

Order-11 Discovery and Inspection

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1. Discovery by interrogatories :-

In any suit the plaintiff or defendant by leave of the Court may deliver interrogatories in writing for the examination of the opposite- parties or any one or more of such parties, and such interrogatories when delivered shall have a note at the foot thereof stating which of such interrogatories each of such persons is required to answer: Provided that no party shall deliver more than one set of interrogatories to the same party without an order for that purpose: Provided also that interrogatories which do not relate to any matters in question in the suit shall be deemed irrelevant, notwithstanding that they might be admissible on the oral cross-

examination of a witness.

2. Particular interrogatories to be submitted :-

On an application for leave to deliver interrogatories, the particular interrogatories proposed to be delivered shall be submitted to the Court ¹ ["and that Court shall decide within seven days from the day of filing of the said application",]. In deciding upon such application the Court shall take into account any offer, which may be made by the party sought to be interrogated to deliver particulars, or to make admissions, or to produce documents relating to the matters in question, or any of them, and leave shall be given as to such only of the interrogatories submitted as the Court shall consider necessary either for disposing fairly of the suit or for saving costs.

1. " Order-11 Discovery and Inspection" Dt.December 30, 1999 Published in Received the assent of the President on the 30th December, 1999 and was published in the Gazette of India, (Extra.), Part II sec.1, No. 59, dated December 30, 1999

3. Costs of interrogatories :-

In adjusting the costs of the suit inquiry shall at the instance of any party be made into the propriety of exhibiting such interrogatories, and if it is the opinion of the taxing officer or the Court, either with or without an application for inquiry, that such interrogatories have been exhibited unreasonably, vexatiously or at improper length, the costs occasioned by the said interrogatories and the answers thereto shall be paid in any event by the party in fault.

4. Form of interrogatories :-

Interrogatories shall be in Form No. 2 in Appendix C, with such variations as circumstances may require.

5. Corporations :-

Where any party to a suit is a corporation or a body or persons whether incorporated or not, empowered by law to sue or be sued, whether in its own name or in the name of any officer or other person, any opposite-party may apply for an order allowing him to deliver interrogatories to any member or officer of such corporation or body, and an order may be made accordingly.

6. Objections to interrogatories by answer :-

Any objections to answering any interrogatory on the ground that it is scandalous or irrelevant or not exhibited bona fide for the purpose of the suit, or that the matters inquired into are not

sufficiently material at that stage, ¹ [or on the ground of privilege or on any other ground] may be taken in the affidavit in answer.

1. Subs. by C.P.C. (Amendment) Act No. 104 of 1976, Sec. 61. for the words "or on any other ground" (w.e.f. 1st February, 1977).

7. Setting aside and striking out interrogatories :-

Any interrogatories may be set aside on the ground that they have been exhibited unreasonably or vexatiously, or struck out on the ground that they are prolix, oppressive, unnecessary or scandalous; and any application for this purpose may be made within seven days after service of the interrogatories.

8. Affidavit in answer, filing :-

Interrogatories shall be answered by affidavit to be filed within ten days, or within such other time as the Court may allow.

9. Form of affidavit in answer :-

An affidavit in answer to interrogatories shall be in Form No. 3 in Appendix C, with such variations as circumstances may require.

10. No exception to be taken :-

No exception shall be taken to any affidavit in answer, but the sufficiency or otherwise of any such affidavit objected to as insufficient shall be determined by the Court.

11. Order to answer or answer further :-

Where any person interrogated omits to answer, or answers insufficiently, the party interrogating may apply to the Court for an order requiring him to answer, or to answer further, as the case may be. And an order may be made requiring him to answer or answer further, either by affidavit or by viva voce examination, as the Court may direct.

12. Application for discovery of documents :-

Any party may, without filing any affidavit, apply to the Court for an order directing any other party to any suit to make discovery on oath of the documents which are or have been in his possession or power, relating to any matter in question therein. On the hearing of such application the Court may either refuse or adjourn the same, if satisfied that such discovery is not necessary, or not necessary at the stage of the suit, or make such order either generally or limited to certain classes of documents, as may, in its discretion, be thought fit: Provided that discovery shall not be ordered when and so far as the Court shall be of opinion that it is not necessary either

for disposing fairly of the suit or for saving costs.

13. Affidavit of documents :-

The affidavit to be made by a party against whom such order as is mentioned in the last preceding rule has been made, shall specify which (if any) of the documents therein mentioned he objects to produce, and it shall be in Form No. 5 in Appendix C, with such variations as circumstances may require.

14. Production of documents :-

It shall be lawful for the Court, at any time during the pendency of any suit, to order the production by any party thereto upon oath, of such of the documents in his possession or power, relating to any matter in question in such suit, as the Court shall think right; and the Court may deal with such documents, when produced, in such manner as shall appear just.

15. Inspection of documents referred to in pleadings or affidavits :-

Every party to a suit shall be entitled ¹["at or before the settlement of issues"]to give notice to any other party, in whose pleadings or affidavits reference is made to any document ² [or who has entered any document in any list annexed to the pleadings,] or produce such document for the inspection of the party giving such notice, or of his pleader, and to permit him or them to take copies thereof; and any party not complying with such notice shall not afterwards be at liberty to put any such document in evidence on his behalf in such suit unless he shall satisfy the Court that such document relates only to his own title, he being a defendant to the suit, or that he had some other cause or excuse which the Court shall deem sufficient for not complying with notice, in which case the Court may allow the same to be put in evidence on such terms as to costs and otherwise as the Court shall think fit.

