

CHECKING OF PLAINTS AND ORIGINAL PETITIONS.

A civil dispute brought to court for adjudication will commence by one of the parties to the dispute presenting a plaint. It is one of the duties, rather utmost important duty of the Chief Ministerial officer of the Court concerned to scrupulously check the correctness of the plaint. A thorough and proper checking of the plaint will avoid parties resorting to amendment of plaint at a later stage wasting valuable time of the Court.

The important aspects which shall be checked in the plaint before registering the same may be broadly divided as follows:

- 1) Whether the plaint is presented in time as per the period of limitation prescribed for various suits under the relevant Article of Limitation Act, 1963?
- 2) Whether the suit falls within the territorial jurisdiction of the court as laid down under Sections 15 to 20 of the C.P.C?
- 3) Whether the suit is within the pecuniary jurisdiction of the court as specified in the A.P. Civil Courts Act?
- 4) Whether proper court fee is paid as required under relevant Sections of A.P. Court Fees & Suits Valuation Act, 1956? Where the relief sought for are interlinked or separate and distinct and whether based on same or on different causes of action should be verified for purpose of computation of the court fee and it should also be verified as to the correct provision of law for court fee and suits valuation mentioned or not?
- 5) Whether all the necessary parties to the suit for proper adjudication are added either as plaintiffs or defendants in the plaint?
- 6) Whether the facts constituting cause of action against all the defendants set out in the plaint?

- 7) Where a suit is instituted by a next friend on behalf of a minor/insane person, whether an affidavit of disinterested third party has been filed to show that the next friend has no adverse interest against the minor/insane as required u/s 172 of the A.P. Civil Rules of practice and Circular Orders, 1990?
- 8) Where a defendant or one of the defendants to the suit is minor, whether a petition for appointment of a guardian to such defendant/defendants as required under Order 32 Rule 3 C.P.C. filed?
- 9) Whether the full description of parties with correct addresses of them furnished for service of summons on them?
- 10) Whether the plaint is filed in a proper manner i.e. duly stitched and those lists of documents filed are noted at the foot of the plaint as required under Rule 16 & 19 C.R.P.?
- 11) Whether all necessary documents in support of the allegations made in the plaint filed? Whether the documents are originals or copies and if copies filed whether reasons for non filing of originals stated with an undertaking to produce originals if in the custody or control of the party. Where the copies filed are Xerox copies whether those are properly attested and certified as true copies to the original and whether a fixed proper court fee required on the copies?
- 12) Where the suit is instituted in respect of immoveable property, recovery of amount due on mortgage, rent, lease, mesne profits or maintenance with a prayer to create a charge over the property, whether the plaint contains the description of property sufficient to identify it?
- 13) Where the suit is filed against a Government or Public Officer, whether a statutory notice required u/s 80 (1) C.P.C. has been issued and the time limit of two months has elapsed. If the suit

is to obtain urgent or immediate relief against the Government or Public Officer, whether a petition for leave of the court u/s 80(2) C.P.C. to dispense with the requirement of the 2 months notice u/s 80(1) C.P.C is filed ? It is also to be seen the requirement of statutory notice before filing suit under various special enactments like Municipal, Panchayath & Co. operative Societies Acts.

- 14) Where the suit is against a Public Officer, whether Government is added as party as per Or.27 Rule 5(A) C.P.C.?
- 15) Where a plaint is presented through an advocate, whether it is accompanied by a vakalat duly executed, stamped and accepted by the advocate as required under Rules 30 and 31 of the A.P. Civil Rules of Practice and Circular Orders, 1990?
- 16) Whether the plaintiff/plaintiffs have signed at the foot of the plaint and plaintiff/one of the plaintiffs have signed on each page of the plaint as required under Rule 26 of the A.P.Civil Rules of Practice & Circulars Orders, 1990?
- 17) Whether sufficient process fees together with notice forms duly filled in, copies of plaint and R.P. covers filed for issue of summons as required under Rule 70 of the A.P. Civil Rules of Practice and Circular Orders, 1990 has been filed?
- 18) Where the suit is in respect of dispute relating to the immoveable property, other than suit for specific performance and permanent injunction, whether a certificate of valuation from the Basic Value Register of the concerned Sub Registry filed as required under Rule 3 of the A.P. Court Fees & Suits Valuation Rules 1987? It should also be verified as to whether the valuation of the properties as on the date of presentation of the plaint is adopted?

