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#### QUESTION:

What is pleadings? Whether alternative and inconsistent pleadings are permitted or not.

#### ANSWER:

##### PLEADINGS:

The term 'pleading' refers to the plaint and written statement. The plaintiff should allege the cause of action. The defendant should state the material facts on which he relies for his defence. Upon these pleadings, issues of law and of fact may arise. An application to sue as a pauper, or a statement of a pleader, or document referred in the pleadings, are not pleading. But statements recorded prior to the framing of issues are pleadings.

The object of pleadings is to make the parties aware of each other's stand, and to narrow down the area of controversy. PLD 1968 SC 1. The parties are bound by the averments made in the pleadings. Pleadings are not evidence themselves. A claim should not be allowed to be defeated on a mere technicality of pleadings. The law relating to pleading is not to be strictly construed.

##### CONTENTS OF PLEADINGS:

The pleadings of the parties should contain the material facts only, and not the law, nor should they state the legal effects of the facts stated. PLD 1963 SC 3. A party is not required to plead its evidence, or to give names of witnesses. It is for the court to apply the appropriate and correct law to the facts.

##### IMPORTANCE OF PLEADINGS:

Averments made in pleadings do not constitute evidence, but must be proved. Admissions in pleadings must be construed and understood on a reading of the pleadings as a whole and not in parts. A party can only succeed if it proves the facts as alleged, in the pleadings, answers to interrogatories, statements on oath or documents produced, on the basis of which issues are struck.

ALTERNATIVE AND INCONSISTENT PLEADINGS:

Parties may rely upon rights in the alternative and inconsistent pleadings. PLD 1963 SC 553. An alternative case is distinguishable from an inconsistent case. No two facts can be said to be inconsistent if both have happened, and the test of inconsistency is that a plaintiff which contains both cannot be verified as true but a party can put forward more than one source of his right or defence, in which case he is pleading in the alternative. PLD 1963 SC 553. A party to a transaction cannot be permitted to plead inconsistent facts. If inconsistent pleas will prejudice or embarrass the trial, they may be disallowed. A party cannot be estopped from asserting a position asserted by the opposite party. The object of this rule is to obviate further litigation. However, taking up inconsistent pleadings is dangerous, as in the process of establishing mutually contradictory pleas, the party may irreparably damage his case on both courts. Accordingly a party cannot be allowed to allege two absolutely inconsistent and mutually distinct pleas, as for instance, a defence on the ground of forgery cannot be pleaded along with one based on undue influence, or claim adverse possession as well as ownership. The court can put the party to choose one or other of the inconsistent pleas. The court can grant relief to a party on the basis of an alternative case put forward by the opposite side. Inconsistent pleas or failure to prove pleas raised is indicative of the falsity of the plea.

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