

Order-13 Production, Impounding and Return of Documents

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Order-13 Production, Impounding and Return of Documents

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1. Original documents to be produced at or before the settlement of issues :-

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(1) The parties or their pleader shall produce on or before the settlement of issues, all the documentary evidence in original where the copies thereof have been filed along with plaint or written statement.

(2) The Court shall receive the documents so produced: Provided that they are accompanied by an accurate list thereof prepared in such form as the High Court directs.

(3) Nothing in sub-rule (1) shall apply to documents-

(a) produced for the cross-examination of the witnesses of the other party; or

(b) handed over to a witness merely to refresh his memory.

1. Substituted for " 1 [Rule-1]Documentary evidence to be produced 1 [at or before the settlement of issues]- (1) The parties or their pleaders shall produce, 2 [at or before the settlement of

issues] all the documentary evidence of every description in their possession or power, on which they intend to rely, and which has not already been filed in Court, and all documents which the Court has ordered to be produced. (2) The Court shall receive the documents so produced: Provided that they are accompanied by an accurate list thereof prepared in such forms as the High Court directs. 2 [Rule-2]Effect of non-production of documents - 3 [(1)] No documentary evidence to the possession or power or any party which should have been but has not been produced in accordance with the requirements of rule 1 shall be received at any subsequent stage of the proceedings unless good cause is shown to the satisfaction of the Court for the non-production thereof; and the Court receiving any such evidence shall record the reasons for so doing. 4 [(1) Nothing in sub-rule (1) shall apply to documents,- (a) produced for the cross-examination of the witnesses of the other party; or (b) handed over to a witness merely to refresh his memory.] ", vide " Order-13 Production, Impounding and Return of Documents" 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. Rejection of irrelevant or inadmissible documents :-

The Court may at any stage of the suit reject any document which it considers irrelevant or otherwise inadmissible, recording the grounds of such rejection.

4. Endorsement on documents admitted in evidence :-

(1) Subject to the provisions of the next following sub-rule, there shall be endorsed on every document which has been admitted in evidence in the suit the following particulars, namely:

- (a) the number and title of the suit,
- (b) the name of the person producing the document,
- (c) the date on which it was produced, and
- (d) a statement of its having been so admitted, and the endorsement shall be signed or initialled by the Judge.

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(2) Where a document so admitted is an entry in a book, account or record, and a copy thereof has been substituted for the original under the next following rule, the particulars aforesaid shall be endorsed on the copy and the endorsement thereon shall

1. Vide High court Notifn No. P. 0102/77 (w.e.f. 1st October.

1983).

5. Endorsements on copies of admitted entries in books, accounts and records :-

(1) Save in so far as is otherwise provided by the Banker's Books Evidence Act, 1891 (18 of 1891), where a document admitted in evidence in the suit is an entry in a letter-book or a shop-book or other account in current use the party on whose behalf the book or account is produced may furnish a copy of the entry.

(2) Where such a document is an entry in a public record produced from a public office or by a public officer, or an entry in a book or account belonging to a person" other than a party on whose behalf the book or account is produced, the Court may require a copy of the entry to be furnished-

(a) where the record, book or account is produced on behalf of a party, then by that party, or

(b) where the record, book or account is produced in obedience to an order of the Court acting of its own motion, then by either or any party,

(3) Where a copy of an entry is furnished under the foregoing provisions of this rule, the Court shall, after causing the copy to be examined, compared and certified in manner mentioned in rule 17 of Order 7, mark the entry and cause the book, account or record in which it occurs to be returned to the person producing it.

Bombay.-In its application to the State of Maharashtra in Order XIII, rule 5 at the end of sub-rule (3) the colon shall be substituted for the full stop and the following proviso shall be added as under: "Provided that where the entry referred to in this rule is in a language other than English or the language of the Court, the provision contained in the proviso to sub-rule (2) of rule 17 of Order VII shall apply mutatis mutandis to such an entry".¹

1. Vide High Court Notifn No. P. 0102/77 (w.e.f. 1st October. 1983).

6. Endorsement on documents rejected as inadmissible in evidence :-

Where a document relied on as evidence by either party is considered by the Court to be inadmissible in evidence, there shall be endorsed thereon the particulars mentioned in Cls. (a), (b) and (c) of rule 4, sub-rule (1), together with a statement of its having been rejected, and the endorsement shall be signed or initialled by

the Judge. Bombay.-In its application to the State of Maharashtra in Order XIII at the end of rule 6 a colon shall be substituted for the full stop and the following proviso shall be added as under: , "Provided that in proceedings filed in the Bombay City Civil Court the endorsement may be signed by such officer as the principal Judge may authorise in this behalf". ¹

1. Vide High Court Notifn No. P. 0102/77 (w.e.f. 1st October. 1983).

7. Recording of admitted and return of rejected documents

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(1) Every document which has been admitted in evidence, or a copy thereof where a copy has been substituted for the original under rule 5, shall form part of the record of the suit.

(2) Documents not admitted in evidence shall not form part of the record and shall be returned to the persons respectively producing them.