- 19) Whether the plaint contains the full particulars of subject matter of the suit, value of the suit for the purpose of jurisdiction of the court and the court fee payable and paid as required under Rule 4 of the A.P.C.F. & S.V. Rules, 1987?
- 20) If the suit is based on an unregistered document, to examine whether the document is written up on proper stamp or such document is liable for stamp duty and penalty as per the provisions of Schedule 1 & I-A of the Indian Stamp Act? If the document is not written on a proper stamp, the stamp duty and penalty payable thereon shall be assessed and collected unless the party says that he seeks to refer the document for impounding to collector and to decide the same at the relevant time of trial?
- 21) In such case whether copy of the unregistered document annexed to the plaint filed as required under Sec.38 of Stamp Act.
- 22) Where the documents are not in English or language of the Court, whether the true translation of documents either in English or language of the Court are filed as required under Rule 18 of A.P. Civil Rules of Practice and Circular Orders, 1990?
- 23) Where the plaint is filed by an agent on behalf of the plaintiff, whether power of attorney and a petition to permit him to file the suit on behalf of the plaintiff as required under Rule 32 of the A.P. Civil Rules of Practice and Circular Orders, 1990 has been filed?
- 24) Where a suit is instituted in a representative capacity on behalf of all the persons interested in the cause, whether a petition for leave of the court contemplated under Order 1 Rule 8 of the C.P.C is filed (See also Rule 12 of the A.P. Civil Rules of Practice and Circular Orders, 1990?)

- 25) Whether an affidavit of the person verifying the pleadings is filed as required under Order VI Rule 15(4) of the amended C.P.C.?
- 26) Whether the plaint has been filed in duplicate as required under Order IV Rule 1 of the amended C.P.C.?
- 27) Where the plaint is insufficiently stamped, whether a petition for enlargement of time under Sec.148 and 149 C.P.C. is filed?
- 28) Whether each allegation contained in a separate paragraph in the pleading as far as it is convenient as required under Rule 2 (2) of Order 6 CPC?
- 29) It should be verified whether the dates, sums and numbers are expressed in the pleadings in figures as well as in words as required under Rule 2(3) of Order 6 CPC?
- 30) If the court fee paid on the plaint is an excess, the court fee paid as such should invariably be noted on the plaint.
- 31) It should be verified that when a portion of claim is relinquished or allowed as set off by the plaintiff, the amount so allowed or relinquished is noted in the plaint (Order 2 C.P.C).

INSTRUCTIONS TO THE CHIEF MINISTERIAL OFFICERS:

- 1) A plaint has to be either numbered or returned within 3 days.
- 2) All objections which may be relevant shall be taken at one time. Taking of piecemeal objections shall be avoided.
- 3) The plaint shall be returned for more than three times. If still the objections remained unanswered, the plaint shall be placed at bench for hearing the advocate and for passing necessary orders.
- 4) It is the responsibility of the C.M.O to bring it to the notice of the Presiding Judge as to whether the plaint contains any unnecessary, scandalous, frivolous, vexatious matters or if it is

an abuse of the process of the court in order to strike out the same by court as per Order 6 Rule 16 C.P.C..

- 5) In addition to the scrutiny and checking of proceedings it is also one of the primary duties of the Chief Ministerial Officer of every Court (a) to see that run on note file being maintained for every branch basing on the questionnaire available in annual inspection notes and check exhaustively and thoroughly and place before the Presiding Officer at the week ends for verification by the P.O. and (b) to see that the indexing of the files be properly done without delay in order to hold and fix responsibility on the respective Ministerial Officers.

Now we shall deal with some suits that are generally filed, law governing limitation and court fee payable on such suits.