

Disclosure under Code of Civil Procedure 1908

1. So far as the legal provisions are concerned on the issue of disclosure of documents, it is a settled principle that both the parties in a matter are imposed with a duty for production of documents.
2. Obligation to produce the documents by the Plaintiff is governed by Rule 14 of Order 7 of the Civil Procedure Code, 1908 (CPC), which reads as under:

“Production of documents on which plaintiff sues or relies-

(i) Where a plaintiff sues upon a document or relies upon document in his possession or power in support of his claim, he shall enter such documents in a list, and shall produce it in Court when the plaint is presented by him and shall, at the same time deliver the document and a copy thereof, to be filed with the plaint.

(ii) Where any such document is not in the possession or power of the plaintiff, he shall, where possible, state in whose possession or power it is.

(iii) A document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint but is not produced or entered accordingly, shall not without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.

(iv) Nothing in this rule shall apply to document produced for the cross-examination of the plaintiff's witnesses, or handed over to a witness merely to refresh his memory.”

3. The obligation to produce documents by the defendant along with written statement, is governed by Rule 1-A of Order 8 CPC, which is not relevant here.
4. Before the evidence commences, in order to narrow down the controversy and shorten the volumes of evidence and save the precious time of the Courts, the Code of Civil Procedure has enacted Order 11 Rule 12 for discovery of interrogatories and discovery of documents, which is reproduced as under:

“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 that 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.”