

○ CHAPTER– 17

DRAFTING, PLEADING AND CONVEYENCING: HOW TO WRITE PLAINT, WRITTEN STATEMENT AND THE ISSUES OF A CASE

Ch.Id:-ASU/GRF/EB/MIVWMSS/2022/Ch-17

DOI: <https://doi.org/10.52458/9789391842758.2022.eb.grf.asu.ch-17>

¹Adv. JYOTI

¹School of Legal Studies, Apeejay Stya University

²Mr. ANURANJAN SHARMA

²Assistant Professor, Apeejay Stya University

Plaint, Written Statement and Framing of Issues

In CPC, a civil suit starts with the filing of the plaint. It contains the averments or allegations pertaining to a particular set of facts filed by a party called plaintiff. The opposite parties are called defendants. When a plaint is called the pleading of a plaintiff, the written statement is the pleading of the defendant as stated under Order VI Rule 1 of CPC.

1. Essentials of a plaint:

- The Plaint shall be presented in duplicate and comprise of the following:
- Name of the Court
- Name, description and place of residence of plaintiff and defendant
- Facts constituting the cause of action and when it arose
- Facts showing that the court has jurisdiction in the case
- Statement of value of the subject matter of the suit.
- Reliefs claimed by the plaintiff
- Amount of claim in case of recovery suit
- Where the plaintiff has allowed a set-off or relinquished a portion of his claim, the amount so allowed or relinquished
- Where subject matter of suit is an immovable property, a description of the property
- Where the suit is time-barred, the ground upon which exemption from the Law of Limitation is claimed

When can the plaint be presented?

Plaint shall be presented to the Court on a working day and during office hours, however a Judge may accept plaint at his residence after office hours also.

Who can present the plaint?

A plaint may be presented personally by the plaintiff or by a person duly authorized by him or his pleader.

Annexing of documents with the plaint

The plaintiff is required to enter in a list all the documents on which his plaint relies. Code of Civil Procedure, 1908 (CPC) further entails that the plaintiff shall deliver the documents and a copy of the documents along with the plaint[1]. Further, a document which ought to be presented by the plaintiff at the time of presenting the plaint is not produced then the same will not be received in evidence.

Example how to write a plaint

In the Court of Civil Judge,....., Faridabad

Mr. Rajesh Kapoor s/o

R/o..... Plaintiff.....

v/s.

Mr. Jayesh Kumar s/o.....

R/o..... Defendant.....

Before the Hon'ble Court of Judicature, the plaintiff submits the following facts :

1. That the plaintiff is resident of Vasant Bihar, Faridabad. His house is near the SRS mall.
2. That the matter of plaintiff lies within the jurisdiction of the Hon'ble court of justice.
3. That the plaintiff is recently married to Ms. Malti on 25 January,2020 in the presence of family members and by lawful ceremonies in order to make the marriage valid.
4. That the plaintiff on 18th March went to the mall along with his wife for shopping and enjoying the weather.
5. That the plaintiff and his wife was arrested by the defendant for no reason in the public space ,due to this act of defendant they felt the incident is a scar on their image.
6. That inspite of the repeated request defendant took them to the nearest police station.
7. That plaintiff has to call their relatives and witnesses of the marriage , then only allowed to go home.

8. That the plaintiff has to submit marriage certificate along with photographs as a proof .
9. That due to this conduct of defendant, plaintiff suffered lot of mental harassment and loss of reputation.

PRAYER

It is prayed before the Hon'ble court;

To grant compensation for the following things:

1. Cost of counsel- Rs. 20,000
2. Cost of calling the relatives and witnesses- Rs. 15,000
3. Compensation for the mental harassment- Rs. 1 lakh
4. Loss of reputation- Rs. 2 lakh

Total Amount – Rs. 3,35,000

5. Any other relief which the Hon'ble court deems fit in the interest of justice.

VERIFICATION AND AFFIDAVIT

That facts stated above from point no. 1 to 9 are true to best of my knowledge and belief.

It is verified on 20th march, 2020.

Petitioner:.....

Through Counsel:.....

2. Issue of Summons to the Defendant

Once the plaint is presented and admitted by the Court, the next step involves issuing of summons to the Defendant. The summons is issued to the Defendant to appear and answer the claim. As per Section 27 of CPC, a defendant is given a period of 30 days from the date of institution of suit to answer the claim.

3. Inspection of Documents Referred to in the Plaint

Pursuant to serving of summon on the defendant, the defendant has to refer to a copy of the plaint and if any documents are referred to in the plaint, of which the defendant has not got copies, a notice shall be given to the plaintiff or his pleader to produce the documents for inspection.

4. Written Statement

Written Statement is the reply statement filed by the defendant in a suit specifically denying the allegations made against him by the plaintiff in his plaint. The rule regarding written statement is contained in the Code of Civil Procedure, 1908 (for short "CPC").

Example how to write the written statement:

In the Court of Civil Judge,....., Faridabad
Mr. Jayesh Kumar s/o.....
R/o..... Defendant.....
v/s
Mr. Rajesh Kapoor s/o
R/o..... Plaintiff.....

Before the Hon'ble Court of Judicature, the defendant submits the following facts:

1. That the defendant is the government officer serving in the social interest at the post of Sub Inspector in the Faridabad Police Station.
2. That the point no. 1 of plaint is accepted.
3. That the defendant is not denying the jurisdiction of the Hon'ble Court of Justice.
4. That the point no.3 is not denied.
5. That the point no. 4 is not denied.
6. That the point no. 5 is denied.
7. That the defendant respectfully took both of them to the police station.
8. That the defendant was accompanied by lady police constable.
9. That the defendant received a complaint about missing of a girl and boy who resembles the plaintiff.
10. That the point no. 6 is not denied.
11. That the point no. 7 is accepted.
12. That the point no. 8 is accepted.

13. That the point no. 9 is denied that the defendant was doing his duty in good faith without any mala fide intention.

PRAYER

Therefore, it is prayed before the Hon'ble court:

1. that the claim of plaintiff should not be considered.
2. that no compensation be given to the plaintiff.

VERIFICATION AND AFFIDAVIT

That the fact stated above from point 1 to 13 are true to best of my knowledge and belief.

It is verified on date 23rd March, 2020.

Defendant:.....

Through Counsel:.....