

CHAPTER XII

AFFIDAVITS

190. Evidence on petition, Notice of Motion or Chamber Summons. -

Upon any petition, Notice of Motion or Chamber Summons, evidence may be given by affidavit; but the Court or the Judge in Chambers may, *suo motu* or on the application of either party, order the attendance for cross-examination of the person making such affidavit.

191. Title of affidavits.- Every affidavit shall be intitled in the suit or matter it is sworn, but in every case in which there are more plaintiffs or defendants than one, it shall be sufficient to state the full name of the first plaintiff or defendant, respectively, and to add that there are other plaintiffs or defendants, as the case may be.

192. Form of affidavit. - Every affidavit shall be divided into paragraphs, and every paragraph shall be numbered consecutively, and as nearly as may be, shall be confined to a distinct portion of the subject. Every affidavit and the annexures thereto shall be stitched book wise and shall comply with any necessary modifications, with the provisions of Rule 42.

193. Affidavit to be in the first person. - Every affidavit shall be drawn up in the first person.

194. Description and abode of deponent to be stated. - The occupation, nationality and the place of abode of every person making an affidavit shall be inserted therein.

195. Affidavit by two or more deponents. - In every affidavit made by two or more deponents, the names of the several persons making the affidavit shall be inserted in the jurat, except that if the affidavit of all the deponents is sworn at one time before the same officer, it shall be sufficient to state that it was sworn by both or all of the “abovenamed” deponents.

¹[**196. Before whom affidavits to be sworn. –** Affidavits shall be sworn either before the officers referred to in Rule 197 below or before persons mentioned in section 139 of the Code of Civil Procedure, 1908.]

1. Substituted by G.N. No. G/Amend/16226, dated 16th November 2007

197. Officers appointed to administer oaths. The following Officers are appointed to administer oaths, declarations and affirmations to any person in respect of any judicial proceeding, which may be pending or about to be instituted in any Court in India:-

- (1) Prothonotary and Senior Master,
- (2) Commissioner for Taking Accounts,
- (3) Court Receiver,
- (4) Official Assignee,
- (5) Taxing Master,
- (6) Master and Assistant Prothonotary,
- (7) Deputy Official Assignee,
- (8) First Assistant to Court Receiver,
- (9) Insolvency Registrar,
- (10) Company Registrar,
- (11) Account Officer,
- (12) Assistant Master,
- (13) First Assistant to Official Assignee,
- (14) Second Assistant to Official Court Receiver,
- (15) Associates,
- (16) Chief Translators and Interpreter,
- (17) Deputy Chief Translator and Interpreter,
- (18) Assistant Chief Translator and Interpreter.

²[(19) Deputy Sheriff of Bombay]

2. Inserted by G.N. No. G/Amend/6494, dated 23rd May 2003

³[(20) Masters (Adm.),

(21) Section Officers.]

3. Sr. No. 20 & 21 added vide High Notification No. G/Amend/434 dated 24th June, 2015 published in M.G.G., Part 4C, Ex-Ordinary No. 41 dated 26th June, 2015.

198. Every exhibit to be dated and initialled. - Every exhibit annexed to an affidavit shall be dated and initialled by the Officer before whom the affidavit is sworn.

199. Place of administering oaths to be stated when oath administered outside Court House.- The officer authorized to administer an oath or affirmation shall state at the foot of the affidavit the place where he has administered the oath or affirmation in the event of the same being administered elsewhere than in the Court House.

200. Affidavit not to be filed unless properly endorsed. - No affidavit shall be filed in the several offices of the Court unless properly endorsed, giving the names of the deponents, the date on which it is sworn, and stating by whom or on whose behalf it is filed.

201. Affidavit to be filed before use in Court or Chambers. - An affidavit shall be filed in the Prothonotary and Senior Master's Office before it is used in Court or Chambers:

Provided that the Court or the Judge in Chambers may if deemed fit order an affidavit tendered in Court or in Chambers to be taken on file.

202. Special time for filing affidavits. - Where a special time is fixed for filing affidavits, no affidavit filed after that time shall be used unless by leave of the Court or the Judge in Chambers.

203. Alteration in affidavit. - No affidavit having any interlineation, alteration, or erasure shall, without the leave of the Court or the Judge in Chambers, be read or made use of in any matter pending in Court, unless the interlineation, alteration or what is written on the erasure is authenticated by the initials of the Officer before whom the affidavit is sworn.

204. Use of defective affidavits. - The Court or the Judge in Chambers may receive any affidavit sworn for the purpose of being used in any suit or matter, notwithstanding any defect by misdescription of parties or otherwise in the title or jurat, or any other irregularity in the form thereof, and may direct a memorandum to be made on the document that it has been so received.

205. Affidavit by blind persons. - Where an affidavit is sworn by any person, who appears to the Officer administering the oath or affirmation to be blind, the Officer shall certify at the foot of the affidavit that the affidavit was read or read and interpreted (where necessary) in his presence to the deponent, that the deponent seemed perfectly to understand it, and that the deponent subscribed his signature or mark in the presence of the Officer, No such affidavit shall be used in evidence in the absence of this certificate, unless the Court or the Judge in Chambers is otherwise satisfied that the affidavit was read over to and appeared to be perfectly understood by the deponent.

206. Scandalous matters. - The Court or the Judge in Chambers may order to be struck out from any affidavit any matter which is scandalous, and may order the close of any application to strike out such matter to be paid as between Advocate and client.

207. Procedure when affidavit is to be sworn outside Court House. - Where an affidavit is required to be sworn outside the Court House, a written application shall be made to the Prothonotary and Senior Master accompanied by the necessary stamps for the attendant's fee under the Table of Fees, stating where an Officer is required to attend, and for what purpose and why he is so required. On receipt of such application the Prothonotary and Senior Master shall, unless he sees any reason to the contrary, direct an officer to attend. So far as possible the Prothonotary and Senior Master shall direct the officers to attend in rotation.

208. Procedure when affidavit is to be sworn outside India. - When an affidavit is to be sworn at any place outside India where an Officer in the service of India cannot be found, such affidavit may be sworn before an officer appointed specially for the purpose, under a commission to be issued pursuant to an order to be obtained from the Judge in Chambers by the party requiring such affidavit to be sworn.

209. Affidavit to include plaint etc. - The word “Affidavit” in this chapter except in Rule 193 shall include Plaint, Written Statement, petition, and any document required to be sworn; and the words “swear” and “sworn” shall include “affirm” and “affirmed” respectively.

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