



FACULTY OF JURIDICAL SCIENCES

COURSE: B.A.LL.B. 1st Semester

SUBJECT: ADVANCE LEGAL WRITING SKILL-I

SUBJECT CODE: BAL 108

LECTURE: 39

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Lecture-39



Pleadings means a written statement or plaint, forming the backbone of every suit. A plaintiff pleading in his plaint would be a statement under which he sets out his cause of action, inclusive of all relevant particulars. Pleadings need to be properly drafted with "clear" and "concise" language "so as" to avoid any ambiguity.

They should be inclusive of all the "material facts" and "other important and necessary facts, to support the cause of action" of the plaintiff and, for the defendant, the written statement should respond to every fact alleged in the plaint as well as introduction of any new fact that may favour the defendant. The "object" of pleadings is to ensure parties are stating the issue at hand and to further prevent them from being enlarged once the trial commences. It also helps in keeping the parties on track in terms of what needs to be proved at trial.

Order 6 of the CPC "covers pleadings in general and for the purpose of this article, the focus shall be on" Order 6 Rule 17 "which deals with the amendment of pleadings. The Supreme Court, in the case of" **Usha Balasahed Swami v. Kiran Appaso Swami** " (2007) 5 SCC 602" clarified that the amendment of plaint and written statements stand on different footings. As stated above, the general rule is that no amendment shall be allowed if it substitutes a cause of action or alters the nature of the claim. It has no counterpart in the principles relating to amendment of written statement.

Hence, if an amendment is made to a written statement, adding a new ground of defense or altering the previous one or taking inconsistent pleas, all of this, will not be objectionable in the case of written statements however, it might be problematic where such alterations are allowed to be made in the plaint.

While relying on " **B.K. Narayana Pillai v. P. Pillai** " (2000) 1 SCC 712, "the Court further stated that it is a well settled principle of law that a more liberal approach needs to be taken by allowing amendments to written statements rather than a plaint as chances of prejudice may be more in the latter case. The Court reiterated various judgements and held that the defendant was at the liberty to take contrary stands or even contradictory stands and either of these will not have any impact on his cause of action nor will they cause any prejudice.

In the case of " **Baldev Singh v. Manohar Singh** " (2006) 6 SCC 498, "the Court held that there a certain commonalities between amending plaints and written statements however, the rule

that the plaintiff is not at liberty to amend his pleading in so far as it alters materially or substitutes or changes the nature of his cause of action has no necessary counterpart in the law

governing the amendment of written statements. The Court also held that the powers conferred on the Courts under Order 6 Rule 17 are wide enough and grant unfettered discretion to the Courts to allow an amendment to the written statements at any stage of the proceedings.

MCQ

1) Give correct answer :

- A) Void agreements are always illegal.
- B) Illegal agreements are always voidable .
- C) Illegal agreements are always Void.
- D) Voidable contract are always illegal.

2) A contract is :

- A) A set of promise forming consideration for each other.
- B) An agreement acceptable to both the parties about common thing.
- C) An understanding between the parties about a common thing.
- D) An agreement enforceable by law.

3) A person has the capacity to contract :

- A) He is a major and sound mind.
- B) If he can fully understand the nature of his contract .
- C) If he is not disqualified from contracting by any law to which he is subject .

D) If he fulfill all the above conditions.

4) A agrees to sell to B 1000 mounds of rice at a price to be fixed by C :

A) Valid

B) Void for uncertainty

C) voidable at the option of B.

D) Voidable at the option of C.

5) If an infant obtains property or goods by misrepresenting his age, he may be compelled to return the same....

This is known as :

A) Redemption

B) Subrogation

C) Restitution

D) Contribution