
STATUTORY INSTRUMENTS

1981 No. 1687

The County Court Rules 1981

ORDER 14

DISCOVERY AND INTERROGATORIES

Discovery of documents

1.—(1) Subject to the provisions of this rule and of rule 8, the court may, on the application on notice of any party to an action or matter, make an order (in these rules referred to as an “order for discovery”) directing any other party to make a list of the documents which are or have been in his possession, custody or power relating to any matter in question in the proceedings and may at the same time or subsequently also order him to make an affidavit verifying such a list.

(2) Where the applicant for an order for discovery did not make a written request for the discovery he desires, the court may refuse to make the order unless satisfied that there were sufficient reasons for not making such a request.

(3) An order under this rule may be limited to such documents or classes of document only, or to such only of the matters in question in the proceedings, as may be specified in the order.

(4) An order under this rule shall be drawn up by the proper officer and shall be served on the party against whom it is made.

(5) A list of documents made in compliance with an order or request, and any affidavit verifying such a list, shall be filed and a copy shall at the same time be served on the applicant.

Disclosure of particular documents

2.—(1) Subject to rule 8, the court may, on the application on notice of any party to an action or matter, make an order directing any other party to make an affidavit stating whether any document, or any class of document, specified or described in the application is or has at any time been in his possession, custody or power and, if not still in his possession, custody or power, when he parted with it and what has become of it.

(2) An order may be made against a party under this rule notwithstanding that he has already made or been required to make a list of documents or affidavit under rule 1.

(3) An application under this rule shall be supported by an affidavit stating that in the belief of the deponent the party against whom an order is sought has or at some time had in his possession, custody or power the document, or class of document, specified or described in the application and that it relates to one or more of the matters in question in the proceedings.

Inspection of documents referred to in list

3. A party who makes a list of documents in compliance with an order or request under rule 1 shall allow the applicant to inspect the documents referred to in the list (other than any which he objects to produce) and to take copies thereof and accordingly, when he serves the list on the

applicant, he shall also serve on him a notice stating a time within 7 days after service at which the documents may be inspected at a place specified in the notice.

Inspection of documents referred to in pleadings and affidavits

4.—(1) Any party to an action or matter shall be entitled at any time to serve on any other party in whose pleadings or affidavits reference is made to any document a notice requiring him to produce it for the inspection of the party giving the notice and to permit him to take copies thereof.

(2) The party on whom a notice is served under paragraph (1) shall, within 4 days after service, serve on the party giving the notice a notice stating a time within 7 days after service thereof at which the documents, or such of them as he does not object to produce, may be inspected at a place specified in the notice and stating which (if any) of the documents he objects to produce and on what grounds.

Order for production for inspection

5.—(1) If a party who is required to serve such a notice as is mentioned in rule 3 or who is served with a notice under rule 4(1)—

- (a) fails to serve a notice under rule 3 or, as the case may be, rule 4(2), or
- (b) objects to produce any documents for inspection, or
- (c) offers inspection at a time or place which in the opinion of the court is unreasonable,

then, subject to rule 8, the court may, on the application on notice of the party entitled to inspection, make an order for production of the documents for inspection at such time and place, and in such manner, as the court thinks fit.

(2) Without prejudice to paragraph (1), but subject to rule 8, the court may, on the application on notice of any party to an action or matter, order any other party to permit the applicant to inspect any documents in the possession, custody or power of the other party relating to any matter in question in the proceedings.

An application for an order under this paragraph shall be supported by an affidavit specifying or describing the documents of which inspection is sought and stating the belief of the deponent that they are in the possession, custody or power of the other party and that they relate to a matter in question in the proceedings.

Inspection by court before order

6. Where, on an application for an order for the production of any document for inspection, privilege from production is claimed or objection to production is made on any other ground, the court may inspect the document for the purpose of deciding whether the claim or objection is valid.

Order for production to court

7. At any stage of the proceedings in an action or matter the court may, subject to rule 8, order any party to produce to the court any document in his possession, custody or power relating to any matter in question in the proceedings and the court may deal with the document when produced in such manner as it thinks fit.

Discovery etc. to be ordered only if necessary

8.—(1) On the hearing of an application under rule 1, 2 or 5, the court, if satisfied that the discovery, disclosure or production sought is not necessary, or not necessary at that stage of the action or matter, may dismiss or adjourn the application and shall in any case refuse to make an order

if and so far as it is of opinion that discovery, disclosure or production, as the case may be, is not necessary either for disposing fairly of the action or matter or for saving costs.

(2) No order shall be made under rule 7 unless the court is of opinion that production of the document is necessary as aforesaid.

Saving for public interest

9. The foregoing provisions of this Order shall be without prejudice to any rule of law which authorises or requires the withholding of any document on the ground that the disclosure of it would be injurious to the public interest.

Failure to comply with order for discovery etc

10.—(1) If any party who is required by an order under any of the foregoing rules to make discovery of or disclose any documents or to produce any documents for inspection or for any other purpose fails to comply with the order, the court may make such order as it thinks just, including in particular an order that the action be dismissed or, as the case may be, an order that the defence be struck out and judgment entered accordingly.

(2) Without prejudice to paragraph (1), a party who fails to comply with any order for discovery, disclosure or production of documents shall be liable to committal.

(3) Notwithstanding anything in Order 29, rule 1(2), service on a party's solicitor of an order for discovery, disclosure or production of documents shall be sufficient service to found an application for committal of the party disobeying the order, but the party may show in answer to the application that he had no notice or knowledge of the order.

(4) A solicitor on whom such an order is served and who fails without reasonable excuse to give notice thereof to his client shall be liable to committal.

Interrogatories

11.—(1) Subject to the following paragraphs, the provisions of the R.S.C. with regard to the administration of interrogatories shall apply in relation to an action or matter in the county court as they apply in relation to a cause or matter in the High Court.

(2) An application for leave to serve interrogatories shall be made on notice to the party by whom the interrogatories are to be answered.

(3) If leave is granted, an order shall be drawn up by the proper officer and, subject to paragraph (4), shall be served on the party against whom it is made.

(4) The provisions of the R.S.C. making service of the order on a party's solicitor sufficient to found an application for committal of the party disobeying the order shall apply notwithstanding anything in Order 29, rule 1(2).

(5) A solicitor on whom such an order is served and who fails without reasonable excuse to give notice thereof to his client shall be liable to committal.

Revocation and variation of orders

12. Any order made under a power conferred by this Order (including an order made on appeal from the registrar to the judge) may, on sufficient cause being shown, be revoked or varied by a subsequent order or direction of the court made or given at or before the hearing of the action or matter in connection with which the original order was made.