



FACULTY OF JURIDICAL SCIENCES

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Subject Name- Drafting, Pleading and conveyancing

COURSE NAME- LLB, III Sem

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LECTURE ELEVEN

Thus, while allowing additional written statement or refusing to accept the same, the court should only see that if such additional written statement is not accepted, the real controversy between the parties could not be decided. Hence, the last determining factor is whether filing an additional written statement of there is no injustice or prejudice caused to the other party and also it would help that would help the court to decide the real controversy between the parties.

Conclusion

It can be concluded under Order VIII Rule 9 of the Code of Civil Procedure while filing an additional written statement, it is open to the defendant to add a new ground of defence or substituting or altering the defence or even taking inconsistent plea in the written statement as long as the pleadings do not result in causing grave injustice and irretrievable prejudice to plaintiff or displacing him completely. It is a well-established principle that the courts should be more generous in allowing the amendment of a written statement than in the case of the plaintiff. Further, it is the duty of the Judge to prevent misuse of the pleadings by a litigant. The courts have to ensure that what could not be achieved by getting the pleading amended should not be allowed to be got over, by filing reply or rejoinder as the case may be and vice versa.

MCQs-

i. Can new ground of defence be included in the additional written statement?

- a. yes
no
- b. no
- c. partially yes
- d. partially

ii. How can new ground of defence be included in the additional written statement?

- a. order 6 rule 5
above
- b. order 8 rule 9
- c. both of above
- d. none of

iii. It may also be worthwhile to notice that the rules of procedure like the provisions of Order 8, Rule 9 of the Code of Civil Procedure are aimed at not only advancing the cause of justice but also doingbetween the parties.

- a. substantial justice
- b. corrective justice
- c. distributive justice
- d. none

iv.provides for amendment of pleadings.

- a. Rule 17 of Order VI b. Rule 6 of Order VI c. Rule 7 of Order VI d. Rule 17 of Order V

v. In which case it was held that the minor should be given leave to change or amend the pleading as per his/her choice.

- a. Shiva Kumar Singh v. Kari Singh b. Kumar Singh v. gyan Singh c. none of the above