



NITHIA'S INDIAN LAW RADAR
Indian Laws Simplified

www.lawradar.com

LETTER ROGATORY (LR)

Written by Advocate Nithia.

Source of this Article: Information sourced from US Department of State, Travel. State.Gov. Central Bureau of Investigation, India Website. Laws regarding LR in India can be found in Section 166 A and 166 B of The Code of Criminal Procedure.

“LETTERS ROGATORY” DEFINED in Plain English.

In its broader sense in international practice, the term *letters rogatory* denotes a formal request from a court in which an action is pending, to a foreign court to perform some judicial act. Examples are requests for the taking of evidence, the serving of a summons, subpoena, or other legal notice, or the execution of a civil judgment. Requests rest entirely upon the comity of courts toward each other, and customarily embody a promise of reciprocity. Letters rogatory are the customary method of obtaining judicial assistance from abroad in the absence of a treaty or executive agreement. Letters rogatory are requests from courts in one country to the judiciary of a foreign country requesting the performance of an act which, if done without the sanction of the foreign court, could constitute a violation of that country's sovereignty. Letters rogatory may be used in countries where multi-lateral or bilateral treaties on judicial assistance are not in force to effect service of process or to obtain evidence if permitted by the laws of the foreign country.

ILLUSTRATION: (Real Life Example)

Indian Police is investigating a Murder Case. They want specific information from a USA based company pertaining to certain emails sent from an Accused person's account. The USA based company refuses to comply with this request. In this case, The Magistrate in India can issue a LETTER ROGATORY to his/her counterpart Judicial Authority in the USA to issue directions to the USA based company to comply with the order and reveal the details being sought by the Indian Police Department.



Essential elements of Letters Rogatory:

- A statement that a request for international judicial assistance is being made in the interests of justice;
- A brief synopsis of the case, including identification of the parties and the nature of the claim and relief sought to enable the foreign court to understand the issues involved;
- The type of case [e.g. civil, criminal, administrative];
- The nature of the assistance required [compel testimony or production of evidence; service of process];
- Name, address and other identifiers, such as corporate title, of the person abroad to be served or from whom evidence is to be compelled, documents to be served;
- A list of questions to be asked, where applicable, generally in the form of written interrogatories;
- A list of documents or other evidence to be produced;
- A statement from the requesting court expressing a willingness to provide similar assistance to judicial authorities of the receiving state;

Note: Statements can be included that the requesting court or counsel is willing to reimburse the judicial authorities of the receiving state for costs incurred in executing the requesting court's letters rogatory.

Did You Know? As on date INDIA has Agreement/ Treaty on Mutual Legal Assistance in

operation with 22 countries and Letters Rogatory can be received and issued to

- [Kingdom of Bahrain](#)
- [Republic of Belarus](#)
- [Canada](#)
- [French Republic](#)
- [Republic of Kazakhstan](#)
- [The State of Kuwait](#)
- [Republic of Korea](#)
- [Republic of Mauritius](#)
- [Republic of Mongolia](#)
- [Russian Federation](#)
- [Republic of Singapore](#)
- [Republic of South Africa](#)



- [Kingdom of Spain](#)
- [Confederation of Switzerland](#)
- [Republic of Tajikistan](#)
- [Kingdom of Thailand](#)
- [Republic of Turkey](#)
- [United Kingdom of Great Britain and Northern Ireland](#)
- [United Arab Emirates](#)
- [The United States of America](#)
- [Republic of Ukraine](#)
- [Republic of Uzbekistan](#)

NOTE: It may be mentioned that as per Indian Law, it is not necessary to give any notice to the accused either before issuing the LR or before examining the same.

SAMPLE REQUEST FOR INTERNATIONAL JUDICIAL ASSISTANCE

NAME OF COURT IN SENDING STATE REQUESTING JUDICIAL ASSISTANCE

NAME OF PLAINTIFF

CASE NUMBER

V.

NAME OF DEFENDANT

REQUEST FOR INTERNATIONAL JUDICIAL ASSISTANCE (LETTER ROGATORY)

(NAME OF THE REQUESTING COURT) PRESENTS ITS COMPLIMENTS TO THE APPROPRIATE JUDICIAL AUTHORITY OF (NAME OF RECEIVING STATE), AND REQUESTS INTERNATIONAL JUDICIAL ASSISTANCE TO (OBTAIN EVIDENCE/EFFECT SERVICE OF PROCESS) TO BE USED IN A (CIVIL, CRIMINAL, ADMINISTRATIVE) PROCEEDING BEFORE THIS COURT IN THE ABOVE CAPTIONED MATTER. A (TRIAL/HEARING) ON THIS MATTER IS SCHEDULED AT PRESENT FOR (DATE) IN (CITY, STATE, COUNTRY).



NITHIA'S INDIAN LAW RADAR
Indian Laws Simplified

THIS COURT REQUESTS THE ASSISTANCE DESCRIBED HEREIN AS NECESSARY IN THE INTERESTS OF JUSTICE. THE ASSISTANCE REQUESTED IS THAT THE APPROPRIATE JUDICIAL AUTHORITY OF (NAME OF RECEIVING STATE) (COMPEL THE APPEAR OF THE BELOW NAMED INDIVIDUALS TO GIVE EVIDENCE/PRODUCE DOCUMENTS) (EFFECT SERVICE OF PROCESS UPON THE BELOW NAMED INDIVIDUALS).

(NAMES OF WITNESSES/PERSONS TO BE SERVED)

(NATIONALITY OF WITNESSES/PERSONS TO BE SERVED)

(ADDRESSED OF WITNESSES/PERSONS TO BE SERVED)

(DESCRIPTION OF DOCUMENTS OR OTHER EVIDENCE TO BE PRODUCED)

FACTS

(THE FACTS OF THE CASE PENDING BEFORE THE REQUESTING COURT SHOULD BE STATED BRIEFLY HERE, INCLUDING A LIST OF THOSE LAWS OF THE SENDING STATE WHICH GOVERN THE MATTER PENDING BEFORE THE COURT IN THE RECEIVING STATE.)

(QUESTIONS)

(IF THE REQUEST IS FOR EVIDENCE, THE QUESTIONS FOR THE WITNESSES SHOULD BE LISTED HERE).

(LIST ANY SPECIAL RIGHTS OF WITNESSES PURSUANT TO THE LAWS OF THE REQUESTING STATE HERE).

(LIST ANY SPECIAL METHODS OR PROCEDURES TO BE FOLLOWED).

(INCLUDE REQUEST FOR NOTIFICATION OF TIME AND PLACE FOR EXAMINATION OF WITNESSES/DOCUMENTS BEFORE THE COURT IN THE RECEIVING STATE HERE).

RECIPROCITY

THE REQUESTING COURT SHOULD INCLUDE A STATEMENT EXPRESSING A WILLINGNESS TO PROVIDE SIMILAR ASSISTANCE TO JUDICIAL AUTHORITIES OF THE RECEIVING STATE.

REIMBURSEMENT FOR COSTS

THE REQUESTING COURT SHOULD INCLUDE A STATEMENT EXPRESSING A WILLINGNESS TO REIMBURSE THE JUDICIAL



NITHIA'S INDIAN LAW RADAR
Indian Laws Simplified

AUTHORITIES OF THE RECEIVING STATE FOR COSTS INCURRED IN
EXECUTING THE REQUESTING COURT'S LETTERS ROGATORY.

SIGNATURE OF REQUESTING JUDGE

TYPED NAME OF REQUESTING JUDGE

