GOVERNMENT OF INDIA

LAW COMMISSION OF INDIA

Urgent Need to Amend Rule 14(4) of Order VII of the Code of Civil Procedure, 1908

Report No. 278

March, 2023

The 22nd Law Commission was constituted by Gazette Notification for a period of three years vide Order No. FNo. 45021/1/2018-Admn-III(LA) dated 21st February, 2020 issued by the Government of India, Ministry of Law and Justice, Department of Legal Affairs, New Delhi. The term of the 22nd Law Commission was extended vide Order No. FA No. 60011/225/2022-Admn.III(LA) dated 22nd February, 2023.

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Justice Ritu Raj Awasthi
(Former Chief Justice of High Court of Karnataka)
Chairperson
22nd Law Commission of India

सत्यमेव जयते

आज़ादी का अमृत महोत्सव

न्यायमूर्ति ऋतु राज अवस्थी
(सेवानिवृत मुख्य न्यायधीश, कर्नाटक उच्च न्यायलय)
अध्यक्ष
भारत के 22वें विधि आयोग

DO No. 6(3)334/2023-LC(LS) **Date:** 28th March, 2023

Hon'ble Sri Kiren Rijiju ji

I am pleased to forward you **Report No. 278** of the Law Commission of India on "**Urgent Need to Amend Rule 14(4) of Order VII of the Code of Civil Procedure, 1908.**"

The Parliament had amended large portions of the Code of Civil Procedure by virtue of the Amendment Acts of 1999 and 2002. The Salem Advocates Bar Association had sought to challenge the constitutional validity of the amendments that were so introduced. The same was rejected by the Hon'ble Supreme Court in ***Salem Advocates Bar Association, Tamil Nadu* v. *Union of India*** **[(2003) 1 SCC 49]**. However, the Hon'ble Supreme Court set up a Committee headed by Justice M. Jagannadha Rao, the then Chairperson of the Law Commission of India to formulate modalities for the manner in which Section 89 and other provisions that had been introduced by way of the said amendments were to be operationalised.

While reviewing the suggestions made by the Committee in ***Salem Advocates Bar Association, Tamil Nadu* v. *Union of India*** **[(2005) 6 SCC 344]**, the Hon'ble Supreme Court observed that an anomaly had crept in Rule 14(4) of Order VII of the Code of Civil Procedure and it needed to be rectified expeditiously.

While in the absence of any corrective measure undertaken by the Parliament, the direction issued by the Hon'ble Supreme Court holds the field; however, the 22nd Law Commission is of the considered opinion that the anomaly be resolved through legislative amendment at the earliest opportunity for the convenience of the courts, lawyers, litigants, and the general public. The Law Commission of India has therefore, *suo moto* taken up the subject-matter for consideration and prepared this Report which is being forwarded for your kind perusal.

With warmest regards,

Yours sincerely,

(Justice Ritu Raj Awasthi)

Shri Kiren Rijiju
Hon'ble Minister for Law & Justice
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ACKNOWLEDGEMENT

The Commission gratefully acknowledges the commendable assistance rendered in the preparation of this Report by **Mr. Rishi Mishra, Mr. Gaurav Yadav, Mr. Shubhang Chaturvedi** and **Mr. Davinder Singh**, who worked as Consultants. We place on record our deepest appreciation for their valuable contribution.

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Urgent Need to Amend Rule 14(4) of Order VII of the Code of Civil Procedure, 1908

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1. Introduction

1.1 The Code of Civil Procedure, 1908 (hereinafter "CPC") is the Code that governs the Court's practice and procedure in all civil disputes. Over the years, the CPC has acted as a beacon guiding the settlement of civil disputes in India. The attention has always been to ensure that all disputes, regardless of the economic and social status of the parties involved, are resolved in a timely, just, and equitable manner.

