

APPENDIX G
APPEAL, REFERENCE AND REVIEW
No. 1

MEMORANDUM OF APPEAL
(O. 41, r. 1.)
(*Title*)

The.....above-named appeals to the.....Court at.....from the decree of.....in Suit No.....of.....20.....dated the.....day of.....20....., and sets forth the following grounds of objection to the decree appealed from, namely:—

No. 2
SECURITY BOND TO BE GIVEN ON ORDER BEING MADE TO STAY EXECUTION OF DECREE
(O. 41, r. 5.)
(*Title*)

To

.....
.....

This security bond on stay of execution of decree executed by.....witnesseth:—That....., the plaintiff in Suit No.....of.....20.....having sued....., the defendant, in this Court and a decree having been passed on the.....day of.....20....., in favour of the plaintiff, and the defendant having preferred an appeal from the said decree in the.....Court, the said appeal is still pending.

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

Schedule

(*Signed.*)

Witnessed by

- 1.
- 2.

No. 3

SECURITY BOND TO BE GIVEN DURING THE PENDENCY OF APPEAL

(O. 41, r. 6.)

(*Title*)

To

.....
.....

THIS security bond on stay of execution of decree executed by witnesseth:—

That....., the plaintiff in Suit No.....of.....20..... having sued....., defendant, in this Court and a decree having been passed on theday of.....20.....in favour of the plaintiff, and the defendant having preferred an appeal from the said decree in the..... Court, the said appeal is still pending.

Now the plaintiff decree-holder has applied for execution of the said decree and has been called upon to furnish security. Accordingly I, of my own free will, stand security to the extent of Rs....., mortgaging the properties specified in the schedule hereunto annexed, and covenant that if the decree of the first Court be reversed or varied by the Appellate Court, the plaintiff shall restore any property which may be or has been taken in execution of the said decree and shall duly act in accordance with the decree of the Appellate Court and shall pay whatever may be payable by him thereunder, and if he should fail therein then any amount so payable shall be realised from the properties hereby mortgaged, and if the proceeds of the sale of the said properties are insufficient to pay the amount due, I and my legal representatives will be personally liable to pay the balance. To this effect I execute this security bond this.....day of20.....

Schedule

(*Signed.*)

Witnessed by

- 1.
- 2.

No. 4

SECURITY FOR COSTS OF APPEAL

(O. 41, r. 10.)

(*Title*)

To

.....
.....

This security bond for costs of appeal executed by.....witnesseth:—

This appellant has preferred an appeal from the decree in Suit No.of20....., against the respondent, and has been called upon to furnish security. Accordingly I, of my own free will, stand security for the costs of the appeal, mortgaging the properties specified in the schedule hereunto annexed. I shall not transfer the said properties or any part thereof, and in the event of any default on the part of the appellant, I shall duly carry out any order that may be made against me with regard to payment of the costs of appeal. Any amount so payable shall be realised from the properties hereby mortgaged, and if the proceeds of the sale of the said properties are insufficient to pay the amount due I and my legal representatives will be personally liable to pay the balance. To this effect, I execute this security bond thisday of.....20.....

Schedule

Witnessed by

- 1.
- 2.

(*Signed.*)

No. 5

INTIMATION TO LOWER COURT OF ADMISSION OF APPEAL

(O. 41, r. 13.)

(*Title*)

To

.....
.....

You are hereby directed to take notice that....., the.....in the above suit, has preferred an appeal to this Court from the decree passed by you therein on the.....day of.....20.....

You are requested to send with all practicable despatch all material papers in the suit.

Dated the.....day of.....20.....

Judge.

No. 6

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

(O. 41, r. 14.)
(*Title*)

Appeal from the.....of the Court.....of.....
dated.....the.....day of.....20.....

To

Respondent

Take notice that an appeal from the decree of.....in this case has been presented by.....and registered in this Court, and that the.....day of.....20.....has been fixed by this Court for the hearing of this appeal.

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

GIVEN under my hand and the seal of the Court, this.....day of.....20.....

