

CIRCULAR No.78

SUBJECT : Return of Documents.

Several requests are being received by the Deputy/Assistant Charity Commissioners as well as by the Charity Commissioner for return of documents produced in proceedings before them. As a result of the recent amendment to section 72 of the Bombay Public Trusts Act,1950, an application under Section 72 to the Court will not be treated as a proceedings in the nature of appeal and the record and proceedings before the Deputy/ Assistant Charity Commissioner and Charity Commissioner will invariably be called by the Court for deciding applications under Section 72. Great care should therefore be taken in returning documents. Order 13 rule 7 and 9 as well as the rules made by the High Court make provisions for return of documents. The following rules, on the analogy of the provisions in the Civil Procedure Code and the High Court Manual (Civil), may be followed :

1) Documents not admitted in evidence should not form part of the record and should be returned to the persons producing them.

2) In case no appeal is allowed, the documents may be returned after the proceedings are over.

3) In case an appeal is allowed, documents may be returned after the period for filing the appeal is over and no appeal is filed, or if an appeal has been preferred after the appeal has been disposed of. A document may however, be returned earlier than the period referred to above, if the party (i) delivers a certified copy to be substituted for the original and (ii) undertakes to produce the original if required to do so.

4) The above rule Nos.2 & 3 will apply to all documents placed on record whether original or copies.

5) Any documents required to be produced with the application for the registration of public trust (e.g. copies of trust deed, scheme or certified copies of record of rights) should not be returned. If original trust deeds or wills are produced with the application for registration they should be returned and only copies, as required under the Rules (vide schedule II form of application for registration) may be placed on record.

6) In case of an appeal under Section 70 of the Bombay Public Trusts Act,1950, after the appeal is disposed of, the certified copy of the order passed by the Deputy / Assistant Charity Commissioner and produced by the appellant may be returned.

7) On the return of a document admitted in evidence, a receipt should invariably be taken from the person receiving it. The receipt should show the description of the document returned and its exhibit

number as in the accompanying form. In case the applicant is not present in person a receipt may be prepared and sent to him for his signature and when it is returned duly signed, the documents may be returned. An entry should be made in the Roznama showing the date of return of each document, its description and its exhibit number and it should be signed by the office Superintendent.

Dated : 18th December, 1954. D.R.PRADHAN
Charity Commissioner, Bombay

FORM OF RECEIPT FOR RETURN OF DOCUMENTS

Inquiry/Misc. proceeding No.

Sr.No.	Description of document	Exhibit No.
1.	Original Will datedetc.	Ex. No.5.
2.	Original Trust Deed dt.....	Ex. No.6.
3.		
4.		

Signature of the person to whom documents
are returned