1.2 Right from the inception of the first Civil Procedure Code in 1859, amendments have been made to it from time to time. The first code, an amalgamation of four draft bills, was subjected to amendments soon after it was passed. By 1863-64, it was thought that the 1859 Code needed to be redrawn and so the provisions of the entire 1859 Code were rearranged in a systematic manner.[1] Certain provisions were added as well resulting in the creation of the CPC, 1877. By 1879 itself, as many as 130 sections of the Code of 1877 were amended and by 1882, an entirely new Code came into being.[2] While the general principles on which the 1882 Code operated were considered to be largely sound and effective, certain provisions were thought to be too rigid. Since conflicting judicial opinion developed regarding the interpretation of certain provisions of the Code, it was considered necessary to recast the Code. As a result, the 1908 Code came into being.[3] Since then, innumerable amendments have been made, both to the "body of the Code" and the "Schedule." In 1999 and 2002, the legislature introduced certain other amendments which sought to update the Code in keeping with the present requirements.

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[1] Law Commission of India, "27th Report on the Code of Civil Procedure, 1908" (December, 1964).
[2] *Ibid.*
[3] *Ibid.*

1.3 These amendments have attempted to ensure that the CPC remains abreast of the changing landscape of the legal field. However, there are instances where as a result of the amendments, certain anomalies creep in. Considering the length and breadth of the effect of CPC, it becomes imperative to rectify these anomalies at the earliest.

1.4 In the same vein, the 22nd Law Commission *suo motu* identified an anomaly that crept in through the 1999 and 2002 Amendment Acts of the CPC and considered it necessary to rectify. The Commission felt that amendment of sub-rule (4) of rule 14 of Order VII of the Code of Civil Procedure is required as pointed out by the Hon'ble Supreme Court in ***Salem Advocates Bar Association, Tamil Nadu* v. *Union of India***[4].

2. Legislative History of Sub-rule (4) of Rule 14 of Order VII

2.1 Rule 14 has been amended twice - in 1999 and again in 2002. Prior to the 1999 Amendment, Rule 14 of Order VII read as follows:

> "14. *Production of document on which plaintiff sues.* —(1) Where a plaintiff sues upon a document in his possession or power, he shall produce it in Court when the plaint is presented, and shall at the same time deliver the document or a copy thereof to be filed with the plaint.
>
> (2) *List of other documents.* —Where he relies on any other documents (whether in his possession or power or not) as evidence in support of his claim, he shall enter such documents in a list to be added or annexed to the plaint."[5]

2.2 The Law Commission in its 163rd Report titled "The Code of Civil Procedure (Amendment) Bill, 1997" proposed amendments to Rule 14. The Report recommended that:

> *"2.15 (i) Clause 17 of the Amendment Bill proposes changes in rule 9, Order VII dealing with the procedure on admitting plaints. The proposal is to substitute rule 9 in Order VII. This may be effected subject to the caveat that the service of summons should not be by the plaintiff but through the court as discussed hereinabove while dealing with Order V.*

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[4] (2005) 6 SCC 344; AIR 2005 SC 3353.

[5] JM Shelat, *Mulla on the Code of Civil Procedure* 1054 (NM Tripathi Pvt Ltd, Bombay, 14th edn, 1984).

(ii) The additional grounds on which the plaint can be rejected as proposed in sub-clause (ii) of clause 17 of the Amendment Bill could also be included subject to the rider that it should be clearly indicated that the failure referred to in each of the proposed sub-clauses (e), (f) and (g) in rule 11 of Order VII, should be a repeated failure.

(iii) The proposed substitution of rule 14 is a step in the right direction but the only thing suggested by the participants – with which the Law Commission agrees – is that the plaintiff should not be compelled to file the original document where he apprehends that it may be tampered with while in the custody of the registry of the Court. It should be open to the plaintiff to file the xerox copies of those documents which he apprehends may be tampered with while in the custody of the registry of the court. But, he shall be under an obligation to produce the same at the trial or as and when called upon by the court.

2.15.1. A number of participants suggested that sub-rule (3) of rule 14 should be so worded that for special reasons to be recorded, the court should be empowered to allow the plaintiff to produce a document or copy thereof which he has not filed with the plaint. According to the Commission, this is a good suggestion. Sub-rule 3 of rule 14 may accordingly be re-cast so as to enable the court to permit the plaintiff to produce a document or a copy thereof which he has not filed along with the plaint.

(iv) The proposal to delete existing rule 15 of Order VII is in order in view of rule 14(2) of Order VII as proposed in the Amendment Bill.

