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PROVISIONS PERTAINING TO PLEADERS AND RECOGNISED AGENTS IN CIVIL LAWS

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Abstract

This Research paper explores the provisions governing recognized agents and pleaders in civil proceedings in the Indian legal system that are crucial for ensuring the effective representation of parties in court cases. A recognized agent is a person authorized to act on behalf of a party based on a power of attorney, while a pleader represents a party with the court's permission, even without formal legal training.

Order III of the Code of Civil Procedure (CPC) outlines the qualifications and duties of recognized agents and pleaders. It requires a pleader to be appointed in writing through a power of attorney or by the party they represent. The Vakalatnama, a vital document empowering a pleader, establishes a special client-lawyer relationship and defines the scope of authority.

Amendments by courts have clarified who can act as a recognized agent, including someone holding a power of attorney or conducting the party's business in the absence of an appointed representative. The Consumer Protection Act allows parties to be represented by agents to ease the burden of high legal fees.

The appointment of recognized agents and pleaders ensures efficient legal representation while the courts retain control over their appointment. However, challenges remain in the proper selection and monitoring of agents to avoid potential injustices. A well-regulated system for monitoring pleadings and maintaining case management could enhance the efficiency and fairness of legal representation.

Keywords – Order, Pleader, Agent, Court, CPC & Amendments

Introduction

The provisions pertaining to recognized agents and pleaders in civil proceedings play a crucial role in the Indian legal system, facilitating effective representation of parties involved in court cases. In civil proceedings, individuals or entities may require legal assistance to present their cases, and the concept of recognized agents and pleaders ensures that this representation is conducted lawfully and professionally.

A "Recognized Agent" is a person authorized by law to appear and act on behalf of a party in specific situations, binding the principal (the party) with their actions and statements. This recognition is subject to the rules prescribed by the High Court and typically arises when the party grants a power of attorney to someone to act on their behalf.

On the other hand, a "Pleader" is an individual who represents a party in court, but unlike an "Advocate," may not have completed formal legal training. Pleaders can represent parties

with the court's permission and are appointed by the party they represent.

The Indian Civil Procedure Code (CPC) contains the relevant provisions concerning recognized agents and pleaders. These provisions outline the qualifications, limitations, and duties of recognized agents and pleaders, ensuring that their representation adheres to legal standards and that the interests of their clients are protected.

- I. Under **Order III of the CPC**, the relevant provisions are as follows:

According to Order III, Rule 1 of the CPC, any individual who is qualified to appear in court under the regulations issued under the Advocates Act, 1961, can act as a pleader for a party in civil proceedings. It implies that advocates who have registered with the Advocates Act can represent parties in civil trials.

Rule 4: Appointment of Pleader

- a. In every court, a pleader is not permitted to represent any person unless that person, their recognized agent, or someone authorized under a power-of-attorney appoints the pleader in writing through a document signed by them.
- b. Such an appointment must be submitted to the court and remains valid for the purposes mentioned in the previous rule until it is terminated. The appointment can be terminated by the client or the pleader, with the court's permission, through a written document signed by the respective party and filed in the court. Alternatively, the appointment automatically ceases when the client or the pleader passes away or when all legal proceedings concerning the client's case are concluded.

Section 2(15) of CPC, 1908 defines pleader "as any person entitled to appear and plead for another in Court, and includes an advocate, a vakil and an attorney of a High Court."

He is the one who, at various phases of the litigation, represents his client in order to correctly present his case to the court of law. As the law has changed, so has the definition of a pleader.

The courts have limited or expanded the scope of some people's status as pleaders for diverse parties in court via various rulings. The pleaders are responsible for the appointment and acknowledgment of the parties' rights. The pleaders' function is to represent the parties in a judicial process.

It is critical to have someone who is well-equipped to fulfill the tasks of a pleader.

The case of "Uday Shankar Triyar v. Ram Kalewar Prasad Singh"⁵⁹⁶ emphasizes the significance of the "Vakalatnama" as a crucial document that empowers a pleader to act as an agent on behalf of a litigant in court. The Vakalatnama establishes a special relationship between the lawyer and the client, defining the scope of authority and terms of delegation.

The court pointed out various common defects found in Vakalatnamas regularly filed in courts. These defects include:

1. Failure to mention the names of the persons executing the Vakalatnama, leaving the relevant column blank.
2. Omission of the name, designation, or authority of the person executing the Vakalatnama on behalf of a company, society, or body, without attaching a copy of the authority.
3. The pleader's failure to sign the Vakalatnama to acknowledge its acceptance.
4. Inadequate identification or certification of the person executing the Vakalatnama.

⁵⁹⁶ Uday Shankar Triyar v. Ram Kalewar Prasad Singh (2006) 1 SCC 75

5. Missing address of the pleader for service, especially in cases of outstation counsel.

II. **Order 3 Rule 5 of the Code of Civil Procedure, 1908**, states that if any process is served on the pleader, it indicates that the communication was successful.

No pleader shall act for a person in any court unless he has been appointed for that purpose by a document in writing and under a power of attorney.

