those enumerated in Article 9 have been granted without non-judicial stamp paper having been furnished and have been already admitted in evidence and marked as exhibits, their validity cannot be questioned (*vide* section 36 of the Stamp Act). But, with regard to such certified copies which have been filed in Courts but not exhibited, the parties should be directed to take them back and get them re-certified by the proper officer after furnishing the requisite non-judicial stamp paper. Certified copies of documents other than those coming under Article 9 of Schedule II of the Court-fees Act shall not be received hereafter by any officer of the Court without verifying whether proper stamp duty has been paid thereon.

B. Process fees and poundage.

I. Process fees.

1. 1. The following Schedule of fees is prescribed under section 80 (1) of the Tamil Nadu Court-fees and Suits Valuation Act, 1955 (Tamil Nadu Act XIV of 1955) for serving and executing the

processes issued by all Civil Courts established within the appellate jurisdiction of the High Court.

SCHEDULE OF PROCESS FEES.

Name of Process.	Amount leviable in Small Cause Suits and execution and other proceedings arising therefrom.	Amount leviable in all other suits and proceedings of any Court including a Revenue Court.
(1)	(2) Rs.P.	(3) Rs. P.
I. For each summons' or Notice.		
(a) When sent by registered post for each defendant, respondent or witness.	3.50 (Three rupees and fifty paise)	3.50 (Three rupees and fifty paise)
(b) When served by an Officer of Court or sent by post to any other Court for service—		
(i) On a defendant, respondent or witness ;	1.50 (One rupee and fifty paise)	2.25 (Two rupees and twenty-five paise)
(ii) On every additional defendant, respondent or witness, residing in the same revenue village if the process be applied for, at the same time.		
(c) When handed over to a party for service on a witness or witnesses, one half of the fee under clause (a) <i>supra</i> . <i>Explanation 1.</i> —In cases in which there are several minor defendants or respondents represented by a single guardian, there shall be a single service upon such guardian and only one fee shall be chargeable therefor. <i>Explanation-2.</i> —When a process under clause (a) or (b) <i>supra</i> is to be sent to any country outside India by Air Mail, the amount of fee leviable shall be 75 paise (Paise seventy-five only) plus the actual postal charges which shall be deposited by the party in the shape of postal stamps.		

II. For every warrant—		
(a) of arrest in respect of every person to be, arrested ;		
(b) of attachment in respect of every such warrant ;	2.25 (Two rupees and twenty-five paise)	4.50 (Four rupees and fifty paise)
(c) of sale in respect of every such warrant ;		
(d) of delivery of possession in respect of every such warrant.		
With an additional fee for the service of every officer including a Revenue Officer, entrusted with the warrant for each day after the second day, beginning with the day on which the warrant was issued.	1.50 (One rupee and fifty paise)	1.50 (One rupee and fifty paise)
III. For proclamation, injunction or order and every process not otherwise provided for. An additional fee being leviable after the second day as mentioned under item II above.	2.25 (Two rupees and twenty-five paise)	4.50 (Four rupees and fifty paise)
IV. For every process in execution of a village Court's decree. <i>Explanation.</i> —If the process is not executed, no further fee for re-issue shall be levied.	1.15 (One rupee and fifteen paise)	1.15 (One rupee and fifteen paise).
V. In respect of sales, a fee by way of poundage on the purchase money calculated at 6 per cent (six per cent) up to Rs. 1,000 (Rupees one thousand only) and 3 per cent (three per cent) above Rs. 1,000 (Rupees one thousand only). <i>Explanation.</i> —(1) For processes applied for and ordered to be executed as emergent, the fee shall be the ordinary fee and half as much again.		

2. (2) Each process shall be paid for according to the time which it really occupies. The party must not be charged for time occupied in serving processes other than his own, but he must pay for all the days which his own process or processes would have occupied, if it or they had alone been entrusted to the server. When one applicant puts in several processes to be executed at the same

time in the same locality, the charge for any additional days occupied on such processes may be distributed over them .

3. (3) The additional fee to be levied under items II and III of the above Schedule for each day after the second shall ordinarily be collected in advance, the journey being calculated at the rate of 48 kilometres a day.

4. (4) The Officer appointed to receive applications for issue of process shall punch the Court-fee labels affixed to such applications and shall endorse a note on the process to be served by another Court that the proper fee for the issue was levied.

5. (5) When process is forwarded by any Court in any of the States in India to a Court subordinate to the High Court for execution, such subordinate Court shall accept the certificate endorsed on the process as sufficient proof that the proper fee for the issue thereof has been paid and shall deliver such process to the proper officer for service and shall re-transmit the process to the Court, by which such process was transmitted to it, with a return in Form No. 10, Appendix-B, Schedule-I, Civil Procedure Code, 1908, and with the endorsement of the Process-Server, showing, if service has been effected, in what manner it has been effected ; and if service has not been effected, the reason why it has not been effected ; and such endorsement shall be verified by oath or affirmation of the Process-Server.

