

# B.COM LL.B VI SEMESTER CPC

## Unit-2 pleading

### TOPIC:- ADMISSION , RETURN AND REJUNCTION

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## Introduction:-

- If the plaint is to be **returned** to the parties after its **rejection**, the court has to fix a date for the same where the parties can arrive for this purpose. ... If the court does not have the adequate jurisdiction, the proper course is to **return** the plaint and not to dismiss it.

# The procedure of admission of plaint:-

- **Heading and Title:** Title of the suit consists the name of the court, case number given by the office of court and details of parties.
- **Body of plaint:** It consists of facts consulting the cause of action and when it took place.
- **Relief:** the last part of the plaint is a relief. It must be proper and accurate. Plaint must state the relief which he is claiming either simply or in the alternative. This has to be done with utmost carefulness because once it is claimed then it can not be backed by oral pleadings.
- **Signature and Verification:** The signature of the plaintiff put to the end of plaint. In case the plaintiff is absent due to some legitimate reasons the authorized representative can sign.

# Return of Plaintiff by the Court:-

- The CPC empowers the civil courts to return the plaintiff to the plaintiff if the court believes that the plaintiff is not properly filed. Return is different from rejection and it needs to be noted. Return of plaintiff does not connote that the plaintiff had mistaken or that the rules for drafting the plaintiff were not conformed to.

It simply means that the court is not empowered to try the suit for which the plaintiff is filed. On the contrary, the plaintiff is rejected if the essential requirements of a plaintiff are not provided in the plaintiff or if the certain elements are vague and ambiguous.

# Procedure for Returning the Plaintiff:-

- The procedure for returning the plaintiff depends upon two circumstances. First, where the court in the initial hearings identify that it does not have the jurisdiction to try the case and it feels that the plaintiff needs to be returned.

Second, where the defendant has appeared and after which the court believes that plaintiff needs to be returned for lack of jurisdiction.

In cases where the defendant has not yet appeared and the court opines to return the plaintiff, Order 7 Rule 2(2) mandates the court to endorse the following particulars on the plaintiff:

- Date on which the plaintiff was initially presented by the plaintiff,
- Date on which the plaintiff is being returned by the court. The returning date is not the one where the court formed the opinion but when the court actually returned the plaintiff.
- Cause title, i.e. the details of the party which presented the plaintiff.
- Reasons that compelled the court to return the plaintiff.

# Rejection of Complaint by the Court:-

Order 7 Rule 1 lays down the contents of a complaint and some of these contents cannot be missed by the pleader. If such content is missed, the court is empowered to reject the complaint and the plaintiff has to resubmit the complaint after making necessary modifications. Rejection, however, is not the first option before the court.

“Law is not to humiliate the victim, it is to give an opportunity to a vigilante and *bona fide* victim to claim remedies. Therefore, CPC allows amendment of the complaint at any time before the judgment is passed so that the court does not have to reject the complaint.”

# Grounds for Rejection:-

Order 7 Rule 11 lays down the specific grounds for rejection of the plaint. There are six grounds for which a plaint can be rejected under this provision and they are as follows:

- 1.) When the plaintiff has omitted or abstained from unveiling the cause of action, i.e. the overt act or omission by the defendant that led the plaintiff to file this suit.
- 2.) When the plaintiff has intentionally or unintentionally undervalued the plaint. Undervaluation means showing that the value of a property is less so that the valuation of the suit is at a lesser amount and the court can exercise jurisdiction on the matter which, otherwise, could not have exercised if the suit was correctly valued.
- 3.) Under the Stamps Act, every legal document is required to be drafted on a stamp paper of the requisite value which depends on several factors such as nature of the document (whether it is plaint, rent agreement, etc.), valuation of the suit, etc. If it is not filed on the stamp paper of the value specified by law, the court may ask the plaintiff to submit the stamp paper and if he fails to do that, it can be rejected.

- 4.) When the filing of the suit is barred by law and it is evident from the statement of the plaint, the court shall reject the plaint. For instance, under the Insolvency and Bankruptcy Code, 2016, when a company is unable to pay its debts, its creditors can initiate an insolvency process. It means the company is given time to revive, make profits and repay its creditors. This period is called moratorium and under Section 13 of the Code, every suit is barred against the company during the period of moratorium.
- 5.) It is required to be filed in duplicate. It means the plaintiff has to file two copies of the plaint, one for the court and other for the defendant. If the plaintiff has not filed the plaint in duplicate, the court is empowered to reject it.
- 6.) Order 7 Rule 9(1) requires that the plaintiff submits as many copies as the court asks for to be submitted to the defendants. It is usually the number of copies as there is the number of defendants and such copies have to be submitted on a plain paper. If the plaintiff fails to submit the required number of copies of the plaint, it becomes a ground for rejection of the plaint.
- 7.) Order 7 Rule 9(1A) requires that the plaintiff submits the requisite fees that will be incurred by the court to serve the summons to the defendants. In a criminal case, the summons is served at the cost of the state. However, in a civil suit, the fees need to be paid by the plaintiff. If such payment is not made within 7 days from the date of order of payment, the plaint is liable to be rejected.