

STATE OF ASSAM

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v.

UNION OF INDIA AND ORS.

(IA No.80789 of 2017 in Original Suit No. 2 of 1988)

JULY 20, 2018

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**[DIPAK MISRA, CJI, A.M. KHANWILKAR AND  
DR. D.Y. CHANDRACHUD, JJ.]**

*Code of Civil Procedure, 1908: Order XI r. 14, Order VII r. 14 – Production of documents-topographical maps – Boundary dispute between Assam and Nagaland – Production of certified copy of topo-sheets by a person concerned from Survey of India – However State of Assam sought production of some more topographical maps – Objection raised by State of Nagaland that leave for production of documents had been sought and granted by this Court and production of additional documents cannot be granted at the present stage – Held: Documents were not in the possession of the applicant and the earlier order of this Court will not preclude the State of Assam from seeking production at this stage – Production of the documents by the witness for the Survey of India should be allowed in the interest of justice.*

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**The issue pertains to production of topographical maps in a boundary dispute between Assam and Nagaland.**

**Disposing of the Interlocutory Application, the Court**

**HELD: There is no reason to disallow the production of the maps. The evidence of PW 9 is being recorded. Production of the documents by the witness for the Survey of India should be allowed in the interest of justice. The documents were not in the possession of the applicant and the earlier order of this Court will not preclude the State of Assam from seeking production at this stage. However, it is clarified that the relevance or admissibility of the documents is not dealt with. It would be open to the State of Nagaland to raise such objections as it is advised. [Para 3] [596-B-C]**

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A           CIVIL ORIGINAL JURISDICTION : Interlocutory Application  
No.80789 of 2017 in Original Suit No. 2 of 1988.

B           Ashok H. Desai, K. N. Balagopal, Sr. Advs., Manoj Goel,  
Shuvodeep Roy. Dasarath Deka, P. Parmeswaran, Mohit D. Ram,  
G. Ramakrishna Prasad, Suyodhan Byrapaneni, Mohd. Wasay Khan,  
Ms. Filza Moonis, A. P. Mukund, Ms. Nitya Nambiar, Mohinder Saini,  
Jitender Saini, Visto Rio, Anil Shrivastav, Rituraj Choudhary, S. Wasim  
A. Qadri, Ms. Binu Tamta, Ms. Bharati Tyagi, B. V. Balram Das, Advs.  
for the appearing parties.

C           The Judgment of the Court was delivered by

D           **DR. D. Y. CHANDRACHUD, J.** 1. The boundary dispute  
between Assam and Nagaland forms the subject matter of the Suit  
before this Court. Recording of the evidence of PW 9 – Md.Shafiqur  
Rahman of the Survey of India commenced on 30 January 2017. During  
the course of his examination on 31 January 2017, PW 9 produced certified  
copies of 33 Topo-sheets. In the process of filing the relevant  
topographical maps, the State of Assam seeks to cause the production  
of some more maps.

E           2. On 2 July 2015, this Court allowed the production of certain  
maps. According to the State of Assam the maps are maintained in the  
Head Office of the Survey of India at Dehradun and are not within its  
possession or control. During the course of the examination of PW  
9, the State of Assam, by its letters dated 24 February 2017, 7 March  
2017 and 6 April 2017 sought the production of certain topographical  
F           maps. In response to the letter dated 6 April 2017, PW 9 sought to  
produce the maps on 18 July 2017. However, this was objected to by  
the State of Nagaland on the ground that since leave for the production  
of documents had been sought and was granted by this Court, the witness  
cannot be allowed to produce additional documents at the present stage.  
G           It is in view of the objection of Nagaland that the present application has  
been filed. The relief which has been sought is the production of the  
maps described in paragraph 4 of the application which is extracted  
below:

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Sl.No	Topo Map Nos. & Scale	Sl.No	Topo Map Nos. & Scale
1.	83G/13-(1 inch to a Mile) (1923)	5.	83G-(1 inch to 4 Miles)
2.	83J/6-(1 inch to a Mile) (1937)	6.	83J-(1 inch to 4 Miles)
3.	83J/9-(1 inch to a Mile) (1938)	7.	83N-(1 inch to 4 Miles) (1936)
4.	83J/13-(1 inch to a Mile) (1925)		

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Order XI Rule 14 of the Code of Civil Procedure provides thus:

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“14. Production of documents— It shall be lawful for the Court, at any time during the pendency of any suit, to order the production by any party thereto, upon oath of such of the documents in his possession or power, relating to any matter in question in such suit, as the Court shall think right; and the Court may deal with such documents, when produced, in such manner as shall appear just.”

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Order VII Rule 14 provides thus:

**“Production of document on which plaintiff sues or relies**

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(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.

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(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.

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A (4) 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."

B 3. Having heard learned counsel and upon evaluating the objection of the State of Nagaland, we see no reason to disallow the production of the maps. The evidence of PW 9 is being recorded. Production of the above documents by the witness for the Survey of India should, in our view, be allowed in the interest of justice. The documents were not in the possession of the applicant and the earlier order of this Court will not preclude the State of Assam from seeking production at this stage. We, however, clarify that we have not dealt with the relevance or admissibility of the documents. It would be open to the State of Nagaland to raise such objections as it is advised to raise and all appropriate defences.

C 4. Subject to what has been stated above, the application for production is allowed. The Interlocutory Application shall accordingly stand disposed of.

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