6. (6) Warrants and other processes to be executed by the Court of Small Causes, Calcutta, shall have endorsed thereon a certificate to the effect that conveyance charges at the rate of Rs. 1.50 (One rupee and fifty paise) for each warrant and 25 paise (twenty-five paise) for each summons have been duly collected. Otherwise, such warrants and processes will be returned unexecuted by the Court.

7. (7) Unspent process fees in one suit shall not be utilised either in the same suit or in other suits.

Note.—Tom-Tom charges.—Tom-Tom charges shall be levied at the rate of Rs. 5 for each case or at such rate as may be fixed, from time to time, by the District Judge with the previous sanction of the High Court.

II. (II) - Calculation of Poundage.

1. (1) **Poundage to be charged on each lot.**— The High Court is of opinion that poundage should be calculated on sale-proceeds of each lot separately.

(H.C. Pro. 661 of 1903)

2. (2) Poundage on bids by Decree-holders.—Rule 200 of Chapter IX, Part I *supra* provides that “if the applicant purchases the property with the leave of the Court, and is allowed to set-off the purchase money against any sum due to him, he shall pay the amount chargeable as poundage to the person appointed to sell the property, as soon as he is declared to be the purchaser”. This rule ought to be followed also in cases, where the purchase money exceeds the amount mentioned in the warrant, credit being of course given for the poundage fee afterwards when the purchase money is adjusted.

(H.C. Dis. 943 of 1909)

III. (III) - Refund of Poundage and Process Fees.

1. (1) When more than the amount required for the service of process is deposited, or when issue of process becomes unnecessary after deposit, the Courts are authorised to refund to the depositor the amount of the surplus fees in money and to charge the same to the contingent fund.

(H.C. Cir. 1229 of 1873)

2. (2) It has come to the notice of the High Court that refunds of poundage and process service fees are sometimes treated as judicial refunds under 19-A Law and Justice. Such refunds should be treated as refunds of Stamp Revenue and debited to “1. Refunds - Revenue Refunds - Stamps - Surplus Process Fees”.

The High Court prescribes the form appended to this Circular (*vide* Form No.7, Appendix. III-B, Part II of Volume II) for adoption in all districts in refunding poundage and process fees. (A refund shall, in the first instance, be made from the permanent advance with the Head Ministerial Officer and shall be recouped by means of contingent bills, headed “Refund of Process and Poundage Fees”, drawn on the Treasury at the end of the month). The refund vouchers in the form now prescribed should be attached to the contingent bills, even when they are for sum of Rs. 10 and less, and the vouchers should, on no account, be cancelled or destroyed as in the case of sub-vouchers for ordinary contingencies. The Officer sanctioning a refund should, at the time of signing the refund order, exercise the necessary check by comparing the voucher with the entries in the registers maintained in the Court.

When a refund has to be made after a process has been transmitted for service from one Court to another, the refund

order should be forwarded to the Judge of the Court in which the process fees have been deposited with a request that the amount of the refund may be paid from his permanent advance instead of the order itself being made directly payable from the Treasury.

(H.C. Dis. 696 of 1901, as amended by H.C. Dis. 782 of 1917)

3. (3) Applications for refund of process fees shall be made before the expiry of six months from the date on which the process fees were paid into Court ; on applications made thereafter, a penalty of five paise in the rupee or a fraction of a rupee shall be levied when making refund.

(G.O. 3298. L. (G), dated the 6th August 1982
(H.C.P. Dis. 39 of 1935)

C. (C) Rules relating to Service of Processes.— The following rules are issued under section 80(1) of the Tamil Nadu Court-fees and Suits Valuation Act, 1955, to provide for the service and execution of processes issued by the Civil Courts outside the City of Chennai in the State of Tamil Nadu.

I. (I) Central Nazarats.—There shall be one general establishment of amins and process servers for the execution and service of processes issued by all the Civil Courts at the following stations and at such other places as the High Court may hereafter direct :—

Vellore, Cuddalore, Chengalpattu, Coimbatore, Dindigul, Madurai, Sivaganga, Salem, Nagapattinam, Mayiladuthurai, Kumbakonam, Thanjavur, Tirunelveli, Tuticorin, Tiruchirappalli and Pudukkottai.

Such establishment shall be under the immediate direction of a Central Nazir and the control of the District Judge or of the Subordinate Judge in the event of a Central Nazarat being established at any station where there is no District Judge.

II. (II) Deputy Nazir at Outlying Stations.— At all other stations, the process establishment shall be under the immediate directions of a Deputy Nazir who shall be under the control of the District Munsif having jurisdiction at such station :

Provided that where the Deputy Nazarat serves two or more permanent Courts, the senior Judge of the Superior Court shall exercise control, and the Nazarat shall be part of the establishment of that Court.

III. (III) Travelling Allowance.—The amins and process servers shall be eligible for a fixed travelling allowance of Rs. 30 per mensem provided that 12 days in a month are spent by them on process work, appropriate deduction being made for short touring. Days on which journeys within a radius of 8 kilometres performed by the amins and process servers, shall also be taken into account in arriving at the minimum number of days spent on process work in a month.