Bombay.-In its application to the State of Maharashtra in Order XIII, rule 7, after the existing sub-rule (2) the following sub-rule shall be inserted as under: "(3) Documents in language other than English or Court language or in script other than Devanagari.-Every document produced in evidence which is not written in the Court language or in English shall be accompanied by a correct translation into English or the Court language, and every document which is written in court language, in a script other than Devanagari shall be accompanied by a correct translation into Devanagari script. If the document is admitted in evidence the opposite party shall either admit the correctness of the translation or the transliteration or submit his own translation or transliteration of the document." ¹

1. Vide High Court Notifn No. P. 0102/77 (w.e.f. 1st October. 1983).

8. Court may order any document to be impounded :-

Notwithstanding anything contained in rule 5 or rule 7 of this Order in rule 17 of Order 7, the Court may, if it sees sufficient cause, direct any document or book produced before it in any suit to be impounded and kept in the custody of an officer of the Court, for such period and subject to such conditions as the Court thinks fit.

9. Return of admitted documents :-

(1) Any person, whether a party to the suit or not, desirous of receiving back any document produced by him in the suit and placed on the record shall, unless the document is impounded

under rule 8, be entitled to receive back the same,-

(a) where the suit is one in which an appeal is not allowed, when the suit has been disposed of, and

(b) where the suit is one in which an appeal is allowed, when the Court is satisfied that the time for preferring an appeal has elapsed and that no appeal has been preferred or, if an appeal has been preferred, when the appeal has been disposed of: ¹[Provided that a document may be returned at any time earlier than that prescribed by this rule if the person applying therefor-

(a) delivers to the proper officer for being substituted for the original,-

(i) in the case of a party to the suit, a certified copy, and

(ii) in the case of any other person, and ordinary copy which has been examined, compared and certified in the manner mentioned in sub-rule (2) of rule 17 of Order VII, and

(b) undertakes to produce the original, if required to do so:]
Provided also that no document shall be returned which, by force of the decree, has become wholly void or useless.

(2) On the return of a document admitted in evidence, a receipt shall be given by the person receiving it.

Bombay.-In its application to the State of Maharashtra in Order XIII, for existing rule 9, and its marginal note the following rule and marginal note shall be substituted as under: "9. Return of admitted documents.- (1) Any person, whether a party to the suit or not, desirous of receiving back and document produced by him in the suit and placed on the record shall, unless the document is impounded under rule 8, be entitled to receive back the same,- (a) where the suit is one in which an appeal is not allowed, when the suit has been disposed of, and (b) where the suit is one in which an appeal is allowed, when the Court is satisfied that the time for preferring an appeal has elapsed and that no appeal has been preferred or if an appeal has been preferred when the appeal has been disposed of: Provided that a document may be returned at any time earlier than that prescribed by this rule if the person applying therefor- (a) delivers to the proper officer for being substituted for the original,- (i) in the case of a party to the suit, a certified copy; and (ii) in the case of any other person, any ordinary copy, which has been examined, compared and certified in the manner mentioned in sub-rule (2) of rule 17 of Order VII; and (b) undertakes to produce the original, if required to do so: Provided also that a copy of the decree and of the judgment filed with the

memorandum of appeal under Order XLI, rule 1 may be returned after the appeal has been disposed of by the Court: Provided also that no document shall be returned which, by force of the decree, has become wholly void or useless. (2) On the return of a document admitted in evidence, a receipt shall be given by the person receiving it".² Reasons for the change.-Under the existing sub-rule (1) of rule 9, where a person who has produced a document wants in return during the pendency of the suit, the Court may allow such return if such a person delivers to the proper officer a certified copy of the document and gives an undertaking as provided therein. This rule created difficulty in respect of cases where the document has been produced by a witness, the witness cannot get reimbursement in respect of the expenses incurred by him for taking a certified copy. The rule has been amended to give facilities to the witnesses of putting in a plain copy of documents produced by them so that the original documents could be returned after comparison and certification of the same.

1. Subs. by C.P.C. (Amendment) Act No. 104 of 1976, Sec. 63 (w.e.f. 1st February, 1977).

2. Vide High Court Notifn. No. P. 0102/77 (w.e.f. 1st October, 1983).

10. Court may send for papers from its own records or from other courts :-

(1) The Court may of its own motion, and may in its discretion upon the application of any of the parties to a suit, send for, either from its own records or from any other court, the record of any other suit or proceeding, and inspect the same.

(2) Every application made under this rule shall (unless the Court otherwise directs) be supported by an affidavit showing how the record is material to the suit in which the application is made, and that the application cannot without unreasonable delay or expense obtain a duly authenticated copy of the record or of such portion thereof as the applicant requires, or that the production of the original is necessary for the purposes of justice.

(3) Nothing contained in this rule shall be deemed to enable the Court to use in evidence any document which under the law of evidence would be inadmissible in the suit.

11. Provisions as to documents applied to material objects :-

The provisions herein contained as to documents shall, so far as may be, apply to all other material objects producible as evidence.