(v) Sub-clause (V) in clause 17 of the Amendment Bill proposes to omit the words "without the leave of the Court" in sub-rule (1) of rule 18. This proposal is consistent with the formulation in proposed rule 14.

2.16. Clause 18 of the Amendment Bill.—(i) The proposed/substituted rule 1 in Order VIII provides that the defendant shall at or before the first hearing or within such time as the Court may permit, which shall not be beyond 30 days from the date of service of summons on the defendant, present a written statement of his defence. This aspect has been discussed and dealt with when dealing with Order V, hereinabove. For the reasons mentioned earlier, the periods prescribed for filing the written statement should be as suggested by the Law Commission while discussing the proposed amendments in Order V.

(ii) Rule 1A sought to be inserted in Order VIII is on the same lines as the proposed/substituted rule 14 of Order VII. Therefore, whatever we have said with respect to proposed rule 14 of Order VII applies in all respects to this proposal as well.

(iii) The proposed deletion of rule 8A is consistent with proposed rule 1A and is, therefore, unobjectionable except to the extent that the power of the court to permit the defendant to produce a document, which he did not produce with the written statement, should be retained with the rider that such power could be exercised only for special reasons to be recorded".[6]

2.3 These recommendations were accepted by the Parliament and by the Amendment Act of 1999, the old Rule 14 was substituted by the new rule which contained four sub-rules. The Amendment Act of 1999 substituted the old Rule 14 as follows:

"14. Production of document on which plaintiff sues or relies — (1) 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.

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

(3) Where any such document or a copy thereof is not filed with the plaint under this rule, it shall not be allowed to be received in evidence on behalf of the plaintiff at the hearing of the suit.

(4) Nothing in this rule shall apply to document produced for the cross examination of the plaintiffs witnesses, or, handed over to a witness merely to refresh his memory."[7]

2.4 However, sub-rule (3) of Rule 14 was further amended by the Amendment Act, 2002 (22 of 2002) and was substituted by the present sub-rule (3) which makes it necessary to obtain the leave of the court for allowing a document to be filed in court which was not filed along with the plaint or annexed in a list.

The present sub-rule 3 of rule 14 reads s as follows:

"14. Production of document on which plaintiff sues or relies.—
(3) 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

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[6] Law Commission of India, "163rd Report on the Code of Civil Procedure (Amendment) Bill, 1997" (November, 1998).

[7] Section 17, The Code of Civil Procedure (Amendment) Act, 1999 (46 of 1999) *available at:* http://chdslsa.gov.in/right_menu/rules_regulationslsa/pdf_files/coc-1999.pdf (last visited Feb 08, 2023).

leave of the Court, be received in evidence on his behalf at the hearing of the suit."[8]

3. Relevant Legal Provisions

Rule 14 of Order VII:

3.1 Order VII of the Code of Civil Procedure deals with the subject 'Plaint'. Rule 14 of Order VII deals with "Production of document on which plaintiff sues or relies".

Order VII Rule 14 is reproduced below:

> *"14. Production of document on which plaintiff sues or relies.—(1) 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.*
>
> *(2) Where any such document is not in the possession or power of the plaintiff, he shall, wherever possible, state in whose possession or power it is.*
>
> *(3) 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.*
>
> *(4) Nothing in this rule shall apply to document produced for the cross-examination of the plaintiffs' witnesses, or handed over to a witness merely to refresh his memory."*[9]

3.2 Sub-rule (1) of Rule 14 of Order VII provides that where a plaintiff sues upon a document or relies upon a 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

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[8] Section 8, The Code of Civil Procedure (Amendment) Act, 2002 (22 of 2002) *available at:* https://districts.ecourts.gov.in/sites/default/files/THE%20CODE%20OF%20CIVIL%20PROCEDURE%20%28AMENDMENT%29%20ACT%2C%202002.pdf (last visited Feb 10, 2023).

[9] The Code of Civil Procedure, 1908.

plaint. Sub-rule (3) of Rule 14 states that 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.

3.3 Sub-rules (1) and (2) of Rule 14 of Order VII were substituted by the Code of Civil Procedure (Amendment) Act, 1999 (46 of 1999), while sub-rules (3) and (4) were substituted by the Code of Civil Procedure Amendment Act, 2002 (22 of 2002).