IV. (IV) Security.— Each General Nazir shall furnish security in a sum of Rs.1,000, each Deputy Nazir in a sum of Rs. 500, each amin in a sum of Rs.300 and each process server in a sum of Rs.100.

V. (V) Officers to whom processes should be transmitted for service.— The proper officers to whom processes shall be transmitted for service under Order V, Rule 9 of the Code shall be—

(a) The Central Nazir in respect of all processes issued by any Court located or having jurisdiction at a station where there is a Central Nazir, for service within the jurisdiction of a Munsif located at such a station.

(b) The Deputy Nazir, at stations where there is no Central Nazir, and in respect of processes issued by any superior Court for service within the jurisdiction of an outlying Munsif.

VI. (VI) Presentation of application for issue of processes and procedure thereafter.— (1) All applications for the issue of processes except those for the issue of emergent processes, whether money is deposited with them or not, and except those (accompanied with processes prepared or not) presented along with plaint, memorandum of appeal, cross-objection or application to the Chief Ministerial Officer, shall be presented to the Central or Deputy Nazir, who shall enter them in a register in the form prescribed. Where money is deposited, it shall be paid to the Central or Deputy Nazir, who shall grant a receipt to the party, out of his receipt book, in the form prescribed (*Vide* Civil Register No. 51 (old) New No. 41). He shall maintain as many receipt books and as many registers as there are Courts whose processes are served by him.

2. (2) The applications shall next be entered in a register in the form prescribed (*Vide* Civil Register No. 53-A. (Old) New No. 44) and forwarded to the Clerk in charge of the records of the suit or

proceeding to which the process applications relate, who shall return them with the copies of complaints, etc., if any, to be delivered to the defendants and such records as may be necessary for the correct preparation of the processes. The process writer shall then prepare the processes in the order of receipt of applications and return the records when no longer required to the Record Clerk and obtain his acknowledgement.

The Clerk in charge of the concerned records shall, as a rule, return the process memoranda to the process-writer within two days of the receipt by him. The process-writers shall prepare the processes without delay and within the time limit prescribed below :—

Summons and notices. — 2 days.

All Warrants. — 2 days.

Proclamation of sales. — 3 days.

3. (3) Whether the High Court, from time to time, directs that the preparation of processes issuing from any specified Court shall be under the supervision of the Chief Ministerial Officer of the Court instead of under the Central or Deputy Nazir, the Central or Deputy Nazir shall, after entering in his register, applications relating to the issue of such processes, transmit them daily at 3 p.m., or such hour as the District Judge may fix, to the Chief Ministerial Officer of the Court concerned with Register C (*Vide* Civil Register No. 53-A (Old) New No. 44).

The Chief Ministerial Officer shall prepare the processes daily and return them with documents or copies of documents, if any, which have also to be served along with the processes at 1 p.m., or such hours as the District Judge may fix, to the Central or Deputy Nazir for service.

4. (4) Emergent processes.— Applications for the issue of emergent processes shall be made direct to the Court concerned and the Court ordering the issue of such processes may direct one of its own officers to receive the process memoranda direct from the party or his pleader. The processes shall, then, be prepared urgently under the supervision of the Chief Ministerial Officer of the Court, and the process memoranda with the process shall, then, be transmitted urgently to the Central or Deputy Nazir for entry in his 'B' Register (*Vide* Civil Register No. 53 (Old), New No. 43) and emergent execution of the processes.

5. (5) Application for issue of process (accompanied with processes prepared or not) presented along with the plaint, memorandum of appeal, cross-objection or application shall, after the plaint, memorandum of appeal, cross-objection or application has been admitted, be transmitted to the Central or Deputy Nazir who will enter them in 'B' Register. (*Vide* Civil Register No. 53 (Old), New No. 43).

a. Note.— (a) *Verification of the balance in Nazir's 'B' Register by the Judge.*— Since the Process Registers A and AA are no longer maintained by the Chief Ministerial Officer of the Court, and the Nazir, or Deputy Nazir have been made solely responsible for the receipt of money connected with the issue of processes, the High Court directs that, in future, the daily balance shown in the new Process C Register (Civil Register No. 53 (Old), New No. 43) shall be verified by the Presiding Judge of the Court to which the Nazarat is attached at least once a month.

Note (a) to rule VI (5) of the Process Service Rules prescribes that the Presiding Officer of a Court to which a Nazarat is attached should verify the daily balance shown in the Nazir's B Register (Civil Register No. 53 (Old), New No. 43) at least once a month. In spite of this provision, defalcations by Nazirs have occurred. The defalcations might have been prevented by a check of the cash balance in the Nazir's B Register (Civil Register No. 53 (Old) New No. 43) with the Nazir's Cash Register (Civil Register No. 53-B (Old) New No. 45) and the Process Register C (Civil Register No. 54 (Old) New No. 47).

An effective check of individual items in the Nazir's B Register (Civil Register No. 53 (Old) New No. 43) can be made only by reference to the corresponding individual items in Process Register C (Civil Register No. 53 (Old) New No. 47) can be verified with the daily totals in the Nazir's Cash Register (Civil Register No. 53-B (Old) New No. 45). Presiding Officers should select a few items at random each month to verify whether the registers are correctly maintained and whether the monies received by the Nazir are properly accounted for.

