

B.COM LL.B VI SEMESTER CPC

Unit-2 pleading

TOPIC:- PLAINT: PARTICULARS

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Introduction:

Order VII of the Code of Civil Procedure deals with plaint. Plaint is basically the pleading of the petitioner in a civil suit. There are certain general principles that are applicable to pleadings and therefore implicitly to plaint also. They are:

- **Only facts** have to be stated and not law;
- The facts stated should be **material facts**;
- **No evidence** should be stated;
- The facts should be stated in a **concise**, brief and clear manner.

However, there are certain exceptions to the general principles, like the foreign law if used in the case has to be stated, also if there is any condition precedent for filing the suit or any mixed question of law and fact (e.g. *Res Judicata*) or any custom or usages etc., have to be stated.

Plaint Meaning:-

- The expression 'plaint' has not been defined in CPC. However, it can be said to be a statement of claim, a document, by presentation of which a suit is instituted. Its object is to state the grounds upon which the assistance of the court is sought by the plaintiff. It is a pleading of the plaintiff.

Particulars of a Complaint :-

Every complaint should contain the following particulars:

- The name of the court in which the suit is brought;
- The name, description and place of residence of the plaintiff;
- The name, description and place of residence of the defendant;
- Where the plaintiff or defendant is minor or a person of unsound mind, a statement to that effect;
- The facts constituting the cause of action and when it arose;
- The facts showing that the court has jurisdiction;
- A statement of the value of the subject matter of the suit for the purpose of jurisdiction and court fees;
- The reliefs claimed by the plaintiff, simply or in the alternative;
- Where the plaintiff files a suit in the representative capacity, the facts showing that the plaintiff has an actual existing interest in the subject-matter and that he has taken steps that maybe necessary to enable him to file such a suit;

- Where the plaintiff has allowed a set off or relinquished a portion of his claim, the amount so allowed or relinquished;
- Where the suit is for recovery of money, the precise amount claimed;
- Where the suits is for accounts or *mesne profits* or for movables in the possession of the defendant or for debts which cannot be determined, the approximate amount or value thereof;
- Where the subject-matter of the suit is immovable property a description of the property sufficient to identify it, e.g. boundaries, survey numbers, etc.
- The interest and liability of the defendants in the subject-matter of the suit;
- Where the suit is time-barred, the ground upon which the exemption from the law of limitation is claimed.

We can divide the above mentioned particulars in **three** essential parts:

- Part I – The Heading and Title
- Part II – The Body of the Plaint
- Part III – The Relief Claimed