3.4 Before the Code of Civil Procedure Amendment Act, 2002 (22 of 2002), Rule 14 of Order VII did not contain similar provisions as in sub-rules (3) and (4). However, similar provisions were available in Rule 18 of Order VII which existed then. Rule 18 was subsequently repealed by the Code of Civil Procedure Amendment Act, 2002 (22 of 2002).

Rule 18 of Order VII:

3.5 Rule 18 of Order VII titled ***"Inadmissibility of document not produced when plaint is filed"***, was repealed by the Code of Civil Procedure Amendment Act, 2002 (22 of 2002). Sub-rule (2) of Rule 18 before being repealed read as follows:

> *"Nothing in this rule applies to documents produced for cross-examination of the defendant's witnesses, or in answer to any case set up by the defendant or handed over to a witness merely to refresh his memory."*[10]

3.6 By the Code of Civil Procedure Amendment Act, 2002 (22 of 2002), a similar provision (excluding the expression "or in answer to any case set

[10] Section 8, The Code of Civil Procedure (Amendment) Act, 2002 (22 of 2002) *available at:* https://districts.ecourts.gov.in/sites/default/files/THE%20CODE%20OF%20CIVIL%20PROCEDURE%20%28AMENDMENT%29%20ACT%2C%202002.pdf (last visited Feb 09, 2023).

up by the defendant") was inserted as sub-rule (4) of Rule 14. However, instead of the expression "defendant's witnesses', the expression "plaintiff's witnesses" was inserted.

Order VIII Rule 1A:

3.7 Order VIII deals with **"Written Statement, Set Off and Counter Claim."**

3.8 Rule 1A of Order VIII provides for the **"Duty of the defendant to produce documents upon which relief is claimed or relied upon by him."** Sub-rule (1) of Rule 1A provides that where the defendant bases his defence upon a document or relies upon any document in his possession or power, in support of his defence or claim for set-off or counter- claim, he shall enter such document in a list, and shall produce it in Court when the written statement is presented by him and shall, at the same time, deliver the document and a copy thereof, to be filed with the written statement. Sub-rule (3) of Rule 1A states that a document which ought to be produced in Court by the defendant under the rule, but, is not so produced shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.

Sub-rule (4) of Rule 1A reads as under:

> *"(4) Nothing in this rule shall apply to documents –*
> *(a) produced for the cross examination of the plaintiff's witnesses, or*
> *(b) handed over to a witness merely to refresh his memory."*[11]

3.9 Rule 1A of Order VIII was inserted by the Code of Civil Procedure (Amendment) Act, 1999 (46 of 1999)[12] and sub-rule 3 substituted by the Code of Civil Procedure Amendment Act, 2002 (22 of 2002).[13] Sub-rules

[11] Rule 1A(4), Order VIII, The Code of Civil Procedure, 1908.
[12] Section 18, The Code of Civil Procedure (Amendment) Act, 1999 (46 of 1999) *available at:* https://chdslsa.gov.in/right_menu/rules_regulationslsa/pdf_files/coc-1999.pdf (last visited Feb 10, 2023).
[13] Section 9, The Code of Civil Procedure (Amendment) Act, 2002 (22 of 2002) *available at:* https://districts.ecourts.gov.in/sites/default/files/THE%20CODE%20OF%20CIVIL%20PROCEDURE%20%28AMENDMENT%29%20ACT%2C%202002.pdf (last visited Feb 09, 2023).

2, 3, and 4 as incorporated in Rule 1A by the Code of Civil Procedure Amendment Act, 2002 (22 of 2002) were originally inserted in Rule 1 by the Code of Civil Procedure Amendment Act, 1976 (104 of 1976).[14]

3.10 Sub-rule (6) of Rule 1 of Order VIII as amended in 1976 (excluding a portion) was incorporated in Sub-rule (4) of Rule 1A of Order VIII by the Code of Civil Procedure Amendment Act, 2002 (22 of 2002). The Sub-rule is reproduced below:

> *"(6) Nothing in Sub-rule (5) shall apply to documents provided for the cross-examination of plaintiff's witnesses or in answer to any case set up by the plaintiff subsequent to the filing of the plaint, or handed over to a witness merely to refresh his memory."*[15]

Rule 1(3)(a) of Order XIII:

3.11 Sub-rule (1) of Rule 1 of Order XIII provides that 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 the plaint or written statement.