In the case of a Central Nazarat, the District Judge may depute the work to the Subordinate Judges and District Munsifs at Headquarters in rotation.

[R.O.C. No. 2055 of 1943 (B-2)]

b. (b) Instructions for the guidance of Central and Deputy Nazirs.— The Process Service Rules having been amended so as to make the Central or Deputy Nazir solely responsible for the transactions connected with the receipt, preparation, service and return of the processes issued by Civil Courts, the High Court hereby issues the following instructions for their guidance :—

1. (1) All papers presented to the Central or Deputy Nazir under the revised rules shall, immediately on receipt, be impressed with a date stamp which may be of a design different from that of the date stamps used by the Chief Ministerial Officer. Date stamps may be obtained on indent from the Works Manager, Government Press, Chennai.

2. (2) Process Writers shall prepare processes and work under the supervision of the Central or Deputy Nazir except in Courts in which the High Court has under clause 3 of Rule VI directed that the preparation of the processes shall be under the supervision of the Chief Ministerial Officer.

3. (3) Every warrant of arrest under Order XXI, rule 24(2) of the Code of Civil Procedure, 1908 should be signed by the Judge or such Officer as the Court may appoint in this behalf. The Officer to whom this power may be delegated should ordinarily be the Chief Ministerial Officer of the Court, and not the Nazir or Deputy Nazir ; and the delegation should be made in writing and kept in Court. Any other processes may continue to be signed by the Nazir or Deputy Nazir, as the Court thinks fit, on proper authorisation in writing. A duplicate Court seal with the word 'Nazarat' inscribed thereon shall be affixed to every process signed and issued by the Nazir or the Deputy Nazir.

(P. Dis. No. 584 of 1943)

4. (4) The Presiding Officer of the Court shall send money orders relating to the service of processes received by him to the Central or Deputy Nazir, instead of to the Chief Ministerial Officer. The Central or Deputy Nazir shall make a note of the particulars relating to the money orders in his register.

5. (5) A notice showing the unexpended witness batta available for refund and directing parties and pleaders concerned to apply for refund on such two days in each week and at such hours as the Court may, in its discretion, fix with due regard to the convenience of all parties, shall be exhibited on the notice board of the Court daily. In cases where the party or his pleader has failed to obtain a

refund of the unexpended witness batta within the time prescribed in rule 170 (*Vide* Chapter IX, Part I, *supra*) and where the same has had to be remitted to the Treasury, a penalty of five paise per half rupee or fraction thereof shall be imposed upon the party in the event of his applying for refund at a latter date.

(H.C. Dis. 2240 of 1924)

6. (c) Lists of Courts in which the preparation of processes should be under the Chief Ministerial Officer :—

1. Subordinate Judge's Court, Coimbatore ;
2. District Munsif's Court, Coimbatore ;
3. District Munsif's Court, Sivaganga ;
4. District Munsif's Court, Salem ;
5. District Munsif's Court, Sankari at Salem ;
6. District Munsif's Court, Tiruchirapalli.

VII. (VII) Intimation of receipts and disbursements in the Nazarat to the Chief Ministerial Officer.—As soon as possible after 3 p.m. or such hour as the District Judge may fix, the Central or Deputy Nazir shall send to the Chief Ministerial Officer the receipt books and a statement of totals of stamps and all amounts received and of money expended during the day, in order that the necessary entries may be made in the cash book, ledger and register of documents and Court-fees.

VIII. (VIII) Lists of processes for service in other Nazarats.—The Central or Deputy Nazir shall arrange to despatch each day before post time all processes which have to be sent by registered post to the parties. He shall also prepare lists of all processes which are to be served or executed within the jurisdiction of outlying Courts and send such lists and processes by post on India Government Service to the concerned Courts.

IX. (IX) Procedure on receipt of processes for service.—On receiving any batch of processes, the Central or Deputy Nazir, as the case may be, shall give them general numbers and enter them in a register which shall be kept by himself or under his superintendence in the Form B annexed hereto (*Vide* Civil Register No. 53 (Old) New No. 43).

X. (X) Register C.— He shall, thereupon, arrange for the distribution of the processes and after the necessary entries have

been made in the Register C (*Vide* Civil Register No. 54 (Old), New No. 46) shall deliver them to the several Process-Servers. No process shall be entrusted to a process server or amin unless he has returned all the processes entrusted to him previously except under the orders of the Presiding Officer.

As far as possible all processes, other than warrants of arrest for persons residing in the same neighbourhood, shall be served by one Process-Server and not by several, whether issued by the same Court or by different courts.

XI. (XI) List of processes executed.—Every day at such hours as the District Judge may fix, having regard (when necessary) to the hours at which the post closes, the Central or Deputy Nazir shall prepare a list for each Court of the processes to be returned to it, giving them their original Court numbers and shall transmit them with the list to the Central or Deputy Nazir who issued the processes, and the latter shall thereon sign and return the list.