1. Substituted for "at any time ", vide " Order-11 Discovery and Inspection" Dt.December 30, 1999 Published in Received the assent of the President on the 30th December, 1999 and was published in the Gazette of India, (Extra.), Part II sec.1, No. 59, dated December 30, 1999

2. Ins. by C.P.C. (Amendment) Act No. 104 of 1976, Sec, 61 (w.e.f. 1st February, 1977).

16. Notice to produce :-

Notice to any party to produce any documents referred to in this pleading or affidavits shall be in Form No. 7 in Appendix C, with

such variations as circumstances may require.

17. Time for inspection when notice given :-

The party to whom such notice is given shall, within ten days from the receipt of such notice, deliver to the party giving the same notice stating a time within three days from the delivery thereof at which the documents, or such of them as he does not object to produce, may be inspected at the office of his pleader, or in the case of bankers' books or other books of account or books in constant use for the purposes of any trade or business, at their usual place of custody, and stating which (if any) of the documents he objects to produce, and on what ground. Such notice shall be in Form No. 8 in Appendix C, with such variations as circumstances may require.

18. Order for inspection :-

(1) Where the party served with notice under rule 15 omits to give such notice of a time for inspection or objects to give inspection, or

(2) Any application to inspect documents except such are referred to in the pleadings, particulars or affidavits of the party against whom the application is made or disclosed in his affidavit of documents, shall be founded upon an affidavit showing of what documents inspection is sought, that the party applying is entitled to inspect them, and that they are in the possession or power of the other party. The Court shall not make such order for inspection of such documents when and so far as the Court shall be of opinion that it is not necessary either for disposing fairly of the suit or for saving costs.

19. Verified copies :-

(1) Where inspection of any business books is applied for the Court may, if it thinks fit, instead of ordering inspection of the original books, order a copy of any entries therein to be furnished and verified by the affidavit of some person who has examined the copy with the original entries, and such affidavit shall state whether or not there are in the original book and any what erasures, interlineations or alterations: Provided that, notwithstanding that such copy has been supplied, the Court may order inspection of the book from which the copy was made.

(2) Where on an application for an order for inspection privilege is claimed for any document, it shall be lawful for the Court to inspect

the document for the purpose of deciding as to the validity of the claim of privilege, ¹ [unless the document relates to matters of State].

(3) The Court may, on the application of any party to a suit at any time and whether an affidavit of documents shall not have already been ordered or make an order requiring any other party to state by affidavit whether any one or more specific documents, to be specified in the application, is or are, or has or have at any time been, in his possession or power; and, if not then in his possession, when he parted with the same and what has become thereof. Such application shall be made on an affidavit stating that in the belief of the deponent the party against whom the application is made has, or has at some time had in his possession or power the documents specified in the application, and that they relate to the matters in question -in the suit, or to some of them.

1. Ins. by C.P.C. (Amendment) Act No. 104 of 1976, Sec. 61 (w.e.f. 1st February, 1977).

20. Premature discovery :-

Where the party from whom discovery of any kind or inspection is sought objects to the same, or any part thereof, the Court may, if satisfied that the right to the discovery or inspection sought depends on the determination of any issue or question in dispute in the suit or that for any other reason it is desirable that any issue or question in dispute in the suit should be determined before deciding upon the right to the discovery or inspection, order that such issue or question be determined first, and reserve the question as to the discovery or inspection.

21. Non-compliance with order for discovery :-

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[(1)] Where any party fails to comply with any order to answer interrogatories, or for discovery or inspection of documents, he shall, if a plaintiff, be liable to have his suit dismissed for want of prosecution, and, if a defendant, to have his defence, if any, struck out; and to be placed in the same position as if he had not defended, and the party interrogating or seeking discovery or inspection may apply to the Court for an order to that effect, and ²[an order may be made on such application accordingly after notice to the parties and after giving them a reasonable opportunity of being heard].

3 [(2) Where an order is made under sub-rule (1) dismissing any suit, the plaintiff shall be precluded from bringing a fresh suit on the same cause of action.]

1. Renumbered by C.P.C. (Amendment) Act No. 104 of 1976, Sec. 61 (w.e.f. 1st February, 1977).

2. Ins. by C.P.C. (Amendment) Act No. 104 of 1976, Sec. 61 (w.e.f. 1st February, 1977).

3. (1961) 2 S.C.R. 371.

22. Using answers to interrogatories at trial :-

Any party may, at the trial of a suit, use evidence any one or more of the answers or any part of an answer of the opposite-party to interrogatories without putting in the others or the whole of such answer: Provided always that in such case the Court may look at the whole of the answers, and if it shall be of opinion that any others of them are so connected with those put in that the last mentioned answers ought not to be used without them, it may direct them to be put in.

23. Order to apply to minors :-

This order shall apply to minor plaintiffs and defendants, and the next friends and guardians for the suit of persons under disability.