

## CHAPTER XVIII

### Affidavits

**1. Proof of facts by affidavits**—The Court may at any time for sufficient reasons, order that any particular fact or facts may be proved by affidavit, or that the affidavit of any witness may be read at the hearing, on such conditions as the Court thinks reasonable:

Provided that where it appears to the Court that either party *bona fide* desires that production of a witness for cross-examination and that such witness can be produced, an order shall not be made authorising the evidence of such witness to be given by affidavit.

#### COMMENTS

In order to justify an Order directing the parties to produce affidavits in support of their cases, there must be sufficient reason. *Punjab and Sind Bank v. M/s. Manjit Properties (P) Ltd.*, AIR 1995 Delhi 355.

**2. Evidence by affidavit**—Upon any application evidence may be given by affidavit; but the Court may, at the instance of either party, order the attendance for cross-examination of the Deponent, and such attendance shall be in Court, unless the Deponent is exempted from personal appearance in Court or the Court otherwise directs.

**3. Title**—Every affidavit shall be instituted in the cause, appeal or matter in which it is sworn.

**4. Form**—Every affidavit shall be drawn up in the first person, and shall be divided into paragraphs to be numbered consecutively, and shall state the description, occupation if any and the true place of abode of the Deponent.

**5. Contents of affidavit**—Affidavits shall be confined to such facts as the Deponent is able of his own knowledge to prove, except on interlocutory applications, on which statements of his belief may be admitted, provided that the grounds thereof are stated.

**6. Interpretation of affidavits**—An affidavit requiring interpretation to the deponent, unless interpreted by any of the persons mentioned in Rule 7, shall be interpreted by an interpreter nominated or approved by the Court, if made within the jurisdiction of this Court, and if made elsewhere, shall be interpreted by a competent person who shall certify that he has correctly interpreted the affidavit to the Deponent.

**7. Before whom affidavits are to be sworn**—Affidavits for the purposes of any cause appeal or matter before a Notary or any authority mentioned in Section 139 of the Code or before the

Registrar of the Court, or before the Commissioner generally or specially authorised in that behalf by the Court. The authority attesting any such affidavit shall wherever the person is known to him, append a certificate to that effect on the affidavit and where the person affirming the affidavit is not known to the authority concerned the certificate shall state the name of the person by whom the person affirming the affidavit has been identified.

Wherever an affidavit is affirmed by an illiterate person or a person not conversant with the English language, the authority concerned shall before attesting the same translate and interpret the contents of the affidavit to the person affirming the same and certify the said fact separately under his signature.

**8. Pardahnashin women**—Where the Deponent is a Pardahnashin lady, unless she is known to the person attesting the affidavit, she shall be identified by a person to whom she is known and that person shall also prove the identification by a separate affidavit.

**9. Marking, dating and initiating on exhibits**—Every exhibit annexed to an affidavit shall be marked, initialled and dated by the authority before whom it is sworn.