XII. (XII) Delay in return of process to be reported.—It shall be the duty of the Central or Deputy Nazir to have the processes returned, struck off in his register to bring to the notice of the Presiding Judge any unusual delay. Where such Judge is not the District Judge, he shall report such delay to the District Judge in the absence of satisfactory explanation.

The Central or Deputy Nazir shall verify the entries in Register No. 53 (Old) No. 43 (New) and where processes sent to other Courts or Offices are not returned within a fortnight, he shall send reminders to such Courts and Offices. Cases in which Process-servers and Amins have failed to return processes on the due dates shall be reported by the Central or Deputy Nazir to the Presiding Judge of the Court having control over the Nazarat.

XIII. (XIII) Nazir's 'B' Register.—At the close of each day, the Nazir's Register No. 53 (Old) (New No. 43) shall be closed, the balance of cash with the Nazir under the heads "for processes" and "for refunds" shall be separately shown. The number of processes distributed during the day and the number of Process-Servers remaining unemployed after the distribution of processes shall also be shown in the 'B' Register. In the case of Central Nazarat, the details showing the number of processes distributed and the number of unemployed Process-Servers, etc., shall be shown in the 'B' Register of the District Court, or the Sub-Court, as the case may be. Details showing the balance of cash under respective

heads in each Court shall also be shown in the 'B' Register of the District Court or Sub-Court, as the case may be.

XIV. (XIV) Procedure in case of arrest or seizure of movable property.—When any person has been arrested, or movable property seized, by a Process-Server of any outlying Court under a warrant issued by a superior Court, the Process-Server shall forthwith bring such person or property and deliver him or it to the Central or Deputy Nazir, as the case may be, provided that this rule shall not apply to property not required to be brought to the Court-house.

Such Central or Deputy Nazir shall immediately give the Process-Server a receipt and send him back to his own Court, and shall produce such person or property before the Court which issued the process.

When money shall have been paid upon any such process, it shall be received by the outlying Munsif and duly transmitted, together with the process, to the Court concerned, by money order if the amount does not exceed Rs.600 or by bank draft, by registered post with acknowledgment due, if the amount exceeds Rs. 600, the expenses in either case to be borne by the party to whom the money is payable :

Provided that the whole amount shall be transmitted by money order, if there are no banking facilities in the place of the receipts of money.

1. Note.— (1) To prevent any possibility of misappropriation of moneys byamins and Process-Servers between the interval when money is received from a judgment-debtor and the time when such money can be paid into Court, the High Court directs that each amin or process server receiving money or any valuable security from a judgment-debtor or purchaser in a Court-sale or otherwise shall grant a receipt for the money or valuable security received to the judgment-debtor or purchaser.

It will be the duty of the amin or Process-Server receiving any money in execution of a decree to bring the same with the least possible delay to the Court. The process service registers will afford a means of checking any delay or remissness on the part of the process-service establishment in bringing such sums to Court, and any such delays should be noticed, and if necessary, punished, as the occasion may demand, by the Presiding Judge of each Court.

2. (2) It should be distinctly understood both by Process-Servers and pleaders that payment by them of money to a Head Clerk will not relieve them of responsibility. Nothing short of payment into Treasury under a challan or an acquittance signed by the Presiding Judge himself can be recognised as an absolute discharge.

XV. (XV) Remittance of witness batta.—The total amount of the batta of witnesses, etc., on all the processes issuing to a given Court on any day for service shall be remitted by money order by the Court issuing the processes to the Court to which the processes are sent for service at the same time as the processes are despatched to the latter Court. Any unspent balance in the hands of the court serving the process shall be returned to the Court issuing the processes by money order at intervals of a week (but it may be remitted along with witness batta, if such is being remitted at an earlier date), and the Presiding Judge, or in the case, of a District Court or a Sub-Court, the Sarishtadar shall check and verify, from week to week, the issue of such money orders. The money order commission for remitting money for service of processes shall be borne by the party and collected along with the witness batta. In case of refunds of unspent money, the money order commission shall be deducted from the refundable balance. The number of the money order receipt shall be noted against the appropriate entries in the Register 'B' Civil Register No. 53 (Old) (New No. 43).

XVI. (XVI) Statement of money orders issued to other Courts.—On or before the 6th of each month, the Court issuing money orders under the preceding rule shall send to each Court to which money orders have been issued in the preceding month a statement showing the number and particulars of the money orders so issued, and it shall be the duty of the Presiding Officer of the latter Court to see that the amounts involved have been received and accounted for.

XVII. (XVII) Execution of emergent process.— The Presiding Judge of any Court may, for sufficient reason at any hour of the day, order the emergent execution of any process. It shall be the duty of the Central or the Deputy Nazir on receiving such processes to make immediate arrangements for the execution of such processes.

In case of every special urgency, the Presiding Judge may deliver any such process to any of the Process-Servers in attendance at his Court for immediate service or execution.