Sub-rule (3) of Rule 1 of Order XIII reads thus:

> *"(3) Nothing in Sub-rule (1) shall apply to documents –*
> *(a) produced for the cross-examination of the witnesses of the other party;*
> *(b) handed over to a witness merely to refresh his memory."*[16]

3.12 Rule 1 of Order XIII was substituted by the Code of Civil Procedure (Amendment) Act, 1999 (46 of 1999). Rule 2 of Order XIII titled "Effect of non-production of documents" was repealed by Code of Civil Procedure (Amendment) Act, 1999 (46 of 1999). However, sub-rule (2) of Rule 2 was incorporated as sub-rule (3) of Rule 1 by the amendment.[17]

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[14] *Supra* note 5, at 1063-64.
[15] *Id.* at 1064.
[16] Rule 1(3)(a), Order XIII, The Code of Civil Procedure, 1908.
[17] Section 23, The Code of Civil Procedure (Amendment) Act, 1999 (46 of 1999) *available at*: http://chdslsa.gov.in/right_menu/rules_regulationslsa/pdf_files/coc-1999.pdf) (last visited Feb 10, 2023).

Section 145 of the Indian Evidence Act,1872:

3.13 Section 145 of the Indian Evidence Act deals with "Cross- examination as to previous statements in writing." The Section provides for the cross-examination of a witness regarding the statements previously made by him without showing such statements. Further, if the witness is to be contradicted, his attention must be drawn to those part(s) of the statements which are to be used for contradicting him.

3.14 It reads as under:

> *"145. Cross-examination as to previous statements in writing.—A witness may be cross-examined as to previous statements made by him in writing or reduced into writing, and relevant to matters in question, without such writing being shown to him, or being proved; but, if it is intended to contradict him by the writing, his attention must, before the writing can be proved, be called to those parts of it which are to be used for the purpose of contradicting him."* [18]

Section 154 of the Indian Evidence Act, 1872:

3.15 Section 154(1) of the Indian Evidence Act provides that the Court may, in its discretion, permit the person who calls a witness to put any question to him which might be put in cross examination by the adverse party.[19]

Section 154 of the Indian Evidence Act reads as under:

> *"154. Question by party to his own witness. — (1) The Court may, in its discretion, permit the person who calls a witness to put any questions to him which might be put in cross-examination by the adverse party.*
> *(2) Nothing in this section shall disentitle the person so permitted under sub-section (1), to rely on any part of the evidence of such witness."*

3.16 Normally, a party calling a witness would not be entitled to cross examine him. Only the other party would be entitled to cross examine him. Section 154 is an exception to this general principle.

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[18] The Indian Evidence Act, 1872.
[19] *Ibid.*

4. Supreme Court decisions on the Amendment Acts of 1999 and 2002

4.1 The Amendment Act 46 of 1999 and 22 of 2002 came into force on 1-7-2002. Salem Advocate Bar Association filed Writ Petitions before the Supreme Court challenging the amendments made to the Code of Civil Procedure by the Amendment Act 46 of 1999 and Amendment Act 22 of 2002.

4.2 The Constitutional validity of the Amendments was upheld by the Supreme Court in ***Salem Advocate Bar Association v. Union of India***.[20]

The Supreme Court, after hearing the learned counsel and the *amicus curiae* Shri. C.S.Vaidyanathan, Senior Advocate, thought it fit to appoint a committee. It was held thus:

> *"11. In our opinion, the suggestion so made merits a favourable consideration. With the constitution of such a Committee, any creases which require to be ironed out can be identified and apprehensions which may exist in the minds of the litigating public or the lawyer's clarified. As suggested, the Committee will consist of a Judge sitting or retired nominated by the Chief Justice of India and the other members of the Committee will be Mr. Kapil Sibal, Senior Advocate, Mr. Arun Jaitley, Senior Advocate, Mr. C.S. Vaidyanathan, Senior Advocate and Mr. D.V. Subba Rao, Chairman, Bar Council of India. This Committee will be at liberty to co-opt any other member and to take assistance of any member of the Bar or Association...."*

In pursuance of the same, a committee under the chairmanship of Justice M. Jagannadha Rao, former Judge of the Supreme Court and former Chairman of the Law Commission of India was formed.

