



FACULTY OF JURIDICAL SCIENCES

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Subject Name- Drafting, Pleading and conveyancing

COURSE NAME- LLB, III Sem

SUBJECT CODE-LLB-303

LECTURE NINE

[WRITTEN STATEMENT CONT.]

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

No pleading subsequent to the written statement of a defendant other than by way of defence to set-off or counterclaim shall be presented except by the leave of the court and upon such terms as the court thinks fit, but the court may at any time require a written statement or additional written statement from any of the parties and fix a time for presenting the same. But any ground of defence which has arisen after the institution of the suit or the representation of a written statement claiming a set-off may be raised by the defendant or plaintiff, as the case may be, in his written statement or additional written statement.¹

When an additional written statement cannot be filed?

It is the discretion of the court to accept the request for an additional written statement but in certain cases, the court has been empowered to strike out the pleadings.² The following are the matter when the court may strike out pleadings at any stage of the proceedings order to be struck out or amended any matter in any pleading—

“(a) which may be unnecessary, scandalous, frivolous or vexatious, or

(b) which may tend to prejudice, embarrass or delay the fair trial of the suit, or

(c) which is otherwise an abuse of the process of the court.”

Judicial precedents

It has been held by Court that if the defendant introduces a new case, it is fair to allow the plaintiff to file his subsequent pleading.³ Also, it has been laid down by the court that If the plaintiff amends (with leave) his plaint, the defendant should be given leave to file a subsequent pleading.⁴ Conversely, if the defendant amends his written statement, then leave should be granted to permit the plaintiff to file his additional pleading, to react to it. The leave to file an additional pleading may be granted to take into account subsequent events, occurring after the filing of the suit and to avoid multiplicity of suits. Further, in the case of *Shiva Kumar Singh v. Kari Singh*, that when a minor attains majority during the pendency of litigation and is not satisfied with the pleading filed by the guardian ad litem, the minor should be given leave under this rule.

Olympic Industries v. Mulla Hussainy Bhai Mulla Akberally & Ors – Mere delay is not sufficient to refuse amendment of pleadings or an additional written statement.

MCQs-

i. In the case of _____ Apex court held that "observed that an oral complaint made to the police officer also comes within the purview of Section 2 d, Cr.P.C. and be registered as a complaint. It also observed that there is no formal written complaint required and a oral complaint made is also quite sufficient to ledge an investigation and is well covered under the law"

a. Priyanka Srivastava & Anr Vs. State Of U.P. & Ors.

b. Amit Khera v/s Govt. of NCT of Delhi & Ors.

c. Lalita Kumari v/s Govt of U.P. & Ors

d. suhasani upadhaya v state of gujrat

ii. the supreme court in the case of _____ It held that "We have already indicated that there has to be prior applications under Section 154(1) and 154(3) while filing a petition under Section 156(3)".

a. Priyanka Srivastava & Anr Vs. State Of U.P. & Ors.

b. Amit Khera v/s Govt. of NCT of Delhi & Ors.

c. Lalita Kumari v/s Govt of U.P. & Ors

d. suhasani upadhaya v state of gujrat

iii. In the case of _____ the supreme court laid down the directions as to how a complaint would be entertained and disposed off

a. Lalita Kumari v/s Govt of U.P. & Ors

b. Anand ahuja v/s Govt. of NCT of Delhi & Ors.

c. Neha Srivastava & Anr Vs. State Of U.P. & Ors.

d. paras mishra & Anr Vs. State Of U.P. & Ors.

iv. the written statement Is discussed under order?

a.order eight

b.order seven

c.order one

d.order nine