XVIII. (XVIII) Expeditious Execution of Processes.—All processes marked as emergent shall be issued and executed without any delay. An other processes shall be issued for execution as expeditiously as possible and in any case within four days of the date on which they are made ready. To admit of a sufficient number of processes in a particular direction, or neighbourhood being accumulated, the Central or Deputy Nazir may keep such processes for a period of five days and issue them for execution on the sixth day.

The Central or Deputy Nazir shall ensure that processes which are to be sent by registered post to parties are despatched within two days of their being made ready. In issuing processes for service, the Central or Deputy Nazir shall calculate the time to be allowed for returning processes on the basis that each Process-Server will execute four processes per day and each amin one process per day. In making such calculation, the time for the journey from and to Court shall be excluded.

XIX. (XIX) Deputation of special Process-Server from head quarters.—The Presiding Judge of any superior Court may direct on the application of the party applying for any particular process which would ordinarily be sent for service to an outlying Court, that it be served or executed by a special Process-Server or Amin from head-quarters, provided that the pay of such Process-server or amin for the time he is likely to be employed on such duty be paid in advance at the following rates :—

Process-server. — Rupee one per day for processes other than warrants. Rupee one and paise fifty per day for warrants.

Amins. — Rupee one and paise fifty per day for processes other than warrants.

Rupees three per day for warrants.

The Judge may, for any sufficient reason, direct that such extra charge be costs of the suit or proceedings.

Note.— To cover the ordinary daily charges, a sum of rupees two per day in the case of an Amin and rupee one per day in the case of a Process-Server shall be collected from the party in cash along with the process application and paid to the amin or Process-Server deputed for the execution of the central process. The number of days spent by the amin or Process-Server on such process work shall not be taken into account in regulating the payment of fixed travelling allowance provided under the rules.

XX. (XX) Second Process-Server to be ordinarily deputed to guard judgment-debtors.—When the Court considers it advisable that a second Process-Server should be deputed to assist the Process-Server having the custody of a judgment-debtor, the pay of both at Re.1 a day for each, up to the time fixed for the adjourned hearing shall be paid in advance.

XXI. (1). (XXI) (1) Average number of processes to be executed by each Amin and Process-Server.—The number of amins and Process-Servers to be employed for each district, from time to time, shall be determined by the High Court, due regard being had to the number of processes to be executed and the areas to be served by the several Nazarats and to any other special circumstances affecting the number of processes which one officer may fairly be expected to serve in a given time. The number of processes to be executed each year by each amin and Process-Server engaged in execution work shall be regulated in accordance with the following average figures :—

District.	Average per amin.	Average per Process-Server.
(1)	(2)	(3)
North Arcot.	250	300
South Arcot.	200	300
Chengalpattu.	350	450
Coimbatore.	300	400
Madurai.	300	350
Ramanathapuram.	200	250
Salem.	300	400
East Thanjavur.	250	300
West Thanjavur.	200	300
Tiruchirappalli.	250	450
Tirunelveli.	250	300

2. (2) Deputation of process staff for process-writing and guard duty.— The number of amins and Process-Servers to be employed under each Nazir and Deputy Nazir, not exceeding the number determined as above for each district shall in like manner, from time to time, be determined by the District Judge

subject to the control of the High Court. In addition to the number of amins and Process-Servers required for execution work, there shall be employed for each Court a sufficient number of Amins to write its process and for attending to the despatch of process by post. The number of Amins required for the above duties shall be determined by the Presiding Judge of the Courts concerned having charge of the Nazarat subject to the control of the District Judge and the High Court. Three Process-Servers shall be deputed to guard a District Court and two Process-Servers shall be deputed to guard each Sub-Court and District Munsif's Court. The process servers engaged on guard duty shall be told off in rotation for one month at a time from the whole number of Process-Servers and shall also be available for the service of emergent process under rule XVII. In addition to the deputation of Process-Servers for guard duty, the Central or Deputy Nazir, as the case may be, shall from the Process-Servers available in Court (*i.e.*, those who are awaiting processes to be issued) depute a sufficient number of Process-servers for each Court whose processes the Central or Deputy Nazir serves, to attend to routine duties in the Courts and offices generally known as "Hazar duties".

Note.—The High Court directs that the turn duty for the Process-Servers may be arranged from 16th day of a month to 15th day of the succeeding month instead of from the first day to the last day, of the month to enable the Process-Servers to get F.T.A. for all the months.

3. (3) Commutation of process.— In calculating the number of processes, if more than one of the same description have been issued on behalf of the same party at the same time in the same suit or proceeding and executed in the same town or village, the first only shall be reckoned as a full process, and each subsequent set of three or part thereof shall count as, but one process, whether executed by one or more amins or Process-Servers. Three processes shall be counted for each emergent process and one for each day that an amin or Process-Server is in charge of a judgment-debtor or engaged on any special duty.

a. *Note.*— (a) Warrants of attachment of immovable property and proclamations are not processes of one description within the meaning of rule XXI and must, therefore, be counted separately each warrant of attachment as one process, and each proclamation as one process, subject of course to the other provisions of the rules

regarding duplicate processes executed in the same town or village.