4.3 After the Committee submitted its reports, the Supreme Court disposed of the case in ***Salem Advocate Bar Association, Tamil Nadu v. Union of India***.[21] After considering Report number 1 submitted by the Committee, the Supreme Court dealt with the various amendments made to the Code of Civil Procedure by the 1999 and 2002 Amendment Acts. While dealing with Rule 14(4) of Order VII, the Supreme Court held thus:

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[20] (2003) 1 SCC 49; AIR 2003 SC 189.
[21] (2005) 6 SCC 344; AIR 2005 SC 3353.

"34. Order VII Rule 14 deals with production of documents which are the basis of the suit or the documents in plaintiff's possession or power. These documents are to be entered in the list of documents and produced in the Court with plaint. Order VII Rule 14(3) requires leave of Court to be obtained for production of the documents later. Order VII Rule 14(4) reads as under:

"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."

35. In the aforesaid Rule, it is evident that the words 'plaintiffs witnesses' have been mentioned as a result of mistake seems to have been committed by the legislature. The words ought to be 'defendant's witnesses'. There is a similar provision in Order VIII Rule 1A(4) which applies to a defendant. It reads as under:

"Nothing in this rule shall apply to documents -

(a) produced for the cross-examination of the plaintiff's witnesses, or

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

36. Order VII relates to the production of documents by the plaintiff whereas Order VIII relates to production of documents by the defendant. Under Order VIII Rule 1A(4) a document not produced by the defendant can be confronted to the plaintiff's witness during cross-examination. Similarly, the plaintiff can also confront the defendant's witness with a document during cross-examination. By mistake, instead of 'defendant's witnesses', the words 'plaintiff's witnesses' have been mentioned in Order VII Rule 14(4). To avoid any confusion, we direct that till the legislature corrects the mistake, the words 'plaintiff's witnesses, would be read as 'defendant's witnesses' in Order VII Rule 14(4). We, however, hope that the mistake would be expeditiously corrected by the legislature."

5. Conclusion

5.1 In sub-rule (4) of Rule 14 of Order VII, mention is made of the cross-examination of the **plaintiff's witnesses**. A plaintiff cannot, except as provided in Section 154 of the Evidence Act, put questions which might be put in cross-examination to his own witnesses. Sub-rule (3) of Rule 1 of Order XIII also makes the position clear when the expression **"cross-examination of the witness of the other party"** is employed therein. Therefore, the anomaly in sub-rule (4) of Rule 14 of Order VII is evident. The words "plaintiff's witnesses" occurring in sub-rule (4) of Rule 14 of Order VII require to be corrected as "defendant's witnesses'.

5.2 The Supreme Court in *Salem Advocate Bar Association* v. *Union of India,*[22] dealt with the various amendments made to the Code of Civil Procedure by the 1999 and 2002 Amendment Acts. While dealing with Rule 14(4) of Order VII, the Supreme Court thus took note of this anomaly and held that the words 'plaintiff's witnesses' are to be read as 'defendant's witnesses' till the time the legislature corrects it. However, even after the Hon'ble Supreme Court pointed it out in the year 2005, the Parliament has not so far made any amendment to Rule 14 (4) of Order VII to rectify the anomaly.

6. Recommendations

6.1 The Commission is of the considered view that sub-rule (4) of Rule 14 of Order VII requires to be amended by substituting the words "the defendant's witnesses" for the words "the plaintiff's witnesses".

The Commission recommends accordingly.

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28.3.2023

[Justice Ritu Raj Awasthi]
Chairperson

[Justice K.T. Sankaran]
Member

[Prof. (Dr.) Anand Paliwal]
Member

28/3/23

[Prof. D.P. Verma]
Member

[Dr. Niten Chandra]
Member Secretary and Member (Ex-Officio)

[Dr. Reeta Vasishta]
Member (Ex-Officio)

[22] (2005) 6 SCC 344; AIR 2005 SC 3353.

[Dr. Raka Arya]
Member (Part-time)

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