



**RAMA
UNIVERSITY**

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FACULTY OF JURIDICAL SCIENCES

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

SUBJECT: ADVANCE LEGAL WRITING SKILL-I

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LECTURE: 33

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Lecture-33



Pleadings are the backbone of legal profession. It is the foundation stone on which case of a party stands. The case of a party must be set out in the pleadings. Moreover, the relief cannot be claimed on the grounds which are not contained in the pleadings. The immaterial or vague or ambiguous matter should be avoided and pleadings should be properly framed. In *Devki Nandan v. Murlidhar*,(AIR 1957 SC 133) it was held that a finding cannot be sustained which is based on pleading and no evidence.

Pleadings are those materials or essential facts which are necessary to be averred in order to put forward a cause or to establish a defence in a judicial proceeding. It is the backbone of the suit upon which the entire edifice of the suit rests. It includes allegations and counter allegations made by one party and denied by the other. Etymologically, it means a formal statement to propound the cause of action or set up a defence against the case of the plaintiff. According to Mogha, "Pleadings are statements in writing drawn up and filed by each party to a case, stating what his contentions will be at the trial and giving all such details as his opponent needs to know in order to prepare his case in answer."

Order VI of the Code of Civil Procedure, 1908 deals with pleadings in general. Rule 1 defines pleading, while Rule 2 lays down the fundamental principles of pleadings. Rules 3 to 13 require the parties to supply necessary particulars. Rules 14 and 15 provide for signing and verification of pleadings. Rule 16 empowers a Court to strike out unnecessary pleadings. Rules 17 and 18 contain provisions relating to amendment of pleadings.

As per Rule 1 of Order VI of the Code of Civil Procedure, 1908, pleading is defined as plaint or written statement. It is important to know here the meaning of plaint and written statement. Plaint is the statement of the plaintiff containing grievances in order to initiate an action in a court of law. It helps the court to determine the real nature of the suit. Written statement is the statement or defence of the defendant by which he either admits the claim of the plaintiff or denies the allegations or averments made by the plaintiff in his plaint.

In the leading case of *Throp v. Holdsworth*, Jessel, M. R. stated:- "The whole object of pleadings is to bring parties to an issue, and the meaning of the rules (relating to pleadings) was to prevent the issue being enlarged, which would prevent either party from knowing when the cause came on for trial, what the real point to be discussed and decided was. In fact, the whole

MCQ

1. From which source India got the concept of Single order of court?

(A) Government of India Act, 1935

(B) Government of India Act, 1919

(C) Pitts India Act, 1773

(D) None of the following

Answer A

Explanation: Government of India Act, 1935

2. Which of the following statement is not true about India's Supreme Court?

(A) Article 124 to 147 and Part V of the Indian Constitution informs about the composition and powers of the Supreme Court?

(B) The Supreme Court was inaugurated on January 28, 1950

(C) At present, there are 35 judges in the Supreme Court

(D) Judges of Supreme Court are appointed by the President of India

Answer C

Explanation: The strength of Supreme Court judges increased from 31 to 34, including the Chief Justice of India in Sept.2019.

3. Which qualification is wrong for being a judge in the Supreme Court?

- (A) It is compulsory to be a citizen of India.
- (B) He should be a respected jurist in the eyes of Parliament
- (C) Must be a judge in the High Court for at least 5 years
- (D) He should be a lawyer in the High Court for at least 10 years

Answer B

Explanation: In the eyes of the President, he should be a respected jurist.

4. Which statement regarding the tenure of judges of the Supreme Court is not correct?

- (A) Judge of the Supreme Court can remain in office till the age of 65 years.
- (B) Judge of the Supreme Court gives his resignation letter to the Chief Justice
- (C) On the recommendation of Parliament, he can be removed by the President.
- (D) Supreme Court judge can be removed only in the condition of misconduct.

Answer B

Explanation: A judge of the Supreme Court gives his resignation letter to the President.

5. Who can remove the Judge of the Supreme Court?

- (A) Chief Justice of the Supreme Court
- (B) Only President
- (C) Only Parliament

Both

Parliament

meaning of the system is to narrow the parties to definite issues, and thereby to diminish expense and delay, especially as regards the amount of testimony required on either side at the hearing.”

The object of pleadings are – (i) to bring the parties to definite issues; (ii) to prevent surprise and miscarriage of justice; (iii) to avoid unnecessary expense and trouble; (iv) to save public time; (v) to eradicate irrelevancy; and (vi) to assist the Court. Importance of pleading cannot be underestimated. Jacob states, “Pleadings do not only define the issues between the parties for the final decision of the court at the trial, they manifest and exert their importance throughout the whole process of the litigation.” Pleadings provide a guide for the proper mode of trial. They demonstrate upon which party the burden of proof lies, and who has the right to open the case. They also determine the range of admissible evidence which the parties should adduce at the trial. They also lay down limit on the relief that can be granted by the Court.