(H.C. Dis. 22 of 1909)

b. (b) An extra process is to be counted in all cases.—An additional fee is actually levied after the 2nd day under items (ii) (a), (b), (c) and (d) and III in the Schedule of process fee or in case arising under rule XXI of the Process-Service Rules. Care must be taken that this concession is not abused and made a means of unduly swelling the number of processes and thus increasing the establishments. Nazirs and Deputy Nazirs will be held responsible in regard to this.

c. (c) Emergent processes—how to be computed.—The High Court considers that the proper method of calculation to adopt, where urgent processes are taken is to reckon the first process alone as three under the rule quoted. Such a reckoning substantially allows for the urgency and does not unduly swell the number of processes for service.

Extra processes counted in accordance with the instructions issued in High Court Dis. No. 510 of 1909 should be reckoned as ordinary processes, though the original process is urgent.

XXII. (XXII) Monthly report of processes executed.— (i) Every Central or Deputy Nazir shall, at the end of each month, report to the District Judge the number of processes, calculated as above, which may have been executed by their subordinates within the month and such report shall show the number declared by each Court to be emergent.

Note.— *Statement of distribution of processes to be submitted to District Judge.*— In order to ensure that the processes are fairly distributed among Process-Servers and that a fair average of work is attained by each Process-Server, the High Court directs that every Subordinate Judge and District Munsif having control over a Nazarat, shall submit to the District Judge not later than the 5th of every month a statement in the prescribed form.

2. (2) Strength of Nazarat to be reduced whenever the average number of processes falls short of the prescribed average.— The District Judge shall reduce the number of Process-servers in the Central Nazarat of any outlying Court, whenever the average number of processes issued for each man (exclusive of those allowed under rule XXI to be in attendance in

the Courts) falls short of the prescribed average by more than ten per centum.

a. *Note.*— Rule XXII(2) of the Process-Service Rules required a reduction in the strength of the Nazareth whenever the average number of processes issued falls short of the average prescribed by more than 10%. This does not mean that there should be no reduction if the fall is not so large. District Judges should not fill up vacancies unless they are satisfied that there is sufficient work to provide not less than the prescribed average for each Process-server and Amin.

CIRCULAR ORDERS.

(a) (a) Instructions for the guidance of Courts in regard to the execution of warrants of committal :

i. (i) Number of Process-Servers to be deputed to escort Judgment-debtor.—The number of Process-Servers to be deputed to escort Judgment-debtors to civil jails is a matter for the discretion of the Court concerned which will guide itself by the necessities of each case.

ii. (ii) Fee to be levied for issue of a warrant of committal.—The fee for a warrant of committal shall be that prescribed in item III of the Schedule of process fees, irrespective of the number of Process-Servers employed ; additional fees shall be levied after the second day under item II of the Schedule.

iii. (iii) Mode of calculating such warrants for purposes of rule XXI.—A warrant of committal shall count as one process, subject to the rule XXI of the Process Service Rules, irrespective of the number of Process-Servers employed.

iv. (iv) No fee for issue of orders of release.—No process fee shall be levied for the issue of orders of release of a judgment-debtor from jail.

v. (v) Judgment-creditor to pay the fee for the escort of judgment-debtors to and from jails.—The judgment-creditor at whose instance the debtor is taken to or brought from the jail, shall pay the travelling expenses and batta of the escort and of the debtor.

b. (b) Travelling allowance of Process-Servers.—Under rule 12 of the Tamil Nadu Travelling Allowance Rules, Process-Servers are clearly entitled to batta outside their jurisdiction and in cases where the civil jails to which the judgment-debtors are

committed are situated outside the jurisdiction of the Courts to which the Process-Servers are attached, the Process-Servers are eligible for batta and it should be paid to them by the Courts out of the moneys collected from the creditors. In these cases, where the civil jail is situated within the jurisdiction of the Courts committing the prisoners, it may also be necessary or desirable that journeys should be performed by rail or other conveyance and then the Process-Servers fare should be collected and paid to them. But, they would not be entitled to subsistence allowance. The Court has to fix in each case the charges leviable from the creditors.

c. (c) Execution of process - Instructions.— The High Court directs that Process-Servers and amins entrusted with the execution of warrants for attachment of property or for arrest should carry out the orders of Court unless satisfaction of the decree is endorsed on the warrant by the decree holder in the manner prescribed by Order XXI, Rule 25(2) of the Code of Civil Procedure, 1908. It is irregular for Process-Servers and amins to return warrants unexecuted with any endorsement other than that specified in the above rule.

(H.C. P. Dis. No. 280 of 1948)

d. (d) Supervision of the work of the process establishment.—In order to ensure adequate supervision of the work of the process establishments in the mufassal, the High Court issues the following instructions :—

DIARIES.

1. (1) Every amin and Process-Server shall maintain a diary in Form No. 75 (Old) New No. 64 in Appendix II of Part II, Volume II. It shall be written up day by day and show where the amin or Process-Server has been on each day, what work, he has done and what processes he has served or failed to serve.

