**BASIC PRINCIPLES**

FUNDAMENTAL RULES AND OTHER RULES OF PLEADINGS Provisions of Pleading Order VI of Code of Civil Procedure, 1908, states about ‘pleadings in general’. R. 1 defines Pleading; R. 2(1) lays down the fundamental rules of pleadings. R. 2(2), 2(3) and R. 3 to R. 13 deal with the necessary particulars to be supplied by the party, R. 14 and R. 15 deal with signing and verification of pleading, R. 16 deals with authority of court to Pleadings should not state the evidence; and 4. The facts in pleadings should be stated in a concise form. Pleadings Should State Facts and not Law: This is the first fundamental rule of pleadings which states that provisions of laws or conclusion of laws or both should not be stated in pleadings. It is the duty of pleader to set out the facts to be relied upon and not set out any legal inference. It is the responsibility of the judge to make decisions based on the pleas before the court. It is not enough to allege that the defendant was guilty of misconduct. It’s together; the opinion of plaintiff shall also have to be described about the cause of action, and the breach of conduct. The facts establishing these pleas must be raised in the pleading and a point of law can be argued by a party before the final judgment is delivered. Pleadings should state only facts and not law. it was held that it is the duty of the parties to state only the facts on which they rely upon their claims. It is for the Court to apply the law to the facts pleaded. The law of pleading may be tersely summarized in words; “Plead facts not law”. the Court held that a point of law which is required to be substantiated by facts should be pleaded with necessary facts. Exceptions of 1st Fundamental Rule of Pleading These are three as mentioned below• Legal pleas: A party can make legal pleas especially in a suit barred by principle or limitation which can be described as objections by law. • Foreign laws: Foreign laws should be treated as set of facts. The laws of foreign countries on which the party relies, should be considered firstly as compared to (in preference to) any other facts. • Customs/usage of trade: A party (if relies) can plead on customs/usage of trade, similar to any other facts. But, if the two types of facts, that is, Facta probanda and Facta probatia. Facta probanda means the facts required to be proved (material facts). Facta probatia means evidence available in the form of fact by which they are to be proved (particulars or evidence). The pleadings should contain only facta probanda and not facta probantia. The difference between these two terms is that facta probanda are the material facts on which the plaintiff relies for his claim or the defendant relies for his defense, whereas, facta probanda are the facts or evidence by means of which the material facts are to be proved. In the case, Devki Nandan vs. Murlidhar [16], the court held that a finding cannot be sustained which is based on no pleading and no evidence. The relief is claimed only as per mentioned in the pleading. The Facts in Pleadings should be Stated in a Concise Form: Statements in pleadings should be stated in a concise and in brief form. And, brevity should not be done by excluding necessary facts. The care is to be taken at the time of drafting the pleading. Every pleading shall contain statements in a clear form of the materials on which the party relies for his claims or defense and not the evidence for which they are to prove [17]. There should not be ambiguity and weakness in words or sentence of pleading. In totality, facts should be stated in brief without unnecessary details. Other Rules of Pleadings Apart from the fundamental rules of pleadings, there are other rules of pleadings too. These are as follows: 1. Every pleading should be divided into paragraphs, numbered consecutively. Each allegation should be stated in a separate paragraph. Dates, sums and numbers should be written in figures as well as in words (Rule 2(2) & 2(3) of Order VI of CPC, 1908). 2. Forms in Appendix A of the CCP, 1908 should be used wherever they are applicable. And, in case where they are not applicable, forms of like nature should be used (Rule 3 of Order VI of CPC, 1908). The format of plaint and written statement on the matters such as money form/precise term/circumstances of such notice is material to be inferred (Rule 11 of Order VI of CPC, 1908). 10. Implied contracts or relations between persons may be alleged as a fact, and the series of letters, conversations and the circumstances from which they are to be inferred should be pleaded generally (Rule 12 of Order VI of CPC, 1908). 11. Facts need not be pleaded by the party where the burden of proof lies upon the opponent party of the case. Facts also needs not be pleaded if the law presumes in one’s favour (Rule 13 of Order VI of CPC, 1908). 12. Every pleading shall be signed by the party and the pleader of the party of the case. And, in a case where the party is absent or unable to sign having good reasons, then any other duly authorized person on the behalf of that party may sign the same, sue or defend on his behalf also (Rule 14 of Order VI of CPC, 1908). 13. The pleading shall be accompanied by a statement of address of the party. Such address may be changed by stating new address accompanied by a verified petition for the purposes of service of all processes in the suit/appeal/decree/order/execution. Incomplete, false, fictitious address may result into stay of suit or ex-parte of suit. If the court is satisfied then it shall set aside the order of stay or order striking out the defense (Rule 14A of Order VI of CPC, 1908). 14. Every pleading should be verified on affidavit by the party or by one of the parties pleading or by any other such person acquainted with the facts of the case to the satisfaction of the court. Affidavit in support of his pleadings shall be furnished by the person verifying such pleading. Whether the verification has basis of own knowledge or other source of knowledge, shall be specifically mentioned as per the number wise paragraphs of the pleading. The place and date of signing shall be stated also (Rule 15 of Order VI of CPC, 1908)