In the case of “Baru Singh vs Babu Ram Sharma”⁵⁹⁷, it was decided that before a pleader may act on behalf of a client, he or she must be permitted to do so by a lawyer. This is done in writing, and a duly signed vakalatnama is obtained when it is to be presented in court.

Termination of a pleader

To terminate a pleader's appointment, the court's permission is required, and this cannot be regarded as a simple formality.

As a result, the pleader has no basis for determining his appointment, which must take place following a fair and justified notice to the client.

In the case of “Ratnagiri Gas and Power Pvt. Ltd vs RDS Projects Ltd”⁵⁹⁸ it was said that the Court will deal with a party's label of an advocate as a representation even if the advocate has submitted a termination of his appointment to the court.

Different roles for which the pleaders are appointed

- i. Appointed to act before the court of law
- ii. Appointed only for pleading and nothing else
- iii. Appointed by a pleader who was appointed to act before the court

In the case of “Saraswati vs Tulsi”⁵⁹⁹ It specifically states that a pleader may not act in court for any person unless designated by that person or his recognized representative. Only if the individual has been 'duly appointed' by a party in writing and signed by will he be considered 'duly appointed.'

III. Some amendments made by the Courts

In the case of “Oil & Natural Gas Commission vs Offshore Enterprises Inc,” the court amended Order 3 of CPC stating that recognized pleaders are

- i. If an individual possesses the power of attorney from the party they are representing, they can act as an agent. Similarly,
- ii. If there is no appointed representative for the party, and someone is conducting the party's business, that person can also act as an agent.

In the case of “Ethiopian Airlines vs Ganesh Narain Saboo,”⁶⁰⁰ the Supreme Court ruled that the 'Consumer Protection Act, 1986 allows its parties to be represented by agents.' This has been taken into account so that the parties are not burdened with the high fees associated with hiring a lawyer.

In case of a transfer due to the pecuniary jurisdiction, does the attorney need to take a leave?

In the case of “JVS Corporation vs Grinder Care Enterprises P. Ltd,”⁶⁰¹ it was held that if the agent got the order for leave, the attorney need not have to apply for it again, and the previous order would serve the purpose.

Appointment of Recognised Agents: Rule 2 of Order III deals with the appointment of Recognised Agents. It allows parties to appoint recognized agents to represent them in court. A Recognised Agent is a person who is authorized

⁵⁹⁷ Baru Singh vs Babu Ram Sharma, AIR 1997 AII 185

⁵⁹⁸ Ratnagiri Gas & Power Pvt. Ltd. v. RDS Projects Ltd. & Ors., Civil Appeal No. 7593 of 2012 (Arising out of S.L.P. (C) No. 3571 of 2012), 2012, SC 888.

⁵⁹⁹ Saraswati vs Tulsi Ram Seth, AIR 1971, Delhi 110.

⁶⁰⁰ Ethiopian Airlines vs Ganesh Narain Saboo, Civil Appeal No. 7037 of 2014

⁶⁰¹ M/S. JVS Corporation Vs Grinder Care Enterprises P. Ltd., 2011, Mad 942: (2011) 3 MWN (Civil) 361: (2011) 4 LW 755 at page 362, on 28 July 2011

by law to appear and act on behalf of the principal (the party) in certain specific situations. The appointment of a recognized agent is subject to the rules prescribed by the High Court.

Who can be a Recognised Agent: As per Rule 2(2) of Order III, a Recognised Agent can be any of the following:

- i. A person holding a power of attorney to act on behalf of the party.
- ii. An official of a corporation or body permitted by law to sue or defend on behalf of the corporation or body.
- iii. A person who is a partner in a firm or a full-time employee of the party.

The service procedure of an agent or pleader entails providing a party with a notice of legal action in order to enforce jurisdiction. Although the Code of Civil Procedure 1908 does not define a recognized agency, Order 3 Rule 2 provides wide guidance on who can be regarded as one.

It states that anybody who is permitted to act on behalf of another person and has a Power of Attorney might be deemed that person's recognized agent.

This is simple because a person with a power of attorney is obliged by law to the extent of its powers. Order 3 Rule 2 Sub Clause (b) specifies that anybody carrying on any trade or business in the name of another who is not a resident of the location where the trade or business is carried on is not the other's recognized agent.

The appearance of Parties through Recognised Agents: Rule 2(3) of Order III specifies that when a Recognised Agent appears on behalf of a party, the appearance is treated as if the party has appeared in person. The actions and statements of the Recognised Agent are binding on the party.

Pleaders Cannot Act Without Permission: Rule 4 of Order III states that no person can act as a pleader for any party unless they have been appointed by such party or with the party's consent by a person authorized to do so.

Conclusion

Rule III of the Code of Civil Procedure indicates that a court has the authority to designate a party's agent if the party is unable to do so on their own behalf, and the rule also requests that the agents accept service.

However, the rule does not explain the procedure of selecting the agent, and thus frequently causes problems in day-to-day implementation. The parties will suffer if the court selects an inadequate agent. Furthermore, the court would be judged to have committed an injustice.

The suggestions would be to include a system for monitoring pleadings and a mechanism for keeping cases in check so that pleaders would treat the case seriously.

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