The diary will be initialled by the Nazir whenever he issues processes and whenever the amin or Process-Server returns to headquarters. The Process-Server or amin shall endeavour to get the entries in the diary attested by a village officials or a substantial ryot of the village in which processes are served, whether personally or by affixture, or refused.

Officers in charge of Courts having Nazarats should inspect these diaries, from time to time. District Judges will, at their inspection of subordinate Courts, satisfy themselves that the diaries are being regularly maintained.

OBSERVATION LIST.

2. (2) The Nazir of every Court shall prepare and submit for the orders of the Presiding Officer not later than the 15th of each month two statements in the Forms A and B set out below.

3. (3) Statement A shall show the names only of those Process-Servers and Amins not already on the Observation List who have shown less than 50 per cent of success on the total figures of processes other than arrest warrants for the preceding two months. The names of those in Statement A shall, in the absence of extenuating circumstances, be placed on the Observation List. The Presiding Officer may, at his discretion, ignore past bad work which has already resulted in addition to the Observation List after a man has earned his removal from the list by subsequent good work.

4. (4) Statement B shall contain the names and figures for the last preceding two months under processes other than arrest warrants of all those who are on the Observation List. The Presiding Officer may order the removal from this list of all those whose figures of successful execution for the last preceding two months under processes other than arrest warrants are over 65 per cent.

When submitting Statements A and B, the Nazir will append to each a brief note indicating which of the Process-Servers or amins are to be added to or removed from the Observation List, and, in the case of Statement B, pointing out those who have been on the Observation List for such periods as to make substantive punishment desirable.

a. *Note.*—(a) For the purpose of these statements, actual figures of processes will be given, not the fictitious figures prescribed under rule XXI(3) of the Process Rules.

b. (b) The minimum of 50 and 65 per cent prescribed for the statements A and B, respectively, may be varied at the discretion of District Judge, if they are found with reference to local conditions, to be too low or too high. Any such variations should be reported to the High Court for information.

c. (c) For the purpose of the Observation List, arrest warrants may be deemed to have been executed (1) when the debtor is produced before Court, (2) when the debtor is not produced, but part or full satisfaction is reported by the decree-holder or he

reports that the warrant need not be executed before the expiry of the time allowed for the return of the warrant and the Court recalls the warrant. Cases of escape from the custody of a Process-Server or amin should be treated as cases of failure.

d. (d) When the person to be served or arrested is reported to be non-resident or dead, the process should be excluded in calculating percentages.

e. (e) Service of other processes on adult members of the family or by affixture, whether after refusal or otherwise, should be treated as failures for the purpose of calculating these percentages.

f. (f) Sale warrants may be deemed to have been executed when the sale is stopped or adjourned under the Court's orders or when the sale is held in public Court and fails for want of bidders (but not when it is held away from the Court and fails for want of bidders).

g. (g) Attachment and delivery warrants may be deemed to have been executed when on the motion of the decree-holder, the Court recalls the warrants and orders that they need not be executed.

5. (5) The Officer in-charge of a Nazarat shall scrutinize every case of an unsuccessful execution of an arrest, warrant. If he considers it necessary in any particular case, he may call for the explanation of the amin or Process-Server concerned and may also invite, on the administrative side, the remarks of the officer in-charge of the Court which ordered the issue of the warrant. If he is not satisfied with the explanation offered, he shall report the matter to the Presiding Officer who may thereupon direct the amin or Process-Server to be placed on the Observation List for a specified period as a measure of punishment. The Presiding Officer may, however at his discretion, remove him from the list even before the expiry of that period.

6. (6) The Observation List shall be maintained in ledger form and will contain only the names of those who have been ordered to be placed on it as a result of the scrutiny of Statement A or of an order passed under clause 5 above. So long as an individual remains on the Observation List, his figures of successful service will be entered against him in that list by month. When his name is removed, no further entry need be made against him except a note of the date of removal. If he is once more added to the list,

entries for the period of his second stay on the list will be made in continuation of those relating to his previous period of observation so as to form a continuous record of unsatisfactory periods of service.

7. (7) No men should be allowed to remain on the Observation List for long periods without receiving first a special warning and if this is ineffective, substantive punishment. Before imposing substantive punishment, a charge of continuously unsatisfactory work should be framed the figures on which the charge is based should be properly proved and the procedure prescribed in the Statutory Rules should be carefully followed.

Ordinarily no increments or other rewards should be sanctioned in favour of a man who is on the Observation List, but they may be sanctioned with retrospective effect as soon as he earns his removal.

As the successful working of the above system depends entirely on the correctness of the figures and the personal interest of the Presiding Officers, the latter should check the accuracy of the figures, from time to time, and they should also be checked at the annual inspection of Courts. Copies of the orders passed by Subordinate Judges and District Munsifs each month on Statements A and B should be submitted to the District Judge for perusal on or before the 20th of each month.

8. The above instructions contemplate only one method, barring dismissal or removal from service of earning a discharge from the Observation List and that is by specially good work. The practice of removing from Statement B, Process-Servers who have been substantively punished is not correct. That a person has remained long enough in the list to earn substantive punishment is a reason for maintaining a stricter watch over him rather than for giving him a respite from observation.