

## PLEADINGS: ITS RULES & AMENDMENTS

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### ABSTRACT

*“Order VI Rule 1 elaborate "pleadings" like "written statement" and "plaint." A written statement is a response filed by the defendant against the plaintiff, in which the defendant offers new evidence to support their position and refutes the plaintiff's pleadings. The CPC does not, however, define a plaint or written statement. Instead, it can be understood as a document of claim that contains the material fact that a party (usually the plaintiff) relies on to prove his or her case. The pleadings are meant to help the courts understand the matter at hand and to provide the opposing side with an opportunity to learn about the case. It is possible that during the procedures, a problem arises as a result of the evolving circumstances. The parties will now need to submit fresh pleadings in accordance with the modifications made, as they can no longer rely on the ones they previously filed. The legislature inserted a clause allowing parties to amend or make amendments to pleadings they have already submitted in order to protect parties in this circumstance and prevent the processes from being repeated. This rule is not absolute, and parties cannot demand it as a matter of right. Instead, the gravity of the situation under which a party is requesting the adjustment must be taken into account. This essay will investigate the topic of a pleading amendment, look at the modifications made to Rule 17's proviso in the 2002 amendment, concentrate on the proviso's wording and the conflicting rulings of various HCs and the SC, and conclude with the current situation regarding pleading amendment in relation to the Court's limited discretion to grant the liberty.*

### INTRODUCTION

The foundation of the profession is pleading. It serves as the celebration stand's inspiration stone. The celebration case ought to be dismissed inside the pleadings. Furthermore, the remedy cannot be requested based on arguments that don't appear to be in the pleadings. It is important to avoid including unnecessary, vague, or confusing information in pleadings and to correctly structure them. It was strongly advised in *Devaki Handan v. Murlidhar* that a conclusion based on a lack of pleading and evidence could not be upheld.

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The crucial information or documents that a side must provide in a court case in order to bolster their defense or claim are known as pleadings. They serve as the basis for the lawsuit and include both parties' accusations and denials. A written declaration outlining grounds for action or defense against the plaintiff's claim is referred to as a "pleading." According to Mocha, a pleading is a required written statement that each party in a case must submit, outlining their reasons for trial and providing their opponent with all the information they need to construct a counterargument. The general rules governing pleadings are covered in Order VI of the Code of Civil Procedure, 1908. Pleading is defined in Rule 1, and the basic tenets of pleadings are laid down in Rule 2. The parties shall provide such information as is required by rules three through thirteen. Pleading language and verification are governed by Rules Fourteen and Fifteen. A court may reject pleas that aren't relevant under Rule 16. There are provisions in Rules seventeen and eighteen concerning pleading amendments.

### **OBJECT AND IMPORTANCE OF PLEADINGS**

In the seminal case of *Throb v. Holdsworth*, Jessen, M. R. stated that the goal of pleadings is to force the parties to concentrate on a particular issue and that the rules pertaining to pleadings were intended to keep the issue from expanding and leaving neither party clear about what the true issue was to be discussed and decided upon when the case went to trial. Primarily, the approach aims to minimize expenses and delays by restricting the parties to only those matters that need to be resolved, particularly in terms of the volume of evidence that each side must present during the hearing.

The goals of pleadings are –

- (i) To make the parties concentrate on a definite issue;
- (ii) To prevent surprise and injustice;
- (iii) To avoid unnecessary expense and trouble;
- (iv) To save public time;
- (v) To eliminate irrelevance; and
- (vi) To assist the Court.

It is crucial to plead. According to Jacob, "pleadings show and exert their importance throughout the whole litigation process, not only do they define the issues between the parties for the court's final decision at the trial." The right trial procedure is guided by the pleadings. They specify who has the power to initiate legal proceedings and who bears the burden of

proof. They also verify the range of admissible evidence that the parties are required to present as witnesses during the trial. They also set limits on the amount of relief the court can award.

