

PARAWISE REMARKS

1. Name of the court in which the suit is filed
2. Description of suit of as O.S/O.P/or SC.No..... of 20
3. Names of parties: Plaintiff and defendant (Short Cause Title)
4. Provision of law under which it is filed
5. Name and description and the place of residence of the plaintiff and defendant (Long Cause Title)
6. Where the plaintiff or defendant is a minor or a person of unsound mind, a statement to that effect
7. The facts, constituting the cause of action
8. The date or dates when the cause of action arose
9. The facts showing that the court in which the suit is filed has jurisdiction to try the same (Both territorial and pecuniary)
10. Where the plaintiff has allowed a set off or relinquished a portion of his claim, the same should be stated
11. Statement of value of the subject matter of the suit for purposes of jurisdiction and court fee
12. Amount of court fee paid and the provision of law under which it is paid
13. The relief's prayed for in the plaint
14. Verification of plaint

DEFINITION OF VAKALAT

It should be signed by the plaintiff and attested by an advocate other than the plaintiff. The advocate for the plaintiff should endorse on the Vakalat the work “Accepted” and sign under it. A single vakalat can be filed by an Advocate for any number of plaintiffs.

NAME OF THE COURT IN WHICH THE SUIT IS FILED

Every suit shall be instituted in the court of the lowest grade competent to try it (Sec.15).

Every suit shall be instituted in the court within whose jurisdiction the cause of action arose or the subject matter of the suit is situated or where the defendant resides or carries on business, as the case may be at the time of filing the suit.

DOCUMENTS TO BE FILED ALONGWITH THE PLAINT

The plaintiff along with the plaint should also file sufficient number of copies of plaint duly signed or certified as true copies for service on the defendant and the following papers.

Vakalat (2) Process Applications (3) Suit Documents and other documents (4) Court fee stamps (5) Statement in Form No.7 (Immovable property particulars).

DRAFTING OF WRITTEN STATEMENTS IN RESPECT OF SUITS FILED IN THE COURTS AGAINST GOVERNMENT


- On the filing of the suit against the state Government together with summons notifying the date of appearance, copy of the plaint will be served on the collector
- A copy of the plaint is forwarded to the concerned department to offer para wise remarks/proposed defense in the suit.
- The said defense is narrated by the concerned department in a note called para-wise remarks.
- While writing the para-wise remarks the concerned official should look into the depth of problem and state his defense.
- Merely and casually denying the allegations will not assist the G.P./Asst. Government pleader in preparing the written statement of defense.
- Para-wise remarks contesting the claim set up in the plaint and challenging the pleadings, serve as a foundation for preparing the written statement.

- The written statement should contain a statement in concise form of the material facts on which the defendant resists the suit claim but not evidence by which they are going to be supported

It should be divided into paragraphs numbered consecutively, each allegation being contained in a separate paragraph.

Where the defendant pleads any mis-representation or fraud, breach of trust, willful default, or undue influence, the details of the same shall be stated in the written statement.

Neither presumption of law, nor the principle of burden of proof, need be mentioned.



The written statement would also contain the address of the parties for the service of notice, and should be signed and verified by the defendant or defendants

A copy of the said written statement shall be served on the other side and the same endorsed on the original of the written statement before it is filed in the court

Every allegation in the plaint, if not denied specifically or by necessary implication or stated to be not admitted in the pleading of the defendant shall be taken to be admitted

There should be no general or evasive denial.

Under order 27 Rule 5, C.P.C time can be taken for filing written statement which should not exceed 2 months.

So during that period the concerned department should be alerted to rush para-wise remarks.

Some times on the filing of a suit the plaintiff will be seeking urgent orders to stay or injunction.

These orders will be passed by the court only after notice to the Government.

When notice is received on such urgent interim applications, more care is needed in rushing instructions to G P/Asst. G P to enter appearance in the court and take long adjournment for filing counter.

If there is any non response and there is any delay in making appearance, the court will have no option except to pass adverse orders exparte.

It will be a big task to get set aside exparte orders.

For setting aside the exparte orders, an application under order 9, R7 along with the affidavit explaining the cause in sufficient detail for which the defendant could not appear on the appointed date either by himself or by counsel (application will be in the shape of I.A.No /20 is OS.NO. /20).

SUIT BY OR AGAINST THE GOVERNMENT OR PUBLIC OFFICERS IN THEIR OFFICIAL CAPACITY

No suit shall be instituted against the Government or a public officer in respect of any act purporting to be done by such Public Officer in his office capacity until the expiration of two months next after notice in writing under Sec.80 C.P.C has been served on the Secy. To the Government/Collector of the District and other officers of the Central Government, as the case may be.

A suit to obtain an urgent or immediate relief against the Government or any Public Officer may be instituted with leave of the court without serving any notice as required by sub sec (1) of sec.80 C.P.C., but court shall not grant relief in the suit whether interim or otherwise except after giving to the government or Public Officer as the case may be a reasonable opportunity of showing cause in respect of the relief prayed for in the suit.

If the court is satisfied after hearing the parties that no urgent or immediate relief need be granted in the suit, return the suit for presentation to it after complying with the requirements of Sec.80 (1) C.P.C.



THANK YOU