



Civil Procedure Code, 1908



## Order VII Plaint

RERA Authority- The Authority exercise power of Civil Court under The Civil Procedure Code, 1908(‘CPC’) under Section 35 of the RERA Act, 2016.

What is complaint :- Complaint is a plaint under Order VII of CPC

### **“Order VII Plaint**

Particulars to be contained in plaint— The plaint shall contain the following particulars:—

- (a) the name of the Court in which the suit is brought ;
- (b) the name, description and place of residence of the plaintiff;
- (c) the name, description and place of residence of the defendant, so far as they can be ascertained;
- (d) where the plaintiff or the defendant is a minor or a person of unsound mind, a statement to that effect;

## Order VII Plaint

(e) the facts constituting the cause of action and when it arose;

(f) the facts showing that the Court has jurisdiction;

(g) the relief which the plaintiff claims;

(h) where the plaintiff has allowed a set-off or relinquished a portion of his claim, the amount so allowed or relinquished; and (i) a statement of the value of the subject-matter of the suit for the purposes of jurisdiction and of court fees, so far as the case admits.”

## Order XIX- AFFIDAVITS

As per Order XIX of CPC, affidavit is compulsory

1 . Power to order any point to be proved by affidavit—

Any Court may at any time for sufficient reason order that any particular fact or facts may be proved by affidavit, or that the affidavit of any witness may be read at the hearing, on such conditions as the Court thinks reasonable :

Provided that where it appears to the Court that either party bona fide desires the production of a witness for cross-examination, and that such witness can be produced, an order shall not be made authorizing the evidence of such witness to be given by affidavit.

## Order XIX- AFFIDAVITS

2 . Power to order attendance of deponent for cross- examination—

(1) Upon any application evidence may be given by affidavit, but the Court may, at the instance of either party, order the attendance for cross examination of the deponent.

(2) Such attendance shall be in Court, unless the deponent is exempted from personal appearance in Court or the Court otherwise directs.

3 . Matters to which affidavits shall be confined—

(1) Affidavits shall be confined to such facts as the deponent is able of his own knowledge to prove, except on interlocutory applications, on which statements of his belief may be admitted, provided that the grounds thereof are stated.

(2) The costs of every affidavit which shall unnecessarily set forth matters of hear say or argumentative matter, or copies of or extracts from document, shall (unless the Court otherwise directs) be paid by the party filing the same.”

## Order VII rule 11

11. Rejection of Plaint.- The plaint shall be rejected in the following cases:—

- (a) where it does not disclose a cause of action;
- (b) where the relief claimed is undervalued, and the plaintiff, on being required by the court to correct the valuation within a time to be fixed by the court, fails to do so;
- (c) where the relief claimed is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the court to supply the requisite stamp paper within a time to be fixed by the Court, fails to do so;
- (d) where the suit appears from the statement in the plaint to be barred by any law;**

## Order VII rule 11

(e) where it is not filed in duplicate;

(f) where the plaintiff fails comply with the provision of Rule 9.

Provided that the time fixed by the court for the correction of the valuation or supplying of the requisite stamp papers shall not be extended unless the court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp papers, as the case may be within the time fixed by the court and that refusal to extend such time would cause grave injustice to the plaintiff.”





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