### **ORDER VI RULE 17 AND AMENDMENT OF 1999 & 2000**

The CPC's Order VI Rule 7 describes how a party may change its pleading in a lawsuit. It both restricts the court's discretion and grants the court the authority to grant the party's request to change their pleading. In this context, the caveat introduced by the CPC (Amendment) Act, 2002 in R.17 is crucial. According to this, courts may only grant the application of amendment if they are completely persuaded that, despite exercising "due diligence," the party was unable to incorporate the changes they wish to make.<sup>1</sup>

Due to numerous petitions being submitted to postpone the lawsuit process, which led to an increase in the backlog of cases, the provision was repealed in 1999. The removal was made in an effort to expedite the trial and reduce the length of the lawsuit. However, following some opposition from the impacted social class, the regulation was reverted to its previous state, albeit with an additional clause granting the courts the power to consider such applications in cases where parties have exercised due diligence but were not afforded the opportunity to bring up the issue beforehand.

In the *Salem Bar Association, Tamil Nadu v. Union of India* case<sup>2</sup>, the 2002 change as well as the proviso introduced to Rule 17 were challenged. The Supreme Court maintained the rule's constitutionality and stated that the legislature removed it and then reinserted it in the 1999 amendment in an effort to lessen or stop the filing of pointless applications that aim to postpone trials. Additionally, the amendment limits the courts' complete ability to permit changes at any point during the litigation process. Similar to this, the Supreme Court emphasized the 2002 modification and its significance for pleading amendments in the case of *Chander Kanta Bansal v. Rajinder Singh Anand*<sup>3</sup>. The Supreme Court noted in this case that although the amendment was added to speed up the process, the legislature attempted to avoid making the procedure a total barrier to the parties' ability to request an amendment by including a proviso. The proviso's goal is to grant the courts limited discretion, or the ability to permit certain procedural modifications based only on their subjective judgment. Nonetheless, the burden of proving

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<sup>1</sup> Pandit Malhari Mahale v. Monika Pandit Mahale

<sup>2</sup> Salem Bar Association, Tamil Nadu v. Union of India

<sup>3</sup> (2008) (5) SCC 117

need, good faith, and that it was inevitable to seek the amendment sooner notwithstanding thorough scrutiny would fall primarily on the party requesting the change.<sup>4</sup>

### MEANING OF TRIAL AS INTERPRETED BY COURTS

When reading the clause under O.VI R.17, it's critical to comprehend the definitions of the terminology employed. The wording of "commencement of trial" is important because the proviso states that no change will be permitted after the trial has begun. In this regard, the opinions provided by HCs and the Supreme Court in various situations will be quite beneficial.

In the case of *Kailash v. Nanhku*,<sup>5</sup> When an election petition trial started, was the question. In response, the SC examined the beginning of a trial in a civil complaint and stated that the trial begins once the issues are resolved and the case is prepared for the taking of evidence. SC followed the same principle in the case of *Ajendraprasadji N. Pande v. Swami Keshavprakeshdasji*,<sup>6</sup> where the trial court denied the appellant's request for an amendment on the grounds that the party had not been sufficiently diligent and the trial had already begun. For the same reason, the HC denied the appellant's claim as well. The SC was left with the dilemma of determining when the trial would officially begin. After reviewing the case's circumstances, the Supreme Court said that the way the issues are framed and the time the court is scheduled to record evidence will determine when the trial will begin. SC rejected the appellant's argument because the application was submitted after the issues had been defined and the opposing side had submitted an affidavit requesting a witness examination.

The word "commencement of trial" is not clearly defined in the O.VI R.17 rule, which leads to ambiguity in later rulings where the SC expressed a different opinion regarding the trial's start time. In the case of *Vidyabai v. Padmalatha*,<sup>7</sup> It was unclear what would constitute the "commencement of trial" in this instance because, by the time the amendment was filed two years after the written statement was submitted, the concerns had been resolved and the dates for the witnesses' cross-examination had been arranged. After taking into account every factor, the SC declared that the trial would start on the date of the first hearing when the affidavit for the witness's main examination was filed.