Judge.

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

No. 7

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

(O. 41, r. 20.)
(*Title*)

To

.....
.....

WHEREAS you were a party in Suit No.....of.....20....., in the Court of....., and whereas the.....has preferred an appeal to this Court from the decree passed against him in the said suit and it appears to this Court that you are interested in the result of the said appeal:

This is to give you notice that this Court has directed you to be made a respondent in the said appeal and has adjourned the hearing thereof till the.....day of.....20....., at.....A. M. If no appearance is made on your behalf on the said day and at the said hour the appeal will be heard and decided in your absence.

GIVEN under my hand and the seal of the Court, this.....day of.....20.....

Judge.

No. 8

MEMORANDUM OF CROSS OBJECTION

(O. 41, r. 22.)

(*Title*)

WHEREAS the.....has preferred an appeal to the.....Court.....at.....from the decree of.....in Suit No.....of.....20.....dated the.....day of.....20....., and whereas notice of the day fixed for hearing the appeal was served.....on the.....day of.....20....., the.....files this memorandum of cross objection under rule 22 of Order XLI of the Code of Civil Procedure, 1908, and sets forth the following grounds of objection to the decree appealed from, namely:—

No. 9

DECREE IN APPEAL

(O. 41, r. 35.)

(*Title*)

Appeal No.of20.....from the decree of the Court ofdated the.....day of.....20.....

Memorandum of Appeal.

Plaintiff.

versus

Defendant.

The.....above-named appeals to the.....Court at.....from the decree of.....in the above suit dated the.....day of.....20....., for the following reasons, namely:—

This appeal coming on for hearing on the.....day of.....20....., before in the presence of.....or the appellant and of.....for the respondent, it is ordered—

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

GIVEN under my hand this.....day of.....20.....

Judge.

Costs of Appeal

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

No. 10

APPLICATION TO APPEAL IN *forma pauperis*

(O. 44, r. 1.)

(Title)

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

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

Dated the.....day of.....20.....

(Signed.)

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

No. 11

NOTICE OF APPEAL IN *forma pauperis*

(O. 44, r. 1.)

(Title)

WHEREAS the above-named.....has applied to be allowed to appeal as a pauper from the decree in the above suit dated the.....day of.....20..... and whereas the.....day of.....20....., has been fixed for hearing the application, notice is hereby given to you that if you desire to show cause why the applicant should not be allowed to appeal as a pauper an opportunity will be given to you of doing so on the afore-mentioned date.

GIVEN under my hand and the seal of the Court, this.....day of.....20....

Judge.

No. 12

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

(O. 45, r. 3.)

(*Title*)

To

.....
.....

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

- (i) that the case involves a substantial question of law of general importance, and
- (ii) that in the opinion of this Court the said question needs to be decided by the Supreme Court.]

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

GIVEN under my hand and the seal of the Court, this.....day of.....20....

Registrar.

No. 13

NOTICE TO RESPONDENT OF ADMISSION OF APPEAL TO THE ¹[SUPREME COURT]

(O. 45, r. 8.)

(*Title*)

To

.....
.....

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

Take notice that the appeal of the said.....to ³[the Supreme Court] has been admitted on the.....day of.....20.....

GIVEN under my hand and the seal of the Court, this.....day of.....20...

Registrar.

1. Subs. by the A.O. 1950, for “KING IN COUNCIL”.
2. Subs. by Act 49 of 1973, s. 4, for the former paragraph.
3. Subs. by the A.O. 1950, for “His Majesty in Council”.

No. 14

NOTICE TO SHOW CAUSE WHY A REVIEW SHOULD NOT BE GRANTED

(O. 47, r. 4.)

(Title)

To

TAKE notice that.....has applied to this Court for a review of its decree passed on the.....day of..... 20..... in the above case. Theday of.....20.....fixed for you to show cause why the Court should not grant a review of its decree in this case.

GIVEN under my hand and the seal of the Court, this..... day of.....20....

Judge.