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<sup>4</sup> AIR 2019 SC 940

<sup>5</sup> (2005) 4 SCC 480

<sup>6</sup> (2006) 12 SCC 1

<sup>7</sup> AIR 2009 SCC 1433

Many High courts and the Supreme Court<sup>8</sup> have repeated the same view. For example, in the case of *Ajit Narsinha v. Nirmala Wamanrao*,<sup>9</sup> where the suit of possession was in dispute. The petitioner requested an update to the plaint after the difficulties had been resolved, but he did not provide precise specifics regarding his good faith. The trial began when the affidavit was filed for the witness's examination-in-chief, according to the HC, which also overturned the trial court's order and authorized the amendment because there was no such circumstance in this case. Also, in the case of *Sasidharan v. Sundarsanan* Kerala High Court cited the *Vidyabai* ruling in a case involving a property title action and sale deed. However, the petitioner thereafter requested amendments to remove a relief that was claimed and to change the plaint's assessment. After reviewing all the information, the Kerala High Court granted the application since the circumstances in this instance were different and stated that the bar under the proviso would only apply following the filing of the affidavit in lieu of the examination-in-chief.

The opposite point arises when Calcutta HC in the case of *Sree Sree Iswar Radha Beehari Jew v. Malti P. Soni*<sup>10</sup> handled a case where an amendment was requested to incorporate some new premises that the defendant had purchased and to accurately value the suit. In this instance, Calcutta simply addressed the pertinent legal matter, namely, what will constitute the "commencement of trial"? In response, it was stated that Kailash's ruling is the obiter and that the trial will begin when the court first exercises its discretion following the submission of the affidavit and the witness's cross-examination starts.

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There is uncertainty over the circumstances surrounding what constitutes the start of the trial. According to the Supreme Court's ruling in *Vidyabai*, the filing of an affidavit for examination-in-chief would signal the start of the trial. This dictum, which has been addressed by several scholars and in decisions, is justified by the fact that filing an affidavit is an important act and the first time the court uses its judgment to consider the matter at hand in a lawsuit.

### **SCOPE AND EXTENSION OF AMENDMENT: RULES TALKING ABOUT THE STATUS OF THE LAW**

The formal addition, alteration, correction, or change to the pleadings is called an amendment. The pleading amendment provisions are intended to advance justice, not to impede it. Order

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<sup>8</sup> 2018 (1) RCR (CIVIL) 597

<sup>9</sup> *Ajit Narsinha v. Nirmala Wamanrao*

<sup>10</sup> *Sree Sree Iswar Radha Beehari Jew v. Malti P. Soni*

VI of the Code of Civil Procedure, 1908 contains rules 17 and 18, respectively, that address amending of pleadings and failure to amend after order. According to Rule 17 of the CPC, "Any party may, at any time during the proceedings, alter or amend his pleadings in a manner and on terms that the court deems appropriate. All such amendments shall be made as may be necessary for the purpose of resolving the actual issues that the parties are disputing."

The Code of Civil Procedure (Amendment) Act, 2002 added a proviso to Rule 17 of Order VI of CPC that restricts and lessens the court's ability to allow pleading amendments. It states that no application for amendment should be allowed after the trial has begun unless the court determines that, despite due diligence, the party could not have raised the matter before the trial began.

Amendment of pleadings is allowed by the Court in two situations namely,

1. in cases where the modification is required to resolve the substantive issue at hand; and
2. Can the amendment be allowed without injustice to the other side.

**The Court denies pleading amendments in a variety of situations. The following scenarios or events warrant the court's refusal of a pleading amendment:**

- Once the projected change makes no sense.
- Once the projected change causes associate injury to the other party that can't be salaried for by prices.
- Once the planned change changes the character of the case.
- Once the application for change isn't created in honesty
- Once there has been an excessive delay in filing the change application

Delhi HC ("DHC") in the case of *Inderjeet v. Agricultural Produce Market Committee*<sup>11</sup> when the appellant requests a revision to provide further details. The respondent objected, claiming that there are legal restrictions on this kind of change. The DHC stated that if it is required and in the interest of justice, an amendment can be authorized in order to resolve the dispute

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<sup>11</sup> *Inderjeet v. Agricultural Produce Market Committee*



completely while taking into consideration the question of what grounds an amendment can be sought and allowed.

Similarly, In the case of *Saif-ul-Islam Company v. Roshan Lal Arora*,<sup>12</sup> When the plaintiff filed a second amendment application, the DHC was presented with the same issue because the plaintiff was unaware of certain information at the time the first amendment was requested. In this regard, the Delhi High Court adopted a rather liberal stance, allowing the alteration while noting that the purpose of an amendment is to address the true issue at hand and that it should be permitted as long as it does not adversely affect the other side.

The same ground was repeated by Kerala HC in the recent case of *P.M. Salim v. Vasudevan Namboothiri*<sup>13</sup> whereas the question was whether or not the wilful admission could be retracted through an amendment. The Kerala High Court addressed the issue in this case and declined to consider the amendment request, citing the plaintiff's case being displaced and the plaintiff being harmed by the withdrawal by amendment.

In the case of *Usha Balasaheb Swami v. Kiran Appasso Swami*,<sup>14</sup> The case concerned the division of a property, and as defendants 3 through 7 were not biological offspring, an amendment application was submitted to prevent them from obtaining the suit property. The application was denied by the trial court on the grounds that it would ultimately alter the substance of the lawsuit and harm the other party. Here, the question is whether something that has already been admitted in the plaint can be changed by submitting an application. The HC provided a negative response, and the SC granted the amendment request, ruling that additional reasons and plea modifications could be permitted as long as they don't interfere with the ongoing legal proceedings. The logic presented in this case was sound, but the Supreme Court proceeded to divide the plaint amendments and the written statement amendments, along with the corresponding procedure, which created a new wrinkle in this puzzle.

Not making any changes: This matter is covered by Order VI, Rule 18, of the CPC, 1908. It states that once the previously mentioned restricted time or those fourteen days have passed, a celebration United Nations agency that has obtained an order for leave to amend may not do so again unless the court extends the time. If the celebration agency does not amend within the

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<sup>12</sup> 2003 (102) DLT 692

<sup>13</sup> *P.M. Salim v. Vasudevan Namboothiri*

<sup>14</sup> (2007) SCC (5) 602

time-restricted for that purpose by the order, or if no time is thereby restricted, then within fourteen days from the date of the order.

## CONCLUSION

The aforementioned claims and rulings from the HCs and SC lead to the conclusion that neither the party nor the court may arbitrarily refuse a party's request to alter their pleadings. Nonetheless, the Court's discretion is subject to the particular facts and circumstances of each case and is governed by the guidelines specified in the proviso to R.17. Because O.VI R.17 is meant to advance justice rather than undermine it, granting changes is the norm and refusing them is the exception.

To prevent multiplicity, it is in the interests of justice that all the issues related to a specific suit be decided in a single suit. In addition, parties should be free to amend their pleadings as the suit is being heard. In the process, the courts will have to decide if the revision relates to the aforementioned processes in any way and whether it would negatively impact the lawsuit. The matter is still pending, nevertheless, since the Supreme Court has just published a notice in the SLP challenging the Bombay High Court's decision that had adhered to Vidya Bai's dicta in the Anita v. Anil case. It could be a count number of times now while we can get the best role of law.

The foundation of the bar is pleadings. On that celebration stand, there is the muse stone. The celebratory case ought to begin with the pleadings. Pleadings manifest and exert their importance throughout the entire process of the judicial procedure; they do not only summarize the issues between the parties for the court's final decision at the trial. The right trial mode can be determined by consulting the pleadings. They show that the party bears the burden of proof, and the UN agency is authorized to begin the investigation. They also verify the range of admissible evidence that the parties should be allowed to present throughout the trial. They also set limits on the remedies the